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**In response to DRM CAP's Comments Concerning the Vocational Rehabilitation ("VR") Due Process Hearing Process and Recommendations Concerning Informal Dispute Resolution Processes:**

**Michigan Rehabilitation Services (MRS) offers the following reactions:**

- **Limited Anecdotal Evidence:**

The CAP's observations are drawn from a very small number of cases—only five MRS hearings and two instances of self-representation. Generalizing systemic barriers from such a limited sample does not fully capture the spectrum of MRS clients' experiences. This reliance on anecdotal observations makes CAP's claims overgeneralized.

- **Overstated Procedural Complexity:**

While complex rules may indeed pose challenges, the CAP document assumes that these complexities uniformly disadvantage all clients. There is no systematic data to indicate that the majority of clients are negatively affected, and the document does not account for any adaptations that clients or MRS staff are already employing.

- **Assumed Superiority of Proposed Standards:**

The recommendation for using the Rehabilitation Act and federal regulations as the sole basis for the review presumes that these standards are inherently fairer or clearer than the agency's internal Rehabilitation Services manual (RSM). This assumption overlooks the possibility that integrated knowledge of practical administrative procedures might be necessary to interpret those higher-level regulations effectively in the context of individual disputes.

- **Neglect of Resource Constraints:**

The CAP document does not give sufficient weight to the operational and budgetary constraints of MRS. Some recommendations (e.g., binding decisions, dedicated policy division reviewers, and expanded communication channels) would require significant resource reallocation and additional personnel, which is unrealistic without additional funding and legislative approval.

- **Unsubstantiated Claims Regarding Access to Legal Information:**  
The assertion that most clients cannot understand, or access complex legal procedures (like collateral estoppel or case law references) is credible but is presented without empirical backing or comparisons to other administrative forums. This comes across as an assumption that all clients uniformly face such hurdles, rather than acknowledging variability in client capacities.

## **A. Voluntary Participation**

**CAP's Recommendation:** The informal dispute resolution (IDR) process should be entirely voluntary.

- **MRS' Position:** While MRS is not opposed to a voluntary process, it's important to note that a voluntary process doesn't necessarily solve the issues CAP has raised in its document. Voluntary processes can also lead to perceptions of bias, that CAP implies exists in MRS' current approach to dispute resolution.

## **B. Standard of Review Aligned to Federal and State Regulations**

**CAP's Recommendation:** The decision should be made on the basis of the Rehabilitation Act, federal MRS regulations, and state policies that mirror these standards rather than the agency's services manual.

- **MRS' Position:** Insisting on a uniform standard disregards the practical realities and complexities of individual cases. Flexibility is needed—especially given that informal procedures are usually designed to serve as first-pass reviews rather than final adjudications—and that the Rehabilitation Services Manual often provides a more streamlined, context-sensitive framework for day-to-day operations.

## **C. Review by Policy Division Personnel**

**CAP's Recommendation:** The informal review should be conducted by MRS agency staff from the policy division or equally qualified personnel, not just those enforcing the manual.

**MRS' Position:** Reassigning or hiring additional personnel to handle these reviews would strain already limited resources. MRS staff familiar with the services manual have established expertise and relationships that make them best placed to manage customer disputes efficiently.

## **D. Direct Contact with the Reviewer**

**CAP's Recommendation:** Clients should have the ability to talk directly with the reviewer.

- **MRS' Position:** A direct contact mechanism, while client-friendly, would raise concerns about maintaining the impartiality of the reviewer. MRS argues that structured written submissions or controlled communications help prevent undue influence or advocacy that might compromise the objectivity of the review.

## **E. Flexible Submission of Documents/Exhibits**

**CAP's Recommendation:** Allowing clients to submit exhibits and documents directly to the reviewer.

- **MRS' Position:** Our current electronic systems are designed for specific formats and controlled workflows per DTMB. Broadening the submission process could lead to inconsistent documentation and slow down the overall processes, especially in a context where technical requirements (e.g., PDF formatting, indexing) are already tightly managed to ensure efficiency by the State of Michigan.

## **F. Engagement of Witnesses/Third Parties**

**CAP's Recommendation:** The reviewer could talk to third parties who have relevant information, with the review report noting who was consulted.

- **MRS' Position:** Inviting external input would complicate the process, create potential bias or conflicts of interest, and further delay decision-making. Our informal process should remain streamlined and introducing external voices would make CAP's proposed process harder to standardize.

## **G. Involvement of an Advocate**

**CAP's Recommendation:** Clients should be advised to consult CAP or otherwise be allowed to have a third-party advocate participate.

- **MRS' Position:** Third-party advocates can inadvertently increase bias. While advocacy services are valuable, integrating them formally into the IDR would blur the lines between informal dispute resolution and formal legal advocacy—undermining the neutrality of the whole process.

## **H. Issuance of a Written Decision Referencing Regulations**

**CAP's Recommendation:** Reviewers shall issue decisions in writing with appropriate regulatory references.

- **MRS' Position:** While written decisions are standard in many administrative settings, over-prescribing the format for an informal process can lead to bureaucratic rigidity—the very issue CAP is attempting to address. Instead, the focus should be on clear, fair decisions rather than on extensive regulatory citations—which would overburden informal reviewers and delay responses.

## **I. Binding Nature of the Reviewer's Decision**

**CAP's Recommendation:** The decision of the informal reviewer should bind the MRS agency for that case (with the possibility of supersession in a formal hearing).

- **MRS' Position:** A binding decision from an informal process encroaches on the autonomy of formal hearings and would lessen the adaptability needed for unusual or complex cases. The final decision should rest with independent ALJs after full fact-finding and evidentiary evaluation, ensuring that no pre-determined outcome preempts due process.

## **J. Exclusion from MOAHR and Court Rules**

**CAP's Recommendation:** The process should be subject only to federal regulations and the agency's administrative rules, excluding MOAHR, Michigan Court Rules, and the Michigan Rules of Evidence.

- **MRS' Position:** Completely excluding well-established procedural rules would result in a less cohesive process. These rules (even if complex) ensure fairness and consistency across administrative adjudications and should not be bypassed lightly.

## **K. Integration with the Formal Hearing Process**

**CAP's Recommendation:** The informal decision may be presented to an ALJ in a subsequent formal hearing, although the ALJ is not mandated to give it deference.

- **MRS' Position:** This recommendation is prejudicial. Introducing informal decisions into the formal hearing process would unduly influence ALJs' assessments, thereby weakening the fundamental impartiality and independence of the adjudicative system.

## **L. Adherence to Timelines Without Delay**

**CAP's Recommendation:** Engagement in the informal resolution process should not delay the formal hearing timeline (60 days from the hearing request), unless explicitly agreed to by the client.

- **MRS' Position:** Implementing an additional review layer that must operate on a strict timeline would be administratively burdensome. Given limited resources, any process adjustment—even if voluntary—would disrupt scheduling, cause confusion among clients, or result in rushed decisions that do not adequately address complex disputes.

## **M. Confidential Reporting to MCRS**

**CAP's Recommendation:** The outcomes of the informal dispute resolution should be shared with MCRS while keeping participant identities confidential.

- **MRS' Position:** Our current reporting systems already balance confidentiality with accountability.

## **Recommendations for CAP's Independent Actions (Given MRS's Resource Limitations)**

Since MRS lacks the capacity to implement CAP's recommended changes fully, CAP can take independent steps to mitigate the disadvantages they assume MRS customers face by considering the following:

### **Client Education and Support**

- **Develop Comprehensive Guides:** Create user-friendly manuals, video tutorials, and online resources that explain the MRS hearing process, the submission of exhibits, and legal terminology.
- **Host Workshops and Webinars:** Organize regular online or in-person sessions to train clients on preparing exhibits (using free or low-cost tools), navigating virtual hearings, and effectively addressing legal motions such as MSDs.
- **Establish a Helpline:** Set up a dedicated support hotline or chat service staffed by knowledgeable CAP representatives to assist clients in real time during their disputes.
- **Be less selective:** Take up those client cases that the CAP often declines to represent. It would give CAP a much broader perspective and good data on the client issues MRS staff encounter and allow CAP to draw more informed conclusions about the challenges they perceive MRS' customers face.

**Respectfully submitted by,**

**Michigan Rehabilitation Services for Consideration by MCRS**

