



Date Mailed: April 23, 2025

Docket No.: 25-011092

Case No.: [REDACTED]

Petitioner: [REDACTED]

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held by telephone on April 16, 2025. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Regina Foster, Eligibility Specialist, and Corlette Brown, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) group composition?

FINDINGS OF FACT

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

1. Since at least September 18, 2024, Petitioner was an ongoing recipient of FAP benefits for a FAP group that included himself and his children, [REDACTED] (NI), [REDACTED] (SI), and [REDACTED] (KA), (Children). (Exhibit A, pp. 4 – 5, 7, 10).

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2. From October 1, 2024 until December 31, 2024, Petitioner's monthly FAP benefit was \$975, the maximum FAP benefit amount for a four-person FAP group. (Exhibit A, p. 14).
 3. On December 10, 2024, the Department interviewed Petitioner. He reported to the Department that he had full custody of Children. (Exhibit A, p. 17).
 4. On December 10, 2024, the Department obtained information from Children's Protective Services (CPS) that confirmed that, at least until November 28, 2024, Petitioner's Children were sleeping at his home while Children's mother had an ongoing case with CPS. CPS did not know the current arrangement or agreement between Petitioner and Children's mother as of December 10, 2024. (Exhibit A, pp. 15 – 16).
 5. On December 23, 2024, a worker at the Department requested that Petitioner's worker at the Department remove SI and KA from Petitioner's FAP benefit case because "both children are living with their mother, [REDACTED]" (Children's mother). (Exhibit A, p. 9).
 6. On December 26, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that removed SI and KA from his FAP group and reduced his monthly FAP benefit amount to \$536, effective January 1, 2025 ongoing, for a two-person FAP group that included Petitioner and NI only. (Exhibit A, pp. 4 – 7).
 7. On March 12, 2025, the Department received a verbal request for hearing from Petitioner, disputing the Department's actions regarding Petitioner's FAP benefits. (Exhibit A, p. 1).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner requested a hearing to dispute the Department's removal of SI and KA from his FAP group effective January 1, 2025 ongoing. The Department sent Petitioner a

NOCA on December 28, 2024 that removed SI and KA from Petitioner's FAP group because it concluded that they no longer resided with Petitioner.

Parents and their children under 22 years of age who live together must be in the same group. BEM 212 (October 2024), p. 1. However, when minor children live with both parents who do not live together, the Department must determine who the primary caretaker is because only one person can be the primary caretaker. BEM 212, p. 3. Policy defines the primary caretaker as the person who is primarily responsible for a child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in the course of a twelve-month period. BEM 212, p. 2 – 4. If the Department determines that the child spends virtually half of the days in each month, averaged over a twelve-month period with each caretaker, the caretaker who applies and is found eligible first, is the primary caretaker. BEM 212, p. 4.

When primary caretaker status is questionable or disputed, the Department must re-evaluate who the child's primary caretaker is based on the evidence provided by the caretakers. BEM 212, pp. 5, 12. Each caretaker must be given the opportunity to provide evidence supporting his or her claim of primary caretaker. BEM 212, p. 12. Suggested verifications include, but are not limited to:

- The most recent court order that addresses custody and/or visitation.
- School records indicating who enrolled the child in school, first person contacted in case of emergency, and/or who arranges for child's transportation to and from school.
- Child care records showing who makes and pays for child care arrangements, and who drops off and picks up the child(ren).
- Medical providers' records showing where the child lives and who generally takes the child to medical appointments.

BEM 212, pp. 12 – 13.

To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2024), p. 3. The Department must allow the client 10 calendar days, unless a different period is specified in policy, to provide the verifications requested. BAM 130, p. 7. If a reasonable effort is made to obtain verification and neither the client nor the Department were able to do so, the Department shall then use the best available information. BAM 130, p. 4. If the client refuses to provide the verification or when the verification due date has passed, and the client has not made a reasonable effort to provide the requested documents, then the Department will issue a negative action notice, with either timely or adequate notice, to the client. BAM 130, pp. 7 – 8.

A negative action with timely notice is one that is mailed at least 11 days before the intended negative action takes effect, to provide the client a chance to react to the proposed action; it is intended specifically to give the client ten days to submit a request for hearing to challenge the Department's actions and, if they do so within the ten days, maintain their current benefits pending the outcome of the hearing. BAM 220 (November 2023), pp. 4 – 5. A negative action with actual notice is effective immediately and is issued in FAP cases when a) it is verified that an eligible child has been removed from the home as a result of court action, or b) a change was reported in writing and signed by an eligible group member and the new benefit level or ineligibility can be determined based solely on that written information, among other things. BAM 220, pp. 3 – 4.

In this case, the Department removed SI and KI from Petitioner's FAP case based on an email request to do so sent from one worker of the Department to another that asserted SI and KI were no longer in Petitioner's home and without evidence provided by Petitioner or Children's mother. Although the Department did not clearly state that Children's mother disputed that Petitioner was SI's and KA's primary caretaker, the Department's actions in Petitioner's case established a dispute. However, because Petitioner was already recognized as Children's primary caretaker, a dispute alone was insufficient for the Department to remove SI and KA from Petitioner's case and the Department had an obligation to re-evaluate Petitioner's primary caretaker status, which starts with a request for verifications from each asserted primary caretaker. BEM 212, pp. 4 – 5, 12. The Department testified that it did not do so in this case. Therefore, the Department did not act in accordance with Department policy when it removed SI and KI from Petitioner's FAP group without requesting verifications from Petitioner and Children's mother and re-evaluating SI's and KI's primary caretaker.

Petitioner also testified that the children have continued to reside primarily in his home, that he has continued to provide for their needs, and that Children's mother has not assumed the primary caretaker role.

There was also no dispute that Children's mother was not a member of Petitioner's FAP group in December 2024, Petitioner did not report a change of SI or KA as FAP group members to the Department, and neither SI or KI were removed from Petitioner's home by a court action or order. Thus, although Petitioner's request for hearing was received by the Department more than ten days after the December 26, 2024 NOCA was issued, and he waived his right to maintain his FAP benefit amount while this matter was pending, based on the date of the negative action, which required timely notice, the effective date of the negative action should have been February 1, 2025. Therefore, the Department did not act in accordance with Department policy when it reduced Petitioner's FAP benefits effective January 1, 2025.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

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act in accordance with Department policy when it removed Children from Petitioner's FAP case without re-evaluating Petitioner's primary caretaker status and when it reduced his FAP benefits effective January 1, 2025.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue supplemental FAP benefits to Petitioner to increase his monthly FAP benefit amount for January 2025 to \$975 for his four-person FAP group that includes SI and KA;
1. Redetermine Petitioner's eligibility for FAP benefits, including re-evaluating who SI's and KA's primary caretaker is, effective February 1, 2025 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from February 1, 2025 ongoing; and
3. Notify Petitioner of its decision in writing.



CARALYCE M. LASSNER
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://irs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to MOAHR-BSD-Support@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via Electronic Mail:

Respondent

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Interested Parties

B. CABANAW
M. HOLDEN
BSC4

Via First Class Mail:

Petitioner

