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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 10, 2016
MAHS Docket No.: 15-022649-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

SUPERVISING ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

**ORDER GRANTING REQUEST FOR RECONSIDERATION AND
DECISION AND ORDER OF RECONSIDERATION**

This matter is before the undersigned Administrative Law Manager pursuant to the Petitioner's Request for Rehearing/Reconsideration of the decision generated by Administrative Law Judge (ALJ) Kevin Scully at the conclusion of the hearing conducted on January 26, 2016, and mailed on January 28, 2016, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements. MCL 24.287 also provides for rehearing if the hearing record is inadequate for judicial review.

A rehearing is a full hearing which **may** be granted if

- The original hearing record is inadequate for purposes of judicial review;
- There is newly discovered evidence **that existed** at the time of the original hearing that could affect the outcome of the original hearing decision.

A reconsideration is a paper review of the facts, law or legal arguments and any newly discovered evidence **that existed** at the time of the hearing. It **may** be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties is able to demonstrate that the Administrative Law Judge failed to accurately address all the relevant issues **raised in the hearing request**. Reconsiderations **may** be granted if requested for one of the following reasons:

- Misapplication of manual policy or law in the hearing decision;
- Typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the appellant
- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision.

In this case, the ALJ Kevin Scully decided that Appellant's Request for Hearing (RFH) in this matter must be dismissed on the basis that MAHS lacked jurisdiction to hear the issue(s) presented in the RFH. Petitioner submitted, in writing, an appeal of ALJ Scully's decision on the basis that the assigned ALJ misapplied manual policy or law by dismissing her RFH and not making a decision.

Petitioner has asserted sufficient grounds to grant a request for reconsideration. Accordingly, the Request for Reconsideration is GRANTED. The Supervising Administrative Law Judge will review the case file, all exhibits, the hearing record, and applicable statutory and policy provisions.

DECISION AND ORDER OF RECONSIDERATION

ISSUE

Whether the ALJ erred in dismissing Petitioner's RFH for lack of jurisdiction?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Findings of Fact #1 through #3 of Docket number 15-022649 in the Decision and Order mailed on January 28, 2016, are incorporated herein by reference.

CONCLUSIONS OF LAW

The Conclusions of Law on pages 1 and 2 of Docket number 15-022649 in the Decision and Order mailed on January 28, 2016, are incorporated herein by reference.

Petitioner wants a hearing to address a proposed closure of her FAP case by the Department of Health and Human Services (DHHS). However, the assigned ALJ acted properly in dismissing Petitioner's RFH for lack of jurisdiction as Petitioner was no longer aggrieved by any Departmental FAP action at the time of the administrative hearing. The evidence on the record establishes that the proposed action was determined to be worker error and subsequently corrected. Additionally, Petitioner has received all of the FAP benefits that she is otherwise eligible to receive for the time period in question.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the assigned Administrative Law Judge properly dismissed Petitioner's RFH due to lack of jurisdiction.

IT IS THEREFORE ORDERED that:

The Administrative Law Judge's decision dated January 28, 2016 is **AFFIRMED**.

Marya A Nelson-Davis

MN-D/las

Marya Nelson-Davis
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]