

BEFORE THE  
DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION  
STATE OF CALIFORNIA

In the Matter of the Penalty Issued to:

**MOTION PICTURE AND  
TELEVISION HOSPITAL**

Appellant.

HCAI No. 21-039-HQF

**PROPOSED DECISION**

This matter was heard before Michelle Church-Reeves, Hearing Officer, Department of Health Care Access and Information (“HCAI”), successor to the Office of Statewide Health Planning and Development (“OSHPD”),<sup>1</sup> State of California, on Wednesday, June 8, 2022, beginning at 10:31 a.m.

HCAI was represented by Ty Christensen, Health Program Audit Manager II, Accounting and Reporting Systems Section. Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section was also present on behalf of HCAI.

Motion Picture Television Fund, licensee and operator of the Motion Picture and Television Hospital, “Appellant,” was represented by Kathie Dapello, Manager, Financial Planning. Jeff Arnett, Director of Finance, was also present on behalf of Appellant.

Both documentary and testamentary evidence was received. The record was closed on Wednesday, June 8, 2022, at 10:46 a.m.

//

---

<sup>1</sup> Stats. 2021, ch. 143, §§ 30, 31.

## PROCEDURAL FINDINGS

1. On December 20, 2021, HCAI assessed a penalty against Appellant in the amount of \$100 for Motion Picture and Television Hospital's late filing of its Hospital Quarterly Financial Utilization Report.<sup>2</sup>
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated December 22, 2021 and received by the Hearing Office on December 22, 2021.
3. Appellant submitted its appeal within the required fifteen business days from receipt of the penalty letter.<sup>3</sup>
4. 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.
5. 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.
6. 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.

## FACTUAL FINDINGS

1. On November 1, 2021, Appellant requested and was granted the sole 30-day extension for its Hospital Quarterly Financial and Utilization Report for the report period ended ("RPE") date of September 30, 2021 through HCAI's System for Integrated Electronic Reporting and Auditing ("SIERA").<sup>4</sup>

---

<sup>2</sup> Exhibit 5 and Health & Saf. Code, § 128770.

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

<sup>4</sup> Exhibit 1.

2. Following exhaustion of the extension, Appellant was required under Health and Safety Code section 128740 to file the report at issue by December 14, 2021.<sup>5</sup> Penalties accrued until December 15, 2021, when the report was filed.<sup>6</sup>

3. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for one day for the late filing of Motion Picture and Television Hospital's RPE September 30, 2021 Report, resulting in a penalty amount of \$100.<sup>7</sup>

4. These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

5. 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, Ms. Dapello, testified that an employee had prepared all the necessary data compiled from various systems and databases, uploaded the data to the SIERA portal prior to the deadline, and attempted to submit the report at issue multiple times on the due date, but received a fatal error each time submission was attempted. SIERA would not allow the report to be submitted until the fatal error was identified and corrected, but the employee was unable to identify and fix the fatal error prior to midnight on December 14, 2021. Despite this, the employee continued to work on the report at issue until early in the morning on December 15, 2021. The employee was finally able to identify and correct the fatal error and submit the report at or about 4:58 p.m. on December 15, 2021.

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

8. Mr. Christensen further testified there are multiple reasons SIERA will give a fatal error when a report preparer attempts to submit a report. They typically involve automated cross-checks by SIERA which will not allow a report to be submitted if certain fields do not match or tally to the same amounts. Unfortunately for Appellant, SIERA does not identify

---

<sup>5</sup> See also Cal. Code Regs. tit. 22, § 97051.

<sup>6</sup> Exhibit 4.

<sup>7</sup> Exhibit 5 and Health & Saf. Code, § 128770(a).

which fields caused the fatal error, and users must find and fix the error in the report without more feedback from the system.

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 Motion Picture Television Hospital by December 14, 2021, and whether the penalty should be waived or reduced.

2. 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."<sup>8</sup> 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."<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup> The determination of good cause in a particular context should utilize

---

<sup>8</sup> Health & Saf. Code, § 128770(c).

<sup>9</sup> *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

<sup>10</sup> *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].

<sup>11</sup> 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.

common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.<sup>12</sup>

3. A party's diligence is a factor in determining good cause for an extension or a delay.<sup>13</sup> Due diligence is the "diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation."<sup>14</sup> The substantiated facts show that Appellant's employee had gathered and prepared the data for the report at issue prior to the deadline, was actively working on the report at issue, and attempted to submit it several times on the due date, staying late and working to correct the fatal error until past midnight. SIERA does not report to HCAI or Appellant what caused the fatal error that did not allow the report at issue to be filed on time. However, Appellant's employee worked with other staff to find and correct the issue, submitting the report one day late.<sup>15</sup> While a specific date was not provided by either Appellant or HCAI, the substantiated facts show that Appellant began working on the report prior to the due date and no substantiated facts demonstrate that Appellant was negligent and waited until the due date to begin the necessary steps for submittal of the report at issue. Therefore, the substantiated facts demonstrate ongoing and continual effort to comply with the statutory obligations.

4. The inability of Appellant to submit the report at issue due to the programming of SIERA was outside the direct control of Appellant. While the typographical error which caused the fatal error which prevented the report from being submitted on time was technically within the control of Appellant, due diligence does not require perfection, rather a continual effort to comply, which Appellant demonstrated both prior to and on the due date. Therefore, Appellant acted with due diligence under the circumstances and with reasonable haste to submit the report at issue. Therefore, the substantiated facts show good cause for waiver of the penalty of \$100.

//

---

<sup>12</sup> *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

<sup>13</sup> *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.

<sup>14</sup> Black's Law Dictionary (11<sup>th</sup> ed. 2019)

<sup>15</sup> 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: July 8, 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: 8/3/2022

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