

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-80411-CIV-COHN

MARILYN BLOCH,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF EDUCATION,

Defendant.

ORDER DISMISSING COMPLAINT WITH LEAVE TO FILE AMENDED COMPLAINT
ORDER GRANTING MOTION TO PROCEED IFP

_____ THIS CAUSE is before the Court upon filing of the Complaint and Application to Proceed Without Prepayment of Fees [DE 2]. The Court has carefully considered the complaint and motion and is otherwise fully advised in the premises.

Upon reviewing the complaint in this case pursuant to 28 U.S.C. § 1915(e)(B)(ii), the Court concludes that the complaint as written fails to state a claim showing that Plaintiff is entitled to relief under federal law from the named Defendant. Plaintiff asserts that the United States Department of Education has failed to pay for Plaintiff's medical treatment, forcing her to lose her job with "Locks for Love," and being unable to attend classes for a nursing career. Plaintiff alleges violations of the Rehabilitation Act and the Americans with Disabilities Act. Plaintiff must allege the factual basis why the Department of Education must pay for her treatment (e.g., was Plaintiff formerly employed by the Department or receiving some other type of assistance).

Plaintiff has failed to state a claim for which relief may be granted in federal court. As a result, the Court will dismiss the complaint, without prejudice. Plaintiff may

file an amended complaint by April 10, 2009. Failure to timely file an amended complaint that properly states a claim for relief under federal law will result in closing of this case.

As to Plaintiff's application to proceed *in forma pauperis* (without prepayment of fees), the Court will grant this motion based upon the completed affidavit.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff's Application to Proceed Without Prepayment of Fees [DE 2] is hereby **GRANTED**;
2. The Complaint in this case is hereby **DISMISSED, without prejudice**;
3. Failure of Plaintiff to file an Amended Complaint by April 10, 2009 shall result in closing of this case.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 20th day of March, 2009.


JAMES I. COHN
United States District Judge

copies to:

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