

In the matter of:

<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1256880	MED	SUSTAINED
Compliance Required		
Decision Date:	02/16/2006	
Request Date:	11/10/2005	
Hearing Officer:	TINA DYEHOUSE	

State Hearing Decision

ISSUE SECTION:

Issue #1 – 1256880 (MAT):

At every state hearing, the Agency has the responsibility to show that their action was correct. Starting 11-30-05, the Hamilton County Department of Job and Family Services (Agency) terminated the Appellant's Medicaid because he failed to attend his reapplication appointment.

There was no Agency representative present at the hearing to provide any evidence or testimony. The preponderance of the evidence indicated that the Appellant made multiple requests for a new reapplication appointment, prior to the termination.

PROCEDURAL MATTERS:

On 11-10-05, the Bureau of State Hearings received Appellant's written state hearing request. The Appellant did not attend the hearing. He asked for a rescheduled hearing. On 12-21-05, the Hearing Authority denied the Appellant's reschedule request. The Appellant appealed the denial. On 1-12-06, an Administrative Appeal vacated the dismissal and remanded the case for a new hearing. The new hearing was scheduled for 2-10-06 and conducted on that date. The Agency was notified of the new hearing date. The Appellant was present; no Agency representative attended the hearing. The Appellant was sworn in.

FINDINGS OF FACT:

1. The Agency terminated the Appellant's Medicaid starting 11-30-05, because he missed a reapplication appointment.
2. The Appellant's mother called twice to ask for a rescheduled appointment, but the Agency did not reschedule the appointment.

CONCLUSIONS OF POLICY:

Policy

1. The Agency representative is the “advocate for the agency’s case at the hearing.” The Agency representative should explain the reason for the action, cite relevant regulations, provide case documents, and answer relevant questions from the Appellant and the Hearing Officer. per Ohio Admin. Code § 5101:6-6-02 (A) (2003)

2. The Hearing Officer's findings of fact must be based exclusively on the evidence introduced at the hearing. The rule further states that the Agency is responsible for showing, by a preponderance of the evidence, that its action or inaction was in accordance with department rules Ohio Admin. Code § 5101:6-7-01 (C) (2003).

Analysis

At every state hearing the fundamental issue is whether the Agency's action was correct. Here no Agency representative was present at the hearing to present their case, provide relevant case information, or answer questions from the Appellant and the Hearing Officer. The Agency did not present evidence to dispute the Appellant's claim that he asked for a rescheduled Medicaid appointment. Therefore, this hearing decision cannot affirm the Medicaid termination.

HEARING OFFICER RECOMMENDATIONS:

Issue #1 – 1256880 (MAT):

Appeal number 1256880 should be SUSTAINED. The Agency should rescind the action, restore benefits back to the date of termination and sent the Appellant a new reapplication appointment.

FINAL ADMINISTRATIVE DECISION AND ORDER:

Issue #1 – 1256880 (MAT):

Finding the hearing officer's decision to be supported by the evidence, the recommendations shown above are adopted. The appeal is SUSTAINED. The Agency shall comply with each of the terms set forth in the hearing officer's recommendations above.

COMPLIANCE REQUIRED

Ohio Admin. Code § 5101:6-7-03 (2003) requires compliance with this decision within 15 calendar days from the date it is issued, but in no event later than 90 calendar days from the date of the hearing request.



Ethan Chase, Hearing Authority

February 16, 2006

Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 or FAX (614) 728-9574. Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Bureau of State Hearings within 15 calendar days from the date this decision is issued. (If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.) During the 15-day administrative appeal period, you or your representative may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

Appendix

Exhibits:

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

Appellant:

1 – State hearing request