



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

IN THE MATTER OF:

MOAHR Docket No.: 22-002481-RECON

██████████
Petitioner

Agency Case No.: ██████████

v

Case Type: Expunction

**MDHHS Expunction Unit,
Respondent**

_____ /

**Issued and entered
this 12th day of October 2022
by: Ellen McLemore
Administrative Law Judge**

**ORDER DENYING PETITIONER'S
REQUEST FOR REHEARING/RECONSIDERATION**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the request for rehearing and/or reconsideration filed on September 19, 2022, by Petitioner, ██████████ of the Order of Dismissal issued by the undersigned on July 20, 2022, in the above-captioned matter.

The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rules 792.10135 and 792.10136, *et seq.*, and applicable policy provisions articulated in the Protective Services Manual (PSM), specifically PSM 717-3, which provide that a rehearing or reconsideration must be filed in a timely manner in compliance with the statutory requirements or rules governing specific proceedings 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 is granted when the original hearing record is inadequate for judicial review or there is newly discovered evidence that could affect the outcome of the original hearing. MCL 24.287(2), PSM 717-3 (June 2018), p.8. A reconsideration is a paper review of the facts, law and any new evidence or legal arguments. Reconsideration of an ALJ's Decision and Order may be granted when the original hearing record is adequate for judicial review and a rehearing is not necessary, but a party believes the ALJ failed to accurately address all the issues. PSM 717-3, pp.

8-9. A reconsideration may be granted only under the following circumstances: if newly discovered, relevant evidence is presented that could affect the outcome of the original hearing; if there was a misapplication of policy or law in the hearing decision that led to a wrong conclusion; or if the administrative law judge failed to address, in the hearing decision, relevant issues raised in the hearing request. PSM 717-3, pp. 8-9. 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. The Michigan Office of Administrative Hearings and Rules (MOAHR) determines if a rehearing or reconsideration will be granted. PSM 717-3, p. 8.

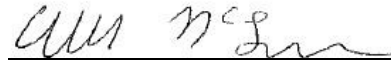
In the instant case, Petitioner requested an administrative hearing asking to have her name expunged from the Michigan Child Abuse and Neglect Central Registry (Central Registry) for a Children's Protective Services (CPS) complaint date of January 22, 2019. The action concerned Petitioner's alleged violation of the Child Protection Law, 1975 PA 238, as amended, MCL 722.621 *et seq.* (Act).

In the July 20, 2022 Order of Dismissal, the undersigned found that Respondent established by a preponderance of the evidence that it was legally appropriate to list Petitioner's name on the Central Registry. Because the Circuit Court took jurisdiction of Petitioner's child under MCL 712A.2(b) for the same circumstances underlying the CPS investigation for complaint dated January 22, 2019, the Department was required under Sections 7(7) and 8d of the CPL to keep Petitioner's name on the Central Registry.

In Petitioner's request for rehearing and/or reconsideration, Petitioner does not cite to any argument or legal authority concerning the previous adjudication. Petitioner does not allege that the original hearing record is inadequate for judicial review or there is newly discovered evidence that could affect the outcome of the original hearing. MCL 24.287(2), PSM 717-3 (June 2018), p. 8. Therefore, Petitioner has failed to establish a basis for a rehearing. Additionally, after full review, Petitioner's request fails to demonstrate that the undersigned misapplied policy or law in the hearing decision resulting in a wrong conclusion; or that the administrative law judge failed to address, in the hearing decision, relevant issues raised in the hearing request. PSM 717-3, pp. 8-9. Petitioner is generally challenging the dismissal. Mere disagreement with the Order of Dismissal does not warrant a rehearing and/or reconsideration of this matter. Accordingly, the request for rehearing and/or reconsideration is **DENIED** this matter is hereby **DISMISSED**.

The parties should note that the CPL will be amended effective November 1, 2022, and further options will be afforded to Petitioner on that date. If the Department does not remove Petitioner from the Central Registry pursuant to the CPL amendments, Petitioner will have a new right to hearing.

IT IS SO ORDERED.




Ellen McLemore
Administrative Law Judge

NOTICE: Within 60 days after the date of mailing of this Order, a Petition for Review may be filed in a court of proper jurisdiction.

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this 12th day of October 2022.



Tammy L. Feggan, Legal Secretary
**Michigan Office of
Administrative Hearings and Rules**

Via-Electronic Mail :

Respondent

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Petitioner

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