

STATE OF NEW YORK

In the Matter of

[REDACTED]

and

ACCES-VR, [REDACTED], NY

An impartial hearing was held:

February 20, 2014

October 2, 2014

October 9, 2014

[REDACTED] IHO

RECEIVED
NOV 10 2014

BY: *Pat Weymouth*

Apparences:

February 20, 2104

[REDACTED], Petitioner

[REDACTED]

[REDACTED], Former Employer

[REDACTED], Director of Counseling ACCES-VR

[REDACTED], District Office Manager ACCES-VR

[REDACTED], Vocational Rehabilitation Counselor ACCES-VR

[REDACTED], Senior Vocational Rehabilitation Counselor ACCES-VR

[REDACTED], Interpreter

[REDACTED], Interpreter

October 2, 2014

[REDACTED], Petitioner

[REDACTED], District Office Manager ACCESS-VR

[REDACTED], Director of Counseling ACCESS-VR

[REDACTED], Vocational Rehabilitation Counselor ACCES-VR

[REDACTED], Interpreter

[REDACTED], Interpreter

October 9, 2014

[REDACTED], Petitioner

[REDACTED], District Office Manager ACCESS-VR

[REDACTED], Director of Counseling ACCESS-VR

[REDACTED], [REDACTED]

[REDACTED], Syracuse University

[REDACTED], Interpreter

[REDACTED], Interpreter

Documents

Entered October 2, 2014

ACCESS-VR

H-1 Letter from IHO to [REDACTED] & [REDACTED] 1 pages March 20, 2014

S-1 ACCESS-VR Policy 441.00 Vehicle Modification Policy: 5 pages January 2014

S-2 Letter: SU [REDACTED] to [REDACTED] 3 pages July 25, 2013

S-3 DriveOn Evaluation Report re: [REDACTED] 2pages July 10, 2014

S-4 Individual Plan for Employment: 1 page signed June 25, 2014

S-5 Chronological Case History Important Events Case Note re employment
1 page August 27, 2014

S-6 Chronological Case History Important Events Case Note Job Details
1 page August 1, 2014

No documents were entered by plaintiff

ISSUE (S):

The primary issue for the hearing is High Tech Driver Evaluation. This is also coupled with a request for ACCESS-VR to fund adaptive modifications to a minivan.

PLAINTIFF POSISTION

Plaintiff has the ability to drive a vehicle with adaptive modifications. The trainer did not set the necessary controls for him during the driving part of the evaluation. He does not agree with the evaluation.

RESPONDENT POSITION

ACCESS-VR determined that the request for funding a vehicle with adaptive modifications was premature. Mr. [REDACTED] should be evaluated for his ability to drive.

Mr. [REDACTED] was referred to Syracuse University for a high tech vehicle modification consultation. Subsequently, he was referred to DriveOn for a driver evaluation. The result of the evaluation indicated that Mr. [REDACTED] could not meet driver expectations with the adaptive modifications currently available and his request has been denied.

FINDINGS OF FACT

Mr. [REDACTED] requested an impartial hearing November 6, 2013. (T 10/02/14 p. 5)

At the initial hearing on February 20, 2014, both parties agreed that there was a possibility for agreement. Mr. [REDACTED] agreed to the DriveOn evaluation. The hearing was recessed pending the evaluation and subsequent meetings between both parties. If the results were satisfactory to both sides, Mr. [REDACTED] would withdraw his request for a hearing and the issues resolved. (Exhibit H-1)

An inquiry with ACCESS-VR in August 2014 from the hearing officer requested the status of the evaluation. Mr. [REDACTED] was scheduled to meet with his counselor on September 4 to discuss the results of the driver evaluation.

Mr. [REDACTED] did not agree with the evaluation (T 10/2/14 p.41 and 10/09/14 p. 41)

ACCESS-VR presented testimony by [REDACTED], vocational rehabilitation counselor who has worked with Mr. [REDACTED] since 1998.

Mr. [REDACTED] is considered an expert in vocational rehabilitation.

Exhibit S-1 ACCESS-VR policy directed a driver evaluation (T. Shea P. 12)

The results of the evaluation were that Mr. [REDACTED] could not operate secondary equipment and the only secondary equipment was voice activated. Mr. [REDACTED] is

speech and hearing impaired and thus can not operate voice activated equipment
(██████████ p. 15)

The evaluation was done by DriveOn, a certified rehabilitation specialist and reviewed with Mr. ██████████ by Mr. ██████████ (██████████ p.16)

There was other testimony concerning Mr. ██████████ request for transportation and the suggestions by ACCESS-VR concerning access to the job site. There were adaptations to his schedule providing ability to work from home that were presented at the hearing.

Mr. ██████████ expressed a strong desire to drive. This, however, did not translate into ability to do so during the DriveOn evaluation.

That affected the initial request for vehicle adaption as Mr. ██████████ was deemed unable to drive.

DECISION

I find for ACCESS-VR.

Mr. ██████████ received an evaluation from DriveOn indicating that he has not the ability to drive. It stated that there doesn't exist current adaptations that will enable him to do so.

This rendered all other considerations moot.

There was no contradictory evidence presented by Mr. ██████████ to counter this evaluation.

Persons testifying on his behalf were not certified driver evaluation specialists (██████████ 10/09/14 p. 19).

Testimony by Mr. ██████████ and the report from DriveOn were considered sufficient to support ACCESS-VR.