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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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MI [REDACTED]

Date Mailed: June 24, 2022
MOAHR Docket No.: 21-005993-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

ORDER DENYING REQUEST FOR RECONSIDERATION

On [REDACTED] 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received from [REDACTED] (Petitioner), a Request for Rehearing and/or Reconsideration of the Hearing Decision issued on [REDACTED] 2022 by the undersigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on [REDACTED] 2022 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 in the Bridges Administrative Manual (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 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 [REDACTED] 2021), 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 presiding ALJ failed to accurately address all the relevant issues raised in the hearing request. BAM 600, p. 44.

A Petitioner may file a written request for a rehearing/reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- 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. 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 present case, Petitioner filed a Hearing Request to challenge the denial of his [REDACTED] 2021 application for State Emergency Relief (SER) services for a furnace replacement. A hearing was held on [REDACTED] 2022. Petitioner appeared and represented himself. Petitioner submitted evidence that was admitted as Petitioner's Exhibit 1. A representative from MDHHS appeared and submitted evidence, which was admitted as MDHHS Exhibit A. After the hearing, the undersigned ALJ considered all relevant evidence introduced by Petitioner and MDHHS and determined that MDHHS followed policy when it denied Petitioner's [REDACTED] 2021 SER Application because it is prohibited from reimbursing expenses incurred or paid without prior written approval. It was undisputed that Petitioner incurred the expense before obtaining MDHHS approval by installing and paying for the furnace on [REDACTED] 2021.

On [REDACTED] 2022, MOAHR received a Request for Rehearing and/or Reconsideration from Petitioner which claimed that rehearing/reconsideration was justified for several reasons, chief among them was that the undersigned ALJ failed to consider the previous SER application that Petitioner submitted on [REDACTED] 2021. Petitioner's [REDACTED] 2021 SER Application was denied by MDHHS on [REDACTED] 2021, based on Petitioner's failure to provide requested verification. Petitioner filed a Hearing Request to challenge the denial. However, Petitioner withdrew his request for hearing on that denial.

The undersigned ALJ addressed the issue of the [REDACTED] 2021 SER Application and determined that MOAHR did not have jurisdiction to hear Petitioner's challenge to MDHHS' denial of that application because Petitioner withdrew his hearing request. The Hearing Decision stated, "Because Petitioner withdrew his request for hearing regarding the first SER application, that determination is not subject to review by [MOAHR] and is beyond the scope of this hearing decision."

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or

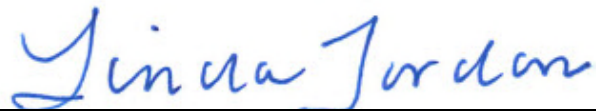
reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

Thus, MOAHR's jurisdiction to hear a contested issue regarding benefits and issue a decision is contingent upon the client filing a valid Request for Hearing. State actions which entitle a client to a hearing include a denial of an application, a reduction in the amount of program benefits, a suspension or termination of program benefits, restrictions under which benefits are provided, and a delay of any action beyond the standard of promptness. BAM 600, p. 5. In this case, Petitioner withdrew his request for hearing regarding the MDHHS' denial of the [REDACTED] 2021 SER Application. Issues regarding that application and the subsequent denial were not addressed in the Hearing Decision because that matter was not before properly before the undersigned ALJ on the date of hearing.

Petitioner further argued that he preserved his right to dispute the denial of the first SER application by stating on the Hearing Request Withdrawal that the withdrawal was "without prejudice." Petitioner cited case law in support of his legal argument; however, the decisions that he provided were not directly relevant to the issue at hand and did not occur in the context of an administrative hearing. No evidence was presented that Petitioner refiled a hearing request regarding the [REDACTED] 2021 SER Application in a timely manner or that the Hearing Request Withdrawal was coerced or otherwise invalid.

Petitioner's remaining arguments pertained to MDHHS' alleged deficiencies when processing the [REDACTED] 2021 SER Application and other issues that were previously decided. As stated above, the denial of the [REDACTED] 2021 SER was not properly before the undersigned Administrative Law Judge at the February 23, 2022 hearing because Petitioner withdrew his hearing request. Thus, Petitioner's request presents the same issues that were previously adjudicated at the [REDACTED] 2022 hearing.

Therefore, Petitioner's Request for Rehearing and/or Reconsideration is **DENIED**.



Linda Jordan
Administrative Law Judge

LJ/tm

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 Administrative Hearings and Rules.

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