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## **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; 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 via telephone conference on March 30, 2026. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Tabatha McFarland, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

### **FINDINGS OF FACT**

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

1. Petitioner and Spouse were ongoing FAP recipients.
2. Petitioner's son REDACTED REDACTED (Son) is 25 years old and resides with Petitioner and Spouse.
3. On December REDACTED 2025, the Department sent Petitioner a Notice of Case Action (NOCA) that informed Petitioner his FAP benefits decreased to \$REDACTED per month effective January 1, 2026 to February 28, 2026 due to a decrease in Petitioner's household size from three to two, because the Department determined that Son was not an eligible student and removed Son from the FAP group. Exhibit A, pp. 27-31.
4. On or about January REDACTED, 2026 Petitioner submitted a redetermination to the Department for the certification period beginning March 1, 2026.
5. On February REDACTED, 2026, the Department completed the FAP interview with Petitioner. Petitioner reported Son was a part-time student at REDACTED and was working six hours a week. Petitioner reported a mortgage of \$REDACTED per month and annual property taxes of \$REDACTED. Exhibit A, pp. 12-19.
6. On February REDACTED, 2026, the Department sent Petitioner a NOCA that informed Petitioner he was approved for FAP benefits of \$REDACTED per month for a group of two effective March 1, 2026. Exhibit A, pp. 8-9; 32-36.
7. On February 17, 2026, the Department received Petitioner's request for hearing that disputed the reduction of his FAP group size from three to two members. Exhibit A, pp. 3-7.

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8. On March 1, 2026, the Department updated Son's disability for FAP purposes and indicated that Son had a disability begin date of March 1, 2026. Exhibit A, p. 40.
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### **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 disputed the Department's determination that Son was not an eligible student and was excluded from the FAP group.

The Department has to determine the FAP group composition prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining all of the following: who lives together; the relationship(s) of the people who live together; whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. People who live together and purchase and prepare food together are part of the same FAP group. See BEM 212 (June 2025), p. 6. A person who is in student status and does not meet the criteria in BEM 245, School Attendance and Student Status is a non-group member. *Id.*, p. 10.

For a student to be considered in student status, he must be between the ages of 18-49 and enrolled at least half-time in a vocational, trade, business or technical school or in a college or university. BEM 245 (July 2025) p. 3. For a person in student status to be an eligible FAP group member, he must meet one of the following criteria:

- Receiving Family Independence Program benefits.
- Enrolled in an institution of higher education as a result of participation in certain job training programs.
- Physically or mentally unfit for employment.
- Employed for at least an average of 20 hours per week and paid for such employment.
- Self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.

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- Participating in an on-the-job training program.
  - Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year.
  - Providing more than half of the physical care of a group member under the age of six.
  - Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available
  - A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12.

BEM 245 (July 2025), pp. 4-6.

Here, the Department explained that it determined Son was an ineligible student based on Petitioner's February REDACTED, 2026 FAP interview. The Department stated that during the FAP interview, Petitioner reported that Son was in school and working 6 hours a week and that information prompted the Department to remove Son from the FAP group and reduce the household size from three to two, effective March 1, 2026. However, the Department issued a NOCA on December 6, 2025, *prior to the FAP interview*, that determined Son was an ineligible student and reduced Petitioner's group size from three to two effective January 1, 2026.

The Department could not explain why it issued the December REDACTED, 2025 NOCA that reduced Petitioner's FAP group size from three to two. During the hearing, the Department reviewed its records and could not locate any documentation or communication where Petitioner reported a change to the Department that would have prompted the Department to adjust his group size. While Petitioner did not dispute that he reported during the February FAP interview that Son was working six hours a week, that interview did not occur until two months after the Department had already excluded Son from the FAP group.

Further, the Department presented no eligibility criteria, other than the later-reported employment, to support its determination that Son was an ineligible student at the time it issued the December REDACTED, 2025 NOCA. There are other criteria besides working at least an average of 20 hours a week that a person in student status may satisfy to be considered eligible. No evidence was presented that information regarding whether Son met any other eligibility criteria was requested of Petitioner prior to removing Son from the FAP group. The Department is required to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department should have requested further information about Son to determine if he qualified as an eligible student under any other criteria. Notably, Petitioner testified that Son is disabled and the Department acknowledged it had received a medical needs form from Son's physician after the request for hearing was filed.

Because the Department could not establish what eligibility criteria it considered when it issued the December REDACTED, 2025 NOCA that excluded Son from the FAP group,

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and, after Petitioner reported Son's employment, the Department failed to show that it considered Son's student eligibility under any other criteria, the Department did not establish that it acted in accordance with Department policy when it concluded that Son was not an eligible student.

**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 establish that it acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits.

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. Redetermine Petitioner's eligibility for FAP benefits for January 1, 2026 ongoing, in accordance with policy;
2. If Petitioner is eligible for additional FAP benefits, supplement Petitioner for FAP benefits he was eligible to receive for January 1, 2026 ongoing; and
3. Notify Petitioner of its decision in writing.



**JULIA NORTON  
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](https://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

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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

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- by email to [MOAHR-BSD-Support@michigan.gov](mailto: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.

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