



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

March 11, 2015

Docket # 14-2187
Hearing Date: February 16, 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 regulation(s) were the matters before the hearing:

THE DEPARTMENT OF HUMAN SERVICES (DHS) RULES AND REGULATIONS RHODE ISLAND WORKS PROGRAM (RIW)

SECTION: 1406.50.10 Criteria for Hardship Extension to Time Limit

SECTION: 1406.50.10.05 Hardship Extensions and Procedures

SECTION: 1408.15 RI WORKS Program Requirements

SECTION: 1412.25.05 Good Cause for Failure to Comply

SECTION: 1412.40 Ending Work Penalties

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: David Hurdis, Marianne Quinn, Debra Borst, Betty Perez, and Elisabeth Weber.

Present at the hearing were: You, and Agency representatives David Hurdis (RIW hardship unit), Marianne Quinn (employment retention unit/Rite Works) and Debra Borst (chief casework supervisor RIW hardship unit).

ISSUE: Is the appellant ineligible for the Rhode Island Works (RIW) hardship extension she requested on September 17, 2014 because she previously failed to comply with two consecutive RIW employment plans without good cause?

DHS Rules and Regulations:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Rules and Regulation

APPEAL RIGHTS:

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

DISCUSSION OF THE EVIDENCE:**The Agency RIW hardship unit representatives testified:**

- The appellant applied for a RIW hardship extension on September 17, 2014.
- A request for document was sent to the appellant asking her for good cause as to why she was non-compliant with her two prior consecutive employment plans dated May 2, 2014 and July 16, 2014.
- No documentation of good cause was received.
- The appellant's September 17, 2014 hardship request was denied on September 29, 2014 based on DHS policy section 1412.40 and her two prior non-compliances.
- The appellant's May and July employment plans were both in effect while the appellant was in receipt of a hardship extension.
- The appellant's RIW benefits were closed when she was non-compliant with the two prior employment plans and she did not provide good cause at either of those times.
- The appellant signed both the May and July employment plans and agreed to do the tasks and fulfill the obligations of both employment plans
- The appellant was non-cooperative and non-compliant with the Rite Works part of both of those employment plans which required her to job search for 5 hours each week.
- The Rite works staff reported that the appellant failed to provide the necessary documentation regarding her job search applications and the contact information regarding her job searches/applications.

- The appellant was approved for another hardship in July 2014 because she only had one consecutive non-compliance at that time.
- When the appellant applied for the hardship on September 17, 2014, she stated that NetWork RI was unable to fax the back-up information regarding her job search.
- NetWork RI confirmed to DHS that they only fax the job search logs and do not fax back-up documents and that they tell all clients this right away.
- Since the client knew that NetWork RI was not going to fax the backup documents, she did not have good cause for not sending the job search contact information. She should have made other arrangements to get the back-up documents to RiteWorks.

The Agency Rite Works representative testified:

- Clients are referred to her by the RIW social caseworker (SCW).
- The SCW tells her how many job applications a client is required to do.
- The clients have to email or fax their job applications to her and they need to give her back-up documentation to prove that they really applied for the jobs.
- Clients are required to submit a job search log. The job search log submitted by the appellant did not include any contact information/names of who she contacted relative to her reported job applications.
- Per the contract that the appellant signed, she was also required to submit back-up documentation to prove she actually went and applied for the jobs listed on her job search log.
- Clients can provide the back-up information by fax or email. If they apply for jobs online they get a reply email from the employer that they can then submit. If they do a job search log, they have to provide either a copy of the original job application or a business card with a signature and a telephone number so that it can be verified.
- The appellant signed and initialed a Parent Agreement document and signed a Job Search Rules, Responsibilities and Expectations document.

- The Parent Agreement document informs the clients why back-up documentation is needed for all job searches. She also reiterates and explains the back-up process to all clients as well.
- The computer case log confirms that she gave the appellant a copy of the Parent Agreement and the Job Search Rules and that the program rules were explained to her.
- She sent the appellant to NetWork RI because they provide free services, including the use of telephones, computers, copying, and faxing.
- The appellant was required to complete five job applications each week. The appellant could have used Network RI computers to submit those applications.
- She sent multiple emails to the appellant telling her that she needed to provide back-up documentation.
- The appellant had read and signed a contract and documents confirming that she knew what was required of her and that she understood that she had to provide back-up documentation.
- The Agency has given the appellant another opportunity to provide the missing back-up documents but what she has submitted is not complete. She did not submit any documents for the three weeks in May and the ones she submitted for June were not for the weeks needed.

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 comply with either her May or July employment plans but she had good cause for not complying with the May one.
- The first week she went to NetWork RI they told her that they would no longer fax the back-up documents and she did not have the money to fax the documents herself every week. She went to DHS and told them this.
- She understood the program rules, she just couldn't afford to send faxes every week because it costs a dollar a page and there would be many pages.

- She couldn't email because she did not have a computer to use.
- She did not know that she could bring the back-up documents to DHS. The Rite works worker said her office was in Warwick not at the Providence DHS office.
- After each of the two non-compliances, she was notified that her RIW hardships and benefits were closing due to the non-compliance. She did not appeal either of the closures.
- She tried to show good cause for being non-compliant with her May 2, 2014 employment plan. She told her DHS worker that NetWork RI would not send back-up documents and she could not afford to fax that many pages herself. She could not get documentation of her son being in the hospital to show why she only emailed one job application for the last employment plan so she tried to get Network RI to document that they would not fax her back-up information because she knew if she had good cause for just one of the non-compliances she would get her hardship back.
- She gave the job search documents to DHS about a week ago during a pre-hearing conference with them.

FINDINGS OF FACT:

- The appellant has reached the RIW time limits for receipt of RIW cash assistance and is thereby ineligible for receipt of RIW benefits unless she qualifies for a RIW hardship extension.
- The appellant signed a RIW employment Plan on May 2, 2014 agreeing to maintain her current job 22 hours a week and participate in the Rite Works program for 5 hours a week from May 12, 2014 through July 31, 2014.
- On May 12, 2014 the appellant met with a Rite Works representative and signed a RI Works Job Search Program Parent Agreement and a Job Search Rules, Responsibilities and Expectations document.
- The appellant was required to submit a weekly job search log to Rite Works and provide back-up documentation for all job searches.
- Rite Works terminated the appellant from their program on June 14, 2014 for failing to provide back-up documentation for her job search applications for the previous five weeks.

- On July 2, 2014, DHS notified the appellant in writing that she was out of compliance with her RIW employment plan and that her RIW cash assistance would close effective July 15, 2014, and an offered her an opportunity to provide documentation of good cause for her non-compliance.
- The appellant applied for another hardship extension and signed a RIW employment plan on July 16, 2014 agreeing to continue her current employment hours and participate in the Rite Works program for 5 hours a week from July 28, 2014 through September 30, 2014.
- Rite Works terminated the appellant from their program on August 2, 2014 for only emailing one job application for the week ending August 2, 2014 when she was required to email or fax 5 applications.
- On September 3, 2014, DHS notified the appellant in writing that her hardship extension was closed due to non-compliance with her employment plan and that her RIW cash assistance would close effective September 15, 2014, and offered her an opportunity to provide documentation of good cause for her non-compliance.
- The appellant applied for a RIW hardship extension on September 17, 2014.
- A notice dated September 17, 2014 was sent to the appellant asking her to provide by September 27, 2014, documentation of good cause for failing to comply with her last two employment plans.
- The appellant was informed per a notice dated September 29, 2014 that her request for a RIW hardship extension was denied per DHS policy 1412.40 because she had been non-compliant with two consecutive employment plans.
- The Agency submitted a request for hearing form to the EOHHS appeals office on November 19, 2014 reporting that the appellant had submitted a request for hearing to DHS but that DHS is unable to locate it. DHS indicated that they believed that the appellant's request for hearing was originally received on October 27, 2014.
- An Administrative Hearing scheduled for January 14, 2015 was rescheduled per the appellant's request.
- An Administrative Hearing was convened on February 16, 2015.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for the Rhode Island Works (RIW) hardship extension she requested on September 17, 2014 because she previously failed to comply with two consecutive RIW employment plans without good cause.

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 17, 2014 the appellant applied for a hardship extension, which was denied per a notice dated September 29, 2014. The Agency argues that the appellant is ineligible for the RIW hardship extension per RIW rule 1412.40 because she failed, without good cause, to comply with two consecutive RIW employment plans in effect during two prior RIW hardship extensions; one signed on May 2, 2014 and one signed on July 16, 2014. The appellant concedes that she failed to comply with her last two RIW employment plans but argues that she had good cause for not complying with the May 2, 2014 one. The appellant further argues that since she failed to comply with only one employment plan without good cause, she should be eligible for another hardship extension.

Per the RIW rules and regulations, a RIW 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. Failure to comply with an employment plan during a hardship extension results in immediate case closure, though the recipient is allowed to continue or renew the hardship if good cause for the non-compliance is demonstrated and found in accordance with RIW rule 1412.25.05 titled Good Cause for Failure to Comply. Per 1412.40 titled Ending Work Penalties, an individual cannot be granted more than two consecutive episodes of non-compliance without good cause which are followed by reinstatement of cash assistance.

The record establishes that the appellant signed an employment plan on May 2, 2014 agreeing to work twenty-two hours a week and participate in the Rite Works program for five hours a week from May 12, 2014 through July 31, 2014. Rite Works terminated the appellant from their program on June 16, 2014 for not providing them with any back up documentation for her job search applications for any of the weeks up to that point in time. On July 1, 2014, Rite Works notified DHS of the termination and on July 2, 2014, DHS sent the appellant two notices; one notice informing her that she was out of compliance with her work plan and asking her to submit documentation if she had good cause for her non-compliance and a second notice informing her that her RIW cash assistance would be closed effective July 15, 2014 because she had reached her RIW

time limits and was thereby ineligible unless she qualified for a hardship extensions. On July 16, 2014, the appellant applied for another RIW hardship extension, which was approved, and signed another RIW employment plan agreeing to continue her active employment and agreeing to participate in the Rite Work program for five hours a week from July 28, 2014 through September 30, 2014. On August 2, 2014 Rite Works terminated the appellant from their program for not emailing or faxing the required five applications for the week ending August 2, 2014. Rite Works notified DHS of the termination on August 6, 2014 and on September 3, 2014 DHS sent the appellant two notices; one notice informing her that she no longer qualified for a hardship extension because she failed to comply with her employment plan and asked her to provide documentation if she had good cause for her non-compliance, and a second notice informing her that her RIW cash assistance would close effective September 15, 2014 and that unless she qualified for a hardship extension she would remain ineligible because she had reached her RIW time limits. The record of hearing establishes that the appellant did not appeal either the July 2, 2014 or September 3, 2014 closures of her RIW cash assistance. While the appellant testifies that after receiving the July 2, 2014 notices she informed the Agency that she had good cause for her non-compliance with her May 2, 2014 employment plan, the Agency testifies that the appellant did not claim good cause until she submitted her most recent hardship application on September 17, 2014. The appellant concedes at hearing that she failed to comply with her July 16, 2014 employment plan without good cause, thereby resulting in the September closure.

In addition to the appellant's two RIW employment plans, the Agency submits a Rite Works Job Search Program Parent Agreement and a Rite Works Job Search Rule, Responsibilities and Expectations document, all signed and initialed by the appellant verifying she was informed and aware of what was required of her and that she agreed to those requirements. The evidence record establishes that the appellant submitted weekly job search logs for the time period from May 12, 2014 through June 6, 2014 without any contact names and/or back up documentation and submitted a job search log for the week ending June 13, 2014 with an insufficient number of job searches. The signed Rite Works documents as well as the job search log all clearly state that the logs must be complete and accurate and that back-up documentation must be submitted. The Agency also submits multiple emails showing that the appellant was notified as to the inefficiencies with her job search logs and that she was given an opportunity to rectify the problems before her hardship and cash assistance was closed on July 2, 2014. The appellant made no claims during those emails that she was unable to provide what was being requested of her.

The appellant provides no documentation/evidence to establish that she claimed good cause in July 2014. Additionally, the appellant's testimony at hearing that she knew she would get her hardship back if she could show good cause for one of her two non-compliances indicates that her claim of good cause was presented after the second non-compliance in September. Despite the appellant's failure to either provide the necessary

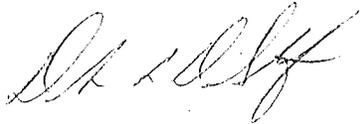
documents and/or document good cause when she was previously given the opportunity to do so, the Agency offered the appellant another opportunity to submit the missing documentation and/or document good cause for either of her last two non-compliances before denying her last hardship request, as evidenced by a notice dated September 17, 2014. At hearing, the appellant concedes that she understood the rules of the program but claims she had good cause for not complying with her May 2, 2014 employment plan because NetWork RI told her that they would no longer fax back-up documents; she did not have the money to fax the back-up documents herself every week; she did not have a computer to send emails; the Rite Works staff was in Warwick; and she did not know she could bring the back-up documents to the DHS Providence office. Several emails between the appellant and Rite Works in June 2014 provide evidence that the appellant never claimed at that time to be unable to provide the back-up documentation but instead indicate that the appellant was having difficulty emailing the documents and agreed to call and/or meet with Rite Works to provide them. While back-up documents were submitted during the appeal process subsequent to the denial of the September 17, 2014 hardship application, those documents fail to establish full compliance with the May 2, 2014 employment plan because they do not include back-up documents for the time period from May 12, 2014 through June 14, 2014 when she was terminated from the Rite Works program. Per the RIW regulations, good cause for not complying with an employment plan is usually short-term and results from events beyond the individual's control. While the evidence record establishes that NetWork RI refused to fax the appellant's back-up documents to Rite Works, the evidence record fails to establish that the appellant had no ability or means to submit the required back-up documents for the time period from May 12, 2014 through June 14, 2014, as was required of her May 2, 2014 employment plan.

In summary, the record establishes that prior to applying for a RIW hardship extension on September 17, 2014, the appellant failed to fully comply with her May 2, 2014 and July 16, 2014 RIW employment plans that were in effect during her last two RIW hardship extensions. The appellant has failed to establish that she had good cause for either of those non-compliances.

In conclusion, in order to receive a RIW hardship extension or a renewal of a hardship extension, a recipient must comply with all RIW program requirements, including participating in and fully complying with an Employment Plan. RIW regulations stipulate that non-compliance during a hardship extension is grounds for immediate closure and that under no circumstances will an individual be granted more than two consecutive episodes of non-compliance with an employment plan without good cause, which are followed by reinstatement of cash assistance. The RIW hardship policy further stipulates that noncompliance with an Employment Plan without good cause during a hardship extension is grounds for the denial of a subsequent hardship renewal request unless good cause for the non-compliance is found and future compliance is demonstrated. Since the appellant was noncompliant without good cause with two consecutive

employment plans in effect during two approved hardship extensions, she is thereby ineligible for another RIW hardship extension.

After a careful review of the Agency's policies as well as the evidence and testimony given, this Appeals Officer finds that the appellant failed to comply with her RIW employment plans in effect during her last two RIW hardship extensions, without good cause, and is thereby ineligible for the RIW hardship extension she requested on September 17, 2014. The appellant's request for relief is denied.



Debra L. DeStefano
Appeals Officer

APPENDIX

DEPARTMENT OF HUMAN SERVICES

RHODE ISLAND WORKS PROGRAM (RIW)

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-citizen 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-citizenship status, is documented as deemed appropriate by the supervisor who approves the extension.

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.

1412.25.05 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.

1412.40 ENDING WORK PENALTIES

REV: 03/2012

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 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.

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 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.

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.