GRETCHEN WHITMER GOVERNOR State of Michigan DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS DIRECTOR



Date Mailed: December 16, 2022 MOAHR Docket No.: 22-002037-RECON Agency No.: Petitioner: OIG Respondent:

## ADMINISTRATIVE LAW JUDGE: Colleen Lack

## **ORDER GRANTING PETITIONER'S REQUEST FOR REHEARING**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the request for rehearing and/or reconsideration by Petitioner, **Sector** of the Hearing Decision for Intentional Program Violation (Hearing Decision) issued by the undersigned at the conclusion of the hearing conducted on August 16, 2022, and mailed on September 12, 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 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 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]

In the instant case, the undersigned issued a Hearing Decision in the above-captioned matter finding that the Department established by clear and convincing evidence that Respondent committed an Intentional program violation (IPV) regarding Food Assistance Program (FAP) benefits, Respondent was subject to a 12-month disqualification from FAP, and Respondent received an overissuance of FAP benefits in the amount of

In the November 4, 2022 request for rehearing and/or reconsideration, Respondent indicated that she tried to attend the hearing for Docket No. 20-002037, but it was at the

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wrong time. Respondent called and was told she would receive a decision with information, and she would be able to request a new court date. Respondent stated that she never received a decision. It is noted that the Hearing Decision would have contained Respondent's appeal rights, including where to file a request for rehearing/reconsideration.

On September 21, 2022 Respondent emailed a request for another hearing to the Department office, which was processed as a hearing request rather than being forwarded to the Michigan Office of Administrative Hearings and Rules (MOAHR) as a rehearing/reconsideration request. A hearing was held under Docket No. 22-004517 and an Order of Dismissal for Lack of Jurisdiction was issued October 28, 2022. It is noted that the September 21, 2022, request would have been timely to request a rehearing/reconsideration of the September 12, 2022 hearing decision.

Respondent has shown sufficient grounds to grant the request for rehearing.

Accordingly, Respondent's request for rehearing is **GRANTED** and the Hearing Decision issued on September 12, 2022, is hereby VACATED. The case will be scheduled for rehearing and a notice of hearing will be mailed as soon as possible. The rehearing shall be conducted by the undersigned, who shall issue a hearing decision on rehearing in the matter following the rehearing.

IT IS SO ORDERED.

CL/tlf

**Colleen Lack** 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 (MOAHR).

# Via-Electronic Mail :

#### Petitioner

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### DHHS

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## Via-First Class Mail :

## Respondent

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