

her family development plan (FDP). At this particular meeting, the case manager expected to update the petitioner's work hours and to see if changes needed to be made in her FDP based on a work diminution caused by the petitioner's advancing pregnancy.

3. The petitioner did not appear at the time scheduled for the appointment nor did she call the office to say she could not come. That day the case manager sent the petitioner a notice that she had until July 20 to provide a good cause reason for missing the appointment. The petitioner was reminded that "good cause is something that is beyond your control and prevented you from attending and from calling reschedule" (sic).

4. The petitioner called on July 14, 2005 to talk with the case manager but she was on vacation. She left a voice mail message saying that she and the kids had been sick. She offered no reason for failing to call to reschedule the appointment.

5. The manager determined that this reason was not good cause because the petitioner could have called in to reschedule. She did not call the petitioner back at this time to speak with her. She prepared a "sanction authorization" form giving as reasons for the sanction that

the petitioner had missed her appointment, did not have a good cause reason for missing the appointment and had been "conciliated" twice before on July 18, 2003 and March 24, 2005 for missing appointments.

6. On July 19, 2005, DCF sent the petitioner a sanction notice telling her that as of August 1, 2005, her grant would be sanctioned by \$75 for failure to attend a meeting with her worker without good cause. The case manager bypassed a conciliation conference and went straight to the sanction because the petitioner had been through the conciliation process two times (July 18 2003 and March 24, 2005) during the prior sixty months.

7. The notice advised the petitioner that the sanction would remain in place for a minimum of one month and that she could remove the sanction by meeting with her worker by the sixteenth of the next month. A meeting was set up with her case manager for August 2, 2005.

8. On July 25, 2005, the petitioner called the case manager in response to the sanction letter and said that she did not appear or call on the scheduled date because her one year old was in the ER on July 12 and she was too overwhelmed to call in. The case manager told the petitioner that she

would stop the sanction for August if the petitioner could provide verification of that fact from her physician.

9. On July 29, 2005, the petitioner submitted a note from her pediatrician saying that the petitioner's daughter had been seen in the emergency room on July 12, 2005 and was rechecked for pneumonia by a physician on July 13, 2005.

10. Upon reviewing that note, the case manager thought it had the appearance of having been altered with regard to the dates. She called the pediatrician and asked her to mail the file copy of the note to the DCF office.

11. The pediatrician's file copy was produced at hearing. That note contained the same text in the same handwriting as the note submitted by the petitioner on July 29 but the date that the child was seen in the emergency room was listed as June 21, 2005 and the follow-up was June 22, 2005.

12. The case manager concluded that the petitioner had changed the dates on the note and had failed to provide the needed verification. She notified the petitioner that the sanction would continue.

13. The petitioner does not disagree that the dates on the two documents are different and that the one she submitted appears to have been altered. However, she said

that her mother picked up the note from the pediatrician's office and it was in a sealed envelope when she received it. She did not know who might have altered the original note. Nevertheless, she maintains that the dates on the note she originally gave DCF are the actual dates her child was in the ER and that the dates on the note from the pediatrician's file are incorrect. She maintains that she was too overwhelmed with a sick child that day to contact her case manager. As the petitioner could have resolved any inconsistencies between her recollection and the actual date the child was at the ER by providing clarifying verifications from the pediatrician, it must be found that the date the child was in the ER is that which was stated in the unaltered version of the pediatrician's note and not the date claimed by the petitioner.

14. The petitioner submitted no credible evidence in support of her claim that she had a family emergency which prevented her both from attending the appointment and from calling to report the emergency the day of the appointment. Her own testimony regarding the events of that day is found to lack credibility in light of the altered document she submitted to DCF and her failure to support her statements with documents from her physician or the emergency room.

15. The parties agree that the petitioner came for the next scheduled meeting in August and purged the sanction. The only issue in this hearing is whether the grant should have received the one-month sanction.

ORDER

The decision of DCF imposing the one-month sanction on the petitioner is affirmed.

REASONS

DCF's regulations require Reach Up work participants to comply with "service components" or face sanctions for noncompliance. See generally W.A.M. § 2340 et seq. Among the service components is the requirement that "the case manager shall have a personal contact with the participant at least once per month to review the FDP and, if necessary to modify the plan." W.A.M. § 2361.3. The failure or refusal of a RUFA recipient to attend or participate fully in FDP activities, including the monthly review contact, is defined as "noncompliance" under the regulations. W.A.M. § 2370. Noncompliance with an activity can be excused if there is good cause. W.A.M. § 2370.2. Determination of good cause requires the case manager to make a "good faith effort to contact the individual to discuss the act or pattern" and

requires the recipient to "provide sufficient documentation to substantiate a claim." W.A.M. § 2370.2. Events that may constitute "good cause" are listed in the regulation and include a "family emergency" such as an "illness" when the recipient "notified the appropriate . . . person at the earliest possible moment." W.A.M. § 2730.32.

If the case manager determines there is no "good cause" the case usually goes into "conciliation" which is a conference process which tries to resolve the noncompliance. W.A.M. § 2371. However, the regulations restrict this process to a maximum of two times within a sixty month period and a "subsequent noncompliance without good cause within this 60-month period will result in the immediate initiation of the sanction process without an opportunity for conciliation." W.A.M. § 2371.1. The sanction process imposes a fiscal sanction on noncompliant recipients by reducing their financial grant by \$75 during the first month. W.A.M. § 2372. Recipients are given a ten-day advance notice of the sanction and must be advised of methods to cure the sanction. W.A.M. § 2372.1.

With regard to this case, there is no question that DCF had a right to ask the petitioner to come to a monthly meeting to discuss her FDP and that the petitioner had an

obligation to attend such a meeting or to reschedule it in advance for a more convenient time. The petitioner was notified of and failed the meeting scheduled for that purpose, putting her out of compliance with the required work services component. The case manager gave the petitioner an opportunity to claim good cause which the petitioner did by a telephone message. The worker's failure to follow up on that message with a phone call to discuss the circumstances initially fell short of her duty to make a "good faith" effort to determine the facts. However, her conversation with the petitioner subsequent to the proposed sanction notice in which she heard all of the details and agreed to stop the sanction if the petitioner provided verification of her claim, cured her original lack of diligence.

The petitioner's burden under the above regulations was to provide sufficient verification that she had a family emergency and that she contacted the case manager at the earliest possible moment. To that end, the petitioner provided the case manager with a doctor's statement purportedly attesting to the fact that the petitioner's child had been in the ER on the day of her appointment. That statement proved to have been altered and to conflict with allegations made by the petitioner. The petitioner produced

no further evidence of her claim and the credibility of her own allegations about what occurred were seriously compromised by the inconsistency between the genuine doctor's statement and her own testimony. Furthermore, the petitioner presented no evidence as to why she was unable to contact DCF until two days after the scheduled hearing, a contact that apparently came only in response to the case manager's request for an explanation. Given these facts, it was reasonable for the case manager and is reasonable for the Board to conclude that the petitioner, in fact, had demonstrated no good cause for failing her monthly appointment.

Because the petitioner had two prior conciliation meetings during the previous sixty months, she was not entitled to a further conciliation conference on her noncompliance under the regulations. The case manager correctly initiated the sanction process following her finding that good cause did not exist for the noncompliance. The petitioner was correctly notified more than ten days before the action was to take place that her sanction would be \$75 and was told how she could remove that sanction. To her credit, she promptly did so by appearing at the next meeting scheduled for her. As DCF has complied with all of

its regulations in this case, the Board is bound to uphold its decision to impose a one-month sanction of \$75 on the petitioner.

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