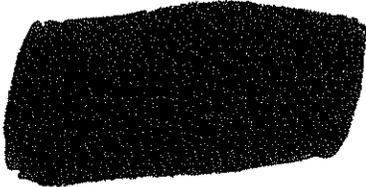


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE - LP Bldg.
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Cranston, RI 02920
(401) 462-2132 / Fax # (401) 462-0458
TDD # (401) 462-3363

Date: June 30, 2014

Docket # 14-495
Hearing Date: June 9, 2014



ADMINISTRATIVE HEARING DECISION

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

THE DHS POLICY MANUAL: RIW – RHODE ISLAND WORKS
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 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 (the appellant), and Agency representatives: Anne Clavin, Debra Borst, Betty Perez, and Elisabeth Lumb.

Present at the hearing were: You, and Agency representative Debra Borst.

ISSUE: Is the appellant ineligible for a Rhode Island Works (RIW) hardship extension as of February 21, 2014?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

APPEAL RIGHTS:

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

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- The Agency closed the appellant's RIW hardship extension on February 21, 2014 because she failed to comply with her employment plan.
- The appellant had completed a RIW employment plan on December 9, 2013 which was for a RIW hardship extension in the months of December, January and February.
- Her plan was for her to work with DCYF for 10 hours a week as scheduled and planned by them, and for her to work 10 hours a week with South Shore on a job search.
- The Agency got two reports from South Shore on February 21, 2014, one through the electronic reporting system and the other by email.
- The email informed DHS that the appellant was terminated from the RIW program as of February 20, 2014 for non-compliance because while she agreed to all program rules and expectations as proven by her enrollment paperwork, she did not show for a scheduled appointment on February 20, 2014 and had not called to reschedule it. The email stated that South Shore had attempted outreach by telephone and email but received no response.
- South Shores report through the Agency's electronic reporting system which tracks attendance and performance says pretty much the same thing about the missed appointment as the email but also reported that the appellant had put in zero hours for the week ending February 22, 2014, which means she also did not send in any documentation of her job search for that week prior to being terminated on Thursday February 20, 2014.
- This is the first time that the appellant has been found to be non-compliant with an employment plan.
- Upon receipt of the appellant's appeal, the Agency sent her a letter on March 20, 2014 in an attempt to find out if she had good cause for her non-compliance. The letter specifically informed the appellant that her case might be reinstated if she submitted documentation, before March 30, 2014, to show she had good cause for failing to comply with her job search activities for the week ending February 22, 2014. The March 20, 2014 letter also informed the appellant that even if she did not have documentation of good cause, she could reapply for benefits while she was waiting for her appeal hearing.
- The Agency received no response to the request for documentation of good cause.

- The appellant did reapply for another hardship extension, which was granted for the months of March, April, and May, but the noncompliance which closed her hardship extension on February 21, 2014 stays in her record.
- South Shore does generally meet with clients once a week to see how the job search is going.
- The appellant had and agreed to a joint employment plan with DCYF and South Shore, but she did not have to include DCYF in the plan if she did not want to. She could have had an employment plan with all hours at South Shore.

The appellant testified:

- She did have a joint RIW employment plan consisting of DCYF services and a South Shore job search program. DCYF was included in her RIW employment plan because RIW requires her to do 20 hours a week of an activity and the DCYF involvement requires a lot of her time, so the 20 hours was split between DCYF and the South Shore job search.
- She did comply with the South Shore job search program as was required of her.
- The South Shore worker wanted to meet with her every week. These weekly meetings were mostly about the job search, but the South Shore worker would also ask her about her personal business, like was she in counseling, how were her children, and what was DCYF requiring her to do, and this was not any of her concern.
- She decided not to meet with the South Shore worker on February 20, 2014 because she felt that her personal business and/or DCYF involvement has nothing to do with DHS or South Shore.
- Also, while she was required to check in with South Shore on a daily basis to inform them of her job search activity for the day and fax her weekly job logs to them every Friday, she knows that meeting with her South Shore worker on a weekly basis is not a requirement of the program.
- She did not make any contact to South Shore about the February 20, 2014 appointment/meeting. She just avoided the whole situation which was the wrong way to go about it.
- She does not remember if she signed enrollment paperwork at South Shore but she has done the South Shore program several times before and it was never a requirement to meet with them once a week. They would usually meet the first week but after that it is not part of their program to meet every week.

- She has been involved with the South Shore program for over two years and she never met with them on a weekly basis before and she has never has any noncompliance issues before.
- She did do her job search and checked in daily by email or telephone, including the week she was terminated.
- ~~She did get another hardship extension for March, April, and May, and she has submitted another hardship application for June, but she would like the noncompliance removed from her record.~~

FINDINGS OF FACT:

- The appellant had been granted a hardship extension to the RIW time limits.
- On December 9, 2013, the appellant signed a RIW Employment Plan agreeing to participate in DCYF services 10 hours a week from December 9, 2013 through February 28, 2014 and in a job search program with South Shore Rehabilitation Services 10 hours a week from December 23, 2013 through February 28, 2014.
- On February 21, 2014, South Shore Rehabilitation Services notified DHS that the appellant failed to appear for a scheduled appointment on February 20, 2014 without any prior contact and without any response to subsequent outreach and was thereby terminated from the South Shore program as of February 20, 2014 for non-compliance.
- DHS sent the appellant a notice dated February 21, 2014 informing her that she no longer qualified for a RIW hardship extension because she was not complying with her employment plan, and specifically that she failed to attend an appointment with South Shore on February 20, 2014.
- The appellant filed a timely request for hearing received by the Agency on March 10, 2014.
- An Administrative Hearing scheduled for May 13, 2014 was rescheduled per the appellant's request.
- An Administrative Hearing was convened on June 9, 2014.
- The record of hearing was held open for two weeks, through the close of business on June 23, 2014, to allow for the submission of additional evidence from both parties.
- The appellant did not submit any additional evidence during the held open period.

- Additional evidence was submitted by the Agency on June 10, 2014, a copy of which was mailed to the appellant on June 11, 2014.
- The appellant was advised that she could submit to the Appeals Officer a written response to the Agency's additional evidence and/or request an extension or a reconvene of the hearing to do so. The appellant provided no response to the additional evidence.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for a Rhode Island Works (RIW) hardship extension as of February 21, 2014.

There is no dispute that the appellant was in receipt of RIW hardship extension in February 2014. The Agency testifies that the appellant's RIW hardship extension was closed on February 21, 2014 because she failed to comply with her RIW employment plan. Specifically, the Agency testifies that the appellant failed, without good cause, to appear for a scheduled appointment with South Shore on February 20, 2014 and failed to complete any job search activity that week with South Shore prior to being terminated from the program. The appellant argues that she did comply with the South Shore job search program as was required of her, which was to check in with South Shore on a daily basis by fax or telephone and fax them a weekly job search log every Friday. The appellant concedes that she did not attend the scheduled appointment with her South Shore worker on February 20, 2014, but argues that weekly meetings were not a requirement of the program and that her South Shore worker was requesting personal information during these meetings that was not relevant to the job search.

A review of the Department of Human Services (DHS) Rhode Island Works (RIW) policies 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 while in receipt of a hardship extension, including work activity requirements. Per policy, 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 policy, 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. RIW works policy clearly states that failure to comply with an employment plan without good cause during a hardship extension results in immediate case closure.

A full review of the record finds that on December 9, 2013, the appellant signed a RIW employment plan in which she agreed to participate in a job search program at South

Shore for 10 hours each week from December 23, 2013 through February 28, 2014, while also participating in DCYF services for 10 hours as well. By initialing and signing the document, the appellant understood that she was required to keep all scheduled appointments and actively participate in the employment plan, and that failure to comply with the employment plan without documented good cause would result in a loss of benefits. Further testimony and evidence submitted establishes that on December 23, 2013, the appellant also signed enrollment documents with South Shore. A review of those documents finds that by signing and initialing, the appellant understood what was required of her and agreed to check in daily with the employment specialist, submit a job search log each week, and keep all appointments with her employment specialist. The South Shore documents further establish that the appellant was required to meet with an employment specialist a minimum of once a week. The documents further informed the appellant that if she failed to show for an appointment without calling to cancel the appointment, South Shore would immediately refer her back to DHS and her case would be closed to South Shore, which could result in loss of RIW benefits.

The appellant testifies that she completed all job search hours and never failed to check in daily or submit her weekly job search log to South Shore. While the appellant was unable to provide documentation of such and the February 21, 2014 activity status report from South Shore for the week ending February 22, 2014 does state that the appellant attended zero hours, the comments from South Shore on this report as well as in their email of the same date clearly states that the appellant was being terminated due to her failure to appear for a scheduled appointment on Thursday February 20, 2014, not because of her failure to complete any job search hours. Additionally, since the appellant was terminated mid-week, or prior to when her weekly job search log would have been submitted, it is possible that this is the reason that zero job search hours were entered for the week.

The appellant concedes that she deliberately did not attend the scheduled appointment with her South Shore worker on February 20, 2014 and did not call South Shore prior to the appointment to cancel and/or explain why she would not be attending. The appellant testifies that while she had been attending weekly meetings with her South Shore worker, she did not go to the February 20th appointment because the South Shore worker was asking for personal information during these meetings that was not relevant to the job search and the weekly meetings were not a requirement of the program anyways. As noted previously, the South Shore documents signed by the appellant on December 23, 2013 clearly state that the appellant was required to meet with her South Shore worker at least once a week. Additionally, despite the appellant's claim that she believed these weekly meetings were not required by the program, she indicates through her testimony that she had been attending these weekly meetings since her employment plan with South Shore began on December 23, 2013. The appellant concedes that she made no contact and/or offered any explanation to South Shore, either before or after missing the February 20th appointment, despite South Shore's attempts at outreach immediately after the missed appointment. Per RIW policy, a claim of good cause for non-compliance must be documented and/or substantiated. The record lacks any evidence that the appellant made any claims to South Shore or DHS prior to the February 20, 2014 that she believed she was not

required to attend weekly meetings and/or to complain about the substance of the meetings. Subsequent to receiving the appellant's appeal, the DHS RIW supervisor sent notice to the appellant on March 20, 2014 asking for documentation of good cause for her non-compliance. The notice also informed the appellant that she should contact the RIW supervisor as soon as possible for assistance if she did not have documentation. The appellant did not submit any documentation and did not contact the supervisor. In summary, the appellant failed to appear for a required appointment with South Shore on February 20, 2014 and failed to establish good cause for not doing so. She thereby failed to comply with her RIW employment plan without good cause.

In conclusion, on February 20, 2014 the appellant was non-compliant with her RIW employment plan while she was in receipt of a RIW hardship extension. Per RIW policy, such action renders her immediately ineligible for continuation of the 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 is ineligible for the RIW hardship as of February 21, 2014. The appellant's request for relief is denied.



Debra L. DeStefano
Appeals Officer