

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing Nos. B-07/13-492  
 )  
Appeal of ) & B-08/13-563

INTRODUCTION

Petitioner appeals the termination of her Reach Up benefits as of June 1, 2013 by the Vermont Department for Children and Families ("Department") and the subsequent sanction of her Reach Up benefits after they were restarted in July of 2013. The following facts are adduced from testimony and representations of the parties along with documents submitted during a hearing held August 22, 2013.

FINDINGS OF FACT

1. Petitioner lives with her minor children in her mother's home. She receives Reach Up benefits.
2. Petitioner receives mail at her mother's address, which is the same address she has given to the Department.
3. Petitioner's Reach Up benefits were sanctioned as of April, 2013, and pursuant to Reach Up regulations was required to meet with her case manager in May, prior to the 16<sup>th</sup> of the month, in order to avoid termination of her benefits.

4. Petitioner had an appointment with her case manager scheduled on May 1, 2013. The Department mailed her a notice of this meeting, with the proviso that she was required to attend a meeting with her case manager by the 16<sup>th</sup> of the month, or no Reach Up benefits would issue for the month.

5. Petitioner called her case manager the afternoon of May 1 and said she was having car trouble. The meeting was rescheduled to May 2.

6. Petitioner did not appear for her meeting on May 2. A subsequent meeting with her case manager was scheduled for May 10. Notice was sent to petitioner and a follow up call was made to her mother's home.

7. Petitioner did not appear for her May 10 meeting.

8. Petitioner phoned her case worker on May 20, requesting an appointment. Her case worker scheduled another meeting for May 30.

9. A notice was sent to petitioner on May 21 stating that her Reach Up would close as of June 1, 2013, because she had failed to attend the required sanction meeting by May 16.

10. Petitioner did not appear for her meeting on May 30.

11. Petitioner's benefits were terminated effective June 1.

12. Petitioner subsequently reapplied for Reach Up and was determined eligible as of July 2. Pursuant to Reach Up rules, her prior sanction was nullified because her Reach Up had been closed for at least one calendar month.

13. Petitioner's case manager scheduled a meeting with her for July 24. The Department sent a written notice of the meeting to petitioner on July 17 and left a reminder message for her at the phone number she had provided.

14. Petitioner phoned her case manager on the afternoon of July 24, stating that she had just found out about the meeting. When her case manager insisted that a notice had been mailed and a message left at her number, petitioner stated that she had no childcare and would not have been able to attend anyway. Petitioner's case manager informed petitioner that her children are permitted to come to their meetings, and reminded petitioner that she had brought her children to past meetings.

15. Because she failed to attend the July 24 meeting, petitioner's Reach Up was sanctioned by the Department as of September 1.

16. Petitioner has had two "conciliations" in the past 60 months related to past Reach Up program non-compliance.

17. Petitioner offered no testimony or other evidence rebutting the Department's evidence relating to her missed meetings in May and July.

18. Petitioner has expressed complaints about her case manager, reiterated during the hearing, stating that they did not get along well.<sup>1</sup>

19. The Department assigned a new case manager to petitioner as of August 5.

20. Petitioner appeals both the June 1 termination of her benefits and the sanction determination that will be imposed September 1.

ORDER

The Department's decision is affirmed.

REASONS

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. Reach Up Rules § 2200.

**Termination of benefits as of June 1, 2013**

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<sup>1</sup> Petitioner also expressed reservation about the Family Development Plan she signed on July 30, 2013. That does not factor here as it came after the events in question and is not relevant in any event.

Under Rule 2375.5, sanctioned adults must meet with their Reach Up case manager by the 16<sup>th</sup> of the month or their benefits will be terminated, absent "compelling" circumstances. In this case, two meetings were scheduled for petitioner in May prior to the 16<sup>th</sup>. It is undisputed that petitioner failed to appear for either meeting. She has provided no reasons, compelling or otherwise, for missing these meetings. Thus, the Department's termination of her benefits as of June 1 is consistent with the applicable regulations and must be affirmed by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

**Reach Up Sanction as of September 1, 2013**

Reach Up regulations provide the Department with the authority to impose a financial sanction on participants based on non-compliance - if the participant "fails to comply with services component requirements . . ." Reach Up Service Rules (RUSR) § 2375. Non-compliance with Reach Up 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 non-compliance includes a failure or refusal to "attend or participate fully in FDP activities." RUSR § 2371. The regulations also provide for a conciliation process through which "disputes related to an individual's failure to comply with services component requirements are resolved." RUSR § 2374. Successful completion of the conciliation process will prevent a financial sanction from being imposed. RUSR § 2374.1. Conciliation can only be initiated if the participant has not conciliated two disputes in the prior 60-month period. RUSR § 2374.

Petitioner is not eligible for the conciliation process because she has had two conciliations within the last 60 months. There is no dispute that petitioner failed to attend the July 24 appointment. Reach Up regulations include a list of potential reasons for failing to meet a program requirement, such as a family emergency, inability to arrange for transportation, and child-care needs, among several other things. See RUSR § 2373.2 (relating to failing to comply with a component of a Family Development Plan).

In this case, petitioner failed to appear for the July 24 appointment and failed to inform her case manager beforehand. There is no dispute she was mailed a notice to the address she provided to the Department and that the Department made a reminder phone call to her at the number she provided. Petitioner stated after the fact that, even if she had known about the meeting, she did not have childcare. However, the Department provided sufficient notice of the meeting and she therefore could have arranged for childcare. In any event, the Department would have allowed her children to attend the meeting if that had been necessary.

Petitioner has otherwise failed to establish good cause for missing the July 24 meeting. The Department's sanction is therefore consistent with the applicable regulations and the Board is required to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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