



Rhode Island Executive Office of Health and Human Services
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Date: April 1, 2015

Docket # 15-464
Hearing Date 03/23/15

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

THE DHS POLICY MANUAL: RI Works

- SECTION: 1406.50.10 Criteria for Hardship Extension to Time Limit
- SECTION: 1412.25.05 Good Cause for Failure to Comply

The facts in your case, the Agency Rules and Regulations, and the complete administrative decision in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant) and Agency representatives: Debra Borst, Terrie Ramirez, and the Policy Unit.

Present at the hearing were: You, the Spanish interpreter and Agency representatives: Terrie Ramirez and Debra Borst also present was your Ser Jobs case manager and the office manager.

ISSUE: Did the Agency correctly close the appellant's Hardship case for non-compliance with work program?

DHS RULES AND REGULATIONS: Please see the attached APPENDIX for pertinent excerpts from the Department of Human Services Rules and Regulations.

APPEAL RIGHTS:
Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

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The Agency representative testified that:

- The appellant applied for hardship extension on November 3, 2014.
- She filled out and signed an employment plan.
- The plan included education (ESL classes) from November 7, 2014 to January 31, 2015. These classes were Monday –Friday from 9 AM to 11:30 AM.
- The plan also included a work experience at Ser Jobs from November 17, 2014 to January 31, 2015; Monday-Friday 12:00 PM to 4:00 PM.
- She was approved for Childcare and Transportation.
- The Agency received an Activity Status report on December 1, 2014 from Ser Jobs indicating that the appellant had been terminated from the work experience program.
- The Agency closed the appellant's hardship in response to this.
- The Agency sent closure notice on December 29, 2014.
- The appellant came into the office around the same time to talk about the Ser Jobs problem and to re-apply.
- The Agency requested information about Good Cause for failure to comply.
- The appellant wrote some letters indicating that she felt she was not treated properly at Ser Jobs. She indicated that she did make a mistake and speak loudly in the office because she was upset that her social worker would not listen to the reasons she missed two days of the program.
- The Agency contacted Ser Jobs for more of an explanation of why the appellant was asked to leave the program. The caseworker sent an E-mail indicating that the appellant's behavior in the program was unacceptable; it explained that she had a few absences but she was asked to leave the program after her disruptive behavior. She was speaking very loudly and was aggressive. She was disturbing staff and other participants.
- The Agency representative called the appellant with a Spanish interpreter because she has stated she was treated like an animal and the Agency wanted to know what that meant; how she was treated. They wanted to know if she was yelled at or what made her feel she was treated like an animal.

- The appellant stated that when she showed up with her baby she was asked to leave and that someone flicked their hand at her and told her to leave. She said they were not disrespectful but she did not like being told to leave.
- She was given the opportunity to file a discrimination report but she declined.

The Ser Jobs Case manager testified:

- He told the Agency the truth.
- On the day in question the appellant came to the office with her baby in her arms.
- She told him she could not stay because she did not have childcare. He told her that she had already missed the first day of the program and her attendance had not been good that week.
- He had given her chances because it is difficult when you have two or three kids to take care of.
- On the second week she had already missed a day and on the third day of the week she came in with baby and said she could not stay.
- He told her she needed to find someone to stay with her kids because if she had a job she would have to show up or she would be fired.
- This is when she started to raise her voice, he tried to explain to her but she just kept going and going. All the participants in the room were already stopping what they were doing and looking at what was happening. It was impossible for him to talk to her because she was very loud.
- The office manager then came out and she said she could hear everything and she told her to leave because she could not be disruptive.
- He talked to her outside also but she continued to be loud and not listen.
- She was pointing her finger at him and told her child to remember this man because he wanted to hurt them.
- He then told her to leave also and that she was not welcome back to the program.
- She then came back on the next Monday and he told her she was no longer in the program.
- He told her to go back to DHS but not to come back to Ser Jobs.

The Office Manager testified:

- She was the one who had to intercede in the incident.
- The appellant was very, very loud to the point that nobody could talk on the phone.
- The staff and participant were interrupted by this.
- She warned her that she needed to lower her voice and that she should not talk to her case manager in that way.
- She would not let anybody else speak.
- That is when she asked her to leave because she was being disruptive and disrespectful. She was being aggressive to the point that she was in the case manager's face. She told the office manager that she was nobody to talk to her; she was not her Case Manager.

The Appellant Testified:

- There is a part of what the Case Manager said that is not true.
- She thinks that all the other participants were not interrupted.
- The Office manager is the one who told the Case Manager to make her leave.
- She got mad because the Office Manager was talking to the Case Manager telling him to get her out of there. She told the case worker that she was tired of him talking badly to the participants.
- She asked the Office Manager why she was getting mad at her because she is not even her caseworker.
- The caseworker explained that she was not her caseworker but she is the boss and she said ok.
- The caseworker told her he was going to report her to welfare so they would take away the cash. For that reason she got mad.
- She tried to give an explanation because she didn't want them to treat her badly.
- The childcare had closed early because of Thanksgiving the next day.
- She had no one else to leave her with.

FINDINGS OF FACT:

- The appellant had reached her forty-eight month lifetime limit for RI WORKS.
- The appellant had been notified of the limit and what she would need to do to be eligible for a Hardship extension.
- The appellant did apply for an extension.
- The appellant did sign an employment plan on November 3, 2014.
- The appellant did not comply with her employment plan.
- The appellant's Hardship Extension was closed on December 29, 2014.
- The appellant did file a timely appeal received by the Agency on January 5, 2015.
- The hearing was held on March 23, 2015.

Conclusion:

The issue to be decided is whether the appellant met the criteria for the Hardship Extension.

A review of Agency Policy reveals that on 7/1/09, when the Rhode Island Works time limits of twenty-four (24) months in any sixty (60) months, with a lifetime maximum of forty-eight (48) months, will apply to all applicants and recipients, closure will occur for any assistance unit, including those containing citizen children of non-citizen parents or legal permanent residents in the U.S. less than five years, which has received twenty-four (24) months in the preceding sixty (60) months or a lifetime total of forty-eight (48) months.

Further review of Agency policy reveals that the Department of Human Services "may exempt a family from the application of the lifetime time limit by reason of hardship; a hardship extension may be granted to a family if all other Rhode Island Works eligibility requirements are met, including re-determinations, and one of the following criteria applies; the recipient has a documented significant physical or mental incapacity and can document a pending application for SSI or SSDI and have submitted an application for or be active and making progress in his/her employment plan with the Office of Rehabilitation Services; or is caring for a significantly disabled family member who resides in the home and requires full time care; or is homeless as defined in Section 1406.50.10.05; or is unable to pursue employment because of a current, documented domestic violence situation; or is unable to work because of a critical other condition or circumstance, other than citizenship or alien status, as approved by a DHS regional manager.

Any individual approaching their time limit is notified that s/he may request a reassessment to determine whether or not s/he may meet the criteria for an extension beyond the time limit.

In this case the appellant applied for a hardship extension and signed an employment plan on November 3, 2014.

The appellant agreed to education (ESL classes) from November 7, 2014 to January 31, 2015. These classes were Monday –Friday from 9 AM to 11:30 AM. The plan also included a work experience at Ser Jobs from November 17, 2014 to January 31, 2015; Monday-Friday 12:00 PM to 4:00 PM. The appellant was given day care for these programs.

The Agency testified that they received an activity report from Ser Jobs on December 1, 2014 indicating that the appellant had been terminated from the program because she was rude and disrespectful and that she was not welcome to come back to Ser Jobs.

The appellant testified that she did not comply with her programs but at some times she had reasons. She was sick or she did not have daycare. She testified that she was sorry she was loud but she was angry that no one would listen to her as to why she could not stay at the program on the day she was terminated.

The Case Manager and the Office manager from Ser Jobs both testified that she was very rude and disruptive and that she had always had a problem with attendance.

Further review of Agency Policy reveals that any hardship extension that is granted requires an Employment Plan (RIW-11) be signed containing steps to be taken as appropriate in order to remove/ameliorate the condition that warranted the extension. In this case the appellant had signed such a plan on at least two previous occasions.

Agency Policy also states that any failure to engage, whether in an employment plan activity or other program requirement, or a report of unsatisfactory progress, must trigger a notice of adverse action to which the parent has ten (10) days to supply good cause documentation. Circumstances leading to determinations of good cause for failure to participate are usually short-term in duration and result from events beyond the participant's control. In the case of a hardship extension, failure to comply with the employment plan without good cause results in a notice of case closure.

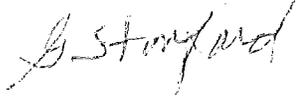
The Agency testified that the caseworker spoke to the appellant after the closure to try to ascertain if there was good cause.

The appellant stated that she did not comply with her last employment plan because she had medical and daycare issues; however the Agency did approve daycare for the appellant.

Further review of Agency Policy reveals that the employment plan is designed to contain steps to be taken as appropriate in order to remove/ameliorate the condition that warranted the extension. An applicant must meet all other RI Works eligibility requirements to be granted a hardship extension, one of which is to be in compliance with an employment plan and making good progress.

It is clear from the evidence and testimony in this case that the appellant was not in compliance with work plans or making good progress. None of the reasons given by the appellant as to why she was not complying could be determined to be good cause.

After careful review of Agency Policies and the evidence and testimony submitted this Appeals Officer finds that the appellant did not have good cause for failure to comply with previous employment plans; therefore she was not meeting Hardship eligibility Criteria and the Agency's closure of the case is upheld and the appellant's request for relief is denied.



Geralyn B. Stanford
Appeals Officer

APPENDIX

The Rhode Island Works Program (RIGL 40-5.2 et seq.) establishes the legal basis for a welfare to work program to assist needy families to prepare for, accept and retain employment with necessary supports, as quickly as possible, and is the law through which the Federal assistance program, Temporary Assistance for Needy Families, is available to families in Rhode Island who meet program eligibility criteria. The Department of Human Services is charged with the responsibility of setting forth the eligibility requirements established in law. All provisions of RIGL 40-5.2 et seq. shall be effective and apply to all applicants and recipients on or after July 1, 2008, except those described in Section 1406.50, Time Limits.

Individual Employment Plan (RIW-11) - a written, individualized plan for employment developed jointly and signed by the applicant and Agency staff that specifies the steps the participant shall take toward long-term economic independence. A participant must comply with the terms of the individual employment plan as a condition of eligibility in accordance with Section 40-5.2-10(e) of the RI General Laws.

Job Search and Job Readiness - the mandatory act of seeking or obtaining employment by the participant, or the preparation to seek or obtain employment.

1. In accord with federal requirements, job search activities must be supervised and reported to the Department of Human Services in accordance with TANF work verification requirements. DHS contract and State staff are responsible to adhere to this federal requirement.

A client applying for cash assistance should also be screened for child care assistance; eligibility should be determined simultaneously with determining cash assistance eligibility, both as expediently as possible. The CCAP questions in the DHS-2 should be completed during the initial screening process and the application date should be entered into the system during the interview, in conjunction with requesting in the system that a pending letter be issued that day. The client should be provided with community resources such as the contact information for the child care referral service contractor who will help identify providers. If the parent, after good faith efforts, is unable to find child care, the parent must discuss with their social caseworker the barriers to securing such care. DHS can assist clients at intake to ensure child care is in place prior to the client's entering work activities which is a requirement of the RI Works Program.

When an applicant expresses a desire to apply for the RI Works cash assistance program the screening case worker must inform the applicant that the goal of the RI Works program is to help the parent(s) find employment so that they will not need to rely on cash assistance, as well as to ensure the well-being of the children and family stability, and:

- RI Works is time-limited and that assistance units can receive cash assistance under RI Works for up to twenty four (24) months in any sixty (60) months with a lifetime total of forty eight (48) months. Children may receive cash assistance only while their parents receive cash

assistance, unless the parent(s) receive(s) SSI or the child is in a loco parentis caretaker household and the non-parent caretaker is not in the payment. Children in SSI or loco parentis households may receive cash assistance until age eighteen (18) or until age nineteen (19) under certain circumstances as described in Section 1406.10; and,

- As a part of the application process and a condition of RI Works eligibility the applicant must meet with a RI Works eligibility technician to determine financial eligibility and complete other requirements which may include further assessment, an employment plan, or an amended employment plan.

Initial Assessment and Planning

The screening caseworker will conduct an initial preliminary assessment, taking into account the physical capacity, skills, education, work experience, health, safety, family responsibilities and place of residence of the individual; and the child care and supportive services required by the applicant to avail himself or herself of employment opportunities and/or work readiness programs. Unless exempt, and on the basis of such assessment or a further assessment, the Department in consultation with the applicant shall develop an individual employment plan (RIW-11) for the family. The individual employment plan shall identify employment objectives, work activity(ies) and supportive services to be provided by the Department, taking into consideration factors identified from the assessment as detailed in Section 1410.

Unless exempt, the participant shall attend and participate in one of the employment plan activities described in 1412.05.05 (single parent family) or 1412.05.15 (two-parent family) that is appropriate to the parent's skills, education, work experience, physical and mental capacity and which helps the parent move quickly toward employment leading to economic self-sufficiency and long-term attachment to the workforce. A parent may be temporarily or permanently exempt from this requirement as detailed in Section 1412.05.10 for single-parent families, and 1412.05.20 for two parent families and 1412.05.15.05 for teen two-parent families. An applicant/recipient temporarily exempted from the work requirements.

1412.05 PARTICIPATION REQUIREMENTS

REV:10/2008

All parents, and caretaker relatives (including those who are acting in loco parentis, if they are included in the cash assistance grant), who request and receive assistance are required to enter into an Employment Plan (RIW-11) and participate, unless temporarily exempt (1412.05.10), in DHS-approved work-related activities.

1412.05.05 One Parent Family

REV: 03/2012

Single parents shall participate for a minimum of twenty (20) hours per week for parents whose youngest child in the home is under the age of six (6), and for a minimum of thirty (30) hours per week for parents whose youngest child in the home is six (6) years of age or older, in one or more of the following work activities (as defined in Section 1416), as

appropriate, in order to help the parent obtain stable full-time paid employment. For teen parents, the first activity must be secondary education or completion of a GED program, if either certificate has not yet been obtained.

Core Activities:

- Unsubsidized employment;
 - Subsidized private sector employment;
 - Subsidized public sector employment;
 - Work experience. A parent participating in a work experience or community service program for the maximum number of hours per week allowable by the Fair Labor Standards Act (FLSA) will be considered to have met their required twenty (20) core hours if actual participation falls short of the required minimum hours per week (RI has a mini-simplified Supplemental Nutrition Assistance Program waiver).
- For parents whose youngest child is six (6) or more years old and whose required minimum hours per week are thirty (30), any hours permissible by FLSA that are short of thirty (30) hours must be satisfied in some other TANF work activity;
- On-the-job training;
 - Job search and job readiness. Except in the context of rehabilitation employment plans, job search and job readiness activities are limited to no more than four (4) consecutive weeks and six (6) weeks within a twelve month period; or twelve (12) weeks within a twelve (12) month period if unemployment rate is at least 50% greater than US total unemployment rate or the state is declared a "needy state";
 - Community Service;
 - Vocational educational training not to exceed twelve (12) months. Participation in a two-year degree program, a vocational certificate program, or a BA degree or advanced degree program may count as vocational educational training. Those participants who are in programs longer than twelve (12) months may use this activity as counting toward Rhode Island Works Program Rule

participation in a non-core job skills training, if they meet the requirement for a different core activity for sufficient hours.

- All supervised homework plus up to one hour of unsupervised homework per each hour of class time may count as meeting part of the total hours required for compliance with the RI Works employment plan. However, total homework time cannot exceed the hours required or advised in writing by the educational program;
- Adult education in an intensive work readiness program at thirty (30) hours per week, regardless of the age of the youngest child, not to exceed six (6) months; and
- Child care for an individual participating in a community service program.

Non-core Activities:

- Job skills training directly related to employment (allowable in addition to participation for twenty (20) hours per week in one of the above core activities);
- Education directly related to employment (allowable in addition to participation for twenty (20) hours per week in one of the above core activities); and
- Satisfactory attendance at a secondary school or in a course

of study leading to a GED. In the case of a parent under the age of 20, such satisfactory attendance in secondary school or in a GED program is countable as a core activity.

Other Required Work Activities:

- Up to ten (10) hours of activities as defined in a DCYF service plan may substitute for meeting an equivalent number of hours toward the twenty (20) hour requirement for parents with a child under age six (6), or for an equivalent number of hours toward the thirty (30) hour requirement for parents whose youngest child is age six (6) or older. The DCYF Social Caseworker provides the actual number of hours of participation per week required in order for the parent to comply with their service plan. The RI Works Social Caseworker then makes these hours part of the total hours required for compliance with the RI Works employment plan.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.