

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

██████████,
Petitioner,

v.

DHS, GEORGIA VOCATIONAL
REHABILITATION AGENCY,
Respondent.

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* DOCKET NO:
* OSAH-GVRA-VR-██████████-Teate
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FINAL DECISION

I. Introduction

In response to an Informal Administrative Review decision issued on November 21, 2013, ██████████ (JV), a Client, requested a hearing that was held on January 13, 2014. DV, JV's mother acted as his personal representative. Terri Rushing, Esq. represented the Georgia Vocational Rehabilitation Agency (GVRA).

For reasons indicated, GVRA's determination that JV no longer meets financial need criteria for GVRA financial assistance for approved fees is **AFFIRMED**. Accordingly, JV will receive financial services through Spring of 2014, but is no longer eligible for such services beginning Fall 2014.

II. Findings of Fact

1. Effective October 13, 2013, GVRA revised Procedure 206.1.05 relating to financial need criteria to include the income and resources of a Client's parent(s) to calculate the Client's Financial Need Assessment form if a Client is claimed as a dependent by his parent(s) on the previous year's federal tax return. For a family of four individuals, a family that has gross income of \$35,325.00 or less qualifies to have GVRA contribute 100 percent of approved fees. After that a sliding scale is utilized whereby the client pays a percentage of the approved fees on amounts of income over the VR allowance up to \$54,000.01 at which time the Client is required to pay in full with no financial contribution from GVRA. (Testimony of Frank Lala, Provisional Rehab Counselor; Respondent Exhibits 5, 7 and 8).

2. JV is a student in college training. He is under the age of 24 years of age and his parents claim him and his brother as dependents on their Federal Income Tax Return. JV's household consists of four persons. In 2012, JV's parents earned \$142,956.00. The family income exceeds \$89,325.01 (\$35,325.00 plus \$54,000.01). Accordingly, the Client's percentage is 100% of approved fees. (Testimony of Frank Lala, counselor; Respondent Exhibits 6, 7 and 8).

3. GVRA issued a notice of change on October 29, 2013, informing him that he no longer met financial needs criteria and that GVRA financial support for post-secondary training would end after Spring 2014. JV appealed that action on November 14, 2013. Subsequently, an Informal Administrative Review affirmed the change and JV filed the current appeal. (Respondent Exhibits 1, 2, 3, and 4).

4. DV does not dispute the accuracy of the calculation but objects to a change in policy that imposes financial criteria that did not exist when JV began school and that may interfere with his financial ability to meet his goal of becoming an engineer. (Testimony of DV).

III. Conclusions of Law

1. The VR Program, which is administered through the Georgia Department of Human Services, is authorized with implementing regulations. 29 U.S.C. § 701 *et seq.* (The Rehabilitation Act of 1973, as amended); 34 C.F.R. Part 361. Pursuant to U.S.C. §721(a)(1)(A), GVRA must submit to the Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education, a State plan for VR services that meets the Act's requirements. That State plan submittal must contain a "description of the vocational rehabilitation services" and "the plans and policies to be followed in carrying out the program." 34 C.F.R. §361.10(a). Accordingly, even though the *Client Services Policy and Procedure Manual (CSPM)* is "unpublished," inasmuch as it has not been promulgated through the formal rule making process, it is promulgated in compliance with applicable federal and state law.

2. Moreover, federal regulations allow a State VR program to establish a preference for in-state services. 34 C.F.R. § 361.50 (b). Accordingly, if a service is available within the State and meets the vocational goals established in a work plan, the VR program is free to designate the in-State program to the exclusion of the out-of-State program, all points being substantially equal as they relate to the VR Program goal of obtaining employment for its clients.

3. To complete a Financial Need Assessment, a Client is required to supply federal parental tax return for the previous year. *CSPM* Policy 206.1.04. Unless a Client is 24 years of age, the income and/or resources of the Client's parents is included in the financial need assessment as of October 1, 2013. *CSPM* Policy 206.1.05 (J). The threshold for a family of four is \$35,325.00. For income over that amount, there is a gradual decrease in GVRS's contribution to approved fees and a gradual increase in the Client's percentage of approved fees until the household income exceeds \$54,000.01 at which time a Client is required to pay the entire amount of approved fees. Inasmuch as JV is under 24 years of age and was a dependent on their 2012 Federal Tax return, his parent's income was properly included in calculating approved fee payments. Their income exceeded the baseline of \$35,325.00 for a family of four individuals by more than \$54,000.01. Accordingly, GVRA appropriately concluded that the Client is solely responsible for payment of approved fees JV meets none of the other requirements enumerated that would allow his family income to be otherwise calculated.

4. Financial need assessments are required annually. *CSPM* Policy 206.1.06. If a Client fails to continue to meet the financial need criteria for paid services while those services are in progress, only those services already authorized for payment and initiated in the work plan or amendments thereto shall be made. *Id.* For a Client in college or a university, services already initiated will be continued through the current quarter or semester. *Id.* Accordingly, for JV, those services continue through Spring of 2014 and are unavailable beginning Fall of 2014 as stipulated by GVRA.

5. GVRA has met its burden of proof to terminate a Client's benefit. *Ga. Comp. R & Regs*, 616-1-2-.07 (1) (d). GVRA's ability to create such financial requirements and the rationale for terminating JV's service based on a changed policy are supported by the record. JV's arguments to the contrary are non-persuasive.

V. Decision

IT IS ORDERED that GVRS's determination that JV's household income requires that JV contribute 100% of his allowable fees effective Fall 2014 is **AFFIRMED**.

SO ORDERED, this 15th day of January 2014.

Steven W. Teate
Administrative Law Judge