

Here, Respondent moves for summary disposition under MAC R 792.10129(a) and (b) arguing that there is no genuine issue of material fact and/or there is a failure to state a claim for which relief may be granted.

Specifically, Respondent argues that Petitioner's request for hearing should be dismissed because this matter has already been reviewed and decided by this Tribunal at a previous hearing, so the claim is blocked by collateral estoppel. Respondent also argues that there is no factual development that could result in the relief Petitioner seeks.

In response, Petitioner argues that Respondent's motion should be denied because there are questions of fact and law remaining and none of Petitioner's current arguments here have been addressed in a prior hearing.

As Respondent points out, collateral estoppel applies when "(1) a question of fact essential to the judgment must have been actually litigated and determined by a valid and final judgment, (2) the parties or privies must have had a full and fair opportunity to litigate the issue, and (3) there must be mutuality of estoppel." *Mecosta Co Med Ctr v Metro Group Prop and Casualty Ins Co*, 509 Mich 276, 283 (2022) (internal quotation marks omitted). However, where collateral estoppel is used defensively against a party that has already litigated the issue, mutuality is not required. *Monat v State Farm Ins Co*, 469 Mich 679, 682-684 (2004).

Here, MRS previously denied Petitioner's request for financial assistance to attend University of Michigan Law School. (See Respondent's Motion for Summary Disposition (R's MSD), Attachment B, p 192.) Petitioner requested a hearing following that denial and a hearing was held in November 2023. (R's MSD, Attachment B.) Following the hearing, this All issued a decision affirming MRS' decision and Petitioner did not appeal. (R's MSD, Attachment A.) Now, due to a change in the amount of assistance Petitioner is receiving from the West Virginia Division of Vocational Rehabilitation Services (WVDRS), he is again seeking tuition assistance from MRS to attend University of Michigan Law School.

Given these indisputable facts, Petitioner's claim is blocked by collateral estoppel. The "question of fact essential to the judgment" here is whether MRS must provide financial assistance to Petitioner to attend University of Michigan law school. However, the parties have already litigated that question and a final judgment was issued. The fact that WVDRS is now offering Petitioner less tuition assistance does not change the underlying question or the conclusion reached following the last hearing. Even if another hearing is held, University of Michigan Law School will still not be the service that meets Petitioner's vocational rehabilitation needs at the least cost to MRS, for all the reasons already outlined in the prior decision. (*Id.*)

Petitioner's arguments to the contrary are not persuasive. First, Petitioner argues that if another vocational rehabilitation (VR) agency is not providing sufficient funding to meet his vocational needs, then Respondent must step in and fill the need until the other

25-012522

entity is able to do so. However, even if this is true, another issue that has previously been litigated arises, namely the fact that Petitioner previously turned down full-ride scholarship offers to attend law school at Wayne State University, Michigan State University, and West Virginia University. (R's MSD, Attachment B, pp 154, 184-185, 189.)

As discussed in the last decision, policy also provides that MRS shall not provide financial assistance for any item covered in the cost of attendance if the individual fails to apply for or refuses to accept federal, state, institutional, and other grants; need based scholarships; or tuition waivers for which they may be eligible. (R's MSD, Attachment I, p 754, ¶ 3; Attachment J, p 3, ¶ 3.)

Further, the policy provides that "MRS assistance with the cost of attendance, combined with all other financial resources, shall not exceed the individual's unmet financial need based on the cost of attending the least costly training institution that meets the individual's vocational rehabilitation need." (/d.at p 754, ¶ 8; R's MSD Attachment J, p 4, ¶ 1.) MRS' College and Vocational Training Policy was updated in January 2024, but the relevant language is identical. (See R's MSD Attachment J.) Here, Petitioner has refused to accept scholarships in the past and refuses to apply for those scholarships now. In other words, for Petitioner to be eligible for tuition assistance from MRS, he would need to seek out those scholarships again before asking MRS to pay any tuition.

And, while Petitioner argues that such a finding would potentially relieve MRS of ever having to provide tuition assistance because MRS could always argue that a student needs to seek scholarships or a lower cost education at every annual IPE, that is not the case here. Here, MRS has never agreed to pay any tuition for Petitioner to attend law school. Further, Petitioner has already been offered full ride scholarships at three different law schools, which he turned down, to attend University of Michigan Law School. In order for Petitioner to seek tuition assistance from MRS, he would need to explore whether any of those scholarship offers would still be available. Petitioner cannot use the fact that WVDRS has lowered the amount it will pay for his law school tuition to sanctify his decision to refuse full ride scholarships and demand that MRS pick up the difference.

Second, Petitioner argues that collateral estoppel does not apply because MRS is required to create a new IPE every year and it is this new IPE that Petitioner is appealing from now given the change in financial circumstances. However, the fact that there has been another IPE does not change the underlying question or the fact that the questions have already been ruled upon. The new IPE also does not change the fact that there is no factual development at hearing that could lead directly to MRS making up the difference in tuition between what WVDRS is now offering and what it offered before. MRS has never agreed to pay for Petitioner's law school tuition and he would need to start at the beginning of the process for MRS to begin paying tuition now.

Third, Petitioner argues MRS may not require a client who is on Social Security Insurance to participate financially in a necessary service outlined in the IPE. However,

25-012522

as determined at the prior hearing, MRS is not requiring Petitioner to participate financially in his VR services. The prior ruling was simply an affirmation of MRS policy that requires Petitioner to seek other assistance, such as scholarships, before MRS can assist with tuition payments as well as policy requiring Petitioner to seek the least expensive option that will meet his vocational needs.

In sum, Respondent's motion must be granted pursuant to MAC R 792.10129(a) because there is no issue of material fact that has not already been litigated by the parties and collateral estoppel bars Petitioner's claim. Respondent's motion must also be granted pursuant to MAC R 792.10129(b) because Petitioner has failed to state a claim for which relief may be granted because there is no factual development that could result in the relief Petitioner seeks.

IT IS THEREFORE ORDERED that:

Respondent's Motion for Summary Disposition is **GRANTED**.

The hearing scheduled for June 2, 2025, is **CANCELED**.