IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO

Brooke T. Smith,	*	Case No.: CI 13-2920
Plaintiff-Appellant,	*	Honorable Gene A. Zmuda
vs.	*	**OPINION AND JUDGMENT ENTRY**
Ohio Department of Job and Family Services, et al.,	*	
Defendants-Appellees.	*	

* *

This matter comes before this Court on an administrative appeal filed by *Pro-se* Plaintiff-Appellant Brooke T. Smith ("plaintiff") from a decision of the Ohio Department of Job and Family Services dated January 30, 2013 which allegedly miscalculated plaintiff's medical deductions and reduced her food assistance benefits.

Plaintiff filed her Brief on the Merits. Defendants-Appellees Ohio Department of Job and Family Services ("ODJFS") and Michael B. Colbert, Director of Ohio Department of Job and Family Services ("Director") (collectively referred to as "defendants ODJFS") filed their Brief on the Merits and plaintiff filed a Reply Brief on the Merits. This matter has been fully briefed and is now decisional.

A brief summary of the proceedings in this matter are as follows.

On January 2, 2013, plaintiff contacted the ODJFS, Bureau of State Hearings, and requested an agency hearing to compel compliance with a prior hearing decision in Appeal 1834258. (Plaintiff's First Amended Notice of Appeal and Complaint, ¶24). Plaintiff's hearing request was taken by phone and indicated that plaintiff disagreed "with what the county did in compliance for 1834258: 1) she said the county never notified her in writing or verbally about what their decision in compliance was; 2) she still disagrees with them determining that the $52 is correct; 3) she wants the 3-page letter she submitted for the AA on 1834258 to be put into this record for her newest hearing request (if we can find it)." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.67). A hearing was scheduled and held by Hearing Officer Darla Brubaker.[1]

On January 30, 2013, a State Hearing Decision was rendered by Hearing Officer Darla Brubaker where the issue on appeal was "whether the Lucas County Job and Family Services (Agency) complied with a previous state hearing decision to recompute FA from August 2012." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.1). Hearing Officer Darla Brubaker found that "after careful consideration, I am unable to confirm budget computations used by the agency; therefore I cannot affirm its actions and it is recommended that appeal 1872662 be sustained." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.1). The Hearing Officer recommended that:

> "Based on the record before me, I recommend appeal 1872662 be sustained with compliance. To comply, the agency shall review FA budgeting from 8-2012 to current, ensuring that the appellant has received all allowable deductions in the computation of FA, and issue any FA benefits owed to appellant, if applicable. The agency shall

[1]There is nothing in the Certification of Record or provided in the parties' written briefs which indicate the date of the hearing nor is there a transcript of the hearing pursuant to R.C. 5101.35(B).

> notify the appellant with it's determinations from August 2012 to current, via the appropriate ODHS form." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, pp.5-6).

On April 18, 2013, plaintiff sent a request for administrative appeal of the January 30, 2013 State Hearing Decision to the ODJFS, Bureau of State Hearings. (Certification of Record dated May 29, 2013, Administrative Appeal Hearing Record Certification, pp.3-9). On April 22, 2013, the Administrative Appeal Decision was issued which dismissed plaintiff's administrative appeal for failure to timely request within the 15 day requirement from the date the hearing decision was issued. (Certification of Record dated May 29, 2013, Administrative Appeal Hearing Record Certification, p.1).

On May 17, 2013, plaintiff timely filed of her Notice of Appeal and Complaint with the Lucas County Common Pleas Court. On June 24, 2013, plaintiff filed a First Amended Notice of Appeal and Complaint.

This action is based on the Ohio Department of Job and Family Services' alleged miscalculation of food assistance benefits for plaintiff and failure to comply with and implement their own hearing decision. Plaintiff filed this action both as an appeal arising under R.C. 119.12 and 5105.35(E) and as an original action asserting claims against defendants ODJFS and defendants-appellees Lucas County Department of Job and Family Services and Deb Ortiz-Florez, Director of Lucas County Department of Job and Family Services, for declaratory judgment, injunctive or mandamus relief, equitable restitution, and attorney fees.[2] (Plaintiff's Complaint, ¶¶1,33,40,45,53,

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[2]Defendants ODJFS and Defendants-Appellees Lucas County Department of Job and Family Services and Deb Ortiz-Florez, Director of Lucas County Department of Job and Family Services, filed Motions to Dismiss plaintiff's Complaint on various grounds. This Court recently granted, in part, their respective motions and dismissed plaintiff's claims for declaratory judgment, injunctive or mandamus relief, equitable restitution, attorney fees, and administrative

61, and 65).

This is an appeal of an administrative decision issued by the Ohio Department of Job and Family Services pursuant to R.C. 119.12 and R.C. 5101.35. Ohio Revised Code Section 5101.35 provides for appeals by applicants with the ODJFS. R.C. 5101.35(B) states that:

> "Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. Except as provided in section 5160.31 of the Revised Code, a state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas." *Id.*

R.C. 5101.35(C) provides for an appeals process if the appellant disagrees with a state hearing decision and states that:

> "Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. An administrative appeal decision is the final decision of the department and, except as provided in section 5160.31 of the Revised Code, is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas." *Id.*

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appeal #1834258 against defendants ODJFS. The Court also dismissed all claims asserted by plaintiff against Defendants-Appellees Lucas County Department of Job and Family Services and Deb Ortiz-Florez, Director of Lucas County Department of Job and Family Services, for declaratory judgment, injunctive or mandamus relief, equitable restitution, and attorney fees. The only claim remaining is plaintiff's administrative appeal #1872662 for consideration here.

Finally, R.C. 5101.35(E) allows an appellant to appeal a decision of the director of the ODJFS to the court of common pleas and provides that:

> "An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:
> * * *
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> > (3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court." *Id.*

R.C. 119.12 provides, in relevant part, that:

> "Any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident, * * *.
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> Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by

> reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal shall also be filed by the appellant with the court. In filing a notice of appeal with the agency or court, the notice that is filed may be either the original notice or a copy of the original notice. Unless otherwise provided by law relating to a particular agency, notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section.
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> The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law." *Id.*

Thus, the standard of review for this Court of an administrative appeal is to determine whether the administrative decision is supported by reliable, probative, and substantial evidence and is in accordance with the law. R.C. 119.12.

The Ohio Supreme Court in *Our Place, Inc. v. Ohio Liquor Control Com.*, 63 Ohio St. 3d 570 (Ohio 1992), has held that:

> "The evidence required by R.C. 119.12 can be defined as follows: (1) 'Reliable' evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true; (2) 'Probative' evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue; (3) 'Substantial' evidence is evidence with some weight; it must have importance and value." *Id.* at 571.

Plaintiff argues that she is entitled to prevail here because she prevailed at the state hearing and defendants have ignored the order to recalculate her benefits properly. Plaintiff contends that the Agency miscalculated her deductible medical expenses as the Agency calculated her expenses as

reimbursable expenses but since she is disabled pursuant to Ohio Adm. Code 5101:4-1-03(B)(16)(b), all of her medical costs are nonreimbursable. Plaintiff also contends that the Agency is also required to anticipate her nonreimbursable medical expenses and is tasked with determining which of her past expenses are one-time only expenses and counted only in the month incurred and which of those expenses will recur during the certification period. Plaintiff argues that the Agency misapplied the law in her second hearing as the Hearing Officer took only those reimbursable expenses that occurred in the thirty days prior, treated them as reimbursable expenses, but then applied them improperly. Finally, plaintiff asserts that her appeal is timely as she filed each action or notice as soon as she had notice of the Agency's failure to comply.

Defendants ODJFS argue that plaintiff's administrative appeals, one on December 18, 2012 and one on April 22, 2013, fail because plaintiff filed her appeals well beyond the 15-day deadline required under R.C. 5101.35(C). Defendants ODJFS contend that the Court must either dismiss plaintiff's appeals for failure to exhaust administrative remedies or affirm the agency decision because they are correct. As a result, defendants ODJFS assert that their decisions are supported by reliable, probative, and substantial evidence and are in accordance with law. Defendants ODJFS argue that if the Court concludes that ODJFS was wrong to dismiss one or both of plaintiff's appeals to the ODJFS Director, the most relief the Court can properly grant would be to remand this matter to ODJFS to address the underlying merits.

There are essentially two issues presented in this administrative appeal. The first issue is whether the failure by plaintiff to timely appeal her State Hearing Decision to the ODJFS Director automatically forecloses her ability to appeal to this Court. The second issue is whether plaintiff's medical expenses were miscalculated through the misapplication of the law thereby reducing her

food assistance benefits as determined by the local agency from the State Hearing Decision.

In regards to the timeliness of plaintiff's appeal, the Court notes that it previously dismissed plaintiff's Administrative Appeal #1834258 (first hearing) for failing to comply with R.C. 5101.35(E)(3) and file her appeal within 30 days with the common pleas court and also in failing to show good cause to extend the time to file. However, this is not the timing issue currently before the Court on plaintiff's Administrative Appeal #1872662 as this appeal was timely filed pursuant to R.C. 5101.35(E)(3) within the 30 day requirement. The argument raised by defendants ODJFS is regarding plaintiff's failure to comply with Ohio Adm. Code 5101:6-8-01(C)(4) in appealing her State Hearing Decision to the ODJFS Director within 15 days from the date the hearing decision was issued. As a consequence, defendants ODJFS argues that plaintiff's administrative appeal should be dismissed or this Court should affirm the Administrative Appeal Decision of the ODJFS Director. Based upon the specific facts and circumstances of this case, the timeliness issue presents a legal quagmire (or conundrum). Plaintiff highlights this very argument in her merit brief.

Ohio Admin. Code 5101:6-3-01(B) allows for a food assistance recipient to request a state hearing upon various grounds. In particular, Ohio Adm. Code 5101:6-3-01(B)(1)-(3) provides the relevant grounds for this appeal, namely:

> "(1) An application for benefits has been denied, acted upon erroneously, or not acted upon with reasonable promptness.
>
> (2) The agency has proposed or acted to reduce, suspend, terminate, or withhold benefits, or the assistance group believes that the level of benefits is not correct.
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> (3) A request for an adjustment in benefits has been denied, not acted upon, acted upon erroneously, or not acted upon with reasonable promptness." *Id.*

Once a decision is made by the hearing officer at the state hearing, whether it is in favor of the recipient or against, Ohio Adm. Code 5101:6-7-03(A)(1) orders the local agency to implement the hearing decision promptly and fully. *Id.* However, Ohio Adm. Code 5101:6-7-03(B)(1) sets forth the time frame of the "promptness" with decisions that order action favorable to the individual and provides that:

> "(a) For decisions involving public assistance, social services or child support services, compliance shall be achieved within fifteen calendar days from the date the decision is issued, but in no event later than ninety calendar days from the date of the hearing request.
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> (b) For decisions involving food assistance, any increase in benefits must be reflected in the food assistance allotment within ten calendar days of receipt of the decision, even if the local agency must provide a supplement, outside the normal issuance cycle.
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> The local agency may take longer than ten days if it elects to make the decision effective in the assistance group's normal issuance cycle, provided that issuance will occur within sixty calendar days of the date of the hearing request. If the local agency elects to follow this procedure, the benefit increase may be reflected in the normal issuance cycle or with a supplementary issuance." *Id.*

This allows the local agency to take anywhere from 15 to 60 days (or in some cases up to 90 days) to implement a state hearing decision, made in favor of the individual, to provide the recalculation of food assistance benefits. While keeping in mind that the individual under Ohio Adm. Code 5101:6-8-01(C)(4) has 15 calendar days to file an appeal of the State Hearing Decision to the ODJFS Director. This is what creates the legal quagmire and the inability of an individual who receives a favorable decision in the state hearing to have the opportunity to comply with Ohio Adm. Code 5101:6-8-01(C)(4) for an appeal if the recalculation by the local agency is incorrect.[3] The only

[3] In this case, there is no indication when the local agency notified the plaintiff, if ever, of the new calculation and amount of her food assistance benefits.

mechanism an individual has to require a local agency to comply with a state hearing decision is to request a second hearing.[4]

Given the facts and circumstances of this case, an injustice would be done to dismiss plaintiff's administrative appeal on a procedural issue or to affirm the Administrative Appeal Decision of April 22, 2013 by the ODJFS Director for failing to timely file plaintiff's appeal. Therefore, the Court finds defendants ODJFS' argument relative to plaintiff's failure to file her appeal of the January 30, 2013 State Hearing Decision within 15 days pursuant to Ohio Adm. Code 5101:6-8-01(C)(4) to be without merit. Thus, this Court shall proceed on the issue of whether plaintiff's medical expenses as determined by the State Hearing Decision on January 30, 2013 were miscalculated by misapplying the law.

In the State Hearing Decision of January 30, 2013, the Hearing Officer stated in her Findings of Fact that:

> "1. Household consists of the appellant, age 60, disabled with gross Social Security Income of $1352.90.
> 2. The appellant attend (sic) a state hearing in August 2012 with a decision sustained with compliance, the agency was required to recompute FA benefits effective August 2012.
> 3. The appellant pays prescriptions costs each month averaging approximately $28.07, agency has allowed $16.86.
> 4. The appellant pays her Medicare Insurance premium of approximately $99.90 each month, $104 per month effective 01-13.
> 5. The agency computed $1365 medical costs, divided by the length of the certification period, 8-12 thru 7-13, $113.75 monthly.
> 6. The agency allowed a recurring total of $238 per month

[4]As referenced in their Motion to Dismiss, defendants ODJFS acknowledges that the plaintiff's only remedy with respect to compliance of a State Hearing Decision is to request a state hearing on the issue of compliance. (Defendants ODJFS' Motion to Dismiss, p.4). Further, when plaintiff contacted the ODJFS regarding the Administrative Appeal Decision of December 18, 2012, the individual that helped plaintiff also indicated that plaintiff would need to request another state hearing to compel compliance for the first decision. (Plaintiff's Merit Brief, p.2).

medical costs in determining ongoing FA.
7. The agency has not provided enough evidence to confirm that it has complied with the previous state hearing decision to recompute FA from August 2012." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.1).

The Hearing Officer also identified the appropriate administrative code section for food assistance deductions from income to be Ohio Adm. Code 5101:4-4-23. Ohio Adm. Code 5101:4-4-23 provides that:

> "A deduction is considered in the month the expense is billed or otherwise becomes due. However, in the case of reimbursable medical expenses, a deduction can only be considered within thirty days of receiving the verification of the amount of reimbursement. The preceding applies regardless of when the assistance group intends to pay the expense. Deductions from income shall be verified in accordance with rule 5101:4-2-09 of the Administrative Code.
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> Deductions for each assistance group are allowed only for the following:
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> (A) Gross earned income deduction: twenty per cent deduction of gross earned income. No additional deductions (i.e., taxes, pensions, union dues, and the like) except for costs of self-employment, are allowed from earned income. Excluded earned income is not subject to this deduction. The earned income of a disqualified member is subject to this deduction.
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> (B) Standard deduction: each assistance group regardless of its income receives the corresponding standard deduction for the assistance group size. Pursuant to the Food and Nutrition Act of 2008, Pub.L.No.110-246, (10/2008) each federal fiscal year the United States department of agriculture (USDA) food nutrition service (FNS) determines the amount of the standard deduction based on the federal poverty guidelines and indexing of the cost of living increase. The Ohio department of job and family services provides this figure to the county agencies on an annual basis via a food assistance change transmittal, which can be found in the food assistance certification handbook at the Ohio department of job and family services website.
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> (C) Excess medical deduction: that portion of medical expenses

which is nonreimbursable, over thirty-five dollars per month, excluding special diets, incurred by any assistance group member who is elderly or disabled as defined in rule 5101:4-1-03 of the Administrative Code.

(1) Who is eligible for this deduction?

(a) Spouses or other persons receiving benefits as a dependent of the supplemental security income (SSI) or disability recipient are not eligible to receive the deduction.

(b) Persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

(c) An assistance group with potential categorical eligibility that contains an SSI applicant that is determined ineligible but later becomes categorically eligible and entitled to restored benefits shall receive restored benefits using the excess medical deduction from the beginning of the period for which SSI benefits are paid, or the original food assistance application date, whichever is later, if the assistance group incurs such expenses.

(2) Allowable medical costs are limited to the following:

(a) Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by the state or another qualified health professional.

(b) Hospitalization or outpatient treatment, nursing care, and nursing home care. Also included are payments by the assistance group for an individual who was an assistance group member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state.

(c) Prescription drugs when prescribed by a licensed practitioner and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional. In addition, costs of medical supplies, incontinence products, sick-room equipment (including rental) or other prescribed equipment or supplies are deductible.

(d) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in

lump-sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible.

(e) Medicare premiums related to coverage under Title XVIII of the Social Security Act of 1935,42 U.S.C. 301 (8/1981) and any cost-sharing or spend-down expenses incurred by medicaid recipients.

(f) Dentures, hearing aids, and prosthetics.

(g) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills.

(h) Eyeglasses prescribed by a physician skilled in eye disease or by an optometrist.

(I) Monthly telephone fees for amplifiers and warning signals for handicapped persons, and costs of telephone typewriter equipment for the deaf.

(j) Reasonable costs of transportation and lodging to obtain medical treatment or services. 'Reasonable costs for transportation' shall be defined as the current federal or state mileage reimbursement rate, whichever is higher, for private automobiles, or actual costs if other forms of transportation are used. Verification is required only when costs exceed the higher of the federal or state mileage reimbursement rate or the rate charged is for public transportation (e.g., local bus service).

(k) Maintaining an attendant homemaker, home health aide, child care services, or housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one-person allotment shall be deducted as a medical expense if the assistance group furnishes the majority of the attendant's meals. The allotment for this meal-related deduction shall be that in effect at the time of initial certification. The county agency is only required to update the allotment amount at the next scheduled reapplication; however, the county agency may do so earlier. If an assistance group incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the county agency shall treat the cost as a medical expense.

* * *

(I) Verification of deductions

> Nonreimbursable medical expenses of elderly or disabled members shall be verified at initial certification, reapplication, and whenever a change of more than twenty-five dollars is reported. * * *. Effective: 07/01/2013." *Id.*

The Hearing Officer found that:

> "Agency policy states; In the computation of FA, medical bills are to be reported on the day they become due or within 30 days from the due date.
> Therefore, past one time medical expenses are not allowable unless they are reported in the month they became due.
> The appellants (sic) recertification took place on 7-24-12, costs from 9-11; 3-12 and 4-12 were not allowable as they were not reported timely. The agency was able to apply the appellant's portion of May 2012 hospital bill, $1365, as the appellant was not billed until June 2012. The agency divided 1365 over the 12 month length of the certification period for a total of $113 in the FA budget, which is correct." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.4).
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> * * *
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> "Agency Food Assistance Policy states that only current medical costs to be considered as deductions during the month payment is billed or becomes due. Medical bills verified to the agency past 30 days old are not allowable in the computation of FA. I find that the agency has interpreted policy correctly, the old medical bills will not be allowed in the computation of FA.
>
> However, with review of all evidence and testimony submitted by the agency, I cannot determine if the agency has complied with the previous state hearing decision to review FA effective 8-2012, or how the agency determined $238 recurring monthly medical costs in it FA computations from August 2012 ongoing. Therefore, I cannot affirm the action taken by the agency." (Certification of Record dated May 29, 2013, Initial Hearing Record Certification, p.5).

Plaintiff argues that Hearing Officer misapplied the law in this hearing by taking only those nonreimbursable expenses that occurred in the thirty days prior, and treating them as reimbursable

expenses and then still applying them improperly. Plaintiff further argues that since she is disabled pursuant to Ohio Adm. Code 5101:4-1-03(B)(16)(b), all of her medical costs are nonreimbursable medical expenses. The Hearing Officer references plaintiff being disabled in the findings of fact, but there is no indication that her status as being disabled had any effect on her medical expense deductions or the characterization of her medical expenses either reimbursable or nonreimbursable.

Plaintiff also argues that the Agency must anticipate medical expenses under Ohio Adm. Code 5101:4-4-31. Specifically, pursuant to Ohio Adm. Code 5101:4-4-31(N):

> "The county agency shall calculate an AG's expenses based on the expenses the AG expects to be billed for during the certification period. Anticipation of the expense shall be based on the most recent month's bills unless the AG is reasonably certain a change will occur. At certification and reapplication, the AG shall report and verify all medical expenses. The AG's monthly medical deduction for the certification period shall be based on the information reported and verified by the AG, and any anticipated changes in the AG's medical expenses that can be reasonably expected to occur during the certification period based on available information about the recipient's medical condition, public or private insurance coverage, and current verified medical expenses. The AG shall not be required to report changes about its medical expenses during the certification period. If the AG voluntarily reports a change in its medical expenses, the county agency shall act upon the change in accordance with paragraph (G)(1) of rule 5101:4-7-01 of the Administrative Code if the change would increase the AG's allotment. In the case of a reported change that would decrease the AG's allotment, or make the AG ineligible, the county agency shall act on the change without first requiring verification in accordance with paragraph (G)(2) of rule 5101:4-7-01 of the Administrative Code." *Id.*

There is also no indication in the State Hearing Decision that the county agency anticipated the medical expenses of plaintiff in calculating her award of food assistance for August 2012. The only reference in the State Hearing Decision as to medical expense deduction pertains to the medical bills reported on the day they become due or within 30 days from the due date which would make

those medical expenses reimbursable pursuant to Ohio Adm. Code 5101:4-4-23. Furthermore, there is no indication that the Hearing Officer conducted a review or made a determination of plaintiff's nonreimbursable medical expenses. Moreover, at this point, based upon the limited record before this Court, it is difficult to determine whether the calculation of plaintiff's food assistance benefits included recognition of the difference between reimbursable and nonreimbursable medical expenses and what effect plaintiff's disabled status under Ohio Adm. Code 5101:4-1-03(B)(16)(b) would have on the calculation of plaintiff's medical deductions and ultimately on her food assistance benefits. Consequently, this Court finds the State Hearing Decision of January 30, 2013 was not supported by reliable, probative, and substantial evidence and was not in accordance with the law. Therefore, this Court remands this matter back to the Ohio Department of Job and Family Services to address the recalculation of plaintiff's food assistance benefit by taking into account her disabled status and her deductible medical expenses and whether they are reimbursable or nonreimbursable.

5/26/15
Date

Judge Gene A. Zmuda