

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

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-737	
Appeal No(s)	1316744	MED
AG No.	5050460855	
Hearing Request Date:	11/13/2006	
Hearing Decision Date:	01/30/2007	
Appeal Request Date:	01/22/2007	
Agency:	LAKE CDJFS	

Administrative Appeal Decision

The appellant is appealing a January 11, 2007, dismissal of her November 2006, hearing request to review the status of her Medicare-related Medicaid benefits. The dismissal was based on the conclusion of the hearing supervisor that the appellant lacked good cause for a third rescheduling of her hearing. In her request for administrative appeal, the appellant asserts a Statement of Error that the dismissal is contrary to the weight of the evidence in the record.

The appellant seeks to be represented at the hearing by her adult daughter. Four days in advance of the first scheduled hearing date, the daughter requested rescheduling because she has to work in the mornings, Monday through Thursday. The second hearing date was in the afternoon, but the daughter called in the morning to report that it was uncertain whether she could access financial institution records because President Bush had declared the day a national day of mourning in honor of former President Ford. The third scheduled hearing was set for a Thursday morning and the daughter called a week in advance to again report that she has to work on Thursday mornings.

Although the “hearing authority shall have final authority to deny repeated requests for postponement,”¹ the standard for a postponement request is a showing of good cause, meaning “circumstances which reasonably prevents attendance at the hearing.”² Further, “efforts shall be made to schedule the hearing at a time, date, and place convenient to all parties involved, ” and an appellant is entitled to have an authorized representative assist her in presenting her case.³ Finally, we are required to

¹ OAC 5101:6-5-02(A)(1)(d)

² OAC 5101:6-5-03(E)(1)(e)

³ OAC 5101:6-6-01(A)(1); 6-6-02(B)

interpret “All rules relating to the right to a hearing and limitations on that right...in favor of the right to a hearing.”⁴

In this case the appellant’s representative twice made timely requests for accommodation of her work schedule in scheduling the hearing. Her other rescheduling request reasonably related to unanticipated national day of mourning. We hold that these circumstances constituted good cause for her fourth postponement request.

DECISION

We therefore ORDER that the hearing dismissal is VACATED and the case REMANDED to the Cleveland Hearings Supervisor to reschedule the hearing for a Friday, or an afternoon, Monday through Thursday.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: February 2, 2007

Notice to Appellant

This Administrative Appeal decision is the final decision on this appeal from the state department of job & family services. It is binding on the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

An Appellant who disagrees with this decision may appeal it to the court of common pleas pursuant to sections 119.12 and 5101.35(E) of the Revised Code. The Appellant shall mail the original notice of appeal to the department at the following address:

**Ohio Department of Job & Family Services
Office of Legal Services
30 E. Broad Street, 31st Floor
Columbus, OH 43215-3414**

The Appellant must also file a copy of the notice of appeal with the court of common pleas in the county in which the Appellant resides (Franklin County, if the Appellant does not reside in Ohio). Please note: Both the mailing to the department and the filing with the court must occur within thirty (30) calendar days of the date of issuance of this decision.

⁴ OAC 5101:6-1-01

If you have questions about appealing to a court, contact your attorney, local legal aid society, or bar association. If you want information about free legal services, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888.

cc:

Director, LAKE CDJFS

KILBAM, Bureau of State Hearings