



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 10, 2022
MOAHR Docket No.: 21-004377-RECON
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] 2022.¹ Respondent's request was in response to a Hearing Decision issued by MOAHR from an administrative hearing conducted on [REDACTED] 2022

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

¹ The rehearing sought by Respondent would be the third time this case was heard. A hearing was completed on November 29, 2021, without Respondent's participation. After the hearing, Respondent requested a new hearing and claimed that she was unable to connect to the conference line. Respondent's request was approved, and a second hearing was held in which Respondent did participate.

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] 2022, the undersigned approved MDHHS's request to establish against Respondent a recipient claim of [REDACTED] for Food Assistance Program (FAP) benefits over-issued from [REDACTED] 2017 through [REDACTED] 2018. MDHHS's request to establish a FAP-related intentional program violation (IPV) was also approved. The claim and disqualification were based on Respondent's failure to report [REDACTED] her living-together partner (hereinafter, "LTP"), as a household member.

In requesting a rehearing, Respondent stated that she wants LTP to testify and that he was unavailable for the original hearing due to COVID-19. Respondent's statement fails to explain why LTP could not have participated in the hearing held by telephone conference or why she did not request an adjournment during the original hearing. Respondent also provided no corroborative evidence justifying LTP's absence.

Respondent also disputed that she and LTP resided together during the overissuance (OI) period. Respondent stated that LTP was in [REDACTED] and/or incarcerated and that she has seven letters from persons who will attest to the same. Respondent made no arguments on the record concerning LTP's incarceration and/or [REDACTED] residency. Respondent also provided no evidence during the hearing of LTP's whereabouts during the OI period other than her uncorroborated testimony that he did not reside with her.

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] 2022, 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.

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