

STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County FRANKLIN	District Hearings Section COLUMBUS	Assistance Group Name		Assistance Group Number
Place of Hearing FRANKLIN CDHS	Initial Hearing Date 02/20/2001	Rescheduled Postponed to 03/13/2001	Rescheduled Postponed to 03/13/2001	Rescheduled Postponed to 03/13/2001

Appellant/Representative	Appellant Representation
	Local Agency Representation Emily Kurtz, Total Case Manager

Date Notice Mailed 01/17/2001	Date Received by Local Agency	Date Received by ODHS 01/30/2001	Date Appeal Summary Received	Date Scheduling Notice Mailed 03/02/2001
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Appeal Number(s)/Program(s) 1004281/MED, 1004282/MED, 1004283/OWF, 1004284/FS, 1004285/PRC
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Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the COLUMBUS District hearing section at 1-800-686-1568.

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, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43266-0423 or FAX (614) 752-8298. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request must be received by the Office of Legal Services 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 may request a free copy of the tape recording of the hearing by contacting the district hearings section.

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.

ISSUE SECTION

1. On 01/17/01, the Franklin County Department of Job and Family Services (hereinafter referred to as the Agency) mailed Appellant notice for termination of Healthy Start Medicaid (MAP) benefits. The termination was based on the Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process as required. The Appellant disagrees with the Agency's termination of the Healthy Start Medicaid benefits. The Appellant argues that she did show for the reapplication appointment previously scheduled on 11/13/00, at 10:00 a.m., but had to leave after waiting until 11:30 a.m. as she was scheduled to be at work at 12:00 noon. The Appellant further argues she was given another appointment for 11/22/00, but it was not enough time for her to request time off from work and did attempt to get another scheduling date. The issue under appeal is, whether the Agency's termination of Healthy Start Medicaid benefits on 01/17/01, due to Appellant's failure to

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Appeal(s) SUSTAINED 1004281, 1004282, 1004283, 1004284 WITHDRAWAL 1004285	Date Issued 04/02/2001	Compliance 1004281, 1004282, 1004283, 1004284
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Distribution: Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

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attend a scheduled appointment on 11/22/00, for completion of the reapplication process is correct?

The Hearing Officer found that the Appellant did contact the Agency to reschedule the 11/22/00, appointment due to conflicting with her work schedule prior to receiving the 01/17/01, termination notice. The Agency, therefore, has failed to substantiate the basis for their action as well as show by a preponderance of the evidence that its action was in accordance with ODJFS rules. Thus, the Agency's termination of Healthy Start Medicaid benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is not correct. APPEAL 1004281 is SUSTAINED.

2. On 01/17/01, the Franklin County Department of Job and Family Services (hereinafter referred to as the Agency) mailed Appellant notice for termination of Covered Families and Children Medicaid (CFCM) benefits. The termination was based on the Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process as required. The Appellant disagrees with the Agency's termination of the Covered Families and Children Medicaid benefits. The Appellant argues that she did show for the reapplication appointment previously scheduled on 11/13/00, at 10:00 a.m., but had to leave after waiting until 11:30 a.m. as she was scheduled to be at work at 12:00 noon. The Appellant further argues she was given another appointment for 11/22/00, but it was not enough time for her to request time off from work and did attempt to get another scheduling date. The issue under appeal is, whether the Agency's termination of Covered Families and Children Medicaid benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is correct?

The Hearing Officer found that the Appellant did contact the Agency to reschedule the 11/22/00, appointment due to conflicting with her work schedule prior to receiving the 01/17/01, termination notice. The Agency, therefore, has failed to substantiate the basis for their action as well as show by a preponderance of the evidence that its action was in accordance with ODJFS rules. Thus, the Agency's termination of Covered Families and Children Medicaid benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is not correct. APPEAL 1004282 is SUSTAINED.

3. On 01/17/01, the Franklin County Department of Job and Family Services (hereinafter referred to as the Agency) mailed Appellant notice for termination of Ohio Works First (OWF) benefits. The termination was based on the Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process as required. The Appellant disagrees with the Agency's

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termination of the Covered Families and Children Medicaid benefits. The Appellant argues that she did show for the reapplication appointment previously scheduled on 11/13/00, at 10:00 a.m., but had to leave after waiting until 11:30 a.m. as she was scheduled to be at work at 12:00 noon. The Appellant further argues she was given another appointment for 11/22/00, but it was not enough time for her to request time off from work and did attempt to get another scheduling date. The issue under appeal is, whether the Agency's termination of Ohio Works First benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is correct?

The Hearing Officer found that the Appellant did contact the Agency to reschedule the 11/22/00, appointment due to conflicting with her work schedule prior to receiving the 01/17/01, termination notice. The Agency, therefore, has failed to substantiate the basis for their action as well as show by a preponderance of the evidence that its action was in accordance with ODJFS rules. Thus, the Agency's termination of Ohio Works First benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is not correct. APPEAL 10042823 is SUSTAINED.

4. On 01/17/01, the Franklin County Department of Job and Family Services (hereinafter referred to as the Agency) mailed Appellant notice for termination of Food Stamp (FS) benefits. The termination was based on the Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process as required. The Appellant disagrees with the Agency's termination of Food Stamps. The Appellant argues that she did show for the reapplication appointment previously scheduled on 11/13/00, at 10:00 a.m., but had to leave after waiting until 11:30 a.m. as she was scheduled to be at work at 12:00 noon. The Appellant further argues she was given another appointment for 11/22/00, but it was not enough time for her to request time off from work and did attempt to get another scheduling date. The issue under appeal is, whether the Agency's termination of Food Stamp benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is correct?

The Hearing Officer found that the Appellant did contact the Agency to reschedule the 11/22/00, appointment due to conflicting with her work schedule prior to receiving the 01/17/01, termination notice. The Agency, therefore, has failed to substantiate the basis for their action as well as show by a preponderance of the evidence that its action was in accordance with ODJFS rules. Thus, the Agency's termination of Food Stamp benefits on 01/17/01, due to Appellant's failure to attend a scheduled appointment on 11/22/00, for completion of the reapplication process is not correct. APPEAL 10042824 is SUSTAINED.

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PROCEDURAL MATTERS

1. The hearing request was received by the local Agency and the Bureau of State Hearings on 01/30/01, appeal numbers 1004281 (MED), 1004282 (MED), 1004283 (OWF), 1004284 (FS), and 1004285 (PRC) assigned.
2. The hearing request was received by the Columbus District Office, Hearing Section on 02/02/01.
3. The hearing was initially scheduled for 02/20/01, with postponement due to Appellant's arrival at the scheduled hearing one hour late.
4. The hearing was rescheduled for and held on 03/13/01, at Franklin County Department of Job and Family Services, North Opportunity Center (Agency) as a face-to-face hearing attended by Appellant and her mother and Agency representative.
5. The participants were sworn in by the Hearing Officer as required.
6. The Agency failed to complete an Appeal Summary, ODHS 4067, as required but did provide some case information documentation as required for inclusion with the hearing record.
7. Appellant on 03/13/01, verbally withdrew on record the appeal request pertaining to the Prevention, Retention, and Contingency program (PRC), appeal # 1004285.

FINDINGS OF FACT

Undisputed Facts

1. The household is composed of four persons, the Appellant and her three children and a nephew.
2. The Appellant receives the following benefits, OWF cash assistance grant of \$223.00 for her nephew, Related Medicaid coverage and Food Stamp benefits for the entire household.
3. Agency mailed Appellant notice on 10/10/00, of the Food Stamp expiration effective 11/30/00.

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4. Agency mailed Appellant an appointment notice on 10/16/00, for a scheduled reapplication appointment on 11/06/00, for the OWF program.
5. Agency mailed Appellant a Contact Letter on 11/01/00, rescheduling the 11/06/00, reapplication appointment to 11/13/00, at 10/00 a.m.
6. Appellant did attend the scheduled reapplication appointment on 11/13/00, but had to leave before being seen.
7. Agency rescheduled Appellant's reapplication appointment for 11/22/00.
8. Appellant failed to show for the rescheduled 11/22/00, reapplication appointment.
9. Agency on 01/17/01, mailed Appellant notice of termination for the Healthy Start Medicaid, Covered Families and Children Medicaid, Ohio Works First, and Food Stamp programs due to her failure to show for the rescheduled appointment on 11/22/00.
10. Appellant disagrees with the Agency's termination of benefits for her household and requested a state hearing.

Disputed Facts

1. The Agency representative testified that the Appellant was scheduled and rescheduled a total of four times from 11/06/00 through 11/22/00, for the completion of the reapplication process. The Appellant failed to attend the rescheduled reapplication appointment on 11/22/00, resulting in the Agency's proposed action to termination the household's benefits on 01/17/01.
2. The Appellant disagrees with the Agency's termination of benefits for her household. The Appellant testified that after showing up for the reapplication appointment on 11/13/00, and not being seen in a timely manner she had to leave as she was scheduled to work that day at 12:00 noon. The Appellant further testified the worker gave her another appointment for 11/22/00. The Appellant alleges that this was not enough time for her to get time off from work so she attempted to contact the worker by telephone to get another reschedule date, only to leave telephone messages with no response from the worker. The Appellant testified that her attempts for another reschedule only lead to receiving notice of termination dated 01/17/01, for the benefits her household was receiving.

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3. Based on the testimony presented the Hearing Officer finds the Appellant to be credible and finds as fact that the Appellant did contact the Agency for the rescheduling of the 11/22/00, appointment prior to the mailing of the 01/17/01, termination notice.

CONCLUSIONS OF POLICY

Policy

Ohio Administrative Code (OAC) Rule 5101:6-5-01 Procedures Prior to the State Hearing

(B) Appeal Summary

An Appeal Summary shall be completed by the Agency proposing the action about which the individual requested the state hearing.

(1) The Agency shall prepare an "Appeal Summary.ODHS 4067, with appropriate attachments, and send it to the assigned hearings section within five workdays from the date the hearing request is received. A copy shall be paced in the individual's case record.

(4) The ODHS 4067, together with its attachments, shall provide a summary of all the facts and documents relevant to the issue under appeal, and shall be sufficient to demonstrate the basis for the Agency's action or determination.

Ohio Administrative Code (OAC) Rule 5101:6-6-02 Rights and Responsibilities of the Participants

(A) The Agency Representative

The Agency representative presents and is the advocate for the Agency's case at the hearing. This person shall explain the reasons for the Agency's action, cite the regulations upon which the action was based, provide relevant case information and documents, and answer relevant questions from the individual and the Hearing Officer. The Agency representative has the same rights as the individual to confront and cross-examine during the hearing.

Ohio Administrative Code (OAC) Rule 5101:6-7-01 State Hearing Decisions

C) Basis

(1) The Hearing Officer's findings of fact shall be based exclusively on the evidence introduces at the

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hearing, or after the hearing and subject to examination and rebuttal by both parties as described in Rule 5101"6-6-02 of the Administrative code.

(c) It shall be the responsibility of the Agency to show, by a preponderance of the evidence, that its action or inaction was in accordance with ODJFS rules.

Analysis

The evidence presented in this case indicates Appellant's household's Related Medicaid, Ohio Works First, and Food Stamp benefits were termination on 01/17/01, due to her failure to attend a rescheduled appointment on 11/22/00, for the completion of the reapplication process. Testimony from the Appellant is accepted as fact that she did contact the Agency to reschedule the 11/22/00, appointment due to conflicting with her work schedule prior to receiving the 01/17/01, termination notice. The Hearing Officer finds the Agency has failed to substantiate the basis for their actions as well as show by a preponderance of the evidence that its action was in accordance with ODJFS rules as cited in the above regulations. Therefore, the Hearing Officer further finds the Agency's termination of the Related Medicaid programs, Ohio Works First, and Food Stamps for Appellant's household on 01/17/01, is not correct.

HEARING OFFICER'S RECOMMENDATIONS

Based on the record and Agency policy before me, I recommend that appeals 1004281, 1004282, 1004283, 1004284 be SUSTAINED. It is further recommended that the Agency shall reopen the above mentioned assistance groups terminated on 01/17/01, notify the Appellant of a scheduled reapplication appointment. Upon completion of the reapplication appointment and verification process the Agency shall determine Appellant's continued eligibility for the above programs ensuring no interruption in coverage (if eligible). The Appellant shall be appropriately notified of the Agency's continued eligibility for all the mentioned programs. The Appellant shall also retain all appeal rights.

Appeal 1004285 is WITHDRAWN.

FINAL ADMINISTRATIVE DECISION AND ORDER

Since I find that the Hearing Officer's recommendation is supported by policy and the evidence, I hereby adopt the recommendation. Thus, appeals 1004281, 1004282, 1004283, 1004284 are hereby SUSTAINED. Appeal 1004285 is hereby WITHDRAWN.

Compliance required. OAC sec. 5101:6-7-03.

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APPENDIX

Agency Exhibit

Exhibit A. CRIS-E Notices and Screen Prints, pages 1 through 5

Date Issued: 04/02/2001