



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: February 5, 2021
MOAHR Docket No.: 20-005506-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 [REDACTED] 2020, request for rehearing and/or reconsideration, by Department of Health and Human Services (Department) 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, the undersigned issued a Hearing Decision in the above-captioned matter, finding that the Department did not act in accordance with Department policy when it closed Petitioner's Family Independence Program (FIP) case due to exceeding the 60-month federal time limit. The evidence presented during the hearing showed that as of [REDACTED] 2013, Petitioner was entitled to a deferral from participating in the Partnership. Accountability. Training. Hope. (PATH) program, as she was a recipient of FIP benefits and the sole caretaker of a disabled child, even if the Department's records did not accurately reflect her participation status that month. Thus, the undersigned concluded that Petitioner was entitled to an exception to the federal time limit counter and therefore, did not exceed the 60-month federal time limit for receiving FIP benefits.

On November 9, 2020, the Department submitted a request for reconsideration and/or rehearing. Although the basis for the Department's request is not clearly articulated in the request for reconsideration and/or rehearing, the Department references BEM 234, p. 2, and indicates that the client was not deferred as of January 9, 2013 and is therefore, not an exception client. However, the conclusion at the hearing was that Petitioner was entitled to and eligible for a deferral from participation in the PATH program as of [REDACTED] 2013 and thus, the federal time limit does not apply to her circumstances and the Department improperly closed Petitioner's FIP case. Upon review, the Department's argument was already considered by the undersigned ALJ during the hearing. No additional documentation was presented with the Department's request for rehearing and/or reconsideration.

The Department 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, the Department has failed to establish a basis for a rehearing.

Furthermore, a full review of the Department'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. Although the Department's request references BEM 234, p. 2, the

Department's request does not allege that the policy was misapplied, but rather that the Department is not in agreement with the conclusion reached by the ALJ. Therefore, the Department has not established an adequate basis for reconsideration. Instead of articulating a basis for rehearing and/or reconsideration, the Department is generally challenging the decision in an attempt to relitigate the hearing, as all arguments raised by the Department in its request were considered by the undersigned during the administrative hearing and referenced in the Hearing Decision. 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 Elizabeth Hertel, 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-31-Hearings
MOAHR

Petitioner – Via First-Class Mail:


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