



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 23, 2020
MOAHR Docket No.: 19-012121-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

SUPERVISING ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

ORDER DENYING REQUEST FOR REHEARING AND/OR RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge (ALJ) pursuant to the request for rehearing and/or reconsideration by Petitioner [REDACTED]-[REDACTED]. Petitioner appeals the Hearing Decision issued by the ALJ [REDACTED] on January 8, 2020. ALJ [REDACTED] left employment with the Michigan Office of Administrative Hearings and Rules (MOAHR), and Petitioner's request has been reviewed by the undersigned pursuant to Mich Admin Code, R 792.10106(7).

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 or services at issue 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 a statutory basis for a rehearing of an administrative hearing.

A rehearing is a full hearing which may be granted if the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. BAM 600 (January 2020), p. 44. 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. BAM 600, pp. 44. Reconsiderations may be granted if requested for one of the following reasons:

- Misapplication of manual policy or law in the hearing decision, which led to the wrong decision;
- Typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the petitioner; or

- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision. BAM 600, p. 46.

A request for reconsideration which presents the same issues previously ruled on, either expressly or by reasonable implication, shall not be granted. Mich Admin Code, R 792.10135.

Here, in the January 8, 2020 Hearing Decision, ALJ ██████ found that (i) the Department should have included the two minor relative children that moved into Petitioner's home in Petitioner's Food Assistance Program (FAP) group starting July 1, 2019 rather than waiting until September 2019 to add them to the FAP group; (ii) the Department improperly decreased Petitioner's Family Independence Program (FIP) group size and her FIP benefits effective November 1, 2019 where Petitioner timely verified the children's school attendance; and (iii) the Department properly decreased Petitioner's FAP benefits effective November 1, 2019. ALJ ██████ ordered the Department to redetermine Petitioner's FAP benefits for July 1, 2019 through October 30, 2019 based on the increased household size and her FIP benefits for November 1, 2019 ongoing and supplement her for any benefits she was eligible to receive.

In her request for rehearing and/or reconsideration, Petitioner argues that ALJ ██████ did not reference the correct date that she requested a hearing, that the children were placed in her care on June 4, 2019 but she did not receive FIP for them until August 2019 and FAP for them until September 2019, that ALJ ██████ referenced the wrong date for the notice sent to her informing her of the decrease in FIP, and that the Department failed to comply with her order. Petitioner does not indicate how the incorrect dates affect the ALJ's decision. Further, a review of the record does not show that the dates referenced by ALJ ██████ were incorrect. To the extent Petitioner contends that the children should have been added to her FIP case earlier, Department policy provides that member additions resulting in a grant increase affect the month after the month the change occurred or the change was reported. BEM 515 (October 2018), pp. 3-4. Thus, the addition of the children to Petitioner's home in June 2019 would affect her FIP in August 2019.

Petitioner's request does not establish that the original hearing record is inadequate for judicial review or that there is newly discovered evidence (or evidence that could not have been discovered at the time of the hearing had a reasonable effort been made to do so). Therefore, Petitioner has failed to establish a basis for a rehearing.

Furthermore, a full review of Petitioner's request fails to demonstrate a misapplication of manual policy or law in the Hearing Decision; typographical, mathematical, or other obvious errors in the Hearing Decision that affected Petitioner's substantial rights; or a failure to address other relevant issues in the Hearing Decision. Therefore, Petitioner has not established a basis for reconsideration. Petitioner's concerns that the Department failed to process ALJ ██████ order do not provide a basis for rehearing or reconsideration because, once the order was issued, MOAHR did not retain any

further authority over the Department's processing of the matter. However, Petitioner's concerns will be brought to the attention of the Department's field operation services.

Accordingly, the request for rehearing and/or reconsideration is **DENIED**.

IT IS SO ORDERED.

ACE/tlf



Alice C. Elkin

Supervising Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules.

Via Email:

MDHHS-Wayne-55-Hearings
MOAHR

Petitioner – Via First-Class Mail:

████████████████████
████████████████████
████████████████████