



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
MI [REDACTED]

Date Mailed: September 14, 2022  
MOAHR Docket No.: 22-002543-RECON  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**ORDER GRANTING REQUEST FOR REHEARING**

On [REDACTED] 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received from 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 Case No: 22-002543.

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 party 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.

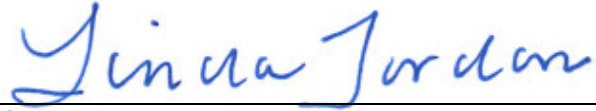
In this case, the Michigan Department of Health and Human Services (MDHHS) determined that Petitioner was not eligible for Food Assistance Program (FAP) because of his immigration status and that MDHHS made an error when it initially approved his household for FAP benefits, which resulted in a FAP overissuance (OI) of [REDACTED]. Petitioner filed a Request for Hearing to dispute the FAP OI. At the hearing, Petitioner presented Employment Authorization Cards, issued by United States Citizenship and Immigration Services (USCIS), for himself and his minor children, and testified that they had a pending asylum application, which was filed in 2020. Given that the asylum application was pending, the undersigned ALJ determined that Petitioner had not demonstrated that he had an acceptable non-citizen status for the purposes of FAP, pursuant to BEM 225 ([REDACTED] 2019), and issued a Hearing Decision affirming MDHHS' determination on [REDACTED] 2022.

On [REDACTED] 2022, MOAHR received a request for reconsideration and/or rehearing from Petitioner. In his request, Petitioner stated that his application for asylum had been approved. More information is needed to determine whether Petitioner had an acceptable non-citizen status pursuant to policy during the OI period. If Petitioner's change in immigration status became effective before or during the OI period, which was from [REDACTED] 2021 to [REDACTED] 2022, that information could alter the outcome of the case. This information is not in the record. Therefore, the original hearing record is inadequate for purposes of judicial review and Petitioner has shown sufficient grounds to grant the request for rehearing.

At the rehearing, Petitioner should be prepared to introduce evidence regarding the change in the immigration status for all members of the household, including the effective date of the change. Any documents that Petitioner wishes the ALJ to consider as evidence should be sent to MOAHR **and** MDHHS prior to the hearing.

**IT IS ORDERED** that the Hearing Decision issued on [REDACTED] 2022 in the above-captioned matter is hereby **VACATED**.

**IT IS FURTHER ORDERED** that Petitioner's request for rehearing is **GRANTED**. The case will be scheduled for rehearing and a Notice of Hearing will be mailed as soon as possible.



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.

**Via-Electronic Mail :**

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**Interested Parties**

M. Holden  
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MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]