

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>FRANKLIN</b>	District Hearings Section <b>COLUMBUS</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>FRANKLIN CDHS</b>	Initial Hearing Date <b>01/06/2003</b>	Rescheduled Postponed to <b>01/24/2003</b>	Rescheduled Postponed to <b>01/24/2003</b>	Rescheduled Postponed to <b>01/24/2003</b>

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Wendy Malka</b>

Date Notice Mailed <b>11/18/2002</b>	Date Received by Local Agency	Date Received by ODHS <b>12/20/2002</b>	Date Appeal Summary Received <b>01/24/2003</b>	Date Scheduling Notice Mailed <b>01/13/2003</b>
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Appeal Number(s)/Program(s) <b>1100050/MED, 1100051/MED, 1100052/FS</b>
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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 43215-3414 or FAX (614) 728-9574.** 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

The appellant applied for food stamp (Appeal number 1100052) and Medicaid (Appeal numbers 1100051 and 1100050) for herself and her minor child October 17, 2002. That application was denied by notice issued November 18, 2002, stating that the agency determined that her income exceeded program eligibility requirements. During the course of the hearing, the appellant withdrew her appeals in writing with the understanding that the agency would reopen her October 17, 2002 application, allowing her the opportunity to submit the requested verifications, and determine her eligibility; affording her full appeal rights.

### PROCEDURAL MATTERS

This hearing was requested December 20, 2002, and was originally scheduled to be held Monday, January 6, 2003. Because the appellant did not show for the original hearing, notice was sent, dismissing the hearing for her failure to attend. Good cause for her failure to attend was established, and per the appellant's request, the hearing was rescheduled and held Friday, January 24, 2003. A. Ruben Lopez was the hearing officer;

ARL

Appeal(s) <b>WITHDRAWAL 1100050, 1100051, 1100052</b>	Date Issued <b>04/08/2003</b>	Compliance <b>1100050, 1100051, 1100052</b>
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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.)*

Appeal Number(s) 1100050, 1100051, 1100052
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Wendy Malka represented the agency, and the appellant represented herself. The hearing officer and the appellant were present at the Franklin County Department of Job and Family Services (FCDJFS) North Opportunity Center, and the FCDJFS representative participated from her office by telephone. Both parties testified under oath.

## **FINDINGS OF FACT**

1. The agency agreed to reopen the appellant's October application, accept the information/verification the appellant has and redetermine eligibility for the appellant based on the original application date of October 17, 2002.
2. The agency agreed to issue notice affording the appellant full appeal rights on that eligibility determination.
3. The appellant withdrew her request for hearing.

## **CONCLUSIONS OF POLICY**

### **Policy**

Ohio Administrative Code rule 5101:6-5-03 (May 1999), in relevant part, states that an appeal can be dismissed as withdrawn if the appellant or authorized representative submits a signed, written withdrawal of the appeal.

### **Analysis**

In the present case, the appellant, at the hearing signed a written withdrawal of her appeals, contingent upon the FCDJFS representative's agreement to accept reopen her application, accept her verifications, maintain the October 2002 application date for benefits, and redetermine her eligibility providing proper notice, which will afford her full appeal rights on that determination. Since the appellant signed this agreement, it will be recommended that these appeals be dismissed as withdrawn, ordering the agency to proceed in determining the appellant's eligibility and issuing proper notice to her after that determination of eligibility has been completed.

## **HEARING OFFICER'S RECOMMENDATIONS**

Based on the record before me, I find the appeals, number 1100050, 1100051 and 1100052 should be dismissed as withdrawn; however, the agency should be required to comply with the agreement signed at the hearing, and redetermine the appellant's eligibility from the October 2002 application.

Appeal Number(s) 1100050, 1100051, 1100052
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**FINAL ADMINISTRATIVE DECISION AND ORDER**

Finding the hearing officer's decision to be support by the evidence, the recommendations above are adopted. The agency is required to comply with the hearing officer's recommendations, and redetermine the appellant's eligibility affording full appeal rights. OAC rule 5101:6-7-03 requires prompt compliance with state hearing decisions. Compliance must be promptly reported to the Bureau of State Hearings via the ODHS 4068.

**APPENDIX**

Exhibit A - Written withdrawal

Exhibit B - Appeal summary and attachments (four pages)

Exhibit C - Signed explanation of the State Hearing Process

Exhibit D - State Hearing Scheduling Notice mailed January 13, 2003

Exhibit E - Form recording the appellant's request to reschedule original hearing

Exhibit F - Dismissal Notice mailed January 8, 2003

Exhibit G - State Hearing Scheduling Notice mailed December 27, 2002

Exhibit H - State Hearing request

Date Issued: 04/08/2003