

Development Plan (FDP) with her signature. The petitioner admits she received this letter, but alleges she did not understand that she was required to sign and return the enclosed forms. She admits that she did not respond to the letter or otherwise contact the Department.

4. On May 7, 2003 the Department again sent the petitioner the FDP forms and instructed her to sign and return them by May 17, 2003, and warned that a sanction would result if she did not. The petitioner admits receiving this letter, but again alleges that she did not understand what she had to do. Again, she did not respond to the letter or otherwise contact the Department.

5. On May 20, 2003 the Department sent the petitioner a letter noting her lack of compliance with the previous requests and scheduling a conciliation meeting on May 29, 2003. The Department sent the letter by regular and certified mail. The Department's records show that the petitioner's grandmother signed for the certified letter on April 24, 2003. The petitioner denies receiving either version of this letter.

6. The petitioner did not attend the conciliation meeting on May 29, 2004 and did not contact the Department. On June 4, 2003 the Department sent the petitioner a notice informing her that as of July 1, 2003 her RUFA grant would be

subject to a sanction of \$75 a month due to her failure to cooperate with Reach Up. The petitioner received this letter and filed this appeal.¹

7. The petitioner credibly testified that she and the other household members were under considerable stress during this time primarily due to the illness of another family member. However, the petitioner has presented no credible evidence that she or anyone in her household at the time was under any physical or mental disability the result of which it can reasonably be concluded was that the petitioner was prevented from receiving, reading, understanding, and responding to her mail.

ORDER

The Department's decision is affirmed.

REASONS

Included in the "types of noncompliance" in the Reach Up regulations is the failure or refusal to "attend or

¹ The petitioner's RUFA benefits were continued without reduction when she requested the hearing. An initial hearing was held on September 3, 2003. At that time the parties represented that the petitioner was complying with Reach Up and had "purged" her sanction. Thus, the case is confined to the "closed period" from July 1, 2003 until the month the sanction was lifted due to subsequent compliance. If the Department's decision in this matter is affirmed the result will be an "overpayment" to the petitioner for the month or months the sanction was in effect. The submission of the

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 she missed several deadlines and a conciliation meeting without notice. She maintains, however, that failure to "forgive" her noncompliance violates her right to a "reasonable accommodation" under federal handicapped nondiscrimination statutes and regulations.² As noted above, however, there is

parties' written arguments was continued for several months at the request of the petitioner's attorney.

² See e.g. 28 C.F.R. § 35.130(g): "A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or

no credible evidence that the petitioner or anyone in her household was actually "handicapped" in such a manner that they could not receive, read, understand, and respond to mail. Inasmuch as the Department's decision in this matter was in accord with the pertinent regulations, it must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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entity because of the known disability of an individual with whom the individual or entity is know to have a relationship or association."