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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 23, 2023
MOAHR Docket No.: 22-005068-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

ORDER DENYING REQUEST FOR REHEARING/RECONSIDERATION

This matter is before the undersigned administrative law judge (ALJ) pursuant to a request for rehearing submitted to the Michigan Office of Administrative Hearings and Rules (MOAHR) by the Oakland County Prosecutor's Office (OCPO) on December 28, 2022. OCPO requested a rehearing for a decision issued by MOAHR from an administrative hearing conducted on December 5, 2022. The parties to the hearing were the above-captioned Petitioner and the Michigan Department of Health and Human Services (MDHHS). OCPO disputed the Hearing Decision dated December 13, 2022 ordering MDHHS to delete a child support disqualification against Petitioner and to reprocess Petitioner's Family Independence Program (FIP) eligibility effective October 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 provides 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 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.

Mich. Admin. Code R. 792.10136(1) states that a party may request a rehearing when for justifiable reasons, the record of testimony made at the hearing is found to be inadequate for purposes of judicial review. In the present case, OCPO was not a party. Thus, OCPO lacks the standing to request a rehearing.

In addition to OCPO not being a party, its basis for rehearing is without merit. OCPO cited Michigan Court Rule 2.1199(F) in claiming that “palpable error” was committed due to its lack of participation in the hearing. OCPO contends it was “obvious” that it wanted to participate in the hearing. As support for its “obvious” desire to participate, OCPO presented emails with MDHHS expressing interest in participating in a prehearing conference.¹ For purposes of argument, it will be accepted that OCPO wanted to participate in the hearing. Presumably, OCPO did not participate because MDHHS did not notify OCPO of the hearing date and time. A party’s failure to provide a potential witness with notice of a hearing is not a palpable error justifying a rehearing.

OCPO further contended a rehearing was proper because its computer system is unable to backdate a child support disqualification. The undersigned ordered a deletion of a child support disqualification, not a backdating. Thus, the basis of OCPO’s contention is improper.

A full review of OCPO’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 OCPO’s substantial rights; or failed to address other relevant issues in the Hearing Decision. Therefore, OCPO has not established a basis for reconsideration. OCPO has also not established a basis for rehearing. OCPO’s request for rehearing and/or reconsideration dated December 28, 2022, is **DENIED**.

CG/tlf



Christian Gardocki
Administrative Law Judge

¹ The prehearing conference was eventually canceled by the Petitioner.

