



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] NY [REDACTED]

Date Mailed: June 4, 2020
MOAHR Docket No.: 19-011112-RECON
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [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 [REDACTED] 2020, request for rehearing and/or reconsideration, by Respondent, [REDACTED] of the Hearing Decision issued by the undersigned at the conclusion of the hearing conducted on [REDACTED] 2020, and mailed on [REDACTED] 2020 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 (January 2020), 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.

In the instant case, Respondent failed to appear at the [REDACTED] 2020 hearing and it was properly conducted in her absence. The undersigned issued a Hearing Decision finding that as a result of her failure to accurately and timely report her change in address and residency, as well as her receipt of Medical Assistance (MA) from two states at the same time, Respondent received an overissuance of benefits in the amount of [REDACTED] from the State of [REDACTED] MA program. The Department of Health and Human Services (Department) was ordered to initiate recoupment/collection procedures for the MA overissuance amount, as Respondent was to repay those overissued benefits.

In her request for rehearing and/or reconsideration, Respondent confirmed that in [REDACTED] 2019 she received notice of the hearing date but knew she would be unable to attend the hearing in person, as she now resides in [REDACTED]. She asserted that she tried to reach out to the relevant offices to work out her options but was unable to get through to anyone at the telephone numbers provided. Respondent did not make any reference to the issue presented during the administrative hearing or present any documentation indicating that the decision issued by the undersigned was incorrect. Respondent indicated that given her financial situation, it would not be possible for her to repay the [REDACTED] overissuance and requested a reconsideration/hearing. Although Respondent asserted she is prepared to work out a reasonable resolution to the matter with the Department's Office of Inspector General (OIG), Respondent is informed that any such arrangement must be made directly with the OIG, as the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned have no authority over such matters.

A review of the Notice of Disqualification Hearing and Hearing Instructions attached, which Respondent confirmed receiving, show that Respondent was advised that a failure to attend or participate in the hearing could result in a decision being entered against her, and that if she could not participate in the hearing as scheduled, Respondent was to contact the MOAHR. This contact or request for adjournment was to be made in writing, signed by Respondent and either mailed or faxed to MOAHR. She was further informed that if on the day of her hearing she could not participate, she was to telephone MOAHR. Respondent was provided with the address, telephone, and fax number for MOAHR.

Upon review, there was no evidence that Respondent timely contacted MOAHR to arrange for a new hearing date or to arrange for her participation via telephone, as that would be offered as an alternative to her presence and participation at an in-person hearing. In her request for rehearing and/or reconsideration, Respondent does not identify how she reached out, when she attempted to make contact, or which offices she attempted to contact. Additionally, she did not present any copies of written documentation that was either mailed or faxed to MOAHR requesting a new hearing date or requesting that she be authorized to appear for the hearing via telephone. There was no good cause established for Respondent's failure to appear at the hearing, as she received sufficient notice and based on the above, there was insufficient evidence that she properly and timely requested an adjournment or requested to participate in the hearing via telephone.


Respondent 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, Respondent has failed to establish a basis for a rehearing.

Furthermore, a full review of Respondent'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 Respondent's substantial rights; or failed to address other relevant issues in the Hearing Decision. Therefore, Respondent has not established a basis for reconsideration. 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** 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

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-Oakland-6303-Hearings
OIG Hearing Decisions
Recoupment
MOAHR

Respondent - Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] NY [REDACTED]