



Date Mailed: April 18, 2025

Docket No.: 25-011343

Case No.: [REDACTED]

Petitioner: [REDACTED]

«RECIP_FULL_NAME»

«RECIP_ADD0»

«RECIP_ADD1»

«RECIP_ADD2»

«RECIP_CITY», «RECIP_SPCODE»

«RECIP_POSTAL»

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।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

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

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

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 telephone hearing was held on April 15, 2025. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Eric Carlson, Family Independence Manager.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-26.

A packet submitted by Petitioner was also admitted as Exhibit 1, pp. 1-10.

ISSUES

Did the Department properly determine Petitioner's eligibility for FAP benefits?

Did the Department properly determine Petitioner's group's MA eligibility?

FINDINGS OF FACT

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

1. On March 19, 2018, Petitioner's son, [REDACTED] began receiving MA benefits on his mother's case.
2. On August 9, 2024, [REDACTED] began receiving FAP benefits on his mother's case.
3. On December 3, 2024, an order was issued by a [REDACTED] County Family Court Judge stating that Petitioner and [REDACTED] mother have 50/50 week on week off parenting time, and that the parties could not reach a legal custody agreement so an evidentiary hearing would be set for March 10, 2025.
4. On January 30, 2025, Petitioner applied for MA benefits for [REDACTED]
5. On February 4, 2025, Petitioner submitted a semi-annual review for FAP benefits listing [REDACTED] as a household member and requesting that [REDACTED] be added to his FAP group.
6. The Department reviewed Petitioner's application for MA and determined that [REDACTED] had active MA benefits on his mother's case.
7. The Department denied Petitioner's application for MA because [REDACTED] was already receiving MA benefits on his mother's case.
8. On January 30, 2025, a health care coverage determination was mailed to Petitioner to notify Petitioner that healthcare coverage was denied for [REDACTED] because he was active on another case.
9. On February 19, 2025, a notice of case action was mailed to Petitioner to notify Petitioner that Petitioner was approved for \$536.00 in FAP benefits from March 1, 2025, through March 31, 2025, and \$536.00 per month from April 1, 2025, through September 30, 2025, based on a household size of 2.
10. The Department determined that [REDACTED] could not be included in Petitioner's FAP group because [REDACTED] was eligible for FAP benefits on his mother's case.
11. On March 10, 2025, Petitioner requested a hearing to dispute the Department's determination.

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).

Food Assistance

The 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.

A person cannot be a member of more than one FAP Certified Group (CG) in any month. (BEM 212, October 1, 2018, p. 3). FAP group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see Living Situations in this item.

If 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. The other caretaker(s) is considered the absent caretaker(s). (BEM 212, October 1, 2018, p.4).

In this case, a court order was submitted to the Department ordering that Petitioner and Petitioner's son's mother have 50/50, week on week off parenting time. Because [REDACTED] spends half of the days each month with each parent, the caretaker who applies and is found eligible first, is the primary caretaker. Here, the evidence shows that [REDACTED] has been an active recipient of FAP benefits on his mother's case since August 9, 2024. Therefore, the Department properly determined that [REDACTED] could not be included in Petitioner's FAP group.

Medical Assistance

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

For all Group 2 MA categories, when a child lives with both parents who do not live with each other (for example, child lives with his mother two weeks each month and his father the other two weeks), only one parent, the primary caretaker, is in the fiscal group, and the Department must determine the primary caretaker.

The primary caretaker is the parent who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made. Vacations and visitation with the absent parent do not interrupt primary caretaker status. (BEM 211, October 1, 2023, p. 5).

Joint physical custody occurs when parents alternate taking responsibility for the child's day-to-day care and supervision. It may be included in a court order or may be an informal arrangement between parents. A child is considered to be living with only one parent in a joint custody arrangement. This parent is the primary caretaker. Verification sources for determining the primary caretaker include the following:

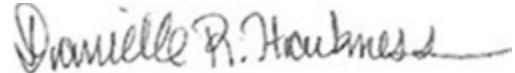
1. Court order that addresses custody or visitation.
2. School records indicating who enrolled the child and who is called in an emergency situation.
3. Medical records stating where the child lives, who is responsible for the child's medical care.
4. Child care records showing where the child lives and who makes and pays for the child care arrangements. (BEM 211, October 1, 2023, pp. 5 and 9).

In this case, Petitioner disputes the Department's MA denial for [REDACTED]. At the hearing, the Department presented a December 3, 2024, court order stating that Petitioner and [REDACTED] mother have 50/50 week on week off parenting time, and that the parties could not reach a legal custody agreement so an evidentiary hearing would be set for March 10, 2025. The Department acted properly in determining that [REDACTED] mother, who applied for MA and was determined eligible for MA for [REDACTED] first, is the primary caretaker as it relates to [REDACTED] MA eligibility. While Petitioner has 50/50 week on week off parenting time the department did not act improperly in determining that [REDACTED] mother is the primary caretaker as it relates to determining [REDACTED] MA eligibility. Therefore, the Department properly determined Petitioner's group's MA eligibility.

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 acted in accordance with Department policy when it determined Petitioner's group's eligibility for FAP and MA benefits.

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



DANIELLE R. HARKNESS
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://lrs.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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915 DIANA ST
LUDINGTON, MI 49431

MDHHS-MASON-HEARINGS@MICHIGAN.GOV

Interested Parties

BSC3
B CABANAW
M HOLDEN
M SCHAEFER
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]