



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 11, 2021
MOAHR Docket No.: 20-007618-RECON2
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] 2021. Respondent's request was in response to a hearing decision issued by MOAHR from an administrative hearing conducted on [REDACTED] 2021.¹

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 provides 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

¹ Respondent's request referenced a MOAHR docket no. of 20-007861. Under that docket number, Respondent requested a hearing and later withdrew his request. Given the context and content of Respondent's request dated August 3, 2021, he clearly intended to dispute the MOAHR docket no. 20-007618-recon.

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] 2021, the undersigned approved MDHHS's request to establish a [REDACTED]-year Food Assistance Program (FAP)-related IPV disqualification against Respondent related to over-issued FAP benefits from [REDACTED] 2017 through [REDACTED] 2018. The basis of the FAP-related IPV was Respondent's failure to report residency with a former spouse.

Respondent's rehearing/reconsideration request did not dispute the merits of the hearing decision dated [REDACTED] 2021. Respondent only stated that he was unable to attend the original hearing because of health problems related to an amputated leg, neck surgery, and COVID-19.

The hearing dated [REDACTED] 2021 was held by telephone and required nothing more than a phone call from Respondent at the scheduled hearing time and date. There was no evidence that Respondent attempted to adjourn the hearing or provide an immediate explanation for his absence. These considerations support rejecting Respondent's rehearing request.

Notably, this was the second time that Respondent failed to attend a hearing. MOAHR issued a decision on [REDACTED] 2021, stemming from a hearing dated [REDACTED] 2021. After Respondent failed to attend the hearing, a hearing decision affirmed MDHHS's request for a FAP-related IPV disqualification. The hearing held on [REDACTED] 2021, was a rehearing following Respondent's request explaining that he failed to attend the original hearing.

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] 2021 is **DENIED**.

CG/tm



Christian Gardocki
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.

Via Email:

MDHHS-Oakland-3-Hearings
OIG Hearings
LBengel
Policy Recoupment
MOAHR

Respondent – Via First-Class Mail:

[REDACTED]
[REDACTED]
MI [REDACTED]