

PROCEDURAL FINDINGS

1. On July 7, 2021, Appellant requested and was granted the sole 30-day extension for its Hospital Quarterly Financial Utilization Report with the report period ended (“RPE”) June 30, 2021. Following the granting of the extension, the report was due on September 13, 2021.
2. Penalties accrued for one day, September 14, 2021, when Appellant filed the report at issue.
3. On September 23, 2021, HCAI assessed a penalty against Appellant in the amount of \$100 for Marshall Medical Center’s late filing of its Hospital Quarterly Financial Utilization Report.²
4. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated October 5, 2021 and received by the Hearing Office on October 14, 2021.
5. Appellant submitted its appeal within the required fifteen business days from receipt of the penalty letter.³
6. The hearing was conducted electronically using video and teleconferencing. No party objected to the use of video and teleconferencing or requested an in-person hearing.
7. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 7 were found to be authentic and relevant and admitted to the record.
8. Appellant submitted a written statement to the Hearing Office and HCAI at the time of appeal. The written statement was found to be authentic and relevant and admitted to the record as Exhibit A.

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² Health & Saf. Code, § 128770.

³ Health & Saf. Code, § 128775. *See also* Cal. Code Regs. tit. 22, § 97052.

FACTUAL FINDINGS

1. On July 2, 2021, Appellant requested and was granted the 30-day extension for the RPE June 30, 2021 Hospital Quarterly Financial and Utilization Report through HCAI's System for Integrated Electronic Reporting and Auditing ("SIERA").
2. Following exhaustion of the extension, Appellant was required under Health and Safety Code section 128740 to file the report at issue by September 13, 2021.⁴ Penalties accrued until September 14, 2021, when the report was filed.
3. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 1 day for the late filing of Marshall Medical Center's RPE June 30, 2021 Report, resulting in a penalty amount of \$100.⁵
4. These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.
5. Under Health and Safety Code section 128770, a penalty may "be reviewed on appeal, and the penalty may be reduced or waived for good cause."⁶ Appellant made oral statements of facts it believes show good cause why its report was not submitted in a timely manner.
6. Appellant's representative, Mr. Engelmann, testified that he had a medical emergency and was taken to the emergency room ("ER") on September 13, 2021 while working on the report at issue in SIERA. Mr. Engelmann was unable to return to work that day. Other staff employed by Appellant contacted HCAI to ask if an additional extension was available, but only one extension is available for these types of reports. Mr. Engelmann further testified that because he was working on the report in SIERA, it was locked to editing by other SIERA users and therefore other staff were unable to complete and submit the report on his behalf. Once Appellant's representative was released from the ER, he returned to work and submitted the report at 11:19 a.m. the following day.

⁴ See also Cal. Code Regs. tit. 22, § 97051.

⁵ Health & Saf. Code, § 128770(a).

⁶ Health & Saf. Code, § 128770(c).

7. These facts were substantiated by oral statements made under oath by Mr. Engelmann at the hearing and written exhibits.

8. Mr. Christensen further testified that report filers must lock and unlock draft reports in SIERA to work on them. This protection is in place to ensure that multiple users are not making conflicting changes to the same report at the same time.

9. HCAI's exhibit 7 shows that Appellant filed all other Hospital Quarterly Financial Utilization Reports in a timely manner between 2019 and the current report period.

DISCUSSION AND LEGAL CONCLUSIONS

1. The issue here is whether Appellant had good cause, as required by Health and Safety Code section 128770, for failing to file its Hospital Quarterly Financial Utilization Report for Marshall Medical Center by September 13, 2021, and whether the penalty should be waived or reduced.

2. In *Waters v. Superior Court*, the California Supreme Court stated that, "good cause may be equated to a good reason for a party's failure to perform that specific requirement from which he seeks to be excused."⁷ Good cause must be directly related to the specific legal requirement which the party failed to perform and should be outside the reasonable control of the party.⁸ Good cause is sometimes defined as circumstances beyond the party's control, and not related to the party's own negligent act or failure to act. On an individual basis, courts and administrative bodies have often found that hospitalization, incapacitation, accident involvement, or loss or unavailability of records may constitute good cause.⁹ The determination of good cause in a

⁷ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

⁸ *Waters, supra*, 58 Cal.2d 885,893 and Secretary of State, "Good Cause" Reasons for Waiving Late Campaign & Lobbying Filing Fees <https://www.sos.ca.gov/campaign-lobbying/good-cause-reasons-waiving-late-campaign-lobbying-filing-fees/> [as of December 4, 2019].

⁹ Fair Political Practices Commission, Guidelines for Waiving Late Fines (Nov. 2017) <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/FilingOfficer/700FO-Folder/Late%20Fine%20Guidelines.pdf> [as of October 5, 2021]. See also *Waters, supra*, 58 Cal.2d 885, 893.

particular context should utilize common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.¹⁰

3. A party's diligence is a factor in determining good cause for an extension or a delay.¹¹ The substantiated facts show that Appellant's representative was taken to the ER while in the midst of working on the report at issue. Furthermore, because Appellant's representative was actively working on the report in SIERA, other staff were unable to edit and submit the report while Appellant's representative was at the ER. Appellant did take prompt steps to notify HCAI of the issue, but HCAI staff were unable to grant Appellant an extension as the sole extension had already been requested and granted previously.¹² Once Appellant's representative was released from the ER, he returned to work and submitted the report at 11:19 a.m. the following day.

4. Hospitalization constitutes clear good cause for waiver of the penalty. In addition, inability of other staff to complete the report on behalf of Appellant's representative was outside the control of Appellant as the locking of the report is a feature of SIERA. The Appellant acted with due diligence under the circumstances and with reasonable haste to provide the late report. Therefore, the substantiated facts show good cause for waiver of the penalty of \$100.

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¹⁰ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

¹¹ *People v. Financial & Surety, Inc.* (2016) 2 Cal.5th 35, 47. See also *Wang v. Unemployment Ins. Appeals Bd.* (1990) 225 Cal.App.3d 412, 420.

¹² Appellant is allowed 45 days to prepare the reports at issue following the end of a calendar quarter with the option to request one 30-day extension under Health & Saf Code, § 128740(a). See also Cal. Code Regs. tit. 22, § 97051.

PROPOSED ORDER

The assessed penalty is waived for good cause.

Dated: March 18, 2022

//original signed//
MICHELLE L. CHURCH-REEVES
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775 and California Code of Regulations, title 22, section 97054, after due consideration of the record, the Proposed Decision is:

Accepted

Rejected

Dated: 3/28/2022

//original signed//
ELIZABETH A. LANDSBERG
Director
Department of Health Care Access and Information