

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-07/13-495
)
 Appeal of)

INTRODUCTION

Petitioner appeals the determination of the Vermont Department for Children and Families ("Department") sanctioning him for missing an appointment with his Reach Up caseworker. The following facts are adduced from testimony and documents submitted during a hearing held August 15, 2013.

FINDINGS OF FACT

1. Petitioner receives Reach Up benefits. On May 29, 2013, the Department mailed him a notice for an appointment with his caseworker on June 3 to discuss employment-related issues. Petitioner missed the appointment and did not contact his caseworker beforehand to inform her he could not make the appointment.

2. The Department ultimately determined that petitioner failed to show good cause for missing the appointment, and sanctioned petitioner by reducing his household's Reach Up benefits.

3. Petitioner stated that he saw the notice of the appointment only after the date of the appointment. He could not say whether the notice had arrived in the mail prior to June 3, acknowledging that he and his spouse do not check their mailbox on a daily basis.

4. The Department phoned petitioner's household on May 31 to remind him of the June 3 appointment. A Department worker credibly testified that she spoke directly with petitioner to remind him of the appointment, based on the records she keeps of each reminder call she makes. Petitioner credibly testified that he did not recall speaking directly to anyone from the Department giving him a reminder of the meeting.

5. Petitioner submitted evidence that his father-in-law had received a call from someone with the Department to remind petitioner of a meeting, and forgot to inform petitioner of the call. The evidence submitted from petitioner's father-in-law was not specific as to the date the call had been received.

6. It is undisputed that petitioner has had two "conciliations" within the past 60 months relating to compliance issues with his Reach Up requirements.

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. 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 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.

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.

In this case, because two conciliations have occurred within the last 60 months, petitioner is not eligible for the conciliation process. There is no dispute that petitioner failed to attend the June 3 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).

Petitioner states that he did not receive the notice of the meeting and did not receive the May 31 reminder call about the meeting. He argues that the time period between May 29, a Wednesday, and June 3, a Monday, was too brief to provide sufficient notice. Petitioner acknowledged that he does not check his mail on a daily basis. Although he may have only seen the notice of the meeting after the date of meeting, he has presented no evidence that he did not receive the notice in his mailbox prior to the meeting.

It should go without saying that, absent extenuating circumstances, it is reasonable for the Department to assume he would check his mail daily. It is also reasonable to assume that a letter mailed in Vermont on a Wednesday would arrive within three days, and more likely one or two days. The short turnaround time for the meeting argued by petitioner is not persuasive in the absence of evidence he did not receive the notice or had a good cause reason he could not attend the meeting at that time.

Given this, the dispute over whether petitioner directly received a reminder call from the Department is not determinative or relevant. Petitioner has otherwise failed to establish good cause for missing his appointment.

The Department's denial is consistent with the applicable regulations. Therefore, the Board is required to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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