



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 8, 2022
MOAHR Docket No.: 22-000504-RECON
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

ORDER DENYING REQUEST FOR REHEARING AND/OR RECONSIDERATION

On [REDACTED] 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received from Respondent Rebecca Holtzclaw 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 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 (March 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.

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. 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.

Additionally, federal law provides that, where an individual found in a hearing decision to have committed an intentional program violation (IPV) concerning Food Assistance Program (FAP) benefits is later found to have good cause for not appearing at the hearing, the hearing decision will no longer remain valid and a new hearing may be conducted. 7 CFR 273.16(e)(4). Good cause for failure to appear includes, but is not limited to, situations where the individual can show he or she did not receive notice of the hearing. *Id.* Where an individual alleges non-receipt of the hearing notice, the good cause explanation must be received within 30 days of the written notice of the hearing decision. *Id.* Where no proof of receipt is obtained, a timely showing of non-receipt of the notice constitutes good cause for not appearing at the hearing; each state agency must establish the circumstances in which non-receipt constitutes good cause for failure to appear and apply those circumstances consistently. 7 CFR 273(e)(3)(ii). If the reason for not appearing is not related to receipt of the notice of the hearing, the individual has ten days from the date of the scheduled hearing to present good cause reasons for failure to appear. 7 CFR 273.16(e)(4).

In the instant case, the undersigned issued a Hearing Decision in the above-captioned matter finding that MDHHS established by clear and convincing evidence that Respondent committed an IPV based on misrepresentations made concerning her household income. The Hearing Decision also found that Respondent was subject to an IPV disqualification and was personally disqualified from receiving FAP benefits for a 12-month period.

In Respondent's request for rehearing and/or reconsideration, Respondent asserted that she missed the hearing because her family had COVID-19. Although this is unfortunate, it does not constitute good cause for missing the telephone hearing. If Respondent was unable to make the hearing due to illness, she could have contacted MOAHR to request an adjournment. Respondent did not assert that she was hospitalized or unable to make the hearing due to circumstances beyond her control, nor did Respondent allege that she did not receive proper notice of the telephone hearing. Therefore, Respondent has not established good cause for missing the hearing.

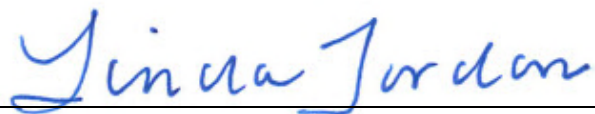
In Respondent's request, she also stated that she did not intentionally make misrepresentations regarding her household income. If Respondent had attended the telephone hearing on [REDACTED] 2022, she could have made this argument on the record and presented evidence in support of her position.

Additionally, Respondent asserted that it is unfair to disqualify her family from FAP for a 12-month period. However, pursuant to the Hearing Decision, Respondent is *personally* disqualified from receiving FAP benefits. The IPV disqualification does not apply to the entire household. Thus, her spouse and her children are not subject to a FAP disqualification and are eligible to receive FAP benefits if otherwise qualified.

Accordingly, the request for rehearing and/or reconsideration is **DENIED**.

IT IS SO ORDERED.

LJ/tm



Linda Jordan
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 Administrative Hearings and Rules.

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