

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 15-795
Hearing Date: June 23, 2015

June 24, 2015



Providence, RI 02909

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:
1406.50, 1406.50.10, 1406.50.10.05, 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, and agency representatives David Hurdis, Frank Pace, Debra Borst and the Policy Unit.

Present at the hearing were: you, David Hurdis, Frank Pace, and Debra Borst (agency representatives).

ISSUE: Does the appellant qualify for a hardship extension of her RIW cash assistance? 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 March 3, 2015 informing her that her monthly cash assistance benefit of \$399.00 would be closed as of March 15, 2015 because she missed her Tool C appointment on March 3, 2015 @8:30. The notice states that if she has good cause for missing the appointment she must provide documentation as soon as possible.
- The agency representative stated that as a result of missing her March 3, 2015 appointment the appellant no longer qualified for hardship cash assistance because she was not complying with her Employment Plan.
- The agency representative submitted a copy of the appellant's Employment Plan dated December 29, 2014. The plan indicates that the appellant was scheduled for a Tool C appointment on February 10, 2015. The representative stated that the appointment had to be rescheduled that appointment due to a snow storm.
- The agency representative submitted a copy of an agency case tracking appointment schedule indicating that the appellant was notified that her Tool C appointment was re-scheduled for March 3, 2013.
- The agency representative stated that the appellant did not appear for the March 3, 2015 appointment as scheduled at the Providence office.
- The agency representative stated that as a result of the appellant's failure to appear at the March 3, 2015 Tool C appointment the appellant failed to comply with the activities scheduled with her December 2014 Employment Plan.
- The agency representative submitted copies of the signed Employment Plan and copies of the correspondence sent to the appellant regarding the scheduled Tool C appointments. The agency representative also submitted a copy of the appellant's previous November 28, 2014 Employment Plan.
- The agency representative stated that per RIW policy because the appellant was non-compliant with her Employment Plan her hardship cash assistance was ended.
- The agency representative stated that the appellant re-applied for hardship assistance based on significant medical incapacity and she was re-instated for cash assistance through the hardship program effective April 1, 2015.

The appellant testified:

- She stated that she was aware of the March 3, 2015 Tool C appointment. She stated that at that time her medication had been changed and she forgot that the appointment was at 8:30 that date.
- She stated that she did drop off her daughter's pay stubs and her medical verification on March 3, 2015. She did not meet with her caseworker on that date.
- She stated that she did contact her caseworker and explained her confusion about the March 3, 2015 appointment.
- She was eventually told to re-apply for hardship and to comply with her Employment Plan, which she did.

FINDINGS OF FACT:

1. The agency notified the appellant by a notice dated March 3, 2015 that her cash assistance through the hardship extension was ended because she failed to comply with her Employment Plan.
2. The appellant's Employment Plan required her to participate in Tool C appointments at the agency Providence office.
3. The appellant signed and agreed to participate in her Employment Plan dated December 29, 2014 in order to qualify for ongoing extension of her hardship cash assistance.

CONCLUSION:

The issue to be decided is whether the appellant is eligible for a RIW hardship cash extension as the agency ended her cash assistance due to non-compliance with her current Employment Plan.

The agency initially notified the appellant by notice dated March 3, 2015 that her hardship cash assistance would end because she was noncompliant with her Employment Plan.

The agency had sent the appellant previous notices that scheduled her Tool C appointments during February and March 2015. The appellant failed to comply with her March 3, 2015 appointment and her cash benefit was ended as a result.

The agency submitted copies of the appellant's RIW Program Employment Plan dated December 29, 2014. The Employment Plan scheduled the appellant to participate with Tool C appointments. The agency submitted documentation that the appellant was provided proper notice scheduling her Tool C appointments. The agency provided verification of the date of non-attendance and that the appellant was non-compliant with her Employment Plan.

The appellant testified that she has attempted to comply with her Employment Plans but due to a change in medication she was confused about the date of her missed appointment. She did not dispute the agency determination that she failed to appear for her March 3, 2015 appointment. She submits that due to her medical condition she should be reinstated for hardship benefits for the balance of her February 2015 benefits without penalty.

The appellant did not submit any evidence that would substantiate that she did not comply with the Employment Plan due to good cause circumstances. (Per policy#1406.50.10)

Agency RIW policy 1412.40 states that, "Under no circumstances, including hardship extensions, shall an individual be granted more than 2 consecutive

episodes of non-compliance with the Employment Plan without good cause which are followed by the reinstatement of cash assistance.”

Based on review of the agency notices and the evidence submitted it is determined that the agency allowed the appellant appropriate time to participate in her Employment Plan and the appellant failed to comply after being given that opportunity. Based on review of the pertinent agency policy the agency action to end the appellant’s RIW hardship cash assistance is correct. The appellant’s request for relief is denied.

APPEAL RIGHTS (See last page)



Michael Gorman
Hearing Officer

APPENDIX

TIME LIMITS 1406.50
REV: 09/2010

The Rhode Island Works law (RIGL 40-5.2) provides in part that all new applicants applying for cash assistance on or after July 1, 2008 shall be subject to a time limit of twenty-four (24) months in any sixty (60) month period with a maximum lifetime limit of forty-eight (48) months of cash receipt, since May 1, 1997.

Recipients on 9/30/08

For all those assistance units active as of 10/1/08 who have received cash assistance, either federally or state-funded, for either parent and/or any child since May 1, 1997, whether or not consecutive, to include any time receiving family cash assistance in any other state or territory of the United States of America, and who remain open without any break in eligibility until 6/30/09, the TIME LIMITS
1406.50

RI Works time limits (twenty-four (24) months in any sixty (60) month period since 7/1/2008 with a maximum lifetime limit of forty-eight (48) months) will take effect on 7/1/09.

Assistance units as of 10/1/08 who previously received Family Independence Program cash assistance (either state or federally funded) who will reach the prior Family Independence Program time limit of sixty (60) months prior to July 1, 2009, shall be closed at the time they would have reached the sixty (60) month time limit.

As of 10/1/08, closure will occur for families in which a parent had accumulated sixty (60) months of assistance but has children who were continuing to receive cash benefits under the Family Independence Program.

TIME LIMITS

1406.50

As of 10/1/08, closure will occur when Legal Permanent Resident families (families in which the parent has been in the United States less than the five (5) years which is required for eligibility for cash assistance under federal PRWORA) have a child who has received 60 months of cash assistance.

As of 10/1/08, closure for the family will occur when any United States citizen child in a family in which the parent is undocumented reaches 60 months of cash assistance.

On 7/1/09, 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

TIME LIMITS

1406.50

residents in the U.S. less than five years, which has received a lifetime total of forty-eight (48) months. On 6/30/2010, the Rhode Island Works time limit of twenty-four (24) months in any sixty months took effect, closing all those cases that have received consecutive months of cash issuance between 7/1/2008 and 6/30/2010.

Exemptions to the Time Limits and Notices RIGL 40-5.2-10, states that the Department of Human Services may extend an assistance unit's or family's cash assistance beyond the time limit by reason of hardship; provided, however, that the number of such families to be exempted by the Department under hardship shall not exceed twenty percent (20%) of the average monthly number of families to which assistance is provided in a fiscal year; provided, however, that to the extent permitted by federal

law, any waiver granted under RIGL 50-5.2-35, for domestic violence, shall not be counted in determining the twenty percent (20%) maximum.

TIME LIMITS

1406.50

Notice of Time Limits

When a parent or caretaker relative reaches his/her time limits, notice is issued informing the individual of the action being taken in accordance with Section 1434.05. The notice contains information about the time limits, the number of months the recipient has remaining, the hardship extension policy, the availability of a post-employment closure bonus and any other information pertinent to an assistance unit nearing the time limits. Recipients will start to receive notice of time limits when they have six (6) months of cash assistance remaining and each month thereafter until the twenty-four (24) or forty-eight (48) month limits have expired. For applicants who have less than six (6) months remaining in the time limits because

TIME LIMITS

1406.50

the family/assistance unit previously received cash assistance in Rhode Island or any other state, the Department shall notify the applicant of the number of months remaining when the application is approved and shall begin the monthly notice process as described above.

Crit for Hardship Extension to Time Limit

1406.50.10

REV: 09/2010

Any individual approaching either time limit, or who has met or exceeded the 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.

A parent who is either undocumented or who does not meet the alienage requirements required for eligibility for cash assistance under federal PRWORA, who has received benefits for his/her citizen child(ren), may request a hardship extension for the child(ren) at either time limit. A client who has closed due to reaching both the forty-eight (48) month lifetime time limit and the three (3) month full family sanction, simultaneously, may request to be evaluated, and may be eligible for an extension to the time limits.

Crit for Hardship Extension to Time Limit 1406.50.10
REV: 09/2010

Any individual approaching either time limit, or who has met or exceeded the 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.

A parent who is either undocumented or who does not meet the alienage requirements required for eligibility for cash assistance under federal PRWORA, who has received benefits for his/her citizen child(ren), may request a hardship extension for the child(ren) at either time limit. A client who has closed due to reaching both the forty-eight (48) month lifetime time limit and the three (3) month full family sanction, simultaneously, may request to be evaluated, and may be eligible for an extension to the time limits.

Crit for Hardship Extension to Time Limit

1406.50.10

A hardship extension may be granted to the parent(s) or caretaker relative if all other Rhode Island Works eligibility requirements are met, including redeterminations, and one of the following criteria applies:

- 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 in compliance with 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 1406.20; or
- Is unable to pursue employment because of a current, documented domestic violence situation; or

Crit for Hardship Extension to

Time Limit 1406.50.10

- Is unable to work because of a critical other condition or circumstance, other than citizenship or alienage status, as approved by a DHS supervisor.

The parent or caretaker relative will be offered assistance to remove or ameliorate barriers preventing her/him from obtaining and maintaining employment and reducing dependence on income supports.

Hardship Extensions and Procedures 1406.50.10.05 1
REV: 03/2012

DHS provides initial hardship extensions for six (6) months. Additional three (3) month hardships are available. Parents and/or relative caretakers who receive a hardship extension have the option to request early termination of benefits through contacting their social worker. Hardship extensions are approved by a supervisor, chief, or regional manager, as applicable, in said increments.

Individuals within six (6) months of applicable time limits are sent letters informing them of the time remaining and that they may request a review of their pending closure. When a request for a reassessment is received, whether by a current recipient or a re-applicant, the Rhode Island Works case worker must promptly determine whether or not the individual meets the criteria for an extension to the time limit. The reassessment must also determine the extent to which her or his ability to work is affected by the applicable criteria listed in

Hardship Extensions and Procedures 1406.50.10.05 2 O
1406.50.10.

Any hardship extension that is granted requires an amended Employment Plan (RIW-11) be signed containing steps to be taken as appropriate in order to remove/ameliorate the condition that warranted the extension.

If a requesting parent cannot have an Employment Plan (RIW-11) entered into InRhodes due to a reason for exclusion (e.g., alienage not meeting PRWORA requirements), a written plan (RIW-11) is required to be developed, and to be signed by the parent stating that the parent will cooperate with services to ameliorate the condition that led to the hardship. In addition, because an undocumented alien parent cannot legally work, the parent is referred, as appropriate, to the International Institute to determine whether or not there is a pathway to legal status as a work activity.

Good cause for non-compliance with an activity in the Employment Plan Hardship Extensions and Procedures 1406.50.10.05
(RIW-11) during a hardship extension are allowed consistent with provisions established in Section 1412.25.05: Good Cause for Failure to Comply. If good cause is found, the parent is allowed to continue or renew the request for hardship and must demonstrate compliance with the plan consistent with provisions established in Section 1412.40: Ending Work Penalties.

Documentation to support criteria listed in 1406.50.10:

1. Significant physical or mental incapacity

a. The following must occur for approval of an initial hardship request:

- i. A significant physical or mental incapacity must be documented on a current DHS C1-b.
- ii. The individual must apply for or have a pending application for SSI or SSDI.
- iii. The individual must have submitted an application for or be active and in compliance with his/her employment plan with

Extensions and Procedures 1406.50.10.05 4 OF Hardship
the Office of Rehabilitation Services (ORS) Vocational Rehabilitation.

b. Subsequent incremental extensions require the following:

- i. An updated DHS C1-b form.
- ii. Documentation of the active status or documentation of the appeal of a denial of the SSI/SSDI application.
- iii. Documentation of ongoing compliance in the individual's rehabilitation employment plan as reported by ORS, or documentation that the individual was found eligible for vocational rehabilitation services but was placed on a wait list for services under the order of selection.

2. Care for a significantly disabled family member who resides in the home and requires full time care:

a. The following must occur for approval of an initial hardship request:

- i. Documentation through a descriptive statement from a Doctor of Medicine (M.D.), Psychiatrist (M.D.), Psychologist (PhD), or Doctor Of Osteopathy (D.O.) that said level of care is required. Hardship

Extensions and Procedures 1406.50.10.05 5

- ii. In addition to the full-time care of the family member, the individual's employment plan must include a requirement that the individual develop a plan for transfer of care (for the disabled family member) to enable a return to employment for the individual or other plan for support in anticipation of the end of cash assistance.

b. Subsequent incremental extensions require the following:

- i. An updated medical statement
- ii. An updated plan for transfer of care to transition from cash assistance.

3. Homeless

a. The following must occur for approval of an initial hardship request:

1406.50.10.05 6

Hardship Extensions and Procedures

- i. Documentation of homelessness either from a shelter or evidence as described in Section 1426.25.10-1426.25.10.05.
- ii. The family must be referred to the housing social caseworker or be active and in compliance with his/her employment plan addressing barriers to securing stability with housing. Work activities for homelessness include keeping a detailed account of the search and the outcome of all inquiries to demonstrate good faith efforts with securing housing.
- b. Requests for subsequent incremental extensions must be accompanied by the submission of a letter of support for the extension from a housing search specialist.

4. Domestic Violence

- a. The following must occur for approval of an initial hardship request:
 - i. Documentation by a Family Violence Advocate.

Hardship Extensions and Procedures

1406.50.10.05

- ii. An employment plan is developed that articulates appropriate steps to reduce the threat of violence and increase family security, including steps to prepare for employment and economic independence in the shortest time possible.
- b. Requests for subsequent incremental extensions must be accompanied by the submission of a written letter from a community partner and/or family violence advocate who is involved with the individual in support of the extension.

- 5. Inability to work because of a critical other condition or circumstance, other than citizenship or alienage status, is documented as deemed appropriate by the supervisor who approves the extension.

ENDING WORK PENALTIES
REV: 03/2012

1412.40

1 OF

A penalty for failure or refusal to comply with the employment plan or other program requirement can be ended if the individual complies as follows:

- **Refusal to report to an employer when referred by the agency representative -- reporting to this employer if work is still available or to another employer to whom the parent is referred during a job search;**
- **Refusal to accept a bona fide offer of employment when referred**

by the agency representative -- acceptance of this employment, if still available to the individual, of any other employment with earnings equivalent to the refused job, or any other employment of at least thirty (30) hours per week, with weekly earnings equal to the higher of the state or Federal minimum wage multiplied by thirty (30) hours;

- Refusal to comply with a RI Works Employment Plan or other WORK PENALTIES 1412.40 2 ENDING

program requirement -- compliance with the activity, assignment or an alternate assignment by the agency representative. In order to demonstrate that her/his failure to comply has ceased, an individual must participate in the previously assigned activity or an alternate assignment by the agency representative for two (2) consecutive weeks (and continue to participate thereafter). If the individual successfully participates during that probationary time period, the sanction will be considered to have ended as of the day s/he began to participate two (2) weeks earlier. If no such activity is available within thirty (30) days, the sanction will end on the day s/he agrees to participate.

- Under no circumstances, including hardship extensions, shall an individual be granted more than two (2) consecutive episodes of non-compliance with the employment plan without good cause which are followed by the reinstatement of cash assistance.

ENDING WORK PENALTIES

1412.40 3 OF

If the family's benefit has been reduced in accordance with paragraph one of Section 1412.30 for less than three (3) months, whether or not consecutive, due to the parent's failure to enter into or comply with an individual employment plan or failure to comply with other program requirements, benefits shall be restored to the full amount beginning with the initial payment made on the first of the month following the month in which the parent (1) enters into an individual employment plan and demonstrates compliance with the terms thereof, or (2) demonstrates compliance with the terms of his or her existing individual employment plan, as such plan may be amended by agreement of the parent and the Department, or other program requirements.

If the family's benefit has been terminated in accordance with paragraph three of 1412.30 due to the failure by one or more parents to enter into an individual employment plan or failure to comply with the terms of his or her individual employment plan, the family may re-apply for benefits and benefits shall be restored to the family in

ENDING WORK PENALTIES

1412.40 4 OF

the full amount the family is otherwise entitled to under this chapter beginning on the first of the month following the month in which all parents in the family who are subject to the employment plan requirements (1) enter into an individual employment plan and demonstrate compliance with the terms thereof, or (2) demonstrate compliance with the terms of his or her existing individual employment plan, as such plan may be amended by agreement of the parent and the Department, or other program requirements.

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.