



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 21, 2019
MOAHR Docket No.: 19-007121-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

ORDER DENYING REQUEST FOR REHEARING AND/OR RECONSIDERATION

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the September 25, 2019, request for rehearing and/or reconsideration, by Petitioner's Authorized Hearing Representative (AHR) [REDACTED], of the Hearing Decision issued by the undersigned at the conclusion of the hearing conducted on [REDACTED] 2019, and mailed on [REDACTED] 2019 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 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 either of the following applies:

- 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 (October 2018), 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 (ALJ) failed to accurately address all the relevant issues raised in the hearing request. BAM 600, p. 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. 45.)

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.

In the instant case, the undersigned issued a Hearing Decision in the above-captioned matter Affirming the Department's actions and finding that the Department properly determined that the [REDACTED] in unpaid insurance premiums at issue was considered divestment, and as a result, Petitioner was subject to a Medical Assistance (MA) divestment penalty. As such, it was found that the Department acted in accordance with Department policy when it processed Petitioner's MA eligibility and determined that Petitioner was subject to a divestment penalty.

In Petitioner's request for rehearing and/or reconsideration, Petitioner's AHR presents similar arguments to those offered during the administrative hearing, specifically that Petitioner is deaf, that her eyesight is not clear and that Petitioner was never informed that she was responsible for sending [REDACTED] a month directly to Citizens for the cost of her insurance premium. The AHR asserted that after she became Petitioner's Power of Attorney, she sent money orders to [REDACTED], some of which were returned, as Petitioner's insurance coverage was terminated. The AHR also presented a copy of the Hearing Decision that included handwritten notes and maintained that there was no divestment because the money for the unpaid insurance premiums was used to pay Petitioner's increased rent, telephone expenses and insurance premiums when the policy was reinstated. This explanation was offered during the hearing and considered by the undersigned prior to issuing the Hearing Decision.

Petitioner does not allege 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 that the undersigned misapplied manual policy or law in the Hearing Decision; committed typographical, mathematical, or other obvious errors in the Hearing Decision that affected Petitioner's substantial rights; or failed to address other relevant issues in the Hearing Decision. Therefore, Petitioner has not established a basis for reconsideration. Instead of articulating a basis for rehearing and/or reconsideration, Petitioner is generally challenging the undersigned's decision in an attempt to relitigate the hearing,

as all arguments raised by Petitioner's AHR in her request for rehearing/reconsideration were already considered by the undersigned during the administrative hearing. Mere disagreement with the Hearing Decision does not warrant a rehearing and/or reconsideration of this matter.

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

IT IS SO ORDERED.

ZB/tlf



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 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-Ottawa-Hearings
MOAHR

Petitioner

- **Via First-Class Mail:**


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Authorized Hearing Rep.

- **Via First-Class Mail:**


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