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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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IN THE MATTER OF:

MOAHR Docket No.: 20-008981-RECON

██████████

Petitioner

Agency Case No.: ██████████

v

Case Type: Expunction

**MDHHS Expunction Unit,
Respondent**

_____ /

**Issued and entered
this _____ day of _____
by: Alice C. Elkin
Supervising Administrative Law Judge**

ORDER DENYING REQUEST FOR REHEARING AND/OR RECONSIDERATION

Petitioner Deborah Wilcox requested a hearing to expunge her name from the Michigan Child Abuse and Neglect Central Registry (Central Registry). A hearing was held on ██████████ 2022. Petitioner did not participate. On ██████████ 2022, Administrative Law Judge (ALJ) Thomas Halick issued a Decision and Order in the above-captioned matter. On ██████████ 2022, ALJ Halick issued an Amended Decision and Order correcting the procedural history in the matter and the CPS complaint date. On ██████████ 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for rehearing and/or reconsideration. Because ALJ Halick is unavailable, Petitioner's request was reviewed by the undersigned Supervising ALJ. See Mich Admin Code, R 792.10106(7).

A rehearing is a full hearing, which is granted when the original hearing record is inadequate for judicial review or there is newly discovered evidence that could affect the outcome of the original hearing. MCL 24.287(2), Protective Services Manual (PSM) 717-3 (██████████ 2018), p. 8. A reconsideration is a paper review of the facts, law and any new evidence or legal arguments. PSM 717-3, p. 8. Reconsideration of a Decision and Order may be granted when the original hearing record is adequate for judicial review and a rehearing is not necessary, but a party believes the ALJ failed to accurately address all the issues. PSM 717-3, p. 8. A reconsideration may be granted only under the following circumstances: if newly discovered, relevant evidence is presented that could affect the outcome of the original hearing; if there was a misapplication of policy

or law in the hearing decision that led to a wrong conclusion; or if the administrative law judge failed to address, in the hearing decision, relevant issues raised in the hearing request. See PSM 717-3, p. 8. 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. MOAHR determines if a rehearing or reconsideration will be granted. PSM 717-3, p. 9.

When a party fails to appear to a hearing and the ALJ enters a default judgment, the party against whom the default judgment was entered may, within seven days of the date the order was served, file a written motion to vacate the order. Mich Admin Code, R 792.10134. If the party demonstrates good cause for failing to attend the hearing, the matter may be rescheduled, reheard, or otherwise reconsidered as required to serve the interests of justice and the orderly and prompt conduct of proceedings. *Id.*

In this case, Respondent Michigan Department of Health and Human Services placed Petitioner's name on the Central Registry in connection with a Children's Protective Services (CPS) investigation associated with a complaint received by CPS on or about [REDACTED] 2020. Petitioner did not appear at the hearing scheduled on [REDACTED] 2022, and the hearing proceeded without Petitioner following Respondent's request for a default ruling. ALJ Halick considered the exhibits presented by Respondent and concluded, based on this evidence, and in the absence of any contrary evidence presented by Petitioner, that there was a preponderance of evidence to support Respondent's finding that Petitioner was the perpetrator of child neglect and that the risk assessment warranted placement of Petitioner's name on the Central Registry. Accordingly, ALJ Halick affirmed Petitioner's placement on the Central Registry in connection with the CPS complaint dated [REDACTED] 2020.

It is first noted that Petitioner had 60 days from the date the [REDACTED] 2022 Amended Decision and Order was issued to request rehearing and/or reconsideration. The rehearing/reconsideration request MOAHR received on [REDACTED], 2022 was received 75 days after the [REDACTED] 2022 Amended Decision and Order. Thus, it is untimely.

Notwithstanding the late filing, Petitioner's request was reviewed and found that it fails to show a basis for rehearing and/or reconsideration. In her request for rehearing/reconsideration, Petitioner disputes the finding that she improperly supervised her child. However, she does not provide any explanation for failing to participate in the scheduled hearing and present her case, including any medical documents she alleges Respondent failed to provide. Therefore, she has failed to establish a good cause reason for basis for a rehearing. Furthermore, a full review of Petitioner's request fails to demonstrate that ALJ Halick misapplied manual policy or law in the Amended Decision and Order; committed typographical, mathematical, or other obvious errors in the Amended Decision and Order that affected Petitioner's substantial rights; or failed to address other relevant issues in the Amended Decision and Order. Therefore, Petitioner has not established a basis for reconsideration. Mere disagreement with the Amended Decision and Order does not warrant a rehearing and/or reconsideration of this matter.

Petitioner is advised that there are amendments to the Child Protection Law (CPL), MCL 722.621 *et seq.*, effective [REDACTED] 2022 that may impact her continued placement on the Central Registry after [REDACTED] 2022.

Based on the current CPL, the request for rehearing and/or reconsideration is **DENIED**.

IT IS SO ORDERED.



Alice C. Elkin
Supervising Administrative Law Judge

NOTICE OF APPEAL: Within 60 days after the date of mailing of this Order Denying Request for Rehearing and/or Reconsideration, a Petition for Review may be filed in a court of proper jurisdiction.

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this _____ day of _____.



Tammy L. Feggan, Legal Secretary
**Michigan Office of
Administrative Hearings and Rules**

Via-Electronic Mail :

Respondent

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Petitioner

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