

1. ISSUE

Was MRS proper in denying Petitioners request for retroactive payments for Petitioner's Spring and Summer 2024 program costs for Petitioner's Psychiatric Mental Health Nurse Practitioner certificate program at Ursuline College?

FINDINGS OF FACT

1. In 1989, Petitioner obtained an associates degree from Oakland Community College. (Testimony.)
2. In 1994, Petitioner obtained a bachelor's degree from Wayne State University. (Testimony.)
3. In 2010, Petitioner obtained a masters degree in nursing from Wayne State University. (Testimony.)
4. From 1999, through 2010, Petitioner was employed by REDACTED, Inc assessing mental health of military personnel. (Testimony.)
5. In 2014, Petitioner suffered a traumatic brain injury. (Exhibit 1; Exhibit D; Testimony.)
6. On REDACTED 2022, Petitioner underwent a Neuropsychological Assessment Report as she was unsure if she could return to work and due in part to her mild traumatic brain injury. (Exhibit 1; Exhibit D; Testimony.)
7. On or about REDACTED 2023, Petitioner applied for vocational rehabilitation services from MRS. (Exhibit 1.)
8. As of August 10, 2023, Petitioner was already enrolled in the Psychiatric Mental Health Nurse Practitioner (PMHNP) certificate program at Ursuline College in Ohio. (Exhibit 1; Testimony.)
9. As of August 10, 2023, Petitioner was receiving Social Security Disability as a result of the 2014 traumatic brain injury. (Exhibit 1; Testimony.)
10. Petitioner provided MRS with a copy of her 2022 Neuropsychological Assessment Report. (Exhibit 1; Exhibit D; Testimony.)
11. MRS determined Petitioner was eligible for services because she was receiving SSDI and had a significant disability. (Exhibit K; Testimony.)
12. On November 15, 2023, the Department issued a written denial of Petitioner's request for tuition assistance for the PMHNP program, citing its policy restricting support for post-master's or second-degree training unless the individual lacks transferable skills necessary to obtain employment. (Exhibit A; Testimony.)
13. On or around November 16, 2023, Petitioner improperly submitted an appeal to the Michigan Office of Administrative Hearings and Rules and then voluntarily withdrew the appeal. (Exhibit I; Testimony.)

14. In December of 2023, Petitioner submitted a draft Individualized Plan for Employment (IPE) listing "Psychiatric Mental Health Nurse Practitioner" as her desired employment goal, along with a request for tuition support. (Exhibit F.)
15. On March 20, 2024, Petitioner, through counsel, submitted a request for hearing concerning the Department's refusal to approve PMHNP as her IPE employment goal. (Exhibit J.)
16. On June 26, 2024, a hearing was held to address Petitioner's March 20, 2024, appeal. During the hearing, Petitioner confirmed she was not requesting reimbursement for the Spring 2024 semester. (Exhibit FF.)
17. On August 13, 2024, a Decision and Order was issued concluding that MRS improperly rejected PMHNP as a valid employment outcome but did not order the Department to retroactively pay for tuition or services for Spring or Summer 2024. (Exhibit O.)
18. Petitioner did not appeal the August 13, 2024, Decision and Order.
19. Following the August 13, 2024, Decision and Order, MRS worked with Petitioner to develop two IPE's. The second IPE, signed on September 26, 2024, approved future services, including a 150-hour practicum, a vocational evaluation, and a PMHNP certification review course. (Exhibit 19; Testimony.)
20. On September 25, 2024, Petitioner, through counsel, submitted another hearing request, challenging MRS's refusal to retroactively authorize payment for Spring and Summer 2024 semester costs, including tuition, books, and program supplies. (Exhibit R.)
21. On September 30, 2024, the Michigan Office of Administrative Hearings and Rules received Petitioner's request for hearing. (Hearing File.)

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."¹

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.²

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.³

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.⁴

¹ P.L. 105-220 § 100(a)(2).

² 34 CFR 361.42; MRS Policy 3100.

³ 34 CFR 361.41, 34 CFR 361.42; MRS Policy 3125.

⁴ 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.⁵

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.⁶

The Individualized Plan for Employment (IPE) shall be a written document prepared on a form approved by Michigan Rehabilitation Services (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.⁷

An Individualized Plan for Employment (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 Michigan Rehabilitation Services (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.⁸

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

⁵ 34 CFR 361.38, 361.46 & 361.57; MRS Policy 2250.

⁶ 34 CFR 361.43; MRS Policy 3225.

⁷ 34 CFR 361.45, 34 CFR 361.46; MRS Policy 5050.

⁸ 34 CFR 361.45; MRS Policy 5150.

setting that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.⁹

This matter arises from Petitioner's request that the Department retroactively authorize and pay for tuition and related program costs for the Spring 2024 and Summer 2024 semesters of her PMHNP certificate program. Having reviewed the full record in this matter, Petitioner is not entitled to retroactive authorization or reimbursement for the Spring 2024 and Summer 2024 semester expenses.

The Department issued a denial of Petitioner's request for tuition support on November 15, 2023, citing its policy regarding second-degree and post-master's training, which limits financial support unless the training is necessary to achieve a vocational goal; and no transferable skills are available. The petitioner attempted to appeal the decision but submitted the request directly to the Tribunal rather than the Department and subsequently withdrew her appeal. This withdrawal terminated Petitioner's ability to challenge the November 2023 decision.¹⁰ The September 25, 2024, hearing request submitted nearly a year later, is, therefore, untimely as it relates to the initial denial.

Even if the current request were timely, it still fails on substantive grounds. At the time the Spring 2024 semester occurred, the Michigan Administrative Code prohibited retroactive case-service authorizations: "Retroactive authorizations are prohibited."¹¹ As the tuition expenses were incurred before the rule was amended, the Department correctly applied the version of the rule in effect at that time.

Petitioner argues that the current version of Rule 395.54(8) should apply and permits retroactive payment where (1) the customer made reasonable efforts to enable MRS to authorize the service, and (2) MRS's failure to authorize the service was due to Department error or delay. However, Petitioner has not met either condition.

First, even if the amended version of Mich Admin Code R 395.54(8) applied, Petitioner has not demonstrated that she made reasonable efforts to enable MRS to authorize services prior to the Spring 2024 semester. The record shows that Petitioner had already enrolled in the PMHNP program and commenced coursework before applying for MRS services. While Petitioner later provided documentation such as a neuropsychological report and information regarding her education and professional background, these submissions made after enrollment did not constitute reasonable efforts to secure MRS approval before services began. Instead, Petitioner's actions demonstrate a decision to proceed independently, including pursuing an out-of-state program and continuing coursework without an approved IPE or written authorization in place. This forecloses any claim that she made reasonable efforts to allow MRS action as required by rule.

⁹ 34 CFR 361.45, 34 CFR 361.56; MRS Policy 5025.

¹⁰ Mich Admin Code R 395.88(1)-(2).

¹¹ Mich Admin Code R 395.54(8) Pre March 2024.

Second, there is no evidence that any MRS error or delay caused the lack of authorization for Spring 2024 or Summer 2024 tuition assistance. MRS denied Petitioner's tuition request based on its established policy regarding post-master's training and its assessment of Petitioner's transferable skills and vocational options. Although the August 13, 2024, decision reversed the Department's rejection of PMHNP as a viable employment goal, the decision did not find that the Department committed procedural error or delay in processing services. Nor did it order retroactive authorization of any tuition or related costs. Petitioner did not appeal the decision, which, therefore, became final and binding under Mich Admin Code R 395.88(13)-(14). Accordingly, Petitioner has failed to satisfy either prong necessary for discretionary retroactive authorization under the amended rule.

Most significantly, during the June 26, 2024, hearing, Petitioner was explicitly asked whether she was seeking reimbursement for the Spring 2024 semester and stated that she was not. This statement constituted a waiver of that issue. Petitioner had a full and fair opportunity to raise the tuition reimbursement request during that hearing. Her choice not to do so precludes her from bringing that claim now. The doctrine of issue preclusion bars relitigating of issues that were waived or could have been raised in prior proceedings involving the same subject matter. It would be prejudicial to allow Petitioner to reopen a claim she declined to pursue when given the opportunity.

For all the above reasons, the Department's decision not to retroactively authorize or pay for the Spring 2024 and Summer 2024 semesters of Petitioner's certificate program, including tuition, books, and related program costs is affirmed.

DECISION AND ORDER

For all of the reasons stated in the foregoing opinion, MRS's decision to not retroactively authorize the Petitioners request for retroactive payments for Petitioner's Spring and Summer 2024 program costs for Petitioner's Psychiatric Mental Health Nurse Practitioner certificate program at Ursuline College 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.