

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

In the Matter of the Penalty Issued to:

**HIGHLAND HOSPITAL**

Appellant.

HCAI No. 23-013-HQF

**PROPOSED DECISION**

This matter was heard before John Gray, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, on November 29, 2023 beginning at 10:29 A.M.

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

Highland Hospital,<sup>1</sup> “Appellant,” was represented by Jesus Torres, Senior Reimbursement Analyst.

Both documentary and testamentary evidence was received. The matter was submitted for decision and the record was closed on November 29, 2023 at 10:43 A.M.

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<sup>1</sup> Department of Public Health, CalHealth Find Database [Facility Detail \(ca.gov\)](https://www.cdph.ca.gov/Programs/OPA/Pages/NR20240531.aspx) (last accessed May 31, 2024).

## PROCEDURAL FINDINGS

1. On September 20, 2023, HCAI assessed a penalty against Appellant in the amount of \$100 for its delinquent Hospital Quarterly Financial Utilization Report for report period (RPE) 06/30/2023. The penalty letter was received by the facility on September 22, 2023.<sup>2</sup>
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated October 10, 2023.
3. Appellant did not submit its appeal within the required fifteen business days from receipt of the penalty letters.<sup>3</sup>
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 8 were found to be authentic and relevant and admitted to the record.
5. Appellant submitted no exhibits to the Hearing Office and HCAI in advance of the hearing.

## FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128770 to file RPE 06/30/2023 by August 14, 2023.<sup>4</sup> An extension was filed by Appellant extending the deadline to file the RPE 06/30/2023 to September 13, 2023. Penalties accrued from September 13, 2023 until September 14, 2023.
2. The report was filed on September 14, 2023.<sup>5</sup>
3. In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 1 day, resulting in a total penalty amount of \$100.<sup>6</sup>

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<sup>2</sup> Exhibit 7.

<sup>3</sup> Health & Saf. Code, § 128770.

<sup>4</sup> Exhibit 1.

<sup>5</sup> Exhibit 6.

<sup>6</sup> Health & Saf. Code, § 128770.

4. HCAI sent a reminder email to Appellant on Friday, August 4, 2023 that the report was coming due for the Highland Hospital facility.<sup>7</sup> The reminder email also noted that the report for Alameda Hospital was coming due at the same time.<sup>8</sup>

5. Appellant filed an extension request, extending the deadline to submit to September 13, 2023 for both the Appellant facility and for the Alameda Hospital facility.<sup>9</sup> HCAI sent another reminder email to Appellant on September 3, 2023 that the reports for both facilities would be due on September 13, 2023.<sup>10</sup> HCAI sent another reminder email to Appellant on September 12, 2023.<sup>11</sup>

6. Appellant submitted the report for the Highland Hospital facility on September 14, 2023.<sup>12</sup> HCAI issued a penalty notice of \$100.<sup>13</sup> The penalty letter was delivered to the facility on September 22, 2023.<sup>14</sup>

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

8. Mr. Christensen also noted that the Alameda Hospital report was submitted in a timely fashion.

9. Mr. Torres testified on behalf of the Appellant. Mr. Torres stated that the team that filed the reports was a team of four people and that their interim director left in May of 2023. The team was responsible for doing work on behalf of five hospitals, including submitting Hospital Quarterly Financial Utilization Reports on behalf of the facilities.

10. Mr. Torres stated that he was the member of the team responsible for filing the report. He testified that the primary reason for the late submission was because of a death in his family on September 2, 2023. Mr. Torres stated that he was grieving for the loss of his uncle, who was

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<sup>7</sup> Exhibit 1.

<sup>8</sup> Exhibit 1.

<sup>9</sup> Exhibit 2.

<sup>10</sup> Exhibit 3.

<sup>11</sup> Exhibit 4.

<sup>12</sup> Exhibit 5.

<sup>13</sup> Exhibit 6.

<sup>14</sup> Exhibit 7.

like a father to him between September 2, 2023 and when the report was ultimately filed on September 14, 2023.

11. Mr. Torres stated that his grieving impacted his ability to focus on his work. Mr. Torres did not take time off of work between September 2, 2023 and September 14. Mr. Torres stated that this was because of his high workload and that he did ultimately take time off after the report was submitted to attend his uncle's funeral.

12. Exhibit 8 showed that Appellant does have a history of filing required reports in a timely manner.

## 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 report by September 13, 2023 and whether the penalty should be waived in whole or in part.

2. Under Health and Safety Code section 128770, subsection (c), a penalty may “be reviewed on appeal, and the penalty may be reduced or waived for good cause.” 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>15</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>16</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

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<sup>15</sup> *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal2d 885, 893 (hereafter *Waters*).

<sup>16</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].

records may constitute good cause.<sup>17</sup> The determination of good cause in a particular context should utilize common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.<sup>18</sup>

3. The question at issue is whether Mr. Torres's grieving constitutes good cause for a delay in filing the report. In this case, Appellant had a team of four individuals who were responsible for filing reports on behalf of five different facilities, including Mr. Torres. Another of those facilities, Alameda Hospital, whose report was due at the same time as Appellant's, submitted its report in a timely manner. Appellant did not explain whether the report at issue could have been reassigned to another member of the team. Considering that the team submitted another report in the same time frame, the evidence shows that the Appellant made a conscious choice to prioritize other work over the submission of the report at issue. Prioritizing other work over timely submission of the report at issue negates Appellant's argument of good cause. Even if Mr. Torres had been completely incapacitated for the period in question, the rest of the team still could have completed the submission of the report at issue. They chose to prioritize other projects instead. Mr. Torres's grief therefore does not constitute good cause in this case.

4. A party's diligence is a factor in determining good cause for an extension or a delay.<sup>19</sup> Here, Appellant has demonstrated a consistent record of timely reporting in the past. However, Appellant has made no further showing of a good cause reduction for the penalty accrued. A party's past diligence alone is insufficient to justify a reduction in penalties. Thus, the \$100 penalty accrued between September 13, 2023 and September 14, 2023 is not waived.

5. The substantiated facts do not show good cause for reduction or waiver of the penalty assessed.

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<sup>17</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 November 15, 2022]. See also *Waters, supra*, 58 Cal.2d 885, 893.

<sup>18</sup> *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

<sup>19</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.

PROPOSED ORDER

The assessed penalty is upheld.

Dated: June 7, 2024

//original signed//

JOHN GRAY  
Hearing Officer  
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775, after due consideration of the record,  
the Proposed Decision is:

Accepted

Rejected

Dated: June 17, 2024

//original signed//

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