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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: February 5, 2021
MOAHR Docket No.: 20-006757-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] 2021, request for rehearing and/or reconsideration, by Petitioner 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, Petitioner requested a hearing disputing the amount of his Food Assistance Program (FAP) benefits, specifically, the Department's removal of a previously budgeted child support expense deduction. Petitioner argued that in 2020, he paid ██████ in child support arrearages that should be considered by the Department as a child support deduction on his FAP budget. Petitioner did not dispute that since he has been receiving Retirement Survivors Disability Insurance (RSDI or Social Security) and not working, he has made no monthly child support arrearage payments and no payment has been withheld from his monthly RSDI. Petitioner asserted that his yearly tax refund is garnished to pay for child support arrearages and that in ██████ 2020, his ██████ stimulus payment was garnished to pay the arrearages. Petitioner provided written verification that in ██████ 2020, his ██████ stimulus payment and in ██████ 2020, his ██████ tax refund were withheld to pay past child support debts. Petitioner asserted that the one-time payments towards his child support arrearages should either be divided and applied to all the months of the year or applied to the months in which they were paid, ██████ 2020 and ██████ 2020. The undersigned determined that Petitioner's arguments were not supported by Department policy, however. Additionally, it was established at the hearing that Petitioner received the maximum amount of FAP benefits based on his confirmed group size of one for the months in which the child support arrearages were paid in, ██████ 2020 and June 2020. Therefore, Petitioner was not eligible for any additional FAP benefits during those months.

The undersigned issued a Hearing Decision in the above-captioned matter affirming the Department's actions with respect to the calculation of Petitioner's FAP benefits and finding that the Department properly did not consider a child support deduction as an expense on the FAP budget.

In Petitioner's request for rehearing and/or reconsideration, Petitioner presents similar arguments to those offered during the administrative hearing with respect to his child support arrearage payments. Petitioner argued that the undersigned ALJ made errors in judgement that resulted in an erroneous determination. Petitioner asserted that the Economic Stability Administration (ESA) Memorandum 2020-22 COVID-19 Guidance on CARES Act Economic Impact Payments referenced in the Hearing Decision does not apply to his situation and should not have been considered by the undersigned.

Petitioner further asserts that although he received the maximum amount of FAP benefits for the months identified in the Hearing Decision, this is temporary and his FAP benefits will be reduced when the ESA Memorandum 2020-15, COVID-19 Response Emergency Food Assistance Allotment policy is no longer effective. It is noted that the hearing request which prompted this matter was related to the reduction in Petitioner's FAP benefits effective [REDACTED] 2020. The conclusion reached during the hearing was that the Department properly calculated the amount of Petitioner's FAP benefits effective [REDACTED] 2020. Thus, should Petitioner disagree with the amount of his future FAP allotment upon expiration of the ESA Memo authorizing the maximum amount of his FAP benefits, he is entitled to submit a hearing request to have that issue addressed. See BAM 600.

Upon review, the arguments identified in Petitioner's request for rehearing and/or reconsideration were already considered by the undersigned ALJ prior to the issuance of the Hearing Decision. No additional documentation was presented with Petitioner's request for rehearing and/or reconsideration.

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

Furthermore, a full review of Petitioner'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. Therefore, Petitioner has not established an adequate basis for reconsideration. Instead of articulating a basis for rehearing and/or reconsideration, Petitioner is generally challenging the decision in an attempt to relitigate the hearing, as all arguments raised by Petitioner in his 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-17-Hearings
MOAHR

Petitioner – Via First-Class Mail:

