

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

March
Oakland

Reg
Issue
Case
Hearing

No: 2011 19482

No: 3003

No: [REDACTED]

Date:

7, 2011

County DHS (2)

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 the Claimant's request for hearing dated January 17, 2011. After due notice, a telephone hearing was conducted in Wayne County, Michigan on March 7, 2011. The Claimant [REDACTED] and her husband [REDACTED] were present and testified. [REDACTED]

[REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department correctly calculated the Claimant's FAP budget beginning December 2010 retroactive to April 2010, in accordance with the Hearing Decision and order signed December 20, 2010 in Decision and Order, Registration No. 2011 4827.

FINDINGS OF FACT

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

1. The Claimant is an ongoing FAP recipient and requested a hearing regarding whether the Department's Notice of Case Action of December 22, 2010 was in compliance with the decision and order previously issued by Administrative Law Judge Lynn M. Ferris (Ferris Decision) which required the Department to re-compute the Claimant's FAP benefits. The Ferris Decision was issued December 20, 2010. Exhibit 1.
2. The Department completed a FAP budget and issued a Notice of Case Action on December 22, 2010. The Department determined that the Claimant was entitled to \$16 in FAP benefits. Exhibit 2
3. The December 2010 FAP budget was not in compliance with the Ferris Decision and Order in the following respects: the Department did not include the ordered Medical Expense to be included when calculating the medical expense deduction in the amount of \$239.79. The Department conceded at the hearing that the budget was not correct. Exhibit 2
4. The Department also computed another FAP budget covering the period February 1, 2011. The Department issued a Notice of Case Action dated January 25, 2010 which was based on that budget. Claimant Exhibit 1. The Department determined that the Claimant was entitled to \$72 in FAP benefits. Exhibit 3.
5. The FAP budget effective February 1, 2011, included medical expense deduction in the amount of \$198. Exhibit 3. The Department explained that it entered all the medical expenses totaling \$239.79 but the total, when entered into its computer system, was not \$239.79. Exhibits 2 and 3

6. The self employment income of \$260 used to calculate the February 2011 budget and to determine benefits was correct. Exhibit 3
7. The Department could not explain how the Medical Deduction expense of \$198 was reached by the computer system.
8. At the hearing, the Claimant asserted that the Department did not correctly compute the December and February FAP budgets with regard to both medical expenses and earnings from self employment income.
9. The Claimant had no earnings from self employment income in April 2010 as reported on the redetermination filed by Claimant in April 2010.
10. The claimant filed a change report on May 18, 2010, advising the Department of self employment earnings of \$60 per week for a total of \$240 per month.
11. It could not be determined at the hearing whether the Department correctly included the \$240 amount in its re calculation of the FAP budget from June 2010 forward.
12. As of November 1, 2010, the Claimant had self employment income of \$260 per month, which amount was first reported at the hearing held December 2, 2010. The Ferris Decision ordered the Department to include this amount beginning January 1, 2011. Exhibit 1, Order, paragraph 4.
13. The Department did not include any amount for self employment income in the December 2010 recalculated FAP budget. The Department should

have included self employment income for that month when calculating the FAP benefits. Exhibits 1, Order Paragraph 4; and Exhibit 2.

14. The Ferris Decision ordered the Department to retroactively compute the FAP budget to correct the amount of the Medical expenses used to compute the FAP budgets. The recalculation was to be retroactive to April 1, 2010.
15. The Ferris Decision ordered the Department to recalculate the FAP budgets retroactive to April 1, 2010, and to include a deduction for the medical expenses documented by Claimant in the amount of \$239.79 and to recalculate the budgets to include self employment income amounts.. Exhibit 1, order paragraph 1
16. It was not established and could not be determined from the record presented by the Department whether the FAP budgets were retroactively recalculated as ordered beginning April 1, 2010.
17. The Notice of Case Action of January 25, 2010 also included a supplement in the amount of \$99 for April 2010. The Department did not demonstrate the basis for the FAP supplement that was issued. Claimant Exhibit 1
18. The Claimant requested a hearing on January 17, 2010, protesting the failure of the Department to properly implement the Decision and Order signed December 20, 2010.

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 (formerly known as the Family Independence Agency) 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 Reference Tables (RFT).

Under Bridges Administrative Manual Item BAM 600, clients have the right to contest any Agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The Agency provides an Administrative Hearing to review the decision and determine if it is appropriate.

In this case during the hearing the December 1, 2010 FAP budget issued by the Department as ordered by the Ferris Decision was reviewed. Based on the review the Gross Income Test result is incorrect to the extent that it included no self employment income amount. The Ferris Decision, Order, paragraph 4 specifically orders that in determining self employment income prior to January 1, 2011 the Department was to consult a change report filed by the Claimant to determine monthly self employment income, and if that information was unclear it was to seek further clarification or verification. Based upon the testimony at the hearing the Claimant reported \$60 per week or \$240 per month which should have been included in the FAP budget for the months of June 2010, July 2010, August 2010, September 2010, October 2010,

November 2010 and December 2010. Based on the record presented it is not clear this was done for any month prior to December 2010 thus it must be determined that the Department has not demonstrated that the FAP budgets for those months are correct. A further order must be issued requiring reprocessing of those budgets.

With regard to the Medical expenses, the budgets for April 2010 through December 2010 should have included \$239.79 as the medical expenses. The Department testified that it entered \$239.79 into the computer when processing the February 2011 FAP budget. The final medical deduction number was \$198. The Department could not explain why the Bridges system came up with \$198. A review of Department Bridges Policy provides a partial explanation for this result. BAM 556, page 3 provides that to determine medical expenses the Department is to enter medical expenses as follows:

Total allowable monthly medical expense. Round down if cents are 01 – 49, round up if cents are 50 – 99 enter total. Enter \$35 medical deduction.

Utilizing the direction provided by BAM 556 the medical expenses must be entered either rounded up or rounded down and then \$35 deducted from the total amount to get the final medical deduction. Given the requirements of BAM 556 the Department must again recalculate the medical expenses to follow BAM 556 requirements as it was unclear at the hearing how the \$198 was determined.

The Self employment income based on the prior Ferris decision required the Department to use the information provided in the 5/18/10 change report filed by the Claimant, or if that information was unclear, to seek further verification. Ferris Decision, Order, paragraph 2. During the hearing it was established that the correct self

employment income for the period beginning June 1, 2010 through December 1, 2010 was \$240 based on income of \$60 per week. As no budgets were presented for the period June 2010 through November 2010 it could not be determined if the correct amount of self employment income was utilized by the Department. A further order must be issued requiring reprocessing of these FAP budgets.

In conclusion, each of the FAP budgets beginning with the month of April 2010 through January 2011 must be individually reprocessed and recalculated as outlined in this decision's Findings of Fact and Order.

After a thorough review of the record presented, the testimony of the witnesses and the documentary evidence, it is determined that the Notice of Case action issued by the Department December 22, 2010 is REVERSED as it did not comply with the previous Ferris Decision and Order, as no medical expenses were included and because no self employment income was included.

The Department's Notice of Case Action dated January 25, 2011 is correct with regard to self employment income, but the FAP budget requires reprocessing to insure the medical expense were entered correctly. Further as the Department did not demonstrate the basis for the \$99 FAP benefit supplement for April 1, 2010 through April 30, 2010 contained in the Notice of Case Action its determination in that regard is also REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department did not comply with the previous Orders of the

December 2010 Decision and that its Notice of Case Actions dated December 22, 2010 and January 25, 2010 are in error and must be REVERSED.

Accordingly, it is ORDERED:

- The Department shall reprocess the Claimants FAP budgets for the months beginning April, 1, 2010 through January 1, 2011 and correct the budgets as follows:

Self Employment earnings

The Department shall use the self employment monthly income set forth below:

April 2010	\$0
May 2010	\$0
June 2010	\$240
July 2010	\$240
August 2010	\$240
September 2010	\$240
October 2010	\$240
November 2010	\$240
December 2010	\$240
January 2010	\$260

Medical Expenses

The Department shall use the following medical expenses when calculating the monthly budgets and shall round up or down each separate medical expense consisting of Dental \$24.50, health insurance premiums, \$112.12, Medicaid part B premium, \$96.50 and prescriptions, \$6.67 which total \$239.79. The Medical Expense deduction shall be based on the requirements of BEM 556.

April 2010	\$239.79	
May 2010	\$239.79	
June 2010	\$239.79	
July 2010	\$239.79	
August 2010	\$239.79	
September 2010	\$239.79	
October 2010	\$239.79	
November 2010	\$239.79	
December 2010	\$239.79	
January 2011		\$239.79

After reprocessing the FAP budgets as required by this decision, the Department shall determine for each month the correct FAP benefit allotment, and if required shall issue a FAP supplement to the Claimant for any FAP benefits the Claimant was otherwise entitled to receive.



Administrative
For
Department

Lynn M. Ferris
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 03/16/11

Date Mailed: 03/21/11

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:

