



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd floor, Cranston, RI 02920
phone: 401.462.2132 fax: 401.462.0458

January 23, 2015

Docket # 14-2156
Hearing Date: January 14, 2015



ADMINISTRATIVE HEARING DECISION

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

- THE DEPARTMENT OF HUMAN SERVICES (DHS) RULES AND REGULATIONS**
- RHODE ISLAND WORKS PROGRAM (RIW)**
- SECTION: 1406.50 Time Limits**
- SECTION: 1408.15 RI WORKS Program Requirements**
- SECTION: 1412 Work Policy and Procedures**

The facts of your case, the Agency regulation(s), 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 (the appellant), and Agency representatives: Kathryn Goodness, Linda McBride, Debra Borst, Betty Perez, and Elisabeth Weber.

Present at the hearing were: You, and Agency representatives Kathryn Goodness, Linda McBride.

ISSUE: Is the appellant ineligible for a Rhode Island Works (RIW) hardship extension as of October 15, 2014?

DHS Rules and Regulations:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island 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:**The Agency representatives testified:**

- The appellant met with a social caseworker on September 4, 2014 to apply for a RIW hardship extension on the basis of disability.
- The appellant's hardship was granted on the basis of both physical and mental health issues.
- The appellant's RIW Employment Plan dated September 4, 2014 indicated that the appellant was to attend an O.R.S. orientation at DHS on September 9, 2014.
- When the appellant attended the September 9, 2014 ORS orientation at DHS, she was given an orientation packet and an orientation date at the Goodwill for October 14, 2014 and a program start date of October 20, 2014.
- ORS requires everyone to attend their orientation before starting the program.
- The appellant did not attend the October 14, 2014 orientation at Goodwill nor did she start the program on October 20, 2014. As a result, DHS closed the appellant's hardship extension effective October 31, 2014.
- The Agency has no knowledge of the appellant going to Goodwill on October 20, 2014. DHS received an email from ORS on October 23, 2014 informing them that the appellant did not attend the LEEP (Learn to Earn) program.
- The appellant has met her RIW time limits and thereby needs a hardship extension to remain eligible for the RIW program. When her hardship closed she in turn lost her RIW benefits.
- The appellant was notified that she could provide good cause for missing the October 14, 2014 orientation and the October 20, 2014 program start date. The appellant did not provide good cause for missing either one of those dates.
- The two medical forms submitted by the appellant at hearing were used to indicate to the DHS any limitations she might have to participate in an Employment Plan and work program and were the basis for the approval of her hardship extension

due to disability. The December 2014 Rhode Island Hospital document she submitted at hearing does not provide good cause for missing her appointments in October 2014.

- Goodwill is an agency that contracts with DHS and is where the LEEP program is conducted. The LEEP program is for clients who have a disability and who have applied for Social Security disability benefits. The appellant applied for and was denied Social Security disability benefits, but her case is under appeal.
- ORS has informed DHS that the appellant attended the LEEP program several times but has not completed it. DHS has no knowledge of the appellant ever completing and/or receiving a certificate of completion for the LEEP program.

The appellant testified:

- She does not dispute that she has met her RIW time limits and is thereby ineligible for receipt of RIW benefits unless she qualifies for a hardship extension.
- She did not attend the October 14, 2014 orientation at Goodwill because she forgot about it.
- She forgets a lot of things but she would have gone to the orientation if she had not forgotten because she needs her cash assistance.
- She had looked in her calendar and she thought that her appointment was for the 19th but then she realized that was a Sunday.
- She did go to Goodwill on October 20, 2014 but they would not allow her to participate because she did not attend and fill out forms on October 14th.
- When she went to Goodwill on October 20, 2014, they told her she had to go back to DHS, which is what she did.
- She provided two medical forms to the Agency, one from her Rheumatologist and one from The Providence Center.
- She takes medication for pain and for depression. The depression medication is supposed to help her but it gets her a "little lost".

- She was in R.I. Hospital (RIH) from December 28, 2014 to December 31, 2014 because of a problem with her depression medication. They were going to keep her there longer but she wanted to go home.
- She already completed the Learn to Earn (LEEP) program a year ago and received her certificate but she is still willing to go again because she needs the RIW cash benefits.

FINDINGS OF FACT:

- On September 4, 2014, the appellant applied for a RIW hardship extension on the basis of significant disability of self.
- The Agency granted the appellant a RIW hardship extension on the basis of both physical and mental health issues.
- On September 4, 2014, the appellant signed a RIW Employment Plan agreeing to participate in a Job Search activity at ORS with an orientation at DHS on September 9, 2014 at 2pm.
- The appellant attended the DHS orientation on September 9, 2014.
- The appellant did not attend an October 14, 2014 ORS orientation at Goodwill Industries.
- DHS sent the appellant a notice dated October 15, 2014 informing her that she no longer qualified for a RIW hardship extension, and that her hardship would close as of October 31, 2014, because she failed to attend the ORS orientation at Goodwill on October 14, 2014. The notice also informed her that she had the opportunity to provide good cause for her non-attendance in order to reapply for a RIW hardship and cash assistance beginning November 1, 2014.
- The appellant presented in the DHS Providence Family Regional Center on October 20, 2014 and spoke to a DHS worker.
- The appellant completed and signed a request for hearing form on October 21, 2014.
- DHS forwarded the appellant's request for hearing to the EOHHS Appeals Office on November 17, 2014.

- An Administrative Hearing was convened on January 14, 2015.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for a Rhode Island Works (RIW) hardship extension as of October 15, 2014.

A review of the Department of Human Services (DHS) Rhode Island Works (RIW) rules/regulations relative to time limits finds that DHS can waive or exempt a family from the application of the time limits on the basis of hardship when certain circumstances exist that affect an individual's ability to work. A hardship extension exempts a recipient only from the RIW time limit requirement. The recipient must meet all other RIW eligibility criteria and comply with all program requirements, including work activity requirements, while in receipt of a hardship extension. When a hardship extension is granted, the RIW recipient must sign an employment plan containing steps he/she must take in order to remove or lessen the condition that warranted the hardship extension and must comply with their employment plan by participating in the work activity outlined within it. Per RIW rules, to be considered successfully participating with an employment plan work activity, an individual must attend all scheduled work activity hours unless they are excused prior to the appointment or subsequently document good cause for the absence.

There is no dispute that the appellant has reached her RIW time limits and is thereby ineligible for RIW benefits unless she is granted a RIW hardship extension. On September 4, 2014, the appellant applied for a RIW hardship extension on the basis of a significant disability and DHS granted the RIW hardship extension on the basis of both physical and mental health issues/conditions. Per RIW rules, a hardship extension granted on the basis of significant disability requires compliance with an employment plan with the Office of Rehabilitation Services (ORS). The evidence submitted establishes that on September 9, 2014, the appellant signed a RIW employment plan agreeing to participate in a job search activity at ORS, with an orientation at DHS scheduled for September 9, 2014. There is no dispute that the appellant attended the DHS orientation on September 9, 2014. The Agency testifies that during the September 9, 2014 orientation, the appellant was given an orientation packet and was notified that she was to attend the ORS Learn to Earn Program (LEEP) at Goodwill Industries with an orientation appointment date of October 14, 2014 and a program start date of October 20, 2014. The Agency is unable to definitely state whether the ORS Goodwill dates were provided to the appellant verbally or in writing. On October 15, 2014, the Agency sent the appellant a letter informing her that she no longer qualified for a RIW hardship extension and that her hardship extension would close effective October 31, 2014 because she had failed to attend the ORS orientation at Goodwill Industries on October 14, 2014. The Agency testifies that they were notified by ORS by email on October 23, 2014 that the appellant failed attend the LEEP program. The Agency provides no

testimony and/or evidence to explain how they were notified of the appellant's non-attendance at the October 14, 2014 ORS/Goodwill orientation prior to issuing the October 15, 2014 hardship closure notice.

The appellant concedes she did not attend the October 14, 2014 ORS Goodwill orientation appointment. She testifies that she forgot the date and initially believed it was on October 19, 2014 until realizing that was a Sunday. She further testifies that she went to Goodwill on October 20, 2014 but was not allowed to participate in the program and was instead referred back to DHS because she had missed the orientation. The evidence record establishes that the appellant presented in the DHS office on October 20, 2014 and discussed missing the October 14, 2014 orientation, thereby lending credibility to her testimony that she had gone to Goodwill on that date.

RIW rules clearly state that failure to comply with an employment plan without good cause during a hardship extension results in immediate case closure. By initialing and signing the September 4, 2014 RIW employment plan, the appellant confirmed she understood that she was required to keep all scheduled appointments and comply with all aspects of her employment plan, including keeping all scheduled ORS appointments and completing all ORS assessments and activities, and that failure to comply with the employment plan without documented good cause would result in a loss of benefits. Per RIW rules, upon notification of an adverse action due to non-compliance with an employment plan activity during a hardship, a RIW recipient has ten days to provide good cause documentation. If good cause is found, the recipient is allowed to continue or renew the request for hardship. Per the RIW rules, good cause for failing to participate is usually short-term in duration and results from events beyond the participant's control but if a participant makes a claim which the regulations do not clearly establish as good cause, an Agency supervisor must review the claim and render a decision as to whether good cause has been established. A description of the supervisor's decision and the reasoning behind the decision must be maintained in the case file.

The Agency argues that the appellant never claimed and/or provided documentation of good cause. The Agency submits a case note dated October 20, 2014 which states that the appellant informed DHS that she had "forgot" about the October 14, 2014 orientation appointment and did not have any good cause for doing so. The case note also stated that after being told she would not be eligible for RIW and/or a hardship unless she had good cause and being informed of the appeal hearing process, the appellant left without reapplying and/or filing an appeal. At hearing, the appellant claims that she has a mental health condition that causes her to have difficulty remembering things and that the anti-depressive medication she takes makes her feel "lost" instead of helping. The appellant indicates on her request for hearing form that she missed her orientation appointment due to memory difficulties caused by a mental health condition and states she has a doctor's note to support this. Further review of the appellant's request for hearing form finds a date of October 21, 2014 affixed next to the appellant's signature and an

indication that it was received by the Agency on that date as well. While a temporary illness constitutes good cause per the RIW regulations, the appellant claims good cause due to a long-term illness and treatment. Per the RIW regulations, her good cause claim thereby required a review and finding by a DHS supervisor. Despite being submitted within the 10 day time frame and before the closure of her hardship became effective on October 31, 2014, the record lacks any evidence that the appellant's good cause claim as presented on her request for hearing form was considered by DHS, and specifically a DHS supervisor, nor was the offered doctor's note requested.

In summary, despite the allowance of a hardship extension on the basis of disability, the RIW rules require the appellant to participate in a work activity. Attendance is required at all appointments unless excused prior to the appointment or good cause for missing the appointment is subsequently documented. The appellant concedes that she agreed to participate in the ORS LEEP program but failed to attend the program's orientation at Goodwill on October 14, 2014. While simply forgetting an appointment does not constitute good cause for non-attendance, the appellant claimed that she forgot the date of the ORS/Goodwill orientation because she has a mental health condition and takes medication which causes her to have difficulty remembering things. Per RIW regulations, a claim of good cause for non-compliance must be documented and/or substantiated. When the appellant initially made her good cause claim to DHS on October 21, 2014, which was within the required 10 days, she also offered to provide documentation in the form of a doctor's note. The Agency failed to consider the appellant's timely good cause claim as required by the RIW rules. The evidence submitted at hearing documents that the appellant is significantly limited in her ability to understand, remember and carry out instructions due to a psychiatric disorder. The record lacks clear evidence as to the manner in which the appellant was notified of the orientation date and thereby fails to establish that the appellant received clear and sufficient notification of the October 14, 2014 orientation date.

In conclusion, the record of hearing establishes that the Agency closed the appellant's RIW hardship on October 15, 2014, effectively ending her RIW benefits effective October 31, 2014, without considering, as required per the RIW regulations, her timely good cause claim for not complying with her employment plan. During the appeal process, the appellant provided documentation to establish that a medical condition and/or treatment makes it difficult for her to remember appointments. While a disabling condition alone is not sufficient to excuse the appellant from the requirements of her employment plan, the Agency failed to establish that the appellant was provided with clear and sufficient notification of the orientation appointment. Based on all of the above, the Agency has thereby failed to establish that appellant was non-compliant with her RIW employment plan during her hardship extension without good cause thereby warranting the closure of her hardship extension effective October 31, 2014.

After a careful review of the Agency's regulations, as well as the evidence and testimony given, this Appeals Officer finds that the closure of the appellants RIW hardship extension in October 2015 was in error. The appellant's request for relief is granted.

ACTION FOR THE AGENCY:

The Agency is to reinstate the appellant's eligibility for the hardship extension back to the date of the October 15, 2014 closure.



Debra L. DeStefano
Appeals Officer

APPENDIX

DEPARTMENT OF HUMAN SERVICES

RHODE ISLAND WORKS PROGRAM (RIW)

1406.50 TIME LIMITS

REV: 9/2010

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 RI Works time limits (twentyfour (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.

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 residents in the U.S. less than five years, which have 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 twenty-four (24) 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.

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 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.

1406.50.10 Criteria for Hardship Extension to Time Limit

REV: 9/2010

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. Individuals are required to complete a DHS-2H, RI Works Program Hardship Extension Application.

A parent who is either undocumented or who does not meet the noncitizen 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.

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 has submitted an application for or is 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
- Is unable to work because of a critical other condition or circumstance, other than citizenship or non-citizenage 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.

1406.50.10.05 Hardship Extensions and Procedures

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. 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 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. RIW workers may utilize alternate methods to communicate with parents to review amendments and CLOG agreed upon amendments to move forward with the extension.

If a requesting parent cannot have an Employment Plan (RIW-11) entered into the eligibility system due to a reason for exclusion (e.g., noncitizenage 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 non-citizen 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 (RIW-11) during a hardship extension is 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.

The following lists the documentation required to support the 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 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.

- 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:

- 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.

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 supporting the extension from a community partner and/or family violence advocate who is involved with the individual.

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

1408 COOPERATION REQUIREMENTS

1408.15 RI WORKS PROGRAM REQUIREMENTS

REV: 03/2012

A nonexempt RI Works Program participant who fails without good cause to participate in an assigned work activity component or otherwise refuses without good cause to comply with her/his employment plan or with any other work requirement, including but not limited to attendance at DHS or DLT appointments such as initial interview, orientation and assessment, job readiness and job search, is subject to sanction and possible closure as described in Section 1412.35. In the case of a hardship extension, failure to comply with the employment plan without good cause results in the case closure-- the three (3) month sanction period does not apply.

A participant, including a parent or non-parent caretaker relative included in the cash assistance payment, shall not voluntarily quit a job or refuse a job, unless there is good cause as defined in 1412.25.05. A participant who voluntarily quits or refuses a job without good cause while receiving cash assistance shall be sanctioned, and potentially terminated from the RI Works Program if the sanction continues for three (3) months.

1412 WORK POLICY AND PROCEDURES

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.

1412.20 PROGRESS AND ATTENDANCE REQUIREMENTS

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.

1412.20.05 Definition of Successful Participation

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 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 eligibility 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. 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.

1412.20.10 Attendance Requirements

REV:10/2008

An individual is considered to be successfully participating relative to attendance if s/he attends the approved employment plan component activity for all scheduled hours, considering excused absence and good cause documentation.

1412.25.05 Good Cause for Failure to Comply

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 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 log (CLOG) 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 a de facto 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.);

- 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 means of transportation, thereby precluding

participation in work or training, there is a defacto refusal to comply.

The preceding list of reasons is not all-inclusive. If the participant claims some other grounds for her/his noncompliance, a conference with the supervisor is held to determine the validity of the reason, and if, in fact, it constitutes good cause. A complete record of the circumstances and the substance of the individual's refusal must be kept in the file and/or case log (CLOG), which can also be read in TRAC/D; a description of the supervisor's decision and the reasons for that determination must also be provided.

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.