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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 9, 2020
MOAHR Docket No.: 20-005638-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 submitted to the Michigan Office of Administrative Hearings and Rules (MOAHR) on [REDACTED] 2020. Petitioner'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 affirmed MDHHS's termination of Petitioner's State Disability Assistance (SDA). During the hearing, Petitioner testified that she also intended to dispute MDHHS's garnishment of a lump sum payment issued by the Social Security Administration. Petitioner's original hearing request failed to state her intended dispute. Thus, administrative hearing jurisdiction was rejected concerning Petitioner's verbally stated dispute over the garnishment of SSA-issued benefits. During the hearing and in the corresponding Hearing Decision, Petitioner was encouraged to request a hearing over the garnishment. Presumably, that was Petitioner's intention when she submitted documentation on [REDACTED] 2020. Because Petitioner's documentation also referenced a request for rehearing and/or reconsideration, her submission will also be treated as a dispute of the decision dated [REDACTED] 2020.

Concerning a rehearing or reconsideration, Petitioner failed 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. Also problematic for Petitioner is that MOAHR received her request for rehearing and/or reconsideration request 35 days after the mailing of the Hearing Decision. A written reconsideration/rehearing request must be received by MOAHR within 30 days of the date that the hearing decision is mailed. Bridges Administrative Manual 600 (July 2019) p. 47. Similarly, administrative hearing rules provide that a party who received an adverse hearing decision must file a request for rehearing or reconsideration with MOAHR within 30 days after the decision is mailed. Mich Admin Code, R 792.11015(1). Rule 792.11015(5) also provides that a rehearing and/or reconsideration request must be submitted directly to MOAHR pursuant to the instructions provided at the conclusion of the hearing decision. The Hearing Decision in this case provided, "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." Thus, Petitioner's request for rehearing and/or reconsideration was untimely.

Petitioner's submission will be treated as a new hearing request to dispute the garnishment of SSA-issued benefits. As such, a hearing will be scheduled in accordance with policy and state regulations. Concerning any request for a rehearing and/or reconsideration over the decision dated [REDACTED] 2020, Petitioner's request 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-17-Hearings
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
MI [REDACTED]