



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: January 10, 2020
MOAHR Docket No.: 19-007672-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the [REDACTED] 2019, request for rehearing and/or reconsideration, by Petitioner 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 (July 2019), 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, pp. 44-45.

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. Petitioner's request for rehearing and/or reconsideration was mailed on [REDACTED] 2019 and received by the Michigan Office of Administrative Hearings and Rules (MOAHR) 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 MOAHR. Department policy provides that a written request must be received by MOAHR within 30 days of the date the hearing decision is mailed. BAM 600, p.47. The MOAHR Administrative Hearing Rules similarly provide that a party who has received an adverse hearing decision must file a request for rehearing or reconsideration with the hearing system within 30 days after the decision is mailed. Mich Admin Code, R 792.11015(1). Rule 792.11015(5) provides that the request must be submitted directly to the hearing system pursuant to the instructions provided at the conclusion of the hearing decision. The Hearing Decision in this case provided in pertinent part the following instruction on page 5:

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 (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

In this case, the Hearing Decision was issued on September 20, 2019. MOAHR received the rehearing and/or reconsideration request on October 23, 2019. Because the request was not timely received by MOAHR within 30 days of the Hearing Decision, Petitioner's rehearing and/or reconsideration request is dismissed as untimely. Notwithstanding the lack of timeliness of Petitioner's request for rehearing/reconsideration, the merits of the request do not meet the requirements for granting a rehearing and/or reconsideration.

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 processed Petitioner's medical expenses and applied them to her Medical Assistance (MA) deductible. It was further found that Petitioner's MA deductible for the months at issue had not been met, and thus, her Home Help Services (HHS) provider properly did not receive payment.

In Petitioner's request for rehearing and/or reconsideration, Petitioner presents similar arguments to those offered during the administrative hearing, specifically that Petitioner's daughter has submitted medical expenses to the Department on several occasions and the expenses are not timely processed by the case worker. She further argued that based on her records, she has incurred sufficient expenses to meet her deductible and have active MA benefits with her HHS provider being paid. Petitioner also asserts that there is a lack of proper communication between herself and the Department which impacts her medical providers' ability to bill and receive payment for Petitioner's covered services. The explanations/arguments outlined in Petitioner's request for rehearing/reconsideration were 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 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** and this matter is hereby **DISMISSED**.

IT IS SO ORDERED.

ZB/tlf



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

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Via Email:

MDHHS-Oakland-IV-Hearings
MOAHR

Petitioner – Via USPS


MI

Authorized Hearing Rep. – Via USPS


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