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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: July 26, 2022
MOAHR Docket No.: 22-000724-RECON
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

ORDER DENYING REQUEST FOR RECONSIDERATION

This matter is before the undersigned administrative law judge (ALJ) pursuant to a request for reconsideration submitted by the Office of Inspector General (Petitioner) to the Michigan Office of Administrative Hearings and Rules (MOAHR) on [REDACTED] 2022. Petitioner's request was in response to an administrative hearing decision mailed by MOAHR on [REDACTED] 2022, from a 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 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 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 the decision dated [REDACTED] 2022, the undersigned denied Petitioner's request to impose against Respondent a claim for Food Assistance Program (FAP) benefits and a FAP-related intentional program violation (IPV) disqualification. Petitioner's request for reconsideration contended that the undersigned misapplied law and/or policy.

The decision dated [REDACTED] 2022, found that Respondent was incarcerated and that FAP benefits were spent during Respondent's incarceration. It also found that Respondent received FAP benefits with no other group members and that he did not authorize a representative to spend FAP benefits. During the hearing, MDHHS contended that the circumstances, without additional evidence, justify imposing a claim for the amount of FAP benefits spent while Respondent was incarcerated and a FAP-related IPV disqualification. MDHHS's argument was unpersuasive because it failed to establish that Respondent authorized the spending of FAP benefits while incarcerated.

In its reconsideration request, Petitioner reiterated its argument from the hearing that the spending of FAP benefits while incarcerated justifies imposing a claim and IPV. Petitioner's argument was no more persuasive in its request for reconsideration than it was during the hearing.

A full review of Petitioner'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 Petitioner's substantial rights; or failed to address other relevant issues in the Hearing Decision. Therefore, Petitioner has not established a basis for reconsideration. Petitioner has also not established a basis for rehearing. Petitioner's request for rehearing and/or reconsideration dated [REDACTED] 2022, is **DENIED**.

CG/tlf



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-Electronic Mail :

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