

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-03/14-239
)
Appeal of)

INTRODUCTION

Petitioner appeals a Reach Up sanction imposed by the Vermont Department for Children and Families ("Department"). The following facts are adduced from testimony and representations of the parties along with documents submitted during a hearing held April 10, 2014.

FINDINGS OF FACT

1. Petitioner has a one-year old child and receives Reach Up Financial Assistance (RUFA).

2. Petitioner entered into a Family Development Plan ("FDP") dated February 12, 2014, which she and her case manager signed. The FDP was signed during a conciliation process and included the following task:

I am in conciliation for missing a meeting and not calling at the soonest possible moment prior to establish good cause and reschedule. I will attend 2 meetings (on time) in a row with [case manager] and call at the soonest possible moment prior to the appointment for a good cause reason and then provide documentation within 5 business days to establish good cause. I understand that even if I do miss for a documented good cause reason, I will still have to attend 2 meetings no later than 3/30 in order to resolve the conciliation or

I will be sanctioned. If I miss [without] established good cause I will move straight to sanction. I also understand that it is my responsibility to arrange transportation and if I rely on someone else for a ride and do not make it here on time, that will not be considered good cause since I am close enough to walk if I plan ahead on time.

3. Pursuant to her FDP, petitioner had two meetings scheduled with her case manager, including one meeting scheduled for March 12, 2014 at 1:00 p.m. to work on her resume.

4. On the morning of March 12, at approximately 10:15 a.m., petitioner left a message for her case manager asking whether the appointment had been cancelled due to snowy weather and road conditions. Her case manager did not hear the message until 1:00 p.m.

5. Petitioner did not attend her appointment at 1:00 p.m. She arrived at her case manager's office after 1:00 p.m., and left a message for her just after 1:20 p.m. that she was in the waiting room for her appointment. Petitioner's case manager came out to the waiting room at

1:15 p.m. and again just after 1:30 p.m., and did not find petitioner there.¹

6. Petitioner arrived late for her March 12 meeting because she had traveled that morning from Burlington to Fairfax to pick up her niece from school, who was distressed due to a personal reason.² Petitioner does not drive but was driven, along with her one-year old, to Fairfax and back by her boyfriend.

7. Petitioner offered no explanation as to why her boyfriend was unable to pick up her niece on his own, nor, even if there was an explanation, why she did not leave enough time to return for her appointment. Petitioner also offered no explanation as to why she departed the waiting room after she left a message for her case manager and prior to her case manager coming out to find her, a span of approximately 10 minutes.

¹ There is some dispute in the facts between the parties in respect that petitioner states she arrived for her appointment a few minutes prior to 1:15 p.m. However, it is undisputed that she left her case manager a phone message from the waiting room at 1:22 p.m. and had departed the waiting room by the time her case manager came out to find her at 1:33 p.m.

² No allegation was made that petitioner's niece was involved in any kind of emergency.

8. Petitioner lives on a bus route less than a mile from the district office where the meeting was scheduled and may bring her child to case manager meetings as necessary.

9. It is undisputed that petitioner has had two conciliations within the last 60 months.³

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

³ Petitioner has since cured her non-compliance related to the March 12 meeting and is subject to a one-month reduction in her RUFA of 75 dollars as a result of this sanction, which may be deducted in whole over a period of several months.

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.

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 March 12 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, inclement weather which prevents attending an appointment, 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).

None of these factors is present here. The poor weather conditions, if she had stayed in Burlington, would not have affected her ability to travel to the appointment due to her close proximity to the district office - and those conditions clearly did not affect her ability to travel to Fairfax. Petitioner made a choice to travel to Fairfax which she clearly believed was important enough to jeopardize her ability to return in time for her appointment. The reason she traveled to Fairfax was not for a family emergency requiring her immediate attention. However, even assuming for the purposes of argument that the reason she traveled to Fairfax meets "good cause," there were alternatives available to petitioner to ensure her niece was picked up and still allow her to attend the appointment.⁴

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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⁴While the Department indicates petitioner would have been sanctioned for arriving late to the appointment, petitioner nonetheless offered no explanation for departing the waiting room of her case manager's office after arriving there late.