

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011 7069
Issue No: 3003, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 13, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on December 13, 2010. The Claimant appeared and testified in his own behalf. Audrey Beverlin, FIS appeared and testified on behalf of the Department.

ISSUE

Was the Claimant entitled to receive \$526 in FAP benefits in November 2010 pursuant to Bridges Policy regarding when FAP Benefits decreases are effective.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant began receiving unemployment compensation benefits on October 18, 2010, and received \$688 in October.
2. The Claimant received a Notice of Case Action dated October 1, 2010, increasing her FAP benefits, effective November 1, 2010, to \$526. Exhibit

3. The Claimant received a Notice of Case Action dated October 29, 2010, prepared by the Bridges system, which notified the Claimant that her FAP benefits would be reduced to \$42, effective December 1, 2010. Exhibit 2
4. The Claimant's benefits were reduced in, November 2010, to \$42.
5. The Claimant receives \$688 every two weeks in unemployment benefits and \$274 in income for children in her care. These amounts were not disputed by the Claimant at the hearing. The FAP benefit computation amounts were not in dispute.
6. The Claimant filed a request for hearing, November 8, 2010, received by the Department on November 23, 2010, protesting the reduction of her FAP benefits in November.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

This case involves the correct time for implementation of a decrease of FAP benefits due to income increases. In this case, the Claimant began receiving unemployment benefits on October 18, 2010, and Bridges issued a Notice of Case Action October 29, 2010. The time for issuing changes is set out in BEM 505 which provides:

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, FIP/SDA - 15 workdays). The effective month is the first full

month that begins after the negative action effective date.
BEM 505, Page 9.

Bridges policy also clarifies and defines the effective date of the negative action:

A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the Department is effective at least 12 calendar days following the date of the Department's action. BEM 220, Page 9.

Applying these two sections together requires that the Claimant's decrease in FAP benefits should not have occurred in November when her benefits were reduced, but should have decreased on December 1, 2010, as set forth in the Notice of Case Action dated October 29, 2010, which is correct. Instead, the Claimant's benefits were inexplicably reduced. The first full month that begins after the negative action effective date is December. See Also Bridges Program Glossary, BPG page 15 definition of Negative Action Date.

The Department erred and neglected to follow Bridges Policy when it denied the Claimant the correct amount of November 2010 FAP Benefits in the amount of \$526. The Claimant received only \$42 when she was entitled to \$526.

As the Administrative Law Judge has reviewed the case testimony and Exhibits and has found that the Department issued the incorrect benefits to the Claimant for November 2010, the Department must issue a supplement to the Claimant for the month of November 2010, so that her FAP benefits total \$526 minus the \$42 in benefits she received in November.

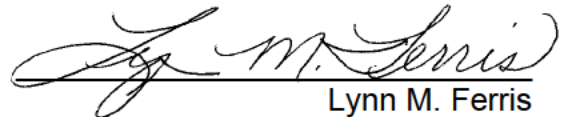
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law has determined that the claimant was issued the incorrect FAP

benefit amount in November 2010 and the Department's action, issuing the Claimant only \$42 in FAP benefits, was in error and must be REVERSED.

Accordingly, it is ORDERED:

The Department shall issue a supplement to the Claimant for FAP benefits for the month of November 2010, in the amount of \$484, which is the difference in the benefits received by the Claimant and the amount of benefits the Claimant was entitled to receive. (\$526 - \$42 = \$484)



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/15/10

Date Mailed: 12/20/10

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/dj

cc:

