



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: December 4, 2020
MOAHR Docket No.: 20-002585-RECON
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [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 submitted by Respondent to the Michigan Office of Administrative Hearings and Rules (MOAHR) on [REDACTED] 2020. Respondent's request was in response to a hearing decision issued by MOAHR from an administrative hearing conducted on [REDACTED] 2020.

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 a hearing decision dated [REDACTED] 2020, the undersigned approved MDHHS's request to establish a 1-year intentional program violation (IPV) disqualification stemming from Respondent's receipt of [REDACTED] in overissued Food Assistance Program benefits. The basis of the IPV was Respondent's failure to timely report employment income for his spouse.


Respondent did not participate in the telephone hearing to present evidence disputing the IPV disqualification. Respondent's request for reconsideration did not allege any justification for failing to participate in the hearing. Thus, Respondent has not established good cause for his absence or for not presenting evidence during the hearing. Without good cause, consideration of evidence from that party on appeal is questionable as the evidence should have been presented during the hearing. Nevertheless, Respondent's statements in his reconsideration request will be considered.

Respondent's reconsideration request alleged that he reported to MDHHS that he and spouse were separated from at least [REDACTED] 2014 through [REDACTED] 2015. The evidence established that Respondent reported to MDHHS on a Redetermination form dated [REDACTED] 10, 2014, that he and his wife lived together and that she had no employment income. Documentation of Respondent's spouse's income established that she was employed at the time of Redetermination. If Respondent was separated, he should have reported that on his Redetermination form. If Respondent was not separated, then Respondent should have reported his spouse's income. In either scenario, Respondent misreported information to MDHHS and a claim that MDHHS ignored his reporting appears dubious.

Furthermore, documentation of Respondent's issuances listed that he received [REDACTED] in monthly FAP benefits from at least [REDACTED] 2014 through [REDACTED] 2015. Exhibit A, p. 45. The continuity in FAP issuances is contradictory to Respondent's claim of separation. If Respondent was separated from his spouse, he should have expected some change in FAP benefits following the allegedly reported separation. Given the evidence, Respondent's claim of reporting a separation to MDHHS is not credible.

A full review of Respondent'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 Respondent's substantial rights; or failed to address other relevant issues in the hearing decision. Therefore, Respondent has not established a basis for reconsideration. Respondent has also not established a basis for rehearing. Respondent's request for rehearing and/or reconsideration dated [REDACTED] 2020, 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 of Administrative Hearings and Rules.

Via Email:

MDHHS-Wayne-15-Hearings
OIG Hearing Decisions
Recoupment
MOAHR

Respondent – Via First Class Mail:

[REDACTED]
[REDACTED], MI [REDACTED]