

ISSUE

Appeal of MRS's decision to close Petitioner's case.

FINDINGS OF FACT

1. Petitioner has been a customer of MRS on and off for many years and his current case in REDACTED County has been open for several years. (Testimony.) Prior to this, Petitioner received services through MRS in REDACTED County, but his case there was closed due to Petitioner's inappropriate behaviors towards MRS staff. (*Id.*) As a condition to reopen services with MRS, Petitioner was required to attend therapy, take his medications, and refrain from inappropriate behaviors towards staff. (*Id.*) Petitioner was also banned from seeking MRS services at the MRS office in REDACTED. (*Id.*)
2. In 2021, Petitioner began receiving services with the MRS office in REDACTED County. (Testimony.) As part of his Individualized Plan for Employment (IPE), Petitioner was to attend therapy, take his medications, and refrain from inappropriate, threatening, and profane behaviors towards staff. (*Id.*)
1. On March 28, 2022, Petitioner sent an inappropriate, threatening, and profane email to MRS staff. (Exhibit O; Testimony.) Specifically, the email indicated:

So are you going [sic] send me proof on which doctor that says part time only?

Don't be an [sic] fucking cunt with me!!!
2. On November 4, 2022, Petitioner sent an inappropriate, threatening, and profane email to MRS staff. (Exhibit P; Testimony.) Specifically, the email indicated:

Subject: It's your fucking job

Nope its [sic] your fucking job to contact my doctors and ask them to fill it out. You had [sic] send form late to them. I have seening [sic] him since April and you just send him from [sic] last month.

(Id.)

3. On June 21, 2023, MRS staff emailed Petitioner regarding continuing his therapy. (Exhibit H; Testimony.) Specifically, the email indicated:

Hi REDACTED,

Therapy and medication has helped you to remain in good mental health, so the expectation is that you will continue to participate while participating in the trial work experience. (Exhibit H; Testimony.)

4. On May 26, 2024, Petitioner sent an inappropriate, threatening, and profane email to MRS and REDACTED staff. (Exhibit C; Testimony.) Specifically, the email indicated in pertinent part:

Neuropathy!!!!

I DON'T THINK SO!!!

Delusional is NOT the Right ANSWER!!

It's more like MisDiagnosed and Discriminate!!!!

Pay Back Is A Bitch!!!!

5. On June 20, 2024, Petitioner sent an inappropriate and threatening email to MRS and REDACTED staff. (Exhibit F.) Specifically, the mail indicated:

Subject: If you want me to stop the emails

You must meet my demands!!!

(Id.)

6. On June 21, 2024, Petitioner sent a string of inappropriate, threatening, and profane emails to MRS and REDACTED staff, which also indicated that Petitioner would not participate in therapy, as required by his IPE. (Exhibit Q; Testimony.) Specifically, the mail indicated:

Subject: Whats the Hold Up Now???

Another new fuk [sic] up therapist is out of the question!!

I'm still waiting for an [sic] fucking answer!!!

KUNTS!!!! [sic]

Don't forget I got freedom of speech, that old Mrs cunt REDACTED counselor REDACTED [sic] had no fucking right to tell me I'm not intelligent for postal work.

(Id.)

7. Following the above string of emails, MRS staff scheduled a virtual meeting with Petitioner, however, Petitioner failed to appear for the meeting. (Exhibit G; Testimony.)
8. On July 6, 2024, Petitioner sent an inappropriate and threatening email to MRS and Easter Seals staff indicating that he would not participate in therapy, as required by his IPE. (Exhibit D.) Specifically, the email indicated, in pertinent part:

Therapy is still out of the question!!!

And I don't want to hear about it no more!!

9. At an unknown time, Petitioner sent an inappropriate and threatening email to MRS staff. (Exhibit E.) Specifically, the email indicated:

Don't forget!! I have been getting free electricity, water, utilities, etc...

And I like/love to WASTE!!!

Same thing with my Free so called Medicare Insurance!!!!

WHAT GOES AROUND COMES AROUND!!!

Please note that this NOT AN [sic] THREAT!!!

If I was EMPLOYED from the START I wouldn't be WASTING as MUCH!!!!

You can give Thanks to all my past State M.R.S. Crooked workers that's [sic] Discriminate against me and the Crooked REDACTED County Sheriff Department/REDACTED County Courts System too when I was living in REDACTED Twp...

10. During the time Petitioner's case was open, MRS offered Petitioner numerous job leads, but Petitioner denied all the leads because he did not believe the leads met the very specific job requirements he was looking for. (Exhibits I, J, K, L, M; Testimony.)
11. On July 8, 2024, Petitioner sent an inappropriate and threatening email to MRS and REDACTED staff. (Exhibit R; Testimony.) Specifically, the email indicated:

You need to offer me an entry level unionized cost of living employment position or assigned [sic] me to another worker that can!!!

You don't tell me what to do!!!
12. On July 19, 2024, Petitioner filed a request for hearing with MRS appealing MRS' decision to close his case. (Exhibit HO1.) MRS forwarded the request for hearing to MOAHR on July 31, 2024. (Exhibit HO1)

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. 34 CFR 361.42; MRS Policy 3100.

Once an individual has completed an application for services, an assessment of eligibility and priority for service shall be conducted and an eligibility determination made within 60 days unless exceptional and unforeseen circumstances beyond the control of Michigan Rehabilitation Services (MRS) preclude a determination within 60 days and MRS and the individual agrees to a specific extension of time or trial work experiences with supports.

To the maximum extent possible and appropriate, the assessment shall consist of a review of existing data, be conducted in integrated settings, and be consistent with the applicant's informed choice. 34 CFR 361.41, 34 CFR 361.42; MRS Policy 3125.

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.

Eligibility shall be continually reassessed as part of routine counseling and guidance provided to the individual. Eligibility for ongoing services is contingent upon the individual continuing to meet all agency eligibility criteria. 34 CFR 361.43; MRS Policy 3225.

The IPE shall be a written document prepared on a form approved by MRS. It shall be developed so that it affords the eligible individual meaningful opportunity to exercise informed choice in the selection of the employment goal, the specific vocational rehabilitation services required to achieve the employment goal, the entities that will provide services, and the methods of service provision. The IPE shall be signed by the individual or, as appropriate, the individual's representative and by a qualified MRS rehabilitation counselor. Planning and approval of the IPE shall be conducted within the framework of a counseling relationship. Counselor approval of an IPE verifies that the IPE is consistent with MRS policies and guidelines, is complete and is expected to lead to an employment outcome.

The IPE shall be designed to achieve the employment goal of the individual and shall include a specific employment goal in an integrated setting. The employment goal shall be consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. 34 CFR 361.45, 34 CFR 361.46; MRS Policy 5050.

An IPE amendment shall be developed when, as a result of the annual review or at any other time, the IPE needs to be revised. An IPE Amendment shall not take effect until agreed to and signed by the MRS counselor and the individual or, as appropriate, the individual's representative. A copy of the amendment shall be provided to the individual and, as appropriate, to the individual's representative. 34 CFR 361.45; MRS Policy 5150.

The IPE shall have a specific employment goal, in an integrated setting, consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities, taking into account the individual's interests and informed choice. Achievement of an employment outcome shall mean entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; telecommuting; self-employment; or any other type of employment in an integrated work setting that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. 34 CFR 361.45, 34 CFR 361.56; MRS Policy 5025.

MRS may close a participant's case for failure to participate in services. Examples include repeated failure to keep appointments, participate in assessments, engage in counseling, or other MRS counselor services identified as necessary to develop or support the IPE employment goal. (RSM 7000; Exhibit A.)

MRS may also close a participant's case due to threats and acts of violence. (ADM 0303; Exhibit B.)

Petitioner argued that he never stopped taking his medication and his last therapist told him he no longer had to participate in counseling. Petitioner indicated that the meetings he missed he usually only had one day notice and he had other appointments scheduled. Petitioner argued that he told MRS he was only interested in certain types of jobs and they discriminated against him by failing to find him suitable work. Regarding the inappropriate emails, Petitioner defended his actions arguing that they were wasting his time and not doing their jobs.

Respondent argued that MRS gave Petitioner another chance after he got kicked out of MRS in REDACTED County, but Petitioner continued with the inappropriate, profane, and threatening behaviors. Respondent argued that it was part of Petitioner's IPE to participate in counseling and Petitioner failed to do so. Respondent noted that failure to participate can also result in case closure. Respondent argued that Petitioner wanted things his way, or no way at all, and eventually MRS ran out of options and ways to assist Petitioner.

Based upon the above findings of fact and conclusions of law this administrative law judge (ALJ) finds that MRS properly closed Petitioner's case.

As indicated above, MRS may close a participant's case for either failure to participate or if the participant engages in threatening or inappropriate behavior. Here, Petitioner failed to participate in therapy even though it was a requirement of his IPE. He also refused to follow up on all job leads provided by MRS. As such, Petitioner failed to participate in services and his case closure for that reason was proper. More importantly, Petitioner sent numerous inappropriate, profane, and threatening emails to both MRS and REDACTED REDACTED staff. MRS staff warned Petitioner about his behavior and gave him an opportunity to cooperate but Petitioner chose not to do so. Petitioner offered no excuses for his behavior and believes that it was justified. It was not. And, given that Petitioner's prior MRS case in REDACTED County was closed for similar bad behavior, Petitioner should have known better here.

Therefore, based on the evidence presented, MRS's decision was proper and should be upheld.

DECISION AND ORDER

For all the reasons stated in the foregoing opinion, MRS's 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.