



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 16-000674
Agency No.: 0
Petitioner: [REDACTED]
Respondent: Michigan Rehabilitation Services

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

DECISION AND ORDER

PROCEDURAL HISTORY

On [REDACTED], Respondent, Michigan Rehabilitation Services (MRS or Respondent) filed a Request for Hearing with the Michigan Administrative Hearing System (MAHS). Along with the Request for Hearing was a letter from Petitioner, [REDACTED], (Petitioner) dated [REDACTED], in which Petitioner indicated he wished to appeal a determination made by MRS regarding an MRS decision to close Petitioner's case.

On [REDACTED], a Notice of Telephone Prehearing Conference and Hearing was issued, scheduling a telephone pre-hearing conference for [REDACTED], rescheduled for [REDACTED]. On [REDACTED] the Telephone Prehearing Conference was held at which time the parties agreed to a [REDACTED] hearing.

The hearing was held under the authority of Section 102 of the 1998 amendments to the Rehabilitation Act of 1973 (29 USC 722), Public Law 105-220, and Act 232 of the Public Acts of 1964, MCL 395.81 *et seq.*

Petitioner appeared on his own behalf by conference telephone pursuant to his request. [REDACTED] Assistant Attorney General, represented the Respondent. [REDACTED] vocation Rehabilitation Counselor, and [REDACTED], Policy Consultant appeared as witnesses for the Respondent.

Petitioner's Exhibits None

Respondent's Exhibits

Exhibit A: Respondent's [REDACTED] Case Closure Notice

Exhibit B: Respondent's [REDACTED] Case Closure Notice

Exhibit C: Individualized Plan for Employment

Exhibit D: MRS Case Notes

Exhibit E: MRS Services Manual

Petitioner's Witnesses

1. [REDACTED]

Respondent's Witnesses

1. [REDACTED], Vocational Rehabilitation Counselor
2. [REDACTED] Policy Consultant

ISSUE

Did Respondent act properly in closing Petitioner's case?

FINDINGS OF FACT

1. Petitioner's MRS case opened on [REDACTED]. (Exhibit D; Testimony)
2. Petitioner was determined to be eligible for services and was assigned a Vocational Rehabilitation Counselor, [REDACTED] (Counselor or [REDACTED]). (Exhibit D; Testimony)
3. On [REDACTED] the Respondent issued a Case Closure letter to Petitioner (Exhibit B) closing his MRS case on the grounds that Petitioner had not maintained regular contact with the job developers, updated his MiTalent file with current resume, forwarded requested electronic copy to his counselor, apply directly for jobs available in the community, and failed to maintain phone contact documented by the MRS Case Notes. (Exhibit D)
4. A [REDACTED] case note indicates that Petitioner inquired about applying for SSDI for the 3rd time, informing MRS that a request for information about his participation may be forthcoming. (Exhibit D)
5. Petitioner requested an administrative hearing on the [REDACTED] case closure which was followed by a Client Assistance Program medication. Following, the parties agreed to continue services and Petitioner's case remained open. (Exhibit D; Testimony)
6. On [REDACTED] Petitioner and [REDACTED] Petitioner's Individualized Plan for Employment (IPE), the 6th IPE for Petitioner. The employment goal listed in the IPE for Petitioner was food preparation worker. Petitioner agreed to continue mental health treatment, following treatment recommendations,

and job development/placement assistance. Petitioner explicitly signed acknowledgments to cooperate, be punctual, consistently look for employment, and agreed not to quit his program or make any changes without contacting his counselor. (Exhibit C)

7. On [REDACTED] Petitioner's counselor entered a case note indicating that Petitioner was to contact his physician to arrange for a referral to a neurologist. No contact in the last 60 days. Petitioner's plan was suspended. (Exhibit D)
8. A [REDACTED] case note indicates that Petitioner had not contacted MRS in 6 months. (Exhibit D)
9. A [REDACTED] case note indicates that Petitioner had not followed up with primary care doctor. A phone call was made to Petitioner by his counselor advising him of case closure. (Exhibit D)
10. On [REDACTED] MRS issued a notice of case close informing Petitioner that his case is being closed on the grounds that Petitioner has not followed through consistently with job applications, has not updated his resume and job search activity, and there is a continued need for medical treatment and follow up. (Exhibit A)

CONCLUSIONS OF LAW

The purpose of Title I of the Rehabilitation Act of 1973, as amended, 29 USC § 720 *et seq*, is to provide for "a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation which is an integral part of a statewide workforce investment system, and designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, interests and informed choice, so that such individuals may prepare for and engage in gainful employment." P.L. 105-220 § 100(a)(2).

Applicants are eligible for MRS services if they have a physical or mental impairment that constitutes or results in a substantial impediment to employment and if they require services to prepare for, secure, retain or regain employment consistent with their abilities and capabilities. Applicants who have been determined to have a disability under the SSDI (Title II) and/or SSI (Title XVI) program of the Social Security Act are presumed to be eligible for MRS services provided they intend to achieve an employment outcome consistent with their individual circumstances. MRS Policy 3100.

Once an eligibility determination has been made, a vocational needs assessment is conducted to determine the goals, nature and scope of rehabilitation services to be included in the Individualized Plan for Employment. The emphasis shall be on using existing and current information to the maximum extent possible, and information provided by the individual and by the individual's family, as appropriate. When current

or existing information is not sufficient to assess vocational rehabilitation needs, a comprehensive assessment of the individual's strengths, resources, priorities, concerns, abilities, capabilities and rehabilitation needs, including the need for supported employment, shall be provided. The comprehensive assessment shall be limited to information that is necessary to identify rehabilitation needs and to develop an individualized plan for employment. To the degree needed, the comprehensive assessment shall include such things as an assessment of the personality, career interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the client and the medical, psychiatric, psychological, neuropsychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual. 34 CFR 361.45; MRS Policy 3275.

Applicants and eligible individuals shall be full and active participants in their vocational rehabilitation. They shall have the opportunity to obtain information about options and make informed choices throughout their rehabilitation program including: evaluation and assessment services and providers. The applicant shall be involved in providing and securing existing assessment information to the maximum extent possible. 34 CFR 361.52; MRS Policy 2255. Clients are responsible for providing information needed to determine eligibility and to develop an IPE. 34 CFR 361.38, 361.46 & 361.57; MRS Policy 2250.

A signed IPE also indicates that the Counselor is certifying that the job goal is consistent with the employment characteristics of the individual, and not contraindicated by health or safety reasons. MRS Policy 5000.

The case record of an applicant or eligible individual may be closed as not rehabilitated when the individual has failed to cooperate. 34 CFR 361.45; MRS Policy 7100.

The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record. The ALJ at an administrative hearing must base a decision upon the evidence of record focusing at the time of the assessment. The Department cannot be held accountable for evidence it was unaware of at the time of its determination

After a careful review of the credible and substantial evidence on the whole records, this ALJ finds that the Respondent's actions were in compliance with its policy, and supported by the documentary and testimonial evidence taken as a whole. The Respondent submitted extensive documentary notes of Petitioner's Vocational Rehabilitation Counselor, and, policy to support the action taken. Appellant however, did not offer enough evidence to support his claim that he has cooperation under the requirements of the MRS program .As the preponderance of evidence weighs on favor of the Respondent, this ALJ must uphold the Department.

Specifically, evidence indicates that Petitioner failed to follow up with his physician, and as of [REDACTED] had not contacted MRS in 6 months. Evidence further indicates that Petitioner had not been consistent with job applications, and had not updated his resume and job search activity. Evidence further shows that Petitioner had agreed to the goals and planned services in his IPE but failed to keep in touch and follow through with the participant responsibilities of his IPE. (Exhibit C).

Based upon the foregoing findings of fact and conclusions of law, substantial and credible evidence supports finding that MRS properly closed Petitioner's MRS case for failing to cooperate.

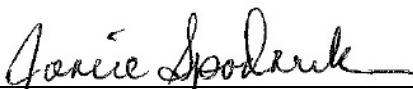
Petitioner understands that he may reapply.

DECISION AND ORDER

For all of the reasons stated in the foregoing opinion, MRS's decision to close Petitioner's case was proper and the decision is **AFFIRMED**.

NOTICE: THE PETITIONER HAS NOW EXHAUSTED ALL AVAILABLE ADMINISTRATIVE REMEDIES. ANY FURTHER APPEAL OF THIS DECISION IS THROUGH JUDICIAL REVIEW. ANY PARTY MAY BRING A CIVIL ACTION IN ANY STATE COURT OF COMPETENT JURISDICTION OR IN A DISTRICT COURT OF THE UNITED STATES OF COMPETENT JURISDICTION.

JS/cg



Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Counsel for Respondent

[REDACTED]

Petitioner

[REDACTED]

Respondent

[REDACTED]

Agency Representative

[REDACTED]