

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

ADMINISTRATIVE APPEAL SECTION

In Re Appeal of:

Docket Number:	AA-2491	
Appeal No(s)	1399205	OWFOP
	1403022	OWF
AG No.	5061500970	
Hearing Request Date:	02/19/2008	
Hearing Decision Date:	03/17/2008 / RAH	
Appeal Request Date:	03/27/2008	
Agency:	HAMILTON CDJFS	

Administrative Appeal Decision

The appellant is appealing agency actions in 2006 and 2007 to reduce her Ohio Works First benefits to recover an overpayment, and also a January, 2008, agency decision to suspend her benefits altogether due to her third failure to comply with a self sufficiency contract assignment. The hearing officer overruled both appeals because the appellant previously requested hearings on both issues but failed to appear for the hearings, resulting in a binding dismissal for each.¹

In her request for administrative appeal the appellant asserts a Statement of Error that the hearing decision is contrary to the weight of the evidence she alleges, to the effect that she has documentation of medical problems and a death in her family that are relevant to the issues being appealed.

But the hearing officer correctly decided that he did not have the authority to conduct a hearing on the merits of the appellant's overpayment claim because of the previous dismissals. The appellant needs to understand that when she requests a state hearing regarding an agency action that it is important for her to appear at each scheduled hearing to present her side of the case. Failure to appear, without good cause, means that she loses the appeal and cannot correct it by just asking for a new hearing.

On the other hand, the attempted appeal of the Ohio Works First suspension is less clear in the record. It is true that the previous appeal of this issue was dismissed as abandoned on February 19th, but that same day the appellant phoned in her hearing request that resulted in the present appeal. It does not appear that the hearing officer considered whether she was actually trying to establish good cause for previous hearing, as is allowed in OAC 5101:6-5-03(E)(2). Given that uncertainty, the appellant's allegations of good cause, and the requirement

¹ Appeal No. 1380286, 12/26/2007; Appeal No. 1373111, 10/23/07; Appeal No. 1393817, 2/19/08

that the rule be “interpreted in favor of the right to a hearing,” we hold that the dismissal of this appeal was contrary to the weight of the evidence in the record.

DECISION

We therefore ORDER that the dismissal of the OWF overpayment appeal is AFFIRMED; but the dismissal of the OWF termination appeal is VACATED and the case REMANDED to the Cincinnati Hearings Supervisor to reschedule.

Administrative Appeal Officer

CONCUR:

Administrative Appeal Officer

Chief Administrative Hearing Officer

Date of Issuance: April 4, 2008

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.

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, HAMILTON CDJFS
CHASEE, HAINER01, Bureau of State Hearings