

## ISSUE

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

### FINDINGS OF FACT

1. Petitioner applied for MRS services on REDACTED 2024, seeking employment as an excavator operator. (Exhibit D, pp 0043-0045).
2. Petitioner was not receiving Social Security Disability Insurance benefits, and therefore was not presumptively eligible for vocational rehabilitation services. (Exhibit D, p 0044; Testimony of MRS Case Counselor).
3. Due to concerns about whether Petitioner's disability would allow him to benefit from vocational rehabilitation, MRS initiated assessments pursuant to 34 CFR 361.42(e)(1) and Mich Admin Code R 395.61(1)—(3). (Testimony of MRS Case Counselor).
4. A psychological evaluation performed on REDACTED 2024, concluded that Petitioner had multiple physical limitations, possible neurocognitive decline, and would be best suited for work not heavily reliant on physical abilities. (Exhibit D, pp 0240-0246).
5. Following this evaluation, Petitioner was referred for a Functional Capacities Assessment, which required a Department of Transportation physical exam. (Exhibit D, pp 0058-0060).
6. Petitioner attempted the examination on three occasions but failed to complete it, including refusing to restart the exam when more than 45 days had passed. He repeatedly appeared without his hearing aids, despite recommendations, and ultimately stated both verbally and in writing that he would not complete the assessment. (Exhibit D, p 0058; Testimony of MRS Case Counselor).

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7. During one exam attempt, Petitioner became agitated, used inappropriate language, and was uncooperative with staff — conduct confirmed by the vendor and reported to MRS. (*Id*).
  8. On April 11, 2025, MRS closed Petitioner's case due to failure to participate and unacceptable conduct. A closure notice was sent that same day. (Exhibit D, p 0038).

### 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

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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

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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.

Federal law requires that before determining an individual is unable to benefit from vocational rehabilitation services, the agency must explore abilities and capacities through trial work experiences and assessments. (34 CFR 361.42(e)(1)).

A case may be closed without an eligibility determination when the applicant declines to participate in or is unavailable to complete required assessments, provided reasonable attempts at engagement are made. (34 CFR 361.44; Mich Admin Code R 395.77(c)).

Michigan regulations expressly permit case closure when an individual refuses to participate in required assessments. (Mich Admin Code R 395.77(c)).

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

Petitioner argues primarily that his entitlement to retraining and benefits derives from a 2000 Worker's Compensation order and contractual disputes involving prior employers (Petitioner's Brief, pp. 1-7). These arguments, however, do not address the core issue in this case: Petitioner's failure to cooperate with MRS' lawful eligibility and functional capacity assessments.

Respondent presented credible evidence that:

- Petitioner was given multiple opportunities to complete the Functional Capacities Assessment at no cost.
- Petitioner failed to attend with the necessary accommodations (hearing aids) and ultimately refused to proceed.
- Petitioner engaged in disruptive and uncooperative behavior toward staff and the vendor.

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The regulations clearly authorize case closure under these circumstances. MRS complied with 34 CFR 361.44 and Mich Admin Code R 395.77(c), having made reasonable attempts to engage Petitioner before closure. Petitioner's arguments about past workers' compensation proceedings do not override MRS' statutory obligations to assess eligibility and capacity for vocational rehabilitation.

Furthermore, Petitioner's uncooperative and disruptive behavior was evidenced by his behavior during the hearing on July 23, 2025. Petitioner began making irrelevant objections to every question asked of Respondent's witness and interrupted every answer the witness tried to give. Despite repeated instructions from this All, Petitioner continued to disrupt the hearing until he had to be placed in the waiting room so this All could hear testimony from Petitioner's MRS Counselor. Petitioner was returned to the hearing for his own testimony, however, Petitioner repeatedly disconnected himself from the hearing.<sup>1</sup>

Pursuant to Mich Admin Code R 792.10106(1)(c), an All has the authority to regulate the course of the hearing and even exclude parties, their attorneys, or representatives when necessary to avoid undue disruption of the proceedings. Petitioner's exclusion here was necessary. It also bears noting that this is the first time in 20 years of being an All that the undersigned has removed a party from a hearing for being disruptive.

Finally, prior to the hearing, Petitioner filed a Motion for Enforcement of MCL 395.84. The statute has to do with the state board of education providing vocational rehabilitation services to disabled individuals and is not relevant to the instant matter. As such, Petitioner's motion is denied.

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.

Petitioner's Motion is DENIED.

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.