

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/17-33
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Appeal of)
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INTRODUCTION

Petitioner appeals the closure of her household's Reach Up Financial Assistance ("RUFA") by the Vermont Department for Children and Families ("Department"). The issue is whether petitioner has established good cause for failing to attend an appointment with her RUFA case manager as well as submit treatment logs from counselling with a medical provider. The following facts are adduced from a hearing held February 13, 2017, a submission by the petitioner on February 17, 2017, and memorandum from the Department dated February 28, 2017.

FINDINGS OF FACT

1. Petitioner is a RUFA recipient on behalf of her household, which includes one minor child for the purposes of RUFA eligibility.
2. As a RUFA recipient, petitioner is subject to a Family Development Plan ("FDP"), outlining her employment

goals, along with activities and related tasks she must undertake to attempt to meet those goals.

3. Petitioner's FDP requires regular monthly meetings with her Reach Up case manager as well as her engagement in counselling (petitioner's work requirement is modified for medical reasons), with a corresponding requirement to submit weekly treatment logs. Petitioner was scheduled for a meeting with her case manager on December 27, 2016, which she scheduled during a meeting they had on December 14, 2016. Her case manager mailed her an appointment letter dated December 14, 2016, reminding her of the December 27 appointment.

4. The appointment letter indicated that petitioner should contact her case manager by December 26, 2016 if she was unable to attend the meeting.

5. Petitioner missed the December 27 meeting. She did not call ahead to inform her case manager or to reschedule. In addition, she did not submit any treatment logs for the two-week period ending December 24, 2016.

6. On December 27, her case manager sent her a letter notifying her of noncompliance with program requirements, specifying the reason (a failure to attend the December 27 appointment and the failure to submit treatment logs), and

giving her an opportunity to contact her by January 3, 2017 to discuss the noncompliance.

7. Petitioner left a message on her case manager's voicemail on December 28, 2016, that she had forgotten about the meeting. She further indicated that she was home with her three kids who were on school vacation (she has two older children who are not considered part of her RUFA household but were visiting at the time). Petitioner's case manager reviewed the matter with her team leader, who authorized closure of the household's RUFA for noncompliance with program requirements. A notice dated January 3, 2017 was sent to petitioner, indicating that her RUFA would close for two months, effective January 15, 2017.

8. At hearing, petitioner acknowledged forgetting about the December 27 appointment. She reiterated that her children were home with her for the holiday, and furthermore that her youngest child has extremely challenging behaviors which make it impossible to bring her to appointments.

9. Petitioner subsequently submitted a letter from her daughter's pediatrician which recommends that she not bring her to appointments due to her challenges.

10. To date, petitioner has not submitted treatment logs for the two-week period ending December 24, 2016.

ORDER

Closure of petitioner's RUFA is affirmed.

REASONS

Review of the Department's determination is de novo. As this concerns a closure of benefits, the Department has the burden of establishing, by a preponderance of evidence, the appropriateness of its determination under the applicable rules. Fair Hearing Rule 1000.3.O.4.

The general purpose of the Reach Up program is to encourage economic self-sufficiency, support nurturing family environments, and ensure that children's basic needs are met. See Reach Up Rules § 2200. Reach Up regulations mandate that the Department close benefits when a household in receipt of 60 or more cumulative months of assistance is noncompliant with program requirements. See Reach Up Services Rules ("RUSR") § 2238.1 ("For families who have received 60 or more countable, cumulative months of assistance, noncompliance with Reach Up services component requirements, without good cause, or not fulfilling the work requirement, regardless of good cause, will result in termination of the family's Reach Up grant.").

Noncompliance is defined generally by Rule 2370:

Reach Up participants must comply with all services component requirements. Noncompliance may be the result of a de facto refusal, which is implied by the participant's failure to comply with a requirement (rule 2371.1), or an overt refusal (rule 2371.2). The department will excuse noncompliance supported by good cause (rule 2373).

RUSR § 2370.

A type of noncompliance includes a failure or refusal to "attend or participate fully in FDP activities." RUSR § 2371. Case managers are required under the rules to review the FDP with participants on a monthly basis. See RUSR § 2333. Submission of treatment logs to verify participation in counselling may also be - and often is - a material element of an FDP. There is no dispute that petitioner failed to attend her December 27, 2016 appointment, or that she did not (and has not) submitted a treatment log for the two-week period ending December 24. These are both valid and independent Reach Up services components and the failure to meet either one of these requirements establishes sufficient basis for the Department's closure of the household's RUFA; the sole remaining question is whether petitioner has established good cause for such failure.

Good cause is generally defined as "circumstances beyond the control of the participant" and the rules include a non-exhaustive list of the types of circumstances which may

constitute good cause for noncompliance. See RUSR § 2373. The record does not support a finding of good cause for petitioner's noncompliance with her FDP requirements.

As such, the Department's closure of the household's RUFA is consistent with the rules and the Board must affirm. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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