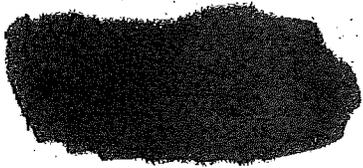


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
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Docket # 15-1389  
Hearing Date: August 25, 2015

August 28, 2015



**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:

**RHODE ISLAND WORKS PROGRAM (RIW) POLICY MANUAL: SECTIONS:  
1412.30, 1412.40.**

The facts of your case, the agency policy, and the complete administrative decision made 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, agency representatives Linda McBride, Deborah Borst and the Policy Unit.

Present at the hearing were: you, and Linda McBride (agency representatives).

**ISSUE: Should the appellant's cash assistance be reduced because she did not comply with her approved Employment Plan?** Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

**DISCUSSION OF THE EVIDENCE:**

The agency representative provided the following testimony:

- The agency sent the appellant notice dated June 12, 2015 informing her that beginning July 1, 2015 her monthly cash assistance benefit will decrease from \$449.00 to \$344.00 because she did not comply with an Employment Plan assignment, appointment, and/or activity.
- The agency notice states that the appellant's cash assistance benefits may be restored to the full amount if the appellant complies with an Employment Plan and follows the plan or becomes exempt from participating in an Employment Plan.
- The agency representative stated that the appellant was sanctioned for non-compliance with the Department of Labor and Training (DLT) as she was terminated from that program on June 10, 2015 for non-compliance.
- The agency representative submitted copies of e-mail, TRAC D and EARR reports from DLT dated June 10, 2015 indicating that the appellant was non-compliant.
- The agency representative submitted a copy of the appellant's Employment Plan that was signed May 13, 2015 by the appellant. The plan scheduled the appellant to start Job Search with DLT beginning June 8, 2015 for 20 hours per week.
- The agency representative stated that the agency is required to reduce a recipient's assistance when a report of non-compliance with an approved Employment Plan is received from a DHS vendor.

**The appellant testified:**

- She stated that since June 10, 2015 she has signed another Employment Plan and she has started working. She stated that since she entered into a new Employment Plan she has received a number of notices from the agency and at this time she is not sure who her assigned caseworker is.
- She stated that she knows that she complied with the DLT Employment Plan and she did not give anyone from DLT an attitude. She stated that the information from DLT that was reviewed by the agency is not true. She stated that she has proof to show that she was more than compliant.
- She stated that she has a resume to submit today and a copy of her daily work search record from DLT. She stated that if she was not compliant with DLT she would not have this information.
- She stated that she told the worker from DLT that she did not want to be there because the steps she was going through were not providing her with a job. She stated that putting together a resume was not going to put food on her table or start her with a job.
- She stated that she was not rude to her DLT worker and felt that the worker was being judgmental about her receiving welfare assistance. She stated that she does not remember the date that she submitted her resume to DLT.
- She stated that she complied with the job search work search on June 8, 2015 and the record she submitted documents her job search on that date. She stated that the DLT program required her to submit proof of her weekly job search and to submit the search record weekly.

- She stated that the worker from DLT was not appropriate and disrespectful to her. She did become infuriated with her worker and no longer wanted to speak with her. She stated that she was not escorted from the building by security. She stated that she quietly went through the training and complied with her plan.
- She stated that she went to DLT on June 8, 9, and 10<sup>th</sup>. She stated that after that she came back to DHS and entered into a new Employment Plan. She did not continue with the new plan because at that time she had started employment on June 25, 2015.
- She stated that the worker from DLT was not sympathetic to her situation, that she was rude and did not provide her with any real assistance in finding employment. She was 5 months pregnant at the time and was only interested in being referred for a job.
- She stated that she has complied with DHS in the past, she has attended school and graduated, she is enrolled at Rhode Island College, and she has never been disrespectful to anyone at DHS.

#### **FINDINGS OF FACT:**

1. The agency notified the appellant by a notice dated June 12, 2015 that her cash assistance benefit would decrease effective July 1, 2015 because she did not comply with her approved Employment Plan.
2. The appellant testified that she was compliant with her Employment Plan according to the plan requirements. She submitted documents to this record to substantiate her claim of compliance.

#### **CONCLUSION:**

The issue to be decided is whether the appellant's RIW cash assistance should be decreased due to her non-compliance with an approved Employment Plan.

The agency notified the appellant by notice dated June 12, 2015 that her cash assistance benefit would decrease because she did comply with her approved Employment Plan.

The agency representative testified that an e-mail was received from the appellant's Employment Plan provider at DLT dated June 10, 2015 indicating that DLT was terminating the appellant for non-compliance with the program. The agency representative also testified that an Activity Status Report was received by the agency from DLT also indicating that the appellant was terminated from the program for non-compliance on June 10, 2015.

The agency representative stated that per agency RIW policy cash assistance was reduced to the appellant because she failed to comply with her Employment Plan.

The appellant testified that she complied with the DLT program by being on time, being dressed appropriately, and job searching according to the program

requirements. She denied that she refused to complete a resume and that she did not want to participate in the program. She submitted a copy of her resume and a copy of her job search log dated June 8, 2015.

Review of the agency exhibits from DLT determines that a letter/e-mail EARR report from the appellant's Principal Employment & Training Counselor dated June 10, 2015 to the agency RIW eligibility supervisor states the following: "FYI I will be terminating the appellant ASAP for non-compliance of program. The appellant began June 8, 2015. The appellant started the program with a negative attitude and isolated herself from day 1 and has refused to complete a resume since yesterday. She stated today that she did not want to be here but had to be. Co-workers and other staff in the building have complained of her giving them an attitude for no reason. She has been very disrespectful to everyone she has come in contact with here. Please do not resend her back to the program."

The agency Activity Status Report exhibit indicates that the exhibit was submitted to the agency on June 11, 2015 with Program Status: Terminated June 10, 2015. The Activity Status Report comments state, "Non-compliant. Parent stated she did not want to be here. Gave attitude to staff and security. Please do not resend."

The appellant submitted a copy of an undated resume and a copy of her daily work search record from DLT dated June 8, 2015. The appellant submits that these documents provide proof that she complied with her Employment Plan.

The correspondence between DLT and DHS determines that the Principal Employment and Training Counselor decided to terminate the appellant from the program on June 10, 2015. The Counselor specifically cited the appellant's failure to complete a resume at that time. This hearing officer cannot determine if the resume submitted to this record was ever submitted to DLT as required. The Counselor notified DHS that the resume was not submitted as required.

Review of DHS RIW policy #1412.20.05 determines that, "The agency representative monitors attendance and successful participation through attendance reports which are delivered biweekly by the component provider through the EARR system.

Each report details the days and hours attended, indicates satisfactory or unsatisfactory progress, and, if the individual has stopped attending the program, indicates the termination or completion date.

When a DHS representative's EARR Report contains a message indicating Unsatisfactory Progress, the representative enters a sanction into the system which is approved by the eligibility technician and which triggers an adverse action notice that gives the parent ten (10) days to provide a good cause for the lack of progress.

The appellant was provided with proper adverse notice from the agency. The appellant did not submit documentation of good cause for her unsatisfactory progress either to the agency or to this record per agency policy 1412.25.05. (Attached).

Review of the Employment Plan dated May 13, 2015 and signed by the appellant determines that the appellant agreed to participate 20 hours per week at DLT Job Search starting June 8, 2015 through July 3, 2015. The agreed to Employment Plan requires that the following responsibilities be met, **"I must keep scheduled appointments, supply requested information in a timely way, and arrange for childcare or transportation before my Employment Plan activities start, and actively participate in my Employment Plan in order to achieve greater economic independence as quickly as possible. As a condition of eligibility for cash assistance, I must have and comply with an Employment Plan, and I must comply with program rules. If I do not comply with either the Employment Plan or program rules, and if I do not document good cause for not complying, I understand I will lose part of my cash assistance until I do comply."**

Based on review of the agency notice, the DLT correspondence, and the evidence submitted it is determined that the appellant's cash assistance benefits were decreased according to RIW policies applicable to non-compliance. The agency has documented for the record that the appellant's benefits were decreased due to non-compliance with her Employment Plan. Based on review of the record the agency decision to decrease the appellant's cash assistance was correct. The appellant's request for relief is denied.

**APPEAL RIGHTS (See last page)**



Michael Gorman  
Hearing Officer

**APPENDIX**

**EMPLOYMENT PLAN AS CONDITION OF ELIGIBILITY 1410.15**

The completed employment activity schedule must be approved by the agency representative before any supportive services can be authorized. When either a RI Works caseworker or a provider denies an individual's employment activity, a notice of the

denial must be issued. If this activity closure effects eligibility, the notice of adverse action to eligibility will specify reasons for the denial of eligibility, and include information regarding the parent's appeal rights.

PROGRESS AND ATTENDANCE REQUIREMENTS 1412.20  
REV: 10/2008

Once the individual has begun to participate in an activity included in her/his employment plan, s/he must meet certain requirements in both progress, referred to also as successful participation, and attendance to remain in compliance with RI Works Program requirements.

Definition of Successful Participation 1412.20.05  
REV: 10/2008

"Successfully participating" in an education or training component means that the participant in any training activity is meeting, on a periodically measured basis of less than a year, a consistent standard of progress toward completion of the education or training activity. This standard must include a qualitative measure of progress, such as a grade point average, and a quantitative measure, such as a reasonable time limit by which a student is expected to complete his/her education or training program.

With the exception of providers of postsecondary component activities, the agency representative will use the standard of the individual institution operating the education or training activity as its standard. Standards for participants in postsecondary activities are outlined in Section 1416.40. The Definition of Successful Participation 1412.20.05 appropriate standard for each participant will be defined as part of her/his employment plan when it is developed.

The agency representative monitors attendance and successful participation through attendance reports which are delivered biweekly by the component provider through the EARR system. Each report details the days and hours attended, indicates satisfactory or unsatisfactory progress, and, if the individual has stopped attending the program, indicates the termination or completion date. A written report for the transportation reimbursement is also completed, noting days of attendance, and is signed and dated by both the provider and the participant, and is returned to the Business Office.

When a DHS representative's EARR Report contains a message indicating Unsatisfactory Progress, the representative enters a sanction into the system which is approved by the eligibility Definition of Successful Participation 1412.20.05 technician and which triggers an adverse action notice that gives the parent ten (10) days to provide a good cause for the lack of progress. If the parent provides good cause, within that time frame, the DHS representative will lift the sanction immediately. If no good cause is provided within that time frame, the sanction will remain in effect.

Good Cause for Failure to Comply 1412.25.05  
REV: 03/2012

Good Cause for failing to meet any program requirements including leaving employment, failure to fulfill documentation requirements, or for any refusal to participate requires documentation of the circumstance.

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.

Although the individual's reason for refusing a particular assignment may appear valid, s/he shall be required to continue Good Cause for Failure to Comply 1412.25.05 to participate in the component/activity, until s/he establishes good cause or is sanctioned for providing none.

Documentation of good cause must be included in either the Department's or a subcontractor's case file. The case notes must include the reasoning used by the supervisor in the determination of good cause in the limited circumstances when documentation can not be secured, e.g., very short-term illness not requiring a doctor's visit.

The following reasons, when substantiated, constitute good cause for a participant's failure or refusal to comply with her/his employment plan.

- Child care is necessary for the parent(s) to participate in employment plan activity and the

agency representative determines that such child care is unavailable. When a participant refuses without good cause to seek or accept suitable child care, precluding participation in the activity, there is factio refusal to comply;

Acceptance of a bona fide offer of employment of more than twenty (20) hours a week or in which the weekly earnings are equivalent to the State minimum wage multiplied by twenty (20) hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty (20) hours a week or weekly earnings of less than the Federal minimum wage multiplied by twenty (20) hours. (If such circumstance arises, the DHS representative must review the employment plan to include other approvable activities to meet the minimum required hours.); Good Cause for Failure to Comply

1412.25.05

- Temporary illness of the participant;
  - Temporary illness of another family member sufficiently serious to require the presence of the participant;
  - The individual is experiencing a family or household crisis or change in family circumstances such as the death of a spouse, parent, or child, or a housing crisis;
  - Unusual weather conditions which prevented the participant and other persons similarly situated from attending the prescribed activity;
  - Court-required appearance;
  - Incarceration; or
  - Breakdown in transportation arrangements with no readily accessible means of transportation. On the other hand, when a participant refuses without good cause to accept other available Good Cause for Failure to Comply
- 1412.25.05

means of transportation, thereby precluding participation in work or training, there is a de facto refusal to comply.

PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE 1412.30  
REV: 03/2012

FIRST THREE (3) MONTHS OF NONCOMPLIANCE

The amount of cash assistance to which an otherwise eligible recipient family is entitled shall be reduced by the portion of the family's benefit attributable to any parent who, without good cause, has failed to enter into an individual employment plan or has failed to comply with his or her individual employment plan, as required under Sections 1412.05.05 and 1412.05.15 or other program requirements; provided that the reduction shall be applied during the first three (3) months, whether or not consecutive, of such failure or non-compliance by the parent.

For a family size of two (2), the benefit reduction due to noncompliance with the employment plan shall be computed utilizing a family size of three (3), in which the parent's PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE 1412.30 portion equals one hundred five dollars (\$105).

When a second parent enters or returns to the household, the employment plan for the parent(s) must be revised to reflect the two-parent work requirements in Section 1412.05.15. If no employment plan exists, one must be developed unless both parents are exempt from participation, within thirty (30) days of the change in household composition. Failure of the parents to comply with the revision or development of the employment plan will result in the family being ineligible for Cash Assistance in accordance with Section 1402.20 requiring an employment plan as a condition of eligibility.

IN EXCESS OF THREE (3) MONTHS OF NONCOMPLIANCE

The Department shall terminate cash assistance to a family if any parent in the family has failed, without good cause, to enter into an individual employment plan, or to comply with his PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE 1412.30 or her individual employment plan and has been penalized for three (3) months, whether or not consecutive.

The penalty becomes effective on the next payroll date after the adverse action period. The participant is notified of the penalty by a system-generated notice.

When a parent who has been sanctioned for three (3) months moves from one household to another, a sanction is imposed on the new

household.

No hearing is held when a decision has already been rendered by a Hearing Officer that the recipient has, without good cause, refused to participate in an employment plan activity, to accept employment, or otherwise failed to comply with her/his plan or other program requirements.

**PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE 1412.30**

However, the participant may contest the amount of the payment as it has been adversely affected by the refusal to participate, in which case the sanction period begins the next effective date if an adverse decision is rendered.

When an individual is penalized and subsequently becomes exempt from participation in her/his employment plan component activity, the documented exemption will result in the benefits being restored to the full amount beginning with the initial payment made on the first of the month following the date that the documentation of the exemption is received by the Department.

**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.