

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-02/17-73
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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 a scheduled appointment with her RUFA case manager. The following facts are adduced from a hearing held February 23, 2017 and documents submitted therein.

FINDINGS OF FACT

1. Petitioner lives with her two minor children and one adult child. She has received RUFA for more than 60 countable months.

2. As a RUFA recipient, petitioner is subject to a Family Development Plan ("FDP"), which outlines her employment goals, along with activities and related tasks she must undertake to attempt to meet his employment goals.

Petitioner has waiver of her work requirement for medical reasons.

3. One element of petitioner's FDP is to have regular monthly meetings with her Reach Up case manager. Petitioner's FDP states at the end that "I understand the above represents the steps necessary to achieve my employment goal and that "the goal, steps, and tasks will be reviewed monthly."

4. Petitioner was scheduled to have a meeting with her case manager on January 17, 2017. On December 30, 2016, petitioner's RUFA case manager mailed her an appointment letter specifying the date and time of the appointment. The appointment letter indicated that petitioner should call ahead of time if she could not attend the meeting, as well as that her RUFA grant could be closed if she missed the meeting without good cause.

5. Petitioner missed the January 17 appointment. Following the missed appointment, her case manager sent her a letter (on the same date) notifying her that she had missed the appointment and requesting that she contact her by January 24, 2017 to discuss "why you did not take part in this activity or notify the appropriate person at the earliest possible moment."

6. Petitioner contacted her case manager on January 23, asking to reschedule her appointment. When her case manager asked her why she had missed the January 17 appointment, she responded that she had forgotten about the appointment.

7. At hearing, petitioner similarly acknowledged forgetting about the appointment. She elaborated that she understood it was not for "good cause," but she has had a difficult time balancing numerous obligations, tends to forget things, and is doing her best to comply with her Reach Up program.

8. Due to the missed appointment, and after a determination by petitioner's case manager and the case manager's Reach Up team leader that no good cause had been established, the Department notified petitioner by notice dated January 31, 2017 that her household's RUFA would be closed for two months as of February 15. This appeal followed (petitioner is receiving continuing benefits while the appeal is pending).

ORDER

The Department's decision is affirmed.

REASONS

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

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 that has received 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. There is no dispute that petitioner failed to attend the January 17 appointment. The appointment was a valid Reach Up services component, specifically contained within petitioner's FDP, and her failure to attend establishes sufficient basis for the Department's closure of her RUFA. See e.g., Fair Hearing Y-10/14-1066; Fair Hearing N-04/15-461; Fair Hearing No. B-09/15-1007; and Fair Hearing No. B-09/15-1007. 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. Petitioner's reason(s) for missing the appointment are not specifically listed in the rules, nor has she otherwise establish circumstances beyond his control i.e., good cause,

for failing to attend the appointment, whether unintentional or not. See Fair Hearing No. B-09/15-1007.

As such, the Department's decision 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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