



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: February 14, 2017
MAHS Docket No.: 16-011558-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

SUPERVISING ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

ORDER DENYING MOTION FOR REHEARING AND/OR RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the Petitioner's request for rehearing and/or reconsideration of the Decision and Order issued by the assigned Administrative Law Judge (ALJ), Janice Spodarek, at the conclusion of the hearing conducted on October 13, 2016, and mailed on October 18, 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 petitioner
- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision.

In this case, ALJ Spodarek upheld the Department's denial of Petitioner's prior authorization request for private duty nursing (PDN). Petitioner's mother filed an appeal of the assigned ALJ's decision stating that Petitioner needs skilled care under the direct supervision of a licensed practical nurse or a registered nurse. Therefore, Petitioner's PDN should be reinstated. Petitioner's mother stated that a certified nursing assistant (CNA) is unable to provide the medical care that Petitioner needs.

After a full review of the entire hearing record and the request for rehearing and/or reconsideration, this Supervising Administrative Law Judge cannot find a legal basis upon which to grant a rehearing in this matter. The original hearing record in this matter is adequate for judicial review, and there is no newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original Decision and Order. The assigned ALJ properly applied both law and policy and concluded that Petitioner failed to meet her burden of showing by a preponderance of evidence that the Department erred in denying the prior authorization for PDN based on the medical documentation that was submitted to the Department at the time of the eligibility determination. Lastly, Petitioner's request fails to demonstrate that it is based on: a 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 Petitioner; or a failure of the assigned ALJ to address other relevant issues in the decision. Disagreement with the ALJ's Hearing Decision does not meet the requirements for rehearing or reconsideration.

In conclusion, Petitioner's request for rehearing and/or reconsideration does not meet the aforementioned policy and statutory requirements. Accordingly, the request is DENIED.

IT IS SO ORDERED.

MN-D/sb



Marya Nelson-Davis
Supervising 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 Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Petitioner

[REDACTED]