



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 8, 2019
MOAHR Docket No.: 19-009655-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

ORDER DENYING REQUEST FOR REHEARING/RECONSIDERATION

This matter is before the undersigned administrative law judge (ALJ) pursuant to a request for rehearing/reconsideration received by the Michigan Office of Administrative Hearings and Rules (MOAHR) on [REDACTED] 2019. The above-named Petitioner submitted the request to dispute a Hearing Decision stemming from an administrative hearing conducted on [REDACTED] 2019.

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 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 for rehearing if the hearing record is inadequate for judicial review.

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.

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. 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 ALJ to address other relevant issues in the hearing decision.

In her original hearing request, Petitioner alleged that MDHHS failed to process an administrative hearing order dated [REDACTED] 2019, concerning Family Independence Program (FIP) eligibility. Petitioner contended that the order entitled her to a deferral from employment-related activity participation. MDHHS interpreted the order as excusing Petitioner from past, but not future, employment-related activity participation. The undersigned affirmed MDHHS' processing of the administrative order in a Hearing Decision dated [REDACTED] 2019.

Petitioner's request for rehearing and/or reconsideration contends that the undersigned erred by allegedly refusing to contact the ALJ who authored the Hearing Decision dated [REDACTED] 2019, for clarification of his order. As concluded in the decision appealed by Petitioner, the evidence supported a finding that MDHHS complied with the order and did not err by not deferring Petitioner from future employment-related activity. Petitioner's request for rehearing provides no basis to justify a rehearing of the decision dated [REDACTED] 2019, concerning whether MDHHS complied with the decision dated [REDACTED] 2019.

The Hearing Decision dated [REDACTED] 2019, also dismissed Petitioner's request disputing a termination of FIP benefits, due to Petitioner's untimely hearing request. Petitioner did not deny that her hearing request dated [REDACTED] 2019, was untimely. Instead, Petitioner seems to assert good cause for her untimely request because she "assumed" that MDHHS would reinstate her FIP eligibility.¹ MDHHS provides no good cause exceptions to the 90-day timeframe for requesting a hearing. Further, a client's incorrect assumption is not good cause for untimely requesting a hearing.

Petitioner's request for rehearing noted that a "Hearing Rights" section of her paperwork stated that if a hearing was not requested within 90 days, then a hearing would not be granted. Petitioner seems to contend that it would have been proper to dismiss her untimely hearing request before a hearing, but not after a hearing is held. An implication of Petitioner's argument is less due process by not allowing clients to present arguments at a hearing that a hearing request was timely submitted. Petitioner's contention is simply not persuasive.


Petitioner lastly contends in her request for rehearing that she timely requested a hearing. Petitioner claims she submitted hearing requests to MDHHS on [REDACTED] 2019 (which would be within 90 days of a written notice dated [REDACTED] 2019) and [REDACTED] 2019 (which is not within 90 days of [REDACTED] 2019). Petitioner did not make such a claim in her hearing request dated [REDACTED] 2019, which was the basis of the hearing

¹ Petitioner stated that she "assumed" that MDHHS would resolve her dispute in her request for rehearing.

dated [REDACTED] 2019. Petitioner did not make such a claim during the hearing after being told her that her hearing request dated [REDACTED] 2019, appeared untimely. If Petitioner requested a hearing earlier than [REDACTED] 2019, she should have asserted her claim in her hearing request or during the hearing. Petitioner also provided no corroborating evidence in her request for rehearing for her claim. Petitioner's uncorroborated and previously unasserted claim of an earlier hearing request does not justify granting a rehearing.

A full review of Petitioner's request fails to demonstrate that the undersigned misapplied manual policy or law; 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. Petitioner has also not established a basis for rehearing. Accordingly, Petitioner's request for rehearing and/or reconsideration dated [REDACTED] 2019, is **DENIED**.

CG/tlf



Christian Gardocki
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 Administrative Hearings and Rules.

Via Email:

MDHHS-Genesee-6-Hearings
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
MI [REDACTED]