

[REDACTED]

APPELLANT

v.

[REDACTED]

[REDACTED]

\* BEFORE SUSAN A. SINROD,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\* OAH No.: DHS [REDACTED] 05-19-13125

\* \* \* \* \*

**DECISION**

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**STATEMENT OF THE CASE**

On January 16, 2019, the Appellant applied for Temporary Cash Assistance (TCA) benefits. Md. Code Ann., Hum. Servs. § 5-312 (2019). On February 15, 2019, the [REDACTED] (Local Department) denied the application alleging that the Appellant failed to comply with the work requirements of the TCA program. On April 23, 2019, the Appellant filed an appeal.

On May 20, 2019, I conducted a hearing at the Office of Administrative Hearings (OAH)- [REDACTED] Maryland. Code of Maryland Regulations (COMAR) 07.01.04.21B. [REDACTED] Job Counselor, represented the Local Department. The Appellant represented herself.

The contested case provisions of the Administrative Procedure Act, the procedural regulations of the Department of Human Services (DHS), and the Rules of Procedure of the

OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2018); COMAR 07.01.04; and COMAR 28.02.01.

### ISSUE

Did the Local Department properly deny the Appellant's application for TCA benefits?

### SUMMARY OF THE EVIDENCE

#### Exhibits

The Local Department presented its Hearing Summary, which was admitted into evidence as LD Ex. #1 with the following attachments:

- a) Request for Fair Hearing, received by the Local Department on April 23, 2019
- b) Notice of Hearing, dated May 1, 2019
- c) Application for Assistance, received by the Local Department on January 16, 2019
- d) Purchase Authorization and Invoice, paid January 28, 2019
- e) Resident Charges/Payments Ledger, from June 29, 2018 to December 10, 2018
- f) Copy of Postal Money Order payable to [REDACTED] date illegible, received by the Local Department on December 20, 2018
- g) Employment Development Plan, dated January 16, 2019
- h) Work Opportunities Program-Countable Job Search Requirements, dated January 16, 2019
- i) Request for Transportation, dated January 16, 2019; Transportation Agreement, dated January 16, 2019; Bus Boarding Pass/7 Day Pass Referral Form, dated January 22, 2019; Bus Boarding Pass/7 Day Pass Referral Form, dated February 7, 2019
- j) Employment Development Plan, dated February 7, 2019
- k) Case Narrative, from November 26, 2018 to May 1, 2019
- l) Notice, dated February 15, 2019
- m) COMAR 07.03.03.19<sup>1</sup>

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<sup>1</sup> The exhibit does not set forth the actual COMAR citation; however I am familiar with it because of its title, *Conciliation, Sanctions and Other Penalties*, and I have knowledge that it is COMAR 07.03.03.19. It is a poor quality copy but I am able to access it by other means if necessary.

n) TCA Manual Section 205, *Independence Plan*, revised October 2016

o) [REDACTED] Consumer Employment & Income Report, dated May 18, 2019

The Appellant did not submit any exhibits for admission into evidence.

### Testimony

Ms. [REDACTED] read the Local Department's Summary and testified on behalf of the Local Department.

The Appellant testified and did not present any other witnesses.

### FINDINGS OF FACT

After considering the evidence presented, I find the following facts by a preponderance of the evidence:

1. On January 16, 2019, the Appellant applied for TCA benefits for a household of [REDACTED] people which included herself and [REDACTED] children. The Appellant's household received TCA benefits previously but served a period of ineligibility due to a full family sanction for failure to comply with work requirements.

2. The sanction began sometime between December 3 and December 7, 2018 and the Appellant was on notice of that sanction not later than December 3, 2018.

3. Also on January 16, 2019, the Appellant signed an Employment Development Plan, wherein she agreed that she will complete twenty-five hours of work experience per week at the [REDACTED]. She agreed her hours would be from 9:00 a.m. to 2:30 p.m. Monday through Thursday and 9:00 a.m. to 12:30 p.m. on Friday. The Appellant agreed to actively seek child care and have it in place by February 15, 2019. She agreed to a drug screening and further assessment as required. She also agreed to contact her job counselor immediately if her hours fell below the required twenty-five hours per week. By signing the Employment Development Plan, the Appellant also agreed to turn in attendance sheets every Monday.

4. The Local Department provided the Appellant with a door-to-door transportation plan with [REDACTED] however, she was unable to use it due to previous noncompliance with [REDACTED]'s policies. Therefore, the Local Department gave the Appellant transit passes instead.

5. On January 24, 2019, the Appellant called the Local Department and left a voicemail message saying that her child was sick and she could not attend her work program that day.

6. On January 28, 2019, the Appellant went to the work program but left, stating that she needed to figure out how to pay her rent.

7. As of January 31, 2019, the Appellant had not turned in any attendance sheets or job searches since January 7, 2019, when she was still curing her prior sanction.

8. On February 5, 2019, Ms. [REDACTED] the Appellant's job counselor, met with the Appellant. They discussed the Appellant's noncompliance with the substance abuse assessment and with the Appellant's work requirements. The Appellant explained that her child was ill on January 24, 2019; however, Ms. [REDACTED] explained that the Appellant had not provided any attendance verification since January 7, 2019. The Local Department kept the Appellant's application pending until February 15, 2019 to allow the Appellant time to become compliant.

9. On February 7, 2019, the Appellant provided doctors' notes to excuse her absences from her work requirements on January 24 to 27, January 30, and February 1 through 3, 2019.

10. On February 7, 2019, the Appellant signed a new Employment Development Plan, agreeing to job search for thirty-five hours per week, and indicating that she was seeking her own work placement. By signing this Employment Development Plan, the Appellant also agreed that if she could not find her own placement by February 11, 2019 she would begin

computer classes at [REDACTED] on Mondays, Tuesdays and Thursdays from 8:30 a.m. to 1:30 p.m. and Wednesdays from 8:30 a.m. to 12:00 p.m. She also agreed to turn in attendance verifications every Monday.

11. On February 14, 2019, Ms. [REDACTED] called the Appellant because the Local Department still had not received any verifications of employment or a substance abuse assessment from the Appellant. The Appellant told Ms. [REDACTED] that she was working on a voluntary basis with her cousin at [REDACTED] and provided a telephone number so that Ms. [REDACTED] could verify the employment.

12. Ms. [REDACTED] left a voicemail message for [REDACTED] but did not get any response. Ms. [REDACTED] again contacted the Appellant and said she needed to email Ms. [REDACTED] with a letter to verify her placement at [REDACTED] the Employer Identification Number and her schedule for the week.

13. The Appellant did not email Ms. [REDACTED] or submit the requested information to the Local Department.

14. On February 15, 2019, the Local Department denied the Appellant's application for TCA benefits.

### DISCUSSION

The Family Investment Program provides assistance to families with children while preparing program participants for independence. COMAR 07.03.03.01A. TCA is a component of the Family Investment Program, which operates under the Family Investment Administration, a unit of the DHS. In order to be eligible for benefits, each adult in a TCA assistance unit is required to participate in a work activity. COMAR 07.03.03.07-1. Work activity is defined by statute to include work experience, job search activity, community service, and training and education directly related to employment. Md. Code Ann., Human Servs. § 5-301(h) (2019).

An individual may be excused from the work activity if he or she can show good cause. COMAR 07.03.03.7-1B. Good cause to excuse participation includes, for example, a lack of childcare resources or inability to obtain childcare. COMAR 07.03.03.07-1I. Absent an exemption or good cause, failure to participate in a work activity disqualifies all members of the assistance unit from receiving TCA benefits. COMAR 07.03.03.07-1B. Further, the assistance unit is ineligible for benefits for a sanction period during which each adult must comply with the work activity. COMAR 07.03.03.19B.

The Appellant, as an applicant for TCA benefits, bears the burden of establishing that the Local Department's decision was incorrect.<sup>2</sup> COMAR 07.01.04.12B(2). The standard of proof is by a preponderance of the evidence. Md. Code Ann., State Gov't § 10-217 (2014); COMAR 07.01.04.12C(2).

Ms. [REDACTED] testified and read the Local Department's summary into the record. She presented the Local Department's exhibits, including the Appellant's Employment Development Plans and the Case Narrative which provided the details of the communications with the Appellant and her noncompliance. LD Ex. #1.

The Appellant testified that she was not aware that her appeal was about the denial; she intended to appeal the December 2018 sanction. She began to explain the circumstances surrounding the imposition of the sanction that occurred prior to when she filed the application that is actually at issue in this case. She also explained that her oldest son has health issues, and she has always had problems with transportation. She said she cannot afford to pay \$13.00 each way to attend her work requirement. Regarding her inability to use the [REDACTED] door-to-door transportation that the Local Department provided for her, she said there was always a

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<sup>2</sup> Although the Appellant received TCA benefits in the past, I consider her to be an "applicant" since she applied for TCA benefits after almost completing a sanction period during which her household had been ineligible for TCA benefits.

problem. One time she was on her phone while in the taxi and she said a “cuss” word. She said she was not disrespectful to the driver but apparently this violated the rules.

The Appellant insisted that she has never had a problem being compliant with the requirements of the TCA program. She cannot afford to be noncompliant; she needs the TCA benefits to pay her rent. She said everything changed when she moved from [REDACTED] to [REDACTED]; [REDACTED] never handled her case properly. The Appellant conceded that she could not get her attendance sheets in on time, and she does not have documentation for some of her non-attendance at the work program. She reiterated that she has problems with transportation.

COMAR 07.01.04.03F(1) provides that an appeal from the action of a local department must be filed within ninety days “of the agency mailing or delivering timely and adequate notice, whichever is earlier...” The Case Narrative that the Local Department submitted as evidence does not reveal the exact date that it imposed the sanction upon the Appellant; however, the sanction is discussed therein. The notation on December 4, 2018 says the Appellant “came in office in regard to her sanction on 12/3/18.” LD Ex. #1(k). Thus, the evidence established that the Appellant knew of the sanction at least by that date. The Appellant testified that the date of the sanction was December 7, 2018. Regardless, the Appellant filed her appeal in this matter on April 23, 2019. Even if the sanction date was December 7, 2018, an appeal to that sanction was required to be filed by March 7, 2019. Thus, if the appeal herein was intended to be an appeal of that sanction, it was untimely.

The Local Department notified the Appellant of the denial of her January 16, 2019 application for TCA benefits on February 15, 2019. LD Ex. #1(l). On the appeal form, the Appellant checked the line that says “My application was not handled properly,” and also checked the line that said “My assistance has been incorrectly suspended, reduced, or



terminated.” LD Ex #1(a). On the section of the form that asked why she wanted a hearing, the Appellant wrote, “My case was not handled properly. I have struggled financially because of it.” LD Ex. #1(a). The filing of this appeal on April 23, 2019 was timely with regard to the Local Department’s denial of her application; it was within ninety days of the February 15, 2019 notice. Based on this analysis, I conclude that the Appellant’s appeal can only pertain to the denial of her application, since this appeal was untimely with regard to her prior sanction, and based upon the wording in her appeal which discusses her application.

Ms. [REDACTED]’s testimony was undisputed. The Appellant conceded that she missed days of her work requirement and did not turn in her attendance sheets on time. She provided doctor’s notes to the Local Department on several occasions, but there are many days she missed where she did not provide documentation. While I acknowledge the Appellant had transportation issues, the Local Department provided her transit passes and her testimony did not address why these transit passes constituted inadequate transportation. The Appellant agreed in two Employment Development Plans to the work requirements for participation in the TCA program. LD Ex. #1(g) and (j). The Appellant failed to comply with these requirements and failed to establish good cause for doing so. Therefore, I conclude that the Local Department’s determination to deny her application for TCA benefits was proper and must be upheld.

#### **CONCLUSION OF LAW**

Based upon the above Findings of Fact and Discussion, I conclude, as a matter of law, that the Local Department properly denied the Appellant’s January 16, 2019 application for TCA benefits. COMAR 07.03.03.07-1.



**ORDER**

I **ORDER** that the decision of the [REDACTED] to deny the Appellant's application for TCA benefits is **AFFIRMED**.

June 24, 2019  
Date Decision Issued

Signature Appears on Original  
[REDACTED]  
Susan A. Sinrod  
Administrative Law Judge

SAS/ej  
#180520

**REVIEW RIGHTS**

This is the final decision of the Department of Human Services. A party aggrieved by this final decision may file a written petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county in which any party resides or has a principal place of business. The petition must be filed within thirty (30) days of the date of this decision. Md. Code Ann., State Gov't § 10-222(c) (Supp. 2018); Md. Rules 7-201 through 7-210. A petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. The Office of Administrative Hearings is not a party to any review process.

**Copies Mailed To:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Emailed)  
[REDACTED]