



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

**IN THE MATTER OF:**

**MOAHR Docket No.: 18-011477-RECON**

██████████  
**Petitioner**

**Agency Case No.:** ██████████

**v**

**Case Type: Expunction**

**Oakland County DHHS,  
Respondent**

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**Issued and entered  
this 5<sup>th</sup> day of February 2021  
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 ██████████ 2020, by Petitioner, ██████████ of the Decision and Order issued by the undersigned at the conclusion of the hearing conducted on February 20, 2019, and mailed on February 22, 2019, 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.

When a party fails to appear to a hearing and the ALJ enters a default judgment, the party against whom the default judgment was entered may, within seven days of the date the order was served, file a written motion to vacate the order. Mich Admin Code, R 792.10134. If the party demonstrates good cause for failing to attend the hearing, the matter may be rescheduled, reheard, or otherwise reconsidered as required to serve the interests of justice and the orderly and prompt conduct of proceedings. *Id.*

In the instant case, Petitioner requested an administrative hearing asking to have her name expunged from the Michigan Child Abuse and Neglect Central Registry (Central Registry) for a Children's Protective Services (CPS) complaint date of [REDACTED] 2015. The action concerned Petitioner's alleged violation of the Child Protection Law, 1975 PA 238, as amended, MCL 722.621 *et seq.* (Act).

In the February 22, 2019 Decision and Order, and in light of a default judgment entered against Petitioner pursuant to Sections 72 and 78 of the Michigan Administrative Procedures Act, 1969 PA 306, as amended (APA) MCL 24.201 *et seq* and Rule 134 of the Administrative Hearing Rules, Mich Admin Code, R 792.10134 based on her failure to appear at the hearing without good cause, the undersigned found that Respondent, [REDACTED] County Department of Health and Human Services CPS (Respondent or Department) had established by a preponderance of the evidence that Petitioner's name on the Central Registry, under the Child Protection Law for complaint date of [REDACTED] 2015 should not be amended or expunged. It was further found that Petitioner's record of child abuse and/or child neglect was properly substantiated and categorized under the Child Protection law.

Petitioner, [REDACTED] filed a request for rehearing and/or reconsideration on [REDACTED] 2020. 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). It is noted that MOAHR was previously named the Michigan Administrative Hearing System.

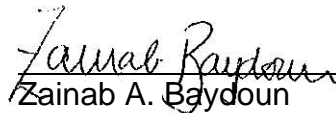
Department policy provides that a written request for rehearing and/or reconsideration must be received by MOAHR within 60 days of the mailing date on the original decision and order. PSM 717-3, pp. 8-9. The Decision and Order in this case provided in pertinent part the following instruction on page 5:

**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 [REDACTED] 2019. MOAHR received the rehearing and/or reconsideration request on [REDACTED] 2020. Additionally, Petitioner did not timely file a motion to vacate the default judgment that had been issued and did not otherwise establish a sufficient good cause basis for her failure to participate in and attend the scheduled hearing on [REDACTED] 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.**



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Zainab A. Baydoun  
Administrative Law Judge  
for Elizabeth Hertel, Director  
Department of Health and Human Services

**NOTICE:** Within 60 days after the date of mailing of this Order, a Petition for Review may be filed in a court of proper jurisdiction.

**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 5<sup>th</sup> day of February 2021.

  
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Tammy L. Feggan, Legal Secretary  
**Michigan Office of  
Administrative Hearings and Rules**

**Via Electronic Mail:**

MDHHS-Oakland-CSA-Hearings@michigan.gov  
Hearings Coordinator

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DHHS Children's Protective Services

**Via First-Class Mail:**

  
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