

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) group composition; and his monthly FAP benefit amount from November 14, 2025 to December 31, 2025?

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 REDACTED, 2025, the Department received an application for FAP benefits from Petitioner for himself and his two minor children (Children). Petitioner reported that he was REDACTED years old and had gross self-employment income of REDACTED per month. (Exhibit A, pp. 9 – 15).
2. On December 2, 2025:
 - a. The Department interviewed Petitioner and he reported that:
 - i. He shares 50/50 custody of Children with their mother (Mother) and they spend 15 nights per month with him; and
 - ii. His income is from providing janitorial services of 30 hours per week for one company, and that he is paid as a 1099 contractor. (Exhibit A, pp. 17 – 24).
 - b. The Department verified that Petitioner received a Home Heating Credit (HHC) in June 2025. (Exhibit A, p. 25).
 - c. Petitioner informed the Department that he paid child support for Children.
3. On December 2, 2025, the Department sent Petitioner a Notice of Case Action (NOCA) that approved him for FAP benefits of:
 - a. \$13 for the period of November 14,, 2025 to November 30, 2025,
 - b. \$24 for the period of December 1, 2025 to December 31, 2025, and
 - c. \$78 per month effective January 1, 2026,for a one-person FAP group that excluded Children. (Exhibit A, pp. 26 – 28).
4. On December 3, 2025, the Department received a copy of Petitioner's Judgment of Divorce (JOD), entered in the REDACTED Circuit Court (Court) on May 27, 2025. The JOD ordered that Petitioner and Mother share equal parenting time with Children, and that Petitioner pay Mother REDACTED per week in support until further order of the Court. (Exhibit A, pp. 34 – 43).

5. On December 15, 2025, the Department received a request for hearing from Petitioner disputing the Department's exclusion of Children from his FAP group, and his monthly FAP benefit amount. (Exhibit A, pp. 5 – 7).
6. On January 21, 2026, Petitioner turned REDACTED years old. (Exhibit A, p. 9).
7. On February 9, 2026, the Department sent Petitioner a NOCA that increased his FAP benefits to \$298 per month effective January 1, 2026, and issued him a FAP supplement of \$440 for the period of January 1, 2026 to February 28, 2026. The Department increased Petitioner's benefits based on REDACTED in monthly child support payments. (Exhibit B, pp. 1 – 2).

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.

In this case, Petitioner requested a hearing to dispute the Department's exclusion of Children from his FAP group, and his monthly FAP benefit amount. The Department initially approved Petitioner for FAP benefits of \$24 per month, prorated from November 14, 2025, through December 31, 2025; and \$78 per month effective January 1, 2026. The Department explained that Petitioner's FAP benefit increased to \$78 per month effective January 1, 2026, because he became eligible for an additional deduction when he turned REDACTED years old. After Petitioner requested a hearing, the Department increased Petitioner's monthly FAP benefit to \$298 per month effective January 1, 2026, based on an additional deduction for child support expenses.

FAP Group Composition

When the Department receives an application for FAP benefits, it must first determine who must be included in the client's FAP group before it evaluates the financial or non-financial eligibility of the group. BEM 212 (June 2025), p. 1. Parents and their children under 22 years of age who live together must be in the same group. BEM 212, p. 1. However, when minor children live with both parents who do not live together, such as joint physical custody, parent/grandparent, etc., the Department must determine a primary caretaker because only one person can be the primary caretaker. BEM 212, p. 3.

To determine the primary caretaker, the Department must:

- a. Ask how many days the child sleeps at the client's home in a calendar month,
- b. Accept the client's statement unless it is questionable or disputed by another caretaker,
- c. Obtain verification if the client's statements are questionable or disputed, and
- d. Allow both individuals asserting primary caretaker status to provide evidence in support of their assertion.

BEM 212, p. 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.

Here, there was no dispute that Petitioner applied for FAP benefits for himself and Children on REDACTED, 2025, and was approved for benefits on December 2, 2025. The Department testified, and Petitioner did not dispute, that Mother applied for and was approved for FAP benefits for herself and Children on REDACTED 2025. The record also established that Petitioner and Mother share joint physical custody of Children, and that Petitioner reported that Children spend 15 nights per month with him. Therefore, because Children spend virtually half of each month with each caretaker, and Mother applied and was found eligible for FAP benefits before Petitioner, the Department properly excluded Children from Petitioner's FAP group and determined Petitioner was a one-person FAP group.

Monthly FAP Benefit Amount Effective REDACTED, 2025 to December 31, 2025

Determination of whether the Department properly calculated Petitioner's FAP benefit amount for his one-person FAP group begins with the client's countable earned and unearned income. BEM 500 (April 2022, January 2026), pp. 1 – 5. For purposes of FAP, wages are earned income and the Department must count the gross amount to determine the client's FAP benefit eligibility. BEM 500, pp. 3 – 4; BEM 501 (October 2025), pp. 6 – 7. Although Petitioner reported that he is self-employed and receives REDACTED per month, there was no dispute that he provides janitorial services of 30 hours per week for one company, during hours established by the company, and no evidence that he provides the supplies used to perform his job. BEM 502 (October 2025), pp. 1 – 2. Thus, the Department determined, and Petitioner did not dispute, that Petitioner is not self-employed and has REDACTED per month in earned income.

Once Petitioner's countable income has been calculated, the Department must determine whether Petitioner is entitled to any deductions from that income. There was no dispute that at the time Petitioner applied for FAP benefits, he was not a senior, disabled, or a disabled veteran (SDV). FAP groups with earned income and no SDV members are entitled to the following deductions only:

- A 20% earned income deduction.

- Standard deduction based on group size.
- Dependent care expense.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction up to the maximum allowed in RFT 255.

BEM 550 (April 2025), p. 1; BEM 554 (November 2025) p. 1; BEM 556 (November 2025) pp. 3 – 6; RFT 255 (October 2025).

The Department introduced a budget to explain how it determined Petitioner's FAP benefit amount effective November 14, 2025. (Exhibit A, pp. 45 – 47). A review of the record established that the Department budgeted an earned income deduction, a standard deduction, and an excess shelter deduction when it determined Petitioner's FAP benefit amount effective November 14, 2025. However, the record established that Petitioner had, and reported, an ongoing child support expense.

The Department explained that although Petitioner called the Department and reported his child support expense on December 2, 2025, his interview was completed earlier that day, and it had already certified Petitioner's FAP benefits. In contrast, Petitioner testified that he didn't recall speaking to the Department more than once on December 2, 2025, and the Department was unable to clearly refute his testimony. The Department also explained that because Petitioner did not provide verification of the expense until December 3, 2025, it treated Petitioner's report as a change report. However, the Department could not clearly confirm that it asked Petitioner about any child support obligations during his interview, and acknowledged that it did not request verification of Petitioner's child support expense before it determined his eligibility effective November 1, 2025. BAM 130 (May 2024), pp.1, 3, 7 – 9; BEM 554, pp. 6 – 8).

Therefore, because there was no dispute that Petitioner reported his child support expense obligation during or on the same day as his FAP interview, the Department failed to establish that it acted in accordance with policy when it failed to consider that expense when it determined his eligibility effective REDACTED, 2025.

It is noted that in January 2026, Petitioner became a senior for purposes of FAP and that the Department increased his monthly FAP benefit to \$298, effective January 1, 2026. The Department increased Petitioner's monthly FAP benefit based on his child support expense obligation and an increase in his excess shelter deduction. Because Petitioner became a SDV FAP recipient, he became eligible for a heat/utility standard (h/u) amount to be included in the calculation of the excess shelter deduction because he received a Home Heating Credit (HHC) within the prior 12 months. BEM 554 (January 2026), pp. 19, 23. As previously explained, the Department correctly determined that Petitioner's FAP group size was one; and the Department increased his benefit to the maximum monthly amount for a one-person FAP group effective January 1, 2026. RFT 260 (October 2025), p. 1. Therefore, no further issue remains for the undersigned to address regarding Petitioner's FAP benefit effective January 1, 2026.

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 was a one-person FAP group, but did not act in accordance with Department policy when it failed to budget his child support obligation effective REDACTED, 2025 to December 31, 2025.

Accordingly, the Department's decision is **REVERSED only as to Petitioner's monthly FAP benefit amount for a one-person FAP group effective November 14, 2025 to December 31, 2025.**

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. Redetermine Petitioner's FAP eligibility from November 14, 2025 to December 31, 2025, based on the finding that Petitioner reported his child support obligation on the day of his FAP interview, and request additional verification if necessary;
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 REDACTED, 2025 to December 31, 2025; and
3. Notify Petitioner of its decision in writing.