

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-05/14-397
)
Appeal of)

INTRODUCTION

Petitioner appeals the closure of her Reach Up benefits imposed by the Vermont Department for Children and Families ("Department"). The following facts are adduced from representations of the parties along with documents submitted during a hearing held June 10, 2014 and a memorandum dated July 10 from the Department in response to a request from the hearing officer.

FINDINGS OF FACT

1. Petitioner is a recipient of Reach Up Financial Assistance (RUFA) on behalf of her family.

2. Petitioner entered into a Family Development Plan ("FDP") dated April 30, 2014, which she and her case manager signed. The FDP included the following (in pertinent part):

I have received over 60 countable months of Reach Up and must meet all or part of my work requirement doing a documented job search. I will apply to all jobs for which I am qualified and all jobs recommended to me. I will accept all interviews and will accept any paid job offered to me. I will complete all sections of the weekly job search log and will submit to my case manager

by the following Tuesday at 8:30 a.m. If I do not do any of this my grant will close.

3. Petitioner's Reach Up was subsequently closed when she failed to hand in her job search log by 8:30 am on May 6, 2014, pertaining to her activities for the week prior.

4. During the week prior to May 6, petitioner had a job interview and was offered and accepted a job on Saturday, May 3.

5. Petitioner does not dispute that she failed to hand in her job search log on May 6. She believed that she did not need to hand in the log because she had found a job. She further did not believe it was necessary to hand in the log because she was under the impression that she would no longer qualify for benefits because of her job income.

6. The Department found that petitioner had not established good cause for failing to hand the log in, leading to the decision to close her Reach Up.¹

7. Petitioner's benefits were closed on the ground that she failed to meet the work requirement.

¹ The Department represented at hearing that it must receive the work search log on a timely basis in order to receive federal funding reimbursement.

8. Petitioner's hours at her new job have been reduced and she now believes she may qualify for Reach Up and is interested in receiving benefits.

9. There is no dispute that petitioner has received 60 or more cumulative months of Reach Up assistance.

10. Petitioner timely appealed the closure of her benefits.

ORDER

The Department's decision is reversed as to the decision that she failed to meet the RUFA work requirement and the matter is remanded to the Department in accordance with this recommendation.

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 now 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 Rules § 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."). Notably, a distinction is made between noncompliance with "service component requirements" and noncompliance with "the work requirement."²

The Department asserts that petitioner was non-compliant with her work requirement when she failed to file her job search log on May 6, pertaining to the week prior. The Department further asserts that it is immaterial whether petitioner can now *in fact* establish that she engaged in the job search which the log would have presumably documented, or submit the log after the deadline, and that her failure to submit the log *on time* constitutes the sole and exclusive violation of her work requirement. The Department does not dispute that petitioner was engaged in job search activities of some kind during the week in question and in fact accepted a job prior to the deadline for submission of the log.

² A family whose Reach Grant is closed for non-compliance without good cause may be eligible again at any time following a two month break in assistance. See Reach Up Rules § 2238.2(A). Failure to meet a work requirement mandates closure with or without good cause. See Reach Up Rules § 2238.1. However, the Department has adopted procedures which appear to allow a recipient to reapply immediately following the date of closure of benefits if good cause is found for failing to comply with the work requirement. See Bulletin 14-12, P-2349, p.3 (eff. 5/1/14).

Reach Up regulations promulgated by the Department specify "work activities" as "the activities that participants must engage in to fulfill their work requirement." RU Rules § 2350. The rules list both "core" and "non-core" activities which may satisfy the work requirement. Among core activities is a category titled "Job Search and Job Readiness Assistance." RU Rules § 2350.6. The description of this category includes activities such as resume and application preparation, job interviews, work search and work-search training, and life skills training.

See Id.

The rules do not specify that documentation of activities that meet the work requirement *in and of itself* is a substantive element of the work requirement. While it is not unreasonable for the Department to require some sort of verification of activity that meets the work requirement, the failure to submit such verification, particularly by a certain time and date without any opportunity to cure that failure, cannot be the sole measure of whether the work requirement is met. In this respect, the work requirement is clearly substantive. This is only strengthened where the regulations make a distinction between failing to meet service component requirements and failing to meet the work

requirement, and consequently the application and impact of good cause for each. See RU Rules § 2238.1

The Department's closure of petitioner's benefits for failing to meet the work requirement is inconsistent with the regulations.³ This appeal is therefore reversed as to the determination that petitioner failed to meet the RUFA work requirement and the matter is remanded to the Department in accord with this order. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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³ Not determined at this point is whether petitioner's failure to submit the job search log by 8:30 a.m. on May 6 violates any Reach Up services component requirement. It should be noted that no factual findings or conclusions are made as to the extent of petitioner's job search activities during the week prior to May 6; as described above the Department's position is that whether petitioner engaged in these activities is immaterial, despite her finding employment. On remand the Department is also free to request petitioner to establish whether she *in fact* engaged in the job search activities mandated under her Family Development Plan.