# California Department of Rehabilitation

# Summary of Fair Hearing Decisions for Federal Fiscal Year 2022-2023 (October 1, 2022, through September 30, 2023)

**1. SHN Number 104839366 (Santa Barbara District)**

 **Impartial Hearing Officer: I. Shad**

 **Decision Date: October 28, 2022**

**Applicable Regulations:**  **California Code of Regulations, title 9, sections 7019, 7029.9, 7154, 7161, 7162, 7163, 7177, 7531, 7536**

Appellant sought to have DOR pay a rental vehicle for travel to and from appellant’s law school classes. Appellant also sought to have DOR pay his ongoing housing utility expenses while he attended law school, and to have DOR pay for two made-to-measure business suits, five made-to-measure dress shirts, and two dress shoes while in law school.

At the hearing, DOR asserted that it provided money for appellant to use Uber services to commute to and from law school. DOR also maintained that while it paid the initial set up costs for appellant’s residential utilities, it is prohibited from paying for ongoing necessary everyday expenses, such as regular utility payments. DOR asserted that it made reasonable efforts to provide appellant with clothing for law school.

The Impartial Hearing Officer determined that appellant had not presented sufficient credible evidence to meet his burden to establish by a preponderance of the evidence that DOR incorrectly denied his request for transportation services in the form of a rental vehicle. The Impartial Hearing Officer further determined that applicable law and regulations regarding “maintenance” do not permit DOR to pay appellant’s ongoing utilities while attending law school. The regulations clearly prohibit the payment of expenses in excess of an individual’s “normal”, “every day”, or “basic” living expenses. It was also determined that appellant did not present sufficient evidence to meet his burden of establishing by a preponderance of the evidence that DOR incorrectly denied his demands for made-to-measure business clothing. Appellant was admittedly not participating in moot court or trial team and was not asking for clothes for work or to seek work.

Because DOR agreed that appellant should have some tailored clothing as a law student, and believed that two suits, two dress shirts, and two dress shoes was reasonable, it was determined that DOR would provide appellant with these made-to-measure items. It was determined that DOR would do this by making reasonable efforts pursuant to applicable informed choice requirements to assist appellant in exercising an informed choice of the least expensive alternatives available from a DOR vendor. The appeal was otherwise denied.

**2. SHN Number 104844198 (San Francisco District)**

**Impartial Hearing Officer: I. Shad**

 **Decision Date: December 1, 2022**

**Applicable Regulations: California Code of Regulations, title 9, sections 7019, 7029.6, 7029.9, 7062, 7128, 7130, 7131, 7174, 7179**

Appellant requested a fair hearing after DOR denied his request for an amendment to his Individualized Plan of Employment (“IPE”). Appellant sought to require DOR to pay him directly the total cost of tuition, fees and expenses to complete a program of public higher education. This included living expenses necessary to complete a bachelor’s degree at a California state university.

The Impartial Hearing Officer determined that DOR correctly denied appellant’s request. The DOR is not permitted to pay appellant’s maintenance on a long-term or ongoing basis, to support appellant’s everyday living expenses, or become a payment program similar to other social service agencies. Appellant’s assertion that DOR was already paying ongoing maintenance by paying for telephone and internet was also without merit. This was because DOR paid for internet and the required attendant telephone services because they were directly related to appellant’s training and attendance of virtual classes. As such, it was determined that internet services and telephone services were not a long-term everyday living expense for appellant. The appeal was denied.

**3. SHN Number 104854198 (San Jose District)**

**Impartial Hearing Officer: Elizabeth Ammann**

**Decision Date: December 19, 2022**

**Applicable Regulations: California Code of Regulations, title 9, sections 7029.9, 7128, 7131, 7149, 7154, 7311**

Appellant requested a fair hearing alleging delays in requested services, lack of payment for desired classes, and concerns that DOR would delay appellant’s ability to complete her academic goals on time. The DOR asserted that it did not delay requested services and that any payment for services, including tuition must be pre-approved, which means that DOR must approve each class appellant wishes to be paid.

The Impartial Hearing Officer determined that appellant credibly testified regarding communication issues with DOR. It was also determined that DOR representatives credibly testified as to their desire to develop and keep a good rapport with appellant and timely provide requested services. It was further determined that all parties genuinely agreed to a fresh start and to work together to help ensure appellant’s success in achieving desired goals. Since DOR had not taken an adverse action regarding a requested service, the appeal was dismissed for lack of jurisdiction.

**4. SHN Number 104827508 (Northern Sierra District)**

**Impartial Hearing Officer: Laurie Wright**

**Decision Date: December 27, 2022**

**Applicable Regulations: California Code of Regulations, title 9, sections 7011, 7029.9, 7128, 7130, 7131**

Appellant requested that DOR fund her third application for the California State Bar’s Moral Character Determination examination, and to change her vocational goal to Attorney from Legal Assistant. The DOR determined that the barriers to appellant securing employment as an attorney were too great because she was not able to pass the moral character component of the California State Bar after multiple attempts. The DOR determined that appellant should pursue another application for the moral character determination on her own without DOR funding. The appellant requested a fair hearing.

The Impartial Hearing Officer determined that in this case the evidence was that appellant made an informed choice that her employment goal was to be a Legal Assistant. The evidence was also that because the claimant was unable to pass the Moral Character examination, she did not have the resources and abilities consistent with an employment goal as an attorney. Therefore, the appeal was denied.

**5. SHN Number 104870585 (Van Nuys/Foothill District)**

**Impartial Hearing Officer: I. Shad**

**Decision Date: March 6, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections** **7062, 7128, 7130, 7131, 7136, 7179**

In this case appellant alleged that DOR denied appellant’s request for amendments to appellant’s Individualized Plan for Employment (“IPE”). Appellant’s goal was to amend the IPE to pursue Self-Employment. At the hearing, the DOR hearing representative testified that DOR had not denied this request, and that the DOR hearing representative unsuccessfully attempted to contact appellant after appellant requested a fair hearing.

Both parties testified that they agreed that DOR would promptly conduct an assessment in collaboration with the appellant to determine if the IPE should be amended to a Self-Employment IPE. Because the parties agreed to promptly conduct an assessment, the appeal was granted.

**6. SHN Number 104872312** **(Van Nuys/Foothill District)**

**Impartial Hearing Officer: Eli Palomares**

**Decision Date: March 23, 2023**

**Applicable Regulations: California Code of Regulations, title** **9, sections 7019, 7029.9, 7128, 7131, 7136.5, 7137, 7149, 7154, 7174, 7355**

Appellant is a DOR consumer who alleged that DOR misused authorizations and improperly denied reimbursement for previous and future purchases. Appellant also claimed that DOR was abusive in the rendering of services. The DOR hearing representative testified that appellant signed a new Individualized Plan of Employment (“IPE”) and therefore any requests for items submitted before the signing of the new IPE were part of the previous plan and must be resubmitted. The DOR also stated that it would be willing to review the requested items for approval. The DOR maintained that it properly provided and authorized services.

The Impartial Hearing Officer determined that the appellant’s claims of misused authorizations, request for reimbursement, and allegations of rehabilitation abuse were dismissed for lack of jurisdiction. It was determined there was insufficient evidence to establish any of appellant’s claims after hearing almost two hours of appellant’s testimony. The Impartial Hearing Officer determined that DOR had not taken any action triggering a basis for appellant’s claims. The appeal was denied.

**7. SHN Number 104872094 (San Jose District)**

**Impartial Hearing Officer: K. Turner**

**Decision Date: April 21, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7128, 7130, 7131, 7133, 7356**

Appellant is a DOR consumer who was dissatisfied with DOR’s communication and actions regarding procurement of a desktop computer and repair or replacement of a laptop computer. Appellant also alleged that DOR improperly failed to pay for classes for Spring and Summer terms. The DOR representative offered to resolve the issues at the fair hearing. The DOR agreed to procure for the appellant a desktop computer and repair or replace appellant’s laptop computer. The DOR also agreed to authorize and pay for appellant’s classes for the Summer and collaborate with appellant to ensure classes for the Spring term would be appropriately paid.

The appellant accepted DOR’s offers as full resolution of the issues on appeal and stated there were no other issues on appeal. The DOR representative asserted at the hearing that she had authority to make binding agreements on behalf of DOR. Accordingly, it was ordered that DOR would be bound by these agreements. The appeal was therefore granted by stipulation.

**8. SHN Number 104875844 (Northern Sierra District)**

**Impartial Hearing Officer: I. Shad**

**Decision Date: June 29, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7029.9, 7130, 7133, 7311, 7351, 7353.6, 7531, 7536**

In this case appellant requested a fair hearing after DOR denied appellant’s request for reimbursement. The DOR representative asserted that DOR properly denied reimbursement for appellant’s laptop repairs because appellant had not secured written authorization prior to laptop repair. The DOR asserted that this failure to secure prior written authorization was a clear violation of outlined reimbursement procedure.

The Impartial Hearing Officer determined that appellant clearly violated applicable law and regulation because appellant did not secure a Purchase Order or written authorization from DOR before getting her laptop repaired and paying for the service. It was further determined that appellant knew prior DOR approval was required but chose to pay for repairs without DOR approval. It was determined that DOR repeatedly informed the appellant about the need for prior approval for any costs that appellant expected to be reimbursed. The DOR provided the appellant with ample information regarding DOR’s policies on reimbursement. Therefore, the appeal was denied.

**9. SHN Number 104896347 (Orange/San Gabriel District)**

**Impartial Hearing Officer: Elizabeth Ammann**

**Decision Date: June 19, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7006, 7019, 7029.9, 7128, 7131, 7154, 7197**

Appellant alleged improper denial of the request for DOR to pay more than $60,000 in student loans and $30,000 in unpaid rent. The DOR asserted that it appropriately provided appellant with tuition funding in accordance with applicable regulations. At the fair hearing, the DOR representative’s testimony affirmed the statements made in DOR’s statement of position and other documentary evidence. Notably, the DOR representative referenced the Individualized Plan of Employment (“IPE”) and regulations which state the appellant must utilize other financial resources, such as grants and scholarships, before DOR can contribute towards appellant’s tuition. The representative also noted that DOR cannot authorize payments for daily living expenses, such as recurring rent payments.

The Impartial Hearing Officer determined that pursuant to applicable law and regulation, student loan payments are not a DOR service. It was also determined that applicable law and regulations do not allow for DOR to pay for everyday living expenses, such as monthly rent. The appeal was denied.

**10. SHN Number 104891073 (San Diego District)**

**Impartial Hearing Officer: Linda Jamison**

**Decision Date: July 20, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7019, 7029.9, 7128, 7131, 7149, 7154, 7164.4, 7165**

Appellant requested a fair hearing regarding grievances against DOR to obtain wheelchair accessible driving equipment. Appellant alleged that DOR had failed to monitor vendors and enforce deadlines, and an overall failure to provide adequate vocational rehabilitation services. At the fair hearing, the DOR representative testified that there had been no denial or refusal of services as DOR had authorized services and remained in support of providing authorized services. The DOR representative testified that DOR would continue to work with appropriate vendors to ensure that appellant’s needs would be met in compliance with applicable regulations.

The Impartial Hearing Officer determined that a preponderance of the evidence established that DOR had not actually denied a requested service. The evidence established that DOR had not taken any form of adverse action regarding a requested service. Since DOR had not taken an adverse action regarding a requested service, the state hearing request was dismissed for lack of jurisdiction. It was further determined that appellant may request a new state hearing if a requested DOR service is denied.

**11. SHN Number 104898611 (Redwood Empire District)**

 **Impartial Hearing Officer: Eli Palomares**

 **Decision Date: August 7, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7128, 7131, 71365.5, 7137, 7355**

In this case appellant requested a fair hearing alleging that DOR mishandled appellant’s Individualized Plan of Employment (“IPE”) and failed to adequately communicate whether appellant’s IPE was in alignment with DOR’s self-employment program. The DOR responded that appellant had restricted DOR’s ability to communicate with the consulting services of the Center that appellant had been referred to. DOR was unable to clarify key aspects of appellant’s IPE. The DOR had requested that a release for the Center be signed by the appellant to move forward with the plan development and approval. Without a signed release, DOR had no way to move forward with collaborating with the Center and the appellant toward development and approval of the requested self-employment IPE.

The Impartial Hearing Officer determined that based on this evidence, DOR had been unable to collaborate with the Center and could not adequately review appellant’s business plan to determine whether the business plan was in alignment with DOR self-employment program. It was determined that there was no actual written denial or action in the record relating to an application for or receipt of services. The appeal was denied.

**12. SHN Number 104917090 (Santa Barbara District)**

 **Impartial Hearing Officer: Eli Palomares**

 **Decision Date: August 16, 2023**

 **Applicable Regulations: California Code of Regulations, title 9,**

 **sections 7130, 7354, 7355**

**Applicable Legal Authority: *Wilson & Wilson v. City Council of* *Redwood City* (2011) 191 Cal. App. 4th 1559 at 1573**

In this case appellant requested a fair hearing alleging that DOR had improperly denied appellant’s request for additional custom suits meeting made-to-measure needs. The appellant alleged this demand for additional custom suits was pursuant to the prior hearing decision in State Hearings Division Decision Number 104839366. The appellant claimed that five custom suits meeting made-to-measure needs was necessary because appellant intended to work as a paralegal.

The DOR representative testified at the hearing that DOR complied with the order in the prior hearing decision requiring DOR to provide appellant with the funds to purchase two made-to-measure business suits, two made-to-measure dress shirts, and two dress shoes. The DOR hearing representative further testified that appellant had purchased only one suit, and that the purpose of the suits was for the appellant to wear for moot court while attending law school.

The Impartial Hearing Officer determined that at the time of the prior hearing decision, appellant was in law school. The DOR hearing representatives both testified that the purpose of the suits was for the appellant to wear for moot court while he was attending law school. It was undisputed by the parties that appellant was no longer in law school and that appellant’s IPE had not been amended from pursuing a law school training program to pursuing employment as a paralegal. It was concluded that based on this evidence, appellant’s claim was based on future events that may or may not occur as predicted or at all. As there were not enough facts to issue an intelligent and useful decision, it was determined that the claim was not ripe. The appeal was denied.

**13. SHN Number 104864653 (Santa Barbara District)**

 **Impartial Hearing Officer: Eli Palomares**

 **Decision Date: August 16, 2023**

 **APPLICABLE Regulations: California Code of Regulations, title 9,** **sections 7354, 7355, 7358**

The appellant requested a fair hearing regarding DOR’s denial of appellant’s request that DOR pay for the cost of food and lodging expenses. Appellant also alleged that DOR was required to provide payment for a replacement apartment key. At the hearing, the appellant then testified that the issues raised in the original hearing request were no longer in dispute. Instead, appellant attempted to add the issue of DOR’s denial of appellant’s request that DOR pay for his utilities. Appellant also claimed that DOR had not processed appellant’s request regarding the utilities issue.

The Impartial Hearing Officer determined that appellant previously filed a hearing request concerning payment of utilities. Case No. 104839366 was previously heard, and a decision was issued months prior to this latest hearing request. The DOR hearing representative stated that she was not prepared to address the utilities issue and that this issue was decided in a prior hearing. Under these circumstances, there was no jurisdiction to hear the utilities claim at the hearing, although appellant would have the right to make a new request if appellant claimed new issues. The appeal was denied.

**14. SHN Number 104894957 (Northern Sierra District)**

 **Impartial Hearing Officer: K. Turner**

 **Decision Date: August 30, 2023**

 **Applicable Regulations: California Code of Regulations, title 9,**

 **sections 7029.9, 7060, 7149, 7154, 7179, 7004.6, 7179**

In this case the appellant requested a fair hearing regarding appellant’s concern about the method of DOR communication and case closure. Appellant alleged that DOR was required to conduct the entire DOR eligibility evaluation process entirely by email. The DOR responded that case closure without an eligibility determination was appropriate because appellant declined to participate in the assessment to determine eligibility and DOR made at least three attempts over a 30-day period to contact the appellant to encourage appellant’s participation.

To accommodate the appellant’s similar request regarding a fair hearing, the hearing was held entirely by email. The parties were given deadlines to submit all written statements or documentary evidence, with an opportunity to also submit written responses. Both parties submitted written statements and documentary evidence. The appellant submitted numerous emails.

The Impartial Hearing Officer determined that any individual who wishes to receive vocational rehabilitation services from DOR has a responsibility to participate and cooperate in obtaining and providing the information needed by DOR so that it may determine the nature and scope of the applicant’s disability and what vocational services are needed to achieve an employment outcome for the appellant. The DOR properly closed the appellant’s case prior to making an eligibility determination because appellant repeatedly declined to cooperate. The appeal was denied.

**15. SHN 104841689 (Northern Sierra District)**

 **Impartial Hearing Officer: I. Shad**

 **Decision Date: September 5, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7029.9, 7062, 7128, 7133, 7141, 7141.5, 7179, 7351, 7353.6**

In this case appellant requested a fair hearing to dispute denials by DOR of numerous requests including deleting information from appellant’s case record, amending documents from appellant’s case record, and transferring the case to a different branch office. The DOR responded that information in the case record would not be completely deleted, but that it could be amended if appellant followed up with the source of the record and requested an amendment. The transfer request was denied by DOR.

The Impartial Hearing Officer determined that the appellant had received much attention from DOR and that DOR had made numerous efforts to work with appellant and resolve appellant’s concerns. An applicant or client may submit a written request to add, delete, or amend information in the case record. If the client requests a change to information that was originated by a source outside of the Department, the client shall be informed that departmental staff cannot change the information in the case record not originated by departmental staff and that the request should be made to that source of the information. In addition, DOR records documented by various DOR representatives supported a corroborated reasonable inference that DOR representatives had not failed to provide appellant with necessary support, services, and communication. Accordingly, the denial of the case transfer was appropriate. The appeal was denied.

**16. SHN 104904452 (Greater East Bay)**

 **Impartial Hearing Officer: Annette Ohanganian**

 **Decision Date: September 12, 2023**

**Applicable Regulations: California Code of Regulations, title 9, sections 7029, 7029.9, 7128, 7161.5, 7310, 7311, 7321**

The appellant requested a fair hearing to dispute denials by DOR of appellant’s requests for funding for transportation and services. Transportation services were not initially included on appellant’s Individualized Plan of Employment (“IPE”). However, due to circumstances at the time appellant was employed, DOR assisted and provided transportation services to assist. Appellant was informed that the provision of transportation services was temporary.

The Impartial Hearing Officer determined that the evidence established that appellant had been gainfully employed for approximately nine months and was financially capable of assuming the cost of transportation. Additionally, appellant failed to meet the burden of proof and submit additional evidence to establish financial hardship and the requirement of travel for employment. Therefore, there was insufficient evidence to establish that DOR was obligated to continue to provide transportation services. The record established that any other issues were no longer in dispute. The appeal was denied.

**17. SHN 104919371 (Greater East Bay)**

 **Impartial Hearing Officer: Elizabeth Ammann**

 **Decision Date: September 22, 2023**

 **Applicable Regulations: California Code of Regulations, title 9,**

 **sections 7006, 7019, 7029.9, 7128, 7149, 7154, 7197**

The appellant requested a fair hearing after DOR denied sponsorship for appellant’s on-campus room and board. The appellant asserted that DOR improperly terminated the food and housing segment of appellant’s academic sponsorship at the college campus appellant was attending. The DOR asserted that DOR made appellant aware that the sponsorship of room and board would not continue. The DOR made appellant aware that appellant would need to utilize comparable benefits for the remaining semesters, including applying for permission to live off-campus.

The Impartial Hearing Officer determined that appellant could not have reasonably believed that DOR intended to continue to sponsor room and board. The DOR’s multiple communications to appellant that room and board are not DOR services demonstrated that appellant was not ignorant to the true state of the facts. The DOR was not required to sponsor room and board as a maintenance service because appellant was not required to reside on campus. Pursuant to law and regulation, maintenance is not long term or ongoing living expenses. Maintenance does not take the place of or become a payment benefit program similar to other programs. The appeal was denied.

**18. SHN 104915057 (San Diego District)**

 **Impartial Hearing Officer: Linda Jamison**

 **Decision Date: September 26, 2023**

 **Applicable Regulations: California Code of Regulations, title 9,**

 **sections 7006, 7019, 7029.9, 7128, 7131, 7154, 7155, 7197**

In this case the appellant requested a fair hearing after DOR denied the request to draft a new Individualized Plan of Employment (“IPE”), to include tuition in the amount of $60,280. The DOR responded that the yearly tuition for $60,280 and the amount of the scholarship is $45,210, which leaves a remaining balance of $15,070. The DOR maintained that it coordinated with appellant and the law school to verify the amount of the tuition, scholarship, and that the scholarship was a discount off the tuition.

The Impartial Hearing Officer determined that based on the facts and regulations, DOR properly denied appellant’s request because DOR cannot fund over and above what is required toward the cost of tuition. Since the scholarship was a discount off the tuition, DOR is required to subtract that from the amount owed to the school when authorizing tuition. The appeal was denied.