

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,929  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals the decisions by the Department of Prevention, Assistance, Transition, and Health Access (PATH) reducing his Reach Up Financial Assistance (RUFA) benefits by \$75 a month as sanctions for his and his wife's noncompliance with Reach Up work and training requirements. The issue is whether the petitioner and his wife failed without good cause to comply with those requirements.

FINDINGS OF FACT

1. The petitioner has been a recipient of RUFA benefits and a participant in the Reach Up program on and off for several years. He has had several sanctions in the past for noncompliance. In February 2002 the petitioner was laid off from his job and again became a RUFA recipient and Reach Up participant.

2. Following a period of several months in which Reach Up assisted the petitioner in getting his drivers license and obtaining a car, the petitioner failed to document a required

job search. The petitioner's Reach Up worker scheduled him for a reconciliation meeting on May 23, 2002.

3. The petitioner appeared twenty minutes late for this meeting and, because the worker had begun another appointment, the petitioner was scheduled for another meeting on May 29. The petitioner did not attend this meeting and did not call Reach Up to reschedule. Reach Up then referred the case to PATH for sanction.

4. In June 2002 PATH notified the petitioner that his Reach Up grant would be reduced by \$75 a month effective July 1, 2002 because of his failure to cooperate with Reach Up. The Department notified the petitioner that due to his sanction his wife would have to participate in Reach Up in order for the family to continue to receive benefits. A Reach Up meeting was scheduled for the petitioner's wife on July 9, 2002.

5. When the petitioner's wife failed to attend the Reach Up meeting on July 9 her Reach Up worker scheduled her (by notice mailed July 12, 2002) for a conciliation meeting on July 19. When the petitioner's wife did not appear at that meeting or otherwise contact her worker Reach Up referred the case to PATH for further sanction. PATH then notified the

petitioner that his wife would also be sanctioned \$75 as a result of her noncooperation with Reach Up.

6. The petitioner filed a request for fair hearing on August 8, 2002. At a hearing held on October 2, 2002 the petitioner admitted his own noncompliance but alleged that the family was in the process of moving over the summer and that they had not received any notices regarding his wife's required participation in Reach Up. The petitioner stated that his problem with Reach Up is that he did not feel he should have to accept a community service job placement at the local recycling center. At the hearing the hearing officer explained to the petitioner that under the regulations it appeared he was required to attend all Reach Up meetings and to accept any suitable community service employment. The petitioner indicated he understood, and stated that he would comply with referrals by his Reach Up worker. The hearing was continued until October 30, 2002.

7. Following the hearing on October 2, based on the petitioner's representations as to problems with his mail and assurance that he would comply with Reach Up in the future, the Department reversed its decision to sanction the petitioner's wife. However, the Department also notified her that until the petitioner had successfully purged his

sanction, she was still required to participate in Reach Up herself from that date forward. Reach Up then notified the petitioner's wife that she was scheduled for a meeting on October 17, 2002.

8. The petitioner's wife failed to appear at her scheduled meeting on October 17. On October 21 Reach Up sent her a notice scheduling a conciliation meeting on October 28. On October 28 the petitioner called Reach Up to report that she couldn't attend the meeting because a relative had died. Reach Up rescheduled the meeting for October 31, 2002.

9. At the fair hearing scheduled on October 30, the parties agreed to continue the matter until November 26, 2002 because of the uncertainty over the petitioner's and his wife's ongoing Reach Up participation.

10. On October 31, the date of his wife's rescheduled conciliation meeting, the petitioner called Reach Up to say that his wife was still grieving and asked that the meeting be rescheduled. Reach Up agreed to reschedule the meeting on November 7.

11. On November 7 the petitioner called Reach Up after the time of the scheduled meeting to say they had forgotten it, and he again asked that it be rescheduled. Reach Up agreed to reschedule the meeting on November 12. On November

12 the petitioner called to say his wife could not make the meeting that day. Reach Up again rescheduled the meeting, this time to November 15.

12. In the meantime, on November 11, 2002 the petitioner met with his Reach Up worker to discuss his participation in the program. The Department of PATH had recently notified the petitioner that his Reach Up grant would close effective December 1, 2002 because the petitioner had allegedly refused to verify income he had received from self-employment in October, and the petitioner had appealed this decision (see Fair Hearing No. 18,126, which is still pending). The Reach Up worker and the petitioner mostly discussed PATH's income reporting requirements at that meeting, although the Reach Up worker warned the petitioner that he would not excuse any further failures by his wife to attend her conciliation meeting.

13. The petitioner's wife did not attend her conciliation meeting on November 15 and did not call Reach Up. On November 19 Reach Up notified PATH that the petitioner's wife should be sanctioned. PATH then notified the petitioner that his wife would be sanctioned by having their RUFA grant reduced by another \$75 a month effective December 1, 2002. (This sanction was not implemented due to the pending fair hearing.)

14. At the November 26 fair hearing the parties informed the hearing officer of the intervening events (see *supra*) and agreed to hear the entire case at a hearing on December 19, 2002.

15. On December 11, 2002 the petitioner met with his Reach Up worker and refused to explore several community service job placements offered to him. The Reach Up worker gave the petitioner a list of other potential placements and left it to the petitioner to follow through on them.

16. At the hearing on December 19, 2002 the petitioner did not dispute any of the above facts. His defenses appear to be that he is overqualified for the positions Reach Up refers him to and that problems with the apartment in which he is living<sup>1</sup> should excuse his and his wife's missing meetings with Reach Up. To date, the petitioner's wife has not attended any meeting with Reach Up and the petitioner has not explored or identified any community service placement that he would agree to participate in.

ORDER

The Department's decisions are affirmed.

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<sup>1</sup> These problems appear to be the petitioner's disagreement with a decision by the housing authority after an inspection of the petitioner's apartment not to cite his landlord for the housing code violations complained of by the petitioner.

REASONS

Included in the "types of noncompliance" in the Reach Up regulations is the failure or refusal to "attend or participate fully in (Reach Up) activities." W.A.M. § 2370.1. Section 2372 of the regulations provides: "If a participating adult, including a minor parent, fails to comply with services component requirements, the department shall impose a fiscal sanction by reducing the financial assistance grant of the sanctioned adult's family." The regulations further provide that the conciliation process shall be "determined unsuccessful when the individual . . . fails without good cause to respond to one written notice of a scheduled conciliation conference". W.A.M. § 2371.4. This regulation further provides that the sanction process begins when conciliation is unsuccessful. The initial (i.e., the first three months) sanction amount is \$75 a month per individual participant.

As noted above, the petitioner does not dispute that he and his wife both missed scheduled conciliation meetings without notice. Under the regulations this alone is sufficient to support the Department's decisions to impose separate sanctions on their RUFA grant. At all the hearings in this matter (October 2 and 30, November 26, and December

19, 2002) the hearing officer informed the petitioner that under the regulations he can "cure" any sanction by complying with all applicable service components of Reach Up for a period of two consecutive weeks. (See W.A.M. § 2373.12.) Despite this, the petitioner inexplicably continues to reject community service placements that are immediately available to him and which after two weeks would allow the Department to lift the sanctions against him and his wife. Inasmuch as the Department's decisions in this matter were in accord with the pertinent regulations, they must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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