STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 18,605
	)	
Appeal of	)	
	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) sanctioning her Reach Up Financial Assistance (RUFA) benefits and closing her RUFA case for failure to provide verification.

FINDINGS OF FACT

1. The petitioner applied for Reach Up benefits for herself and her four children on December 17, 2002. A PATH case manager met with the petitioner on December 20, 2002 to develop a plan for her future employment. The petitioner and the case manager prepared a written Family Development Plan (FDP) that addressed a number of issues including transportation, the petitioner's health issues and employment needs. This agreement, which was signed by the petitioner stated that she would get a temporary deferral letter from her doctor by January 6 and would within three months begin work activities.

2. The petitioner provided some information about her situation requested by PATH on December 24, 2002. The petitioner said at that time that she still planned to submit information on her medical condition in order to get a waiver from work requirements.

3. On January 10, 2003, the case manager sent a notice by regular mail to the petitioner saying that an appointment had been scheduled to meet with her on January 21, 2003 for an assessment of her situation. The case manager was concerned that the petitioner had not provided any medical evidence to justify a waiver from work activities. The notice told the petitioner that if she could not keep the appointment she should call immediately to reschedule.

4. The petitioner did not attend the meeting scheduled on January 21, 2003. She offered no explanation for her failure to attend the meeting other than she might have been confused because she was also getting notices to come to bankruptcy court. That same day the case manager sent the petitioner a letter, this time by certified mail, telling her that they needed to discuss the reasons that she did not keep the appointment or call to schedule a different time. This new “conciliation” meeting was set up for February 4, 2003.

5. On February 3, 2003, the case manager called the petitioner to cancel the appointment because she would be out of the office the next day. The meeting was rescheduled for February 18, 2003. The notice of rescheduling was mailed on February 4, 2003 by certified mail and advised the petitioner that her failure to attend the meeting would result in an automatic sanction.

6. The petitioner called the case manager on February 18, 2003 and left a message on her voice mail that she could not attend the meeting due to bad weather. The meeting was rescheduled for February 27, 2003 by a notice sent via certified mail.

7. The petitioner attended the conciliation meeting as scheduled on February 27, 2003. At that time she said she no longer planned to submit medical evidence for an employment waiver because contacting her therapist was too difficult. At hearing she said that she did not follow through with this because contacting her therapist required a long-distance call. The case manager told her that absent a waiver she needed to schedule an appointment for her with PATH’s liaison at the Department of Employment and Training (DET) and prepared a conciliation resolution containing that plan. The petitioner told the case manager that she was familiar with

the liaison person and did not like her. The case manager could not assign her to another person since this person was the only PATH liaison at the local DET office. The case manager assured her that the liaison was a professional and could deal fairly with the petitioner. The petitioner became very agitated and said she would not go. Because the petitioner had said that she was depressed in her initial application, the case manager probed to see if the petitioner wanted to talk about some other problems she might be having that would keep her from working. The petitioner became more angry, began to cry and refused to sign the conciliation resolution at the conclusion of the meeting. The case manager told her that she would be sanctioned if they could not agree to a resolution of the matter at which time the petitioner walked out of the meeting shouting, “So sanction me.” The petitioner explained that she was “hot” at the meeting because the meeting had begun almost half an hour late. She also said she was upset because she did not understand what she had failed to do that she needed to come to a conciliation meeting although she agreed that she was aware she had to maintain monthly contact with the case manager and had failed to do so in January.

8. After consulting with her supervisor, the case manager prepared a “sanction authorization” form beginning a sanction of the petitioner’s grant based on her failure to reach a resolution with regard to monthly meetings and referral to DET. The case manager sent the petitioner a note saying that she was sorry the appointment did not go well and that she would be glad to meet with her again or to help in any way possible if the petitioner wished to contact her.

9. On March 3, 2003, PATH sent the petitioner a notice that effective April 1, 2003, her Reach Up grant would be sanctioned because she “failed to comply with Reach UP requirements without good cause.” The petitioner was told that her sanction would be $75 and that she had an appointment to meet with her case manager on April 1, 2003 in order to discuss the sanction. She was also advised to call immediately if she needed to reschedule the meeting and that she could not receive her RUFA benefits if she did not attend a meeting by the sixteenth of the month. In that event, her benefits would be closed and she would lose that month’s benefits. She was also advised that her sanction would continue until she complied with Reach Up requirements for two consecutive weeks.

10. That same day, March 3, 2003, PATH mailed a separate reminder of the meeting scheduled for April 1, 2003 which repeated the information about the need to attend or reschedule by the 16th of the month.

11. The petitioner did not attend the meeting on April 1, 2003 and did not call to reschedule the appointment. The petitioner could not remember why she did not attend that meeting.

12. On April 8, 2003 the petitioner called her case manager while in the office of an Office of Child Support (OCS) worker. She said she did not realize her grant was still open because she had received no payment on April 1. The case manager explained that she was sanctioned and needed to meet with her to get her benefits released. Although the petitioner offered no explanation for her failure to attend the April 1 meeting, the case manager made an appointment to meet with her on April 15.

13. The petitioner came to meet with her case manager and the manager’s supervisor on April 15. The meeting went well and following the meeting the petitioner’s grant was released. The petitioner did sign a conciliation agreement that day in which she agreed to maintain monthly contact with the case manager, and to attend an appointment with DET on

April 22, 3003 to begin a job search. The petitioner was notified in the conciliation agreement that she had to begin to participate with DET within five days and to continue to participate for two weeks to remove the sanction on her grant.

14. That same day, the petitioner was mailed a notice of her monthly meeting appointment that was to be held on May 5, 2003. (The petitioner had actually chosen this date at the meeting.) Again the petitioner was advised that she needed to reschedule immediately if she could not attend that day and that it was necessary to meet before the sixteenth of the month to get the release of her benefits. She was also told that her failure to do so would result in the closure of her benefits.

15. The petitioner did not contact DET as she had agreed to do at the April 15 meeting. She did not attend the monthly meeting on May 5, 2003 and did not call to reschedule. At hearing, the petitioner said by that point she had decided not to attend the meeting because she thought she would soon get direct child support and did not want to continue the “very degrading” business of dealing with the Reach Up program.

16. The case manager began to wonder how the petitioner was living since she was making no effort to obtain her RUFA benefits. On May 8, 2003, the case manager mailed the

petitioner a letter asking her to verify how she was supporting herself. She asked if she might be working or receiving direct child support payments. The petitioner was advised that her failure to contact the case manager or to provide verification by May 20 would result in the closure of her benefits.[1]

17. The case manager received no response to this letter and sent the petitioner a notice on May 21, 2003 closing her benefits as of June 1, 2003 for failure to provide required information.

18. The petitioner appealed this closure on August 4, 2003. It appears that the relief she seeks is restoration of her benefits for May of 2003 and the restoration of the $75 sanctions placed on her for the months of April and May of 2003.

ORDER

The decisions of PATH to sanction the petitioner's benefits for the month of April 2003 and to withhold and close the benefits for the month of May 2003 are affirmed.

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[1] The petitioner makes much of the fact that she received a form letter that begin with "Thank you for reporting a change in your situation." However, it is clear from reading further on in the letter that the worker was requesting information because the petitioner had not appeared on May 5 to collect her benefits.

REASONS

PATH's regulations in the Reach Up program set up a scheme in which parents are expected to develop and carry out a "Family Development Plan" (FDP). The scheme anticipates that parents will cooperate with PATH and engage in work activities through referral to DET as a condition of obtaining financial assistance unless there is a ground for deferment. W.A.M. 2362.11. Parents with proper documentation of a medical condition that affects their ability to work can obtain a deferment from work activities. W.A.M. 2370.1. Among the requirements of the program are appearing for assessment appointments after one written request and attending and participating fully in all FDP activities. W.A.M. 2370.1. Parents who refuse to participate in RUFA activities are subject to immediate sanction; those who fail to participate are subject to a conciliation process. W.A.M. 2370.1. Parents can avoid sanctions if they demonstrate good cause for non-cooperation.

The conciliation process used for those who fail to participate is initiated through the mailing of a notice within ten days of the failure setting up a conciliation meeting for a time at least four days in the future. W.A.M. 2371.1. The conciliation meeting must produce a resolution

plan stating what is to be done to cure any problems and the time frame involved in doing it. W.A.M. 2371.2. Parents may terminate the conciliation process but if they do so before a successful resolution is reached, the sanction process is immediately invoked. W.A.M. 2371.2. There are a complex array of successive sanctions available to PATH but for the first non-compliance, the sanction is $75 per month. W.A.M. 2372.1. Parents get ten days' advance notice of the sanction and are also advised that they can remove the sanction by cooperating with program requirements for two weeks. W.A.M.2372.4. Sanctioned parents must meet with their case managers at least once per month to assess their situation, to further develop the FDP and to facilitate curing the sanction. W.A.M. 2372.4. If the monthly meeting does not occur before the sixteenth of the month, the benefits for that month cannot be released and are forfeited. W.A.M. 2372.4.

PATH followed the above regulations in this case. PATH duly notified the petitioner by mail that she had an assessment appointment in January 2003 which she failed to attend without explanation. This failure prompted PATH to put the petitioner into the conciliation process which was initially postponed by the petitioner and then by the case manager and which was finally held on February 27, 2003. At

that time the petitioner terminated the conciliation meeting without a resolution. PATH properly began a sanction process at that point and notified the petitioner almost a month in advance that her sanction would begin in April. The petitioner was correctly notified that she could cure that sanction by two weeks' worth of cooperation and that she needed to come to a meeting on April 1 to obtain her benefits for the next month. The petitioner failed to attend that April meeting without explanation which could have resulted in a termination at that time. However, after the petitioner contacted PATH later in the month, PATH generously agreed to reschedule the meeting and to continue benefits even though the petitioner had no good cause for failing the prior meeting. PATH properly encouraged the petitioner to remove the sanction for failure to successfully conciliate her non-compliance with the FDP and the petitioner did begin that process by signing a conciliation agreement. However, the petitioner did nothing thereafter to carry out that agreement. It must be concluded that PATH correctly placed a sanction on the petitioner beginning in April of 2003 for her failure to keep in monthly contact with PATH and to either obtain a medical deferment or begin a work search with DET as her FDP specified.

PATH, in accordance with its regulations, sent the petitioner a notice to meet with the case manager on May 5 to obtain her monthly benefits. The petitioner did not come to that meeting. The case manager was not required to go any further at this point and could have closed out the case but she decided to contact the petitioner to see what was happening. She asked the petitioner to call her about how she was surviving and to provide verification of any income she might be receiving. Her failure to respond to that final letter of inquiry prompted the case manager to close her case.

The petitioner's first argument is that her case should not have been closed based on her failure to respond to the last contact letter. She says that it was illegal for PATH to request verification from her other than at the time of her RUFA re-certification and to close her case based on her failure to provide such verification. That contention is erroneous. PATH has a specific right under the statute to request verification at any time if it "receives information from some other source that indicates the most recent information reported by the participant may not be correct." W.A.M. 2211.3. The case manager had ample evidence to believe that the income information she had on the petitioner was not correct when she failed to show up to collect her RUFA check

for the month of May. She was justified at that point in asking the petitioner to provide further information to PATH.

When the petitioner failed to respond to that letter, PATH was justified given the petitioner's long history of unexplained failures to infer that the petitioner refused to provide this information vital to determining her eligibility. If there had been any question as to whether this was a failure to provide rather than a refusal, the petitioner put it to rest at the hearing when she admitted that she had decided to abandon her claim for benefits in May, wanting nothing more to do with PATH. PATH is justified under its regulations in closing benefits for persons who refuse to provide it with information needed to establish eligibility. W.A.M. 2211.

The petitioner's second argument is that the petitioner's Reach Up case should not have been closed when she failed to attend her mandatory meeting in May but that she should have been continued with sanctions. The regulations make it clear that failure to attend monthly meetings without good cause is a ground for closing the grant. W.A.M. 2372.4. The petitioner argues extensively in her memorandum that such closings are against legislative intent. However, her argument misses the important fact that the petitioner's grant

was not closed for this reason but rather for refusal to provide requested verification. It is not germane, therefore, to consider these arguments.

The petitioner in this matter showed a remarkable degree of non-cooperation with the requirements of the Reach Up program. The record indicates that during the five months after her initial application meeting, she regularly ignored notices, sporadically attended meetings with PATH, and failed to either verify her medical condition or to contact DET to begin work activities as she had agreed to do in her FDP. PATH's actions toward her were not only in accord with its regulations but went beyond them in an effort to assist the petitioner with program cooperation. If the petitioner had true impediments to attending meetings, working or getting verification she did not present them at the hearing although she had the assistance of counsel. The petitioner has not demonstrated that she is entitled to any benefits beyond those she has already received and PATH's decisions in her case should be upheld by the Board as in accordance with its regulations.

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