

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-06/12-393  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, denying her application for Reach Up Financial Assistance (Reach Up).

The Department avers that petitioner did not comply with a Verification Request that she attend a Reach Up orientation session. The petitioner avers that she did comply by attending an orientation session. The facts are in dispute.

The issue is whether the petitioner can show by a preponderance of evidence that she met the Reach Up eligibility requirements by attending an orientation session.

The hearing commenced on July 11, 2012. Petitioner participated by telephone. During the testimony of CD, the Department's witness, telephone contact was lost with petitioner. Efforts to reestablish contact were not successful.

The Hearing Officer wrote petitioner on July 12, 2012 asking petitioner whether she wanted to proceed. Upon notification from petitioner that she wanted to conclude the

hearing, notice of hearing was sent on July 20, 2012; the hearing was scheduled for August 8, 2012 to complete the testimony.

Petitioner requested that she participate by telephone. A telephone hearing was held on August 8, 2012 during which petitioner and her witness testified. The Department's attorney was unable to reach his proposed witness.

The decision is based on the evidence adduced at hearing.

FINDINGS OF FACT

1. The petitioner lives with her minor son in Section 8 housing. They are a household of two.
2. During late April 2012, petitioner submitted an online application for Reach Up, 3SquaresVT (food stamps) and Medicaid for the household. In terms of food stamps, petitioner submitted a review application. In terms of Reach Up, petitioner submitted a new application as she last received Reach Up during 2011.
3. CD is a Benefits Program Specialist employed by the Department. She was assigned to petitioner's case. She testified at hearing.

4. On April 30, 2012, petitioner had a telephone interview with the Department intake unit regarding her application.

5. After the telephone interview, the Department sent petitioner a Verification Request issued on April 30, 2012 asking petitioner to attend an orientation session, submit a shelter statement and complete child support paperwork by May 11, 2012. The Verification Request stated:

You must go to the St. Albans Office and meet with a worker face-to-face to complete your Reach Up Orientation.

The Verification Request informs applicants that a decision regarding eligibility is pending until the information is provided and that if the information is not provided by the deadline, the application will be denied.

6. On May 28, 2012, the Department issued a Notice of Delay due to caseload demands. (The Department has thirty days to respond to an application. If the Department is unable to timely process the application, the Department must issue a Notice of Delay.)

7. On June 4, 2012, the Department issued a second Verification Request asking petitioner to attend an orientation session by June 16, 2012. This Verification Request added that petitioner could "stop in the office any

day between 8:00 and 4:30". Petitioner was asked to provide a shelter statement and complete child support paperwork; petitioner provided this paperwork to the Department.

8. On June 21, 2012, the Department issued a Notice of Decision denying Reach Up due to the petitioner's failure to attend an orientation meeting and granting Medicaid as of May 1, 2012 for petitioner and her son.

9. Petitioner requested a fair hearing on or about June 28, 2012.

10. CD explained that the purpose of the Reach Up orientation is to explain the Reach Up and Reach First programs and explore which programs the applicant wants to pursue. The orientation is used to explain the applicant's obligations under Reach Up to work with a case manager, make appointments, and go through an assessment; these obligations are incorporated into an initial Family Development Plan (FDP) that the applicant signs.<sup>1</sup> The applicant can see any worker to meet this requirement.

11. Orientation meetings are held at the local district office in St. Albans. The local district office is located on the third floor of the state office building. Upon

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<sup>1</sup>The FDP is a Reach Up requirement and a case management tool used to help RUFA recipients become self-supporting unless the recipient meets one of the statutory and regulatory exemptions.

exiting the elevator, there is a waiting area and in the left hand corner of the waiting area, there is a window where applicants and recipients speak to the front desk staff.

According to CD, the front desk staff keeps a record of the people who come into the office by noting the person's name and time the person spoke to the front desk staff. There is a locked door next to the reception window. Department employees come to the door and bring the applicant or recipient into his/her meeting.

12. CD testified that there is no record of petitioner coming to an orientation meeting during the times in question. CD testified that she did not meet in person with petitioner during the time in question. CD testified that there was no signed FDP from the petitioner for the time in question. CD's testimony is credible.

13. Petitioner testified by telephone. She filed her application online on April 29, 2012 and spoke to the intake unit on April 30, 2012. Based on that conversation, petitioner thought she was all set for benefits. Petitioner received food stamps benefits on May 1, 2012 but no Reach Up benefits. Petitioner called the 1-800 number when there was no Reach Up on her EBT card and left a message to be relayed to the district office.

Petitioner testified that she received two notices regarding an orientation session. In terms of the first notice, she waited for an appointment date based on her prior experience with the Department when she last received Reach Up and was given paperwork with a specific interview time for the orientation session. Petitioner remembers that she received the Notice of Delay and then a second Verification Request with a bit different information about the orientation session. Petitioner called the 1-800 number and was able to have her call go to the district office. Petitioner testified that she spoke to CD on June 4, 2012 and was told she could come in any time.

Petitioner testified that she came to the district office on June 11, 2012 and attended an orientation meeting with CD that day. Petitioner testified that she did not sign a FDP because she was seeking medical documentation. Petitioner testified that she was told her money would be on her card. Petitioner testified that she called the 1-800 number several times and was told she had not done the orientation and she needed to come into the district office for her orientation.

Petitioner testified that she went to the district office on June 21, 2012 and met with the same person she met

with on June 11, 2012. Petitioner stated she met with CD. A FDP was not signed at that time.

Petitioner testified that her friend, RD, came with her on June 11 and 21, 2012 to the district office.

Petitioner testified that she has had problems in the past with the district front desk staff not writing down that she was there.

Petitioner's testimony is credible as to the history of the notices she received after submitting her application but is questionable regarding attending orientation sessions and meeting with CD on June 11 and June 21, 2012.

14. RD was with petitioner on August 8, 2012 and testified by telephone. RD has been petitioner's friend for about five years after they met in New York. RD moved to Vermont about two years ago.

RD testified that she accompanied petitioner to the district office on June 11, 2012. She accompanied petitioner to the front desk and then sat with petitioner in the waiting room. RD heard petitioner's name called but did not see who the caseworker was. She stayed in the waiting room until petitioner returned. She said petitioner was gone about thirty to sixty minutes.

RD testified that she went with petitioner a second time but is not sure of the exact date. RD was also there to see her worker. Petitioner was called in first and then RD was called in by her caseworker. She is unable to say how long petitioner was in her meeting.

RD testified that on two occasions, she had the same problems as petitioner with the front desk not keeping track that she came to the district office but that she followed up with her caseworkers.

ORDER

The Department's decision is affirmed.

REASONS

The Reach Up program operates as both a financial assistance program so that recipients can meet their basic necessities and a service program predicated on helping recipients become self-sufficient. 33 V.S.A. § 1101 *et seq.*, Welfare Assistance Manual (W.A.M.) §§ 2200 *et seq.* and 2300 *et seq.*

Eligibility for Reach Up is based upon meeting certain criteria including income, resources, household composition, citizenship or legal residency, etc. The burden is on the applicant or recipient to complete an application or review



application and to provide verification related to eligibility criteria. W.A.M. §§ 2201, 2210, 2211.

The applicant or recipient is the primary source of information for the Department. W.A.M. § 2211. A personal interview is required for all applications. W.A.M. § 2211.2. In petitioner's case, she had a personal interview on April 30, 2012.

Prior to the implementation of any decision, the Department must provide advance written notice explaining the reason for the decision. W.A.M. § 2217.

An important part of the application process is the ability of the Department to ask the applicant or recipient to verify information when the Department has questions regarding information necessary to determine eligibility.

W.A.M. § 2211.3 states, in part:

Verification, defined as a written entry in the case record of third-party or documentary confirmation of facts stated by an applicant, shall be required for the items listed below when the department is processing an initial application or eligibility redetermination. . .

- A. All non-excluded income. . .
- B. All non-excluded resources. . .
- D. Shelter costs incurred.
- . . .

Denial or closure shall result if an applicant or recipient:

- fails without good cause to submit documentation necessary for verification;
- fails without good cause to consent to verification of any eligibility factor;
- fails without good cause to cooperate in any investigation necessary to support an affirmative decision of eligibility.

The Department's request to petitioner that she provide a shelter statement falls into the type of request contemplated by the Verification regulation since the amount of rent can impact the amount of the grant and the shelter statement is used to verify residence. Similarly, completion of child support paperwork can fall within this category since petitioner would have a requirement to work with the Department to obtain child support. Petitioner supplied these materials.

The Department included in the Verification Request a requirement that petitioner attend a Reach Up orientation session. CD described the purpose of the orientation session to educate applicants as to programs and applicant responsibilities, and then to draft an initial FDP.

W.A.M. § 2302.2 requires the Commissioner to provide notification to applicants about the applicants'

participation requirements in the Reach Up program if the applicants are found eligible for Reach Up financial assistance.

The Department is using the orientation session as a means to inform applicants of Reach Up requirements and start the process for case management. Applicants are notified of their obligation to attend the orientation session.

In petitioner's case, she received two separate notices of the need to attend an orientation session. The first notice was issued on April 30, 2012 and petitioner believed she needed to wait for an appointment date based on her past history with the Department. A second notice was issued June 4, 2012. Petitioner testified that she spoke to CD on June 4, 2012 and learned that she could come in anytime for the orientation session.

Petitioner argues that she attended an orientation session on both June 11 and June 21, 2012 and that she saw CD both times.

CD testified that she had not met with petitioner and that there is no record that petitioner came into the district office on either June 11 or June 21, 2012.

CD testified in person whereas, the petitioner and her friend testified at a later date by telephone. Credibility

can be difficult to judge, especially when a witness does not testify in person leaving the finder of fact without the range of indicia that is used in determining credibility.

CD's testimony was credible that she had not seen petitioner and her testimony was credible about the district office procedures to document who comes into the district office and the lack of documentation that petitioner appeared in the district office. The petitioner's testimony raised questions.

In an initial eligibility case, the burden is on the applicant to show by a preponderance of evidence that she meets the eligibility criteria. The Department criteria included an orientation session. Petitioner has not sustained her burden of proof in this case that she attended an orientation session.

Based on the foregoing, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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