



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

IN THE MATTER OF:

MOAHR Docket No.: 17-016026-RECON

██████████

Petitioner

Agency Case No.: ██████████

Case Type:

Expunction

v

**Oakland County DHHS,
Respondent**

_____ /

**Issued and entered
this 21st day of November 2019
by: Zainab A. Baydoun
Administrative Law Judge**

**ORDER DENYING PETITIONER'S
REQUEST FOR REHEARING/RECONSIDERATION
AND ORDER OF DISMISSAL**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the request for rehearing and/or reconsideration filed on ██████████ 2019, by Petitioner, ██████████, of the Decision and Order issued by the undersigned at the conclusion of the hearing conducted on January 31, 2018, and mailed on March 23, 2018, in the above-captioned matter.

The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rules 792.10135 and 792.10136, *et seq.*, and applicable policy provisions articulated in the Protective Services Manual (PSM), specifically PSM 717-3, which provide that a rehearing or reconsideration must be filed in a timely manner in compliance with the statutory requirements or rules governing specific proceedings 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 is granted when the original hearing record is inadequate for judicial review or there is newly discovered evidence that could affect the outcome of the original hearing. MCL 24.287(2), PSM 717-3 (June 2018), p.8. A reconsideration is a paper review of the facts, law and any new evidence or legal arguments. Reconsideration of an ALJ's Decision and Order may be granted when the original hearing record is adequate for judicial review and a rehearing is not necessary,

but a party believes the ALJ failed to accurately address all the issues. PSM 717-3, pp. 8-9. A reconsideration may be granted only under the following circumstances: if newly discovered, relevant evidence is presented that could affect the outcome of the original hearing; if there was a misapplication of policy or law in the hearing decision that led to a wrong conclusion; or if the administrative law judge failed to address, in the hearing decision, relevant issues raised in the hearing request. PSM 717-3, pp. 8-9. 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. MAHS determines if a rehearing or reconsideration will be granted. PSM 717-3, p. 8.


Petitioner, [REDACTED] filed a request for rehearing and/or reconsideration on [REDACTED] 2019. Before the merits of a request for rehearing and reconsideration of a hearing decision are reviewed, it must be established that the request was timely received by the Michigan Office of Administrative Hearings and Rules (MOAHR). Department policy provides that a written request for rehearing and/or reconsideration must be received by MOAHR within 60 days of the mailing date on the original decision and order. PSM 717-3, pp. 8-9. The Decision and Order in this case provided in pertinent part the following instruction on page 9:

NOTICE: Within 60 days after the date of mailing of this Decision and Order, a Petition for Review may be filed in a court of proper jurisdiction. The Michigan Administrative Hearing System (MAHS), on its own motion or on request of a party, may order rehearing or reconsideration within 60 days after the date of mailing of this Decision and Order.

In this case, the Decision and Order was issued on March 23, 2018. MOAHR received the rehearing and/or reconsideration request on September 24, 2019. Because the request was not timely received by MOAHR within 60 days of the Decision and Order, Petitioner's rehearing and/or reconsideration request is denied and dismissed as untimely.

Accordingly, the request for rehearing and/or reconsideration is **DENIED** and this matter is hereby **DISMISSED**.

IT IS SO ORDERED.



Zainab A. Baydoun
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 60 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules.

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last-known addresses in the manner specified below, this 21st day of November, 2019.



T. L. Feggan
**Michigan Office of
Administrative Hearings and Rules**

Via Email:

Kevin Bryan
DHHS Children's Protective Services

Oakland County DHHS
MDHHS-Oakland-CSA-Hearings@michigan.gov

Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]