

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

In the Matter of the Penalty Issued to:	}	
	}	HCAI No. 24-018C-HQF
CIRBY HILLS BEHAVIORAL HEALTH, NORTH VALLEY BEHAVIORAL HEALTH, STABLER LANE BEHAVIORAL HEALTH	}	
Appellant.	}	
	}	
	}	
	}	
	}	
	}	
	}	

PROPOSED DECISION

This matter was heard before Michelle Church-Reeves, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, beginning on Wednesday, August 7, 2024, at 1:33 PM PDT.

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.

North Valley Behavioral Health, LLC, owner and operator of Cirby Hills Behavioral Health, North Valley Behavioral Health, and Stabler Lane Behavioral Health,¹ collectively, “Appellant,” was represented by Arne Hyson, Chief Executive Officer. Melissa Lance, Chief Financial Officer, was also present on behalf of Appellant.

Both documentary and testamentary evidence was received. The matter was submitted for

¹ These three facilities are 16 bed acute care psychiatric inpatient treatment facilities licensed by the State of California Department of Mental Health. Licensing and certification information does not appear to be available on the website. Department of Health Care Services, Mental Health Services Division, <https://www.dhcs.ca.gov/services/Pages/MentalHealthPrograms-Svcs.aspx> [as of August 15, 2024].

decision and the record was closed on August 7, 2024, at 1:55 PM PDT.

PROCEDURAL FINDINGS

1. On June 14, 2024, HCAI assessed a penalty against Appellant in the amount of \$500 for each of its three delinquent Hospital Quarterly Financial Reports for a total of \$1,500.²
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated June 18, 2024, and received by the HCAI Hearing Office on June 28, 2024.
3. Appellant submitted its appeals within the required fifteen business days from receipt of the penalty letters.³
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 9 were found to be authentic and relevant and admitted to the record.
5. Appellant submitted a letter of explanation to the Hearing Office and HCAI at the time of appeal. This letter was found to be authentic and relevant and admitted to the record as exhibit A.

FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128770 to file or request an extension for its Hospital Quarterly Financial Utilization Report for the Report Period Ending (“RPE”) date March 31, 2024 by Wednesday, May 15, 2024.⁴
2. HCAI sent automated reminders to Appellant via email on Sunday, May 5, 2024,⁵ and Tuesday, May 14, 2024.⁶ A delinquent report reminder was automatically emailed to Appellant on Saturday, May 18, 2024.⁷

² Health & Saf. Code, § 128770. *See also* exhibits 5, 6, and 7.

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

⁴ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

⁵ Exhibit 1.

⁶ Exhibit 2.

⁷ Exhibit 3.

3. On Monday, May 20, 2024, Mr. Hyson called HCAI to explain that the CFO was unavailable to complete the report for medical reasons. As an extension was available, Ms. Tran approved the extension for all three facilities.⁸ Following the extension, the reports were due by June 19, 2024. All three reports were filed on June 11, 2024, before the extended due date.

4. Penalties accrued from Wednesday, May 15, 2024 until Monday, May 20, 2024 when the extension was requested.⁹

5. In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for five days for each of the three reports, resulting in a total penalty amount of \$1,500.¹⁰ These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

6. Appellant submitted exhibits with its appeal and made oral statements of facts it believes show good cause why the report at issue was not submitted in a timely manner.

7. In its written statement Appellant stated that the recent version of the report was expanded to include financial details that only Ms. Lance could provide. Unfortunately, Ms. Lance was undergoing medical treatment for breast cancer during the period in question which prevented her from completing the reports at issue in a timely manner.¹¹

8. Mr. Hyson testified that Ms. Lance typically traveled from San Diego to Yuba City two days a week for work. However, her doctor ordered that she not travel during a portion of her breast cancer treatment. In addition, Ms. Lance had to undergo three successive surgeries for tumor removal between January and March of 2024 and then a course of radiation.¹² The first surgery, performed on January 22, 2024, was planned and conducted. The additional two follow-up surgeries, March 1 and March 19, 2024, respectively, for “margin re-excision” unexpectedly extended her time off work and travel restrictions.¹³ Exhibit A shows that radiation and follow-up appointments continued into early June. Mr. Hyson further testified that the new reporting

⁸ Exhibits 4.

⁹ Exhibit 6.

¹⁰ Health & Saf. Code, § 128770.

¹¹ Exhibit A.

¹² *See also* exhibit A.

¹³ *See also* exhibit A.

requirements required Ms. Lance to complete the reports and there was no one else who was able to meet the new reporting requirements. Ms. Lance confirmed the accuracy of Mr. Hyson's statements and verified the medical history included in exhibit A.

9. Ms. Lance additionally testified that she was unable to work at her normal capacity while undergoing treatment. The changes to her recovery timeline made predicting impacts to filing of reports difficult. Consequently, she fell behind on her normal duties and was not in a position to manage the reports at issue.

10. In addition, Mr. Hyson testified that while he was able to log in and use HCAI's System for Integration Electronic Reporting and Auditing ("SIERA"), he was unaware that an extension could be requested at all, let alone through SIERA, as Appellant had never needed an extension previously. He also stated that he was distracted from the filing deadline due to concern for Ms. Lance and that he kept expecting that she would be recovered enough to return to work prior to the deadline only to find she needed an additional follow-up operation and other treatment.

11. These facts were substantiated by oral statements made under oath by Mr. Hyson and Ms. Lance at the hearing as well as written exhibits.¹⁴ Exhibit A was provided to the Hearing Officer and HCAI in a timely manner prior to the hearing.

12. Mr. Christensen further testified that the additional reporting requirements which were imposed with the quarter in question were due to an emergency statute for the distressed hospital relief program which resulted in emergency regulations which passed at the end of March and were effective for the quarter ending March 31, 2024.

13. Exhibit 9 showed that Appellant has a history of filing required reports in a timely manner, typically 7 to 10 days prior to the deadline and without utilizing the available extension.

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 for its report or request an extension by Wednesday,

¹⁴ Exhibit A.

May 15, 2024, 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.”¹⁵ 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.¹⁶ 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.¹⁷ 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.¹⁸

3. A party’s diligence is a factor in determining good cause for an extension or a delay.¹⁹ Appellant has shown a history of submitting its reports timely and without utilizing extensions.²⁰ Here, the substantiated facts show that Appellant was attempting to comply with new reporting requirements and that the primary person responsible for the data which was needed was unable to travel or consistently work remotely due to undergoing necessary medical treatments. In addition, the course of treatment was extended by two additional surgeries, unexpectedly impacting the time available to complete the reports at issue. In spite of the Appellant’s cause for

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

¹⁶ *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].

¹⁷ 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.

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

¹⁹ *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.

²⁰ Exhibit 9.

delay of filing their late reports, Appellant filed all the reports at issue prior to the date the extension would have expired on June 14, 2024. This further supports the assertion that Appellant was prepared to file the reports and would have been able to file timely if not for Ms. Lance's medical issues.

4. Mere ignorance is not a strong showing of good cause.²¹ While Ms. Lance was unavailable, Mr. Hyson could have timely requested the extension to file the reports had Mr. Hyson known an extension was available. However, due to the totality of the circumstances encompassing the unexpected extended unavailability of Ms. Lance and the inaugural need for Appellant to use its available extension, Appellant demonstrated unique circumstances outside its control. This is further substantiated by the fact that Mr. Hyson contacted HCAI the next business day after receiving the first delinquency notice. This demonstrates due diligence on the part of Appellant under the circumstances.

5. Based on Appellant's prior reporting history and that the late reports were submitted within the extension timeline, it is likely that Appellant would have timely submitted the reports prior to the deadline but for the medical issues experienced by the CFO.

6. The substantiated facts demonstrate that Appellant was impacted by unique circumstances outside its control and acted with due diligence under the circumstances and with reasonable haste. Therefore, the substantiated facts show good cause for waiver of the penalty assessed.

//
//
//
//
//
//
//
//
//

²¹ *Tsingaris v. State of California* (1979) 91 Cal.App.3d 312, 314.

PROPOSED ORDER

The assessed penalty is waived for good cause.

Dated: September 16, 2024

//original signed//

MICHELLE CHURCH-REEVES
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: 9/23/2024

//original signed//

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