

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOHN M. MILLAY,)
)
 Plaintiff,)
)
 v.) Civil No. 1:11-CV-00438-NT
)
 STATE OF MAINE,)
 DEPARTMENT OF LABOR)
 BUREAU OF REHABILITATION,)
 DIVISION FOR THE BLIND)
 AND VISUALLY IMPAIRED))
)
 Defendant.)

ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

No objections having been filed to the Magistrate Judge's first Recommended Decision filed on May 16, 2012 (Doc. No. 12), the Recommended Decision is affirmed.

It is therefore ORDERED that:

1. Defendant's Motion to Dismiss is GRANTED.
2. The Maine Human Rights Act claim in Count I of the Plaintiff's complaint, as filed on March 5, 2012 is DISMISSED, WITHOUT PREJUDICE on Eleventh amendment grounds.
3. The Americans with Disabilities Act claim in Count II of the Plaintiff's complaint, as filed on March 5, 2012, is DISMISSED, WITH PREJUDICE on Eleventh amendment grounds.
4. The Section 504 Rehabilitation Act claim in Count III of the Plaintiff's complaint, as filed on March 5, 2012, is DISMISSED, WITH PREJUDICE based on failure to state a claim; and
5. Leave to Amend to assert a Section 722(c) claim for any services other than a commuter subsidy is DENIED because Plaintiff has not yet exhausted

administrative remedies in relation to any other dispute over rehabilitation services.

SO ORDERED.

/s/Nancy Torresen
United States District Judge

Dated this 26th day of September, 2012.

Plaintiff

JOHN M MILLAY

represented by **BRETT D. BABER**
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ATTORNEY TO BE NOTICED

V.

Defendant

STATE OF MAINE
DEPARTMENT OF LABOR
Bureau of Rehabilitation Division
for the Blind and Visually
Impaired

represented by **SUSAN P. HERMAN**
ASSISTANT ATTORNEY
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V.

Notice Only Party

MAINE ATTORNEY
GENERAL - NON PRISONER
IFP CASES
TERMINATED: 01/17/2012