

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

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 her employment goals.

3. Petitioner's most recent FDP was signed and dated on September 24, 2015. It included a requirement that she participate in a community service placement for 10 hours per week, with a goal of gradually increasing her hours to 40 per week. The FDP included a statement that petitioner understands that failing to meet this requirement, without good cause, would result in closure of her RUFA.

4. On September 28, 2015, petitioner signed a Participant Worksite Agreement for 10 hours per week for three weeks (at the Salvation Army), beginning October 5.

5. Petitioner failed to submit logs showing that she attended her community service placement for the week ending October 17, as well as for the dates of October 19 and 20.

6. Based on this, the Department requested, in letters dated October 22 and 23, that she show good cause for failing to verify her participation at the placement.

7. On October 28, petitioner met with her Reach Up case manager and brought a note from a nurse in the office of her primary care physician that she was unable to do any lifting with her right arm for the next 10 days. Her Reach Up case manager asked her to fill out and return a medical deferment form by November 6.

8. On November 6, having received nothing from petitioner, her Reach Up case manager completed an authorization form for closing the household's benefits based on noncompliance with program requirements (as opposed to the work requirement) without good cause, which was then signed by the case manager and Reach Up team leader.

9. On November 9, the Department sent a notice to petitioner that her benefits would close effective November 30, 2016, due to noncompliance with her Reach Up requirements without good cause.

10. On November 16, petitioner brought in a medical deferment form from her physician's office indicating she should work no more than 24 hours per week.

11. Petitioner does not dispute that she failed to attend her community service placement on the dates in question. At the initial hearing in this appeal, her spouse attended on her behalf and stated that she had started a job the week ending October 17, and that was the reason she failed to attend the community service placement. Petitioner was then given time to submit her paystubs from her job to verify this assertion.

12. Petitioner ultimately submitted pay stubs, but those covered subsequent weeks, not the dates in question.

She began working on or about October 29, one to two weeks after the events in question. She worked for about three weeks before losing her job. Her paystubs indicate she worked approximately seven, six, and four hours each week, respectively.

13. At a telephone status conference following the hearing, petitioner asserted that her spouse had been mistaken, and that the reason she had failed to attend the placement was because she had been engaged in job search activities. There is no record that petitioner ever raised this explanation before the status conference. To the extent it is material, the explanation is inconsistent with the record as a whole and found to lack credibility.

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. Fair Hearing Rule 1000.3.O.4.

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 in receipt of 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. Petitioner's FDP specifies the expectations for successfully participating in her community service

placement. There is no dispute that petitioner failed to attend her placement for the week ending October 17 and on October 19 and 20; the sole 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.

While petitioner has asserted that she was engaged in a work search during the time at issue, this would not - even if proven - meet her community service placement requirement nor does it explain why she failed to comply with the requirement. To the extent it is raised in the record, while petitioner at one point sought a medical deferment, the limitation of 24 hours of work per week would not have prevented her from meeting the requirement, as well. Even assuming for the sake of argument that petitioner's finding of employment meets the overall purpose of Reach Up, and thus any related job search activities would obviate the need to participate in a community service placement, this remains unavailing as petitioner's explanation lacks credibility, and moreover the hours worked at her job would not have met her work requirement.

Petitioner has therefore not established good cause for her noncompliance and 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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