



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: August 4, 2021
MOAHR Docket No.: 20-006191-RECON
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

**ORDER DENYING PETITIONER'S REQUEST FOR REHEARING AND/OR
RECONSIDERATION
AND ORDER OF DISMISSAL**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the [REDACTED] 2021, request for rehearing and/or reconsideration, by Respondent, [REDACTED] of the Hearing Decision For Intentional Program Violation (Hearing Decision) issued by the undersigned at the conclusion of the hearing conducted on [REDACTED] 2021, and mailed on [REDACTED] 2021, 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 this case, Respondent failed to appear at the [REDACTED] 2021, hearing and it was properly conducted in her absence. The Michigan Office of Administrative Hearings and Rules (MOAHR) mailed Respondent the Notice of Disqualification Hearing (Notice) via first class mail at the address identified by the Department as Respondent's last known address as obtained from the Bridges system. The Notice was not returned to MOAHR by the United States Postal Service as undeliverable and there was no evidence that Respondent was no longer receiving mail at that address, as she had not reported any change in mailing address with the Department. Thus, the Notice was sent to Respondent at her most recent mailing address and the hearing properly proceeded in her absence with respect to the alleged Intentional Program Violation (IPV) of the Food Assistance Program (FAP).

The undersigned ALJ issued a Hearing Decision, finding that Respondent failed to timely report her employment and earnings, and as a result, clear and convincing evidence existed that Respondent committed an IPV and was subject to a 12-month disqualification from the FAP.

Respondent's request for rehearing and/or reconsideration was received via fax by the MOAHR on [REDACTED] 2021. Before the merits of a request for rehearing and reconsideration of a hearing decision are reviewed, it must be established that the request was timely received by MOAHR. Department policy provides that a written request must be received by MOAHR within 30 days of the date the hearing decision is mailed. BAM 600, p. 47. The MOAHR Administrative Hearing Rules similarly provide that a party who has received an adverse hearing decision must file a request for rehearing or reconsideration with the hearing system within 30 days after the decision is mailed. Mich Admin Code, R 792.11015(1). Rule 792.11015(5) provides that the request must be submitted directly to the hearing system pursuant to the instructions provided at the conclusion of the hearing decision. The Hearing Decision in this case provided in pertinent part the following instruction on page 6:

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 (MOAHR).

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. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:


Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

In this case, the Hearing Decision was issued on [REDACTED] 2021. MOAHR received the rehearing and/or reconsideration request on [REDACTED] 2021. Because the request was not timely received by MOAHR within 30 days of the Hearing Decision, Petitioner's rehearing and/or reconsideration request is dismissed as untimely.

Because the request for rehearing and/or reconsideration was untimely, Respondent's request is hereby **DENIED** and this matter is hereby **DISMISSED**.

IT IS SO ORDERED.

ZB/tlf



Zainab A. Baydoun
Administrative Law Judge

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.

Electronic Mail Recipients:

MDHHS-Saginaw-Hearings
OIG Hearing Decisions
Recoupment
MOAHR

Respondent – via First-Class Mail:

[REDACTED]
[REDACTED]
MI