



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 16, 2018
MAHS Docket No.: 17-012888
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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 November 29, 2017, from Detroit, Michigan. [REDACTED], Authorized Hearing Representative (AHR), appeared on behalf of the Petitioner. [REDACTED], Petitioner's spouse was present for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Agent with the Office of Inspector General.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) deductible for the group?

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 August 4, 2017, Petitioner returned a MA redetermination to the Department. Petitioner's spouse is employed and has income from rental property. [Exhibit A, pp. 13-22.]
2. On August 4, 2017, the Department mailed Petitioner a Verification Checklist with a due date of September 5, 2017. [Exhibit A, pp. 23-24.]
3. On August 11, 2017, the Department received verifications from Petitioner. Petitioner submitted an unsigned 2016 U.S. Income Tax Return for an S-

Corporation (S-corp) and a banking statement for her spouse's business. [Exhibit A, pp. 26-34, 35-36.] Petitioner's spouse is the sole shareholder for the business. The income tax returns show that the business sustained an ordinary business **income loss** of [REDACTED]. [Exhibit A, pp. 26, 28, 31.] The Department *incorrectly* used the business income loss as the amount of income the spouse received from the business.

4. On September 5, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that each member of her group was approved for MA benefits subject to a monthly deductible ranging in amount from [REDACTED].
5. On September 28, 2017, the Department received Petitioner's Request for Hearing disputing the Department's actions.

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 Medical Assistance (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 (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the AHR requested a hearing, on Petitioner's behalf, for a review of the Department's HCCDN, mailed on September 5, 2017, that informed her that her MA group was approved for benefits subject to a monthly deductible. The Petitioner submitted a redetermination in August 2017. The Department requested verifications regarding Petitioner's MA group's wages and other income. On August 11, 2017, Petitioner submitted an unsigned 2016 U.S. Income Tax Return for an S Corporation (S-corp tax return) and a banking statement for her spouse's business. [Exhibit A, pp. 26-34, 35-36.]

S-Corporations (S-corps) and Limited Liability Companies (LLCs) are not self-employment. BEM 502 (July 2017), p. 1. Wages paid to an individual from an S-corp are earned income. BEM 503 (July 2017), p. 32. An S-corp and LLC may pay shareholders or partners dividends and/or interest. This is unearned income to the individual. BEM 503 (July 2017), p. 25. Petitioner's spouse is the sole shareholder for

the business. The S-corp tax return shows that the spouse's business sustained an "ordinary business **income loss**" of [REDACTED]. [Exhibit A, pp. 26, 28, 31.]

The Department used the "ordinary business income loss" of [REDACTED] rounded down to [REDACTED] as earned income for Petitioner's spouse. [Exhibit A, p. 83.] The business income loss was incorrectly used as earned income for the spouse. Income means a benefit or payment received by an individual which is measured in money. BEM 500 (July 2017), p. 3. The amount of [REDACTED] is marked as a business loss and is recorded in the "deductions" section on the S-corp tax return. [Exhibit A, pp. 26, 30, 31.] As such, it is found that the Department failed to satisfy its burden of showing that it followed policy when it used a deduction/loss amount as income to determine MA eligibility for Petitioner's MA group.

DECISION AND ORDER

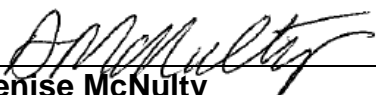
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA benefits.

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 MA benefits as of September 1, 2017-ongoing.
2. Notify Petitioner of the Department's decision, in accordance with Department policy.

DM/tlf



Denise McNulty
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

[REDACTED]

Authorized Hearing Rep.

- **Via First-Class Mail:**

[REDACTED]

Petitioner

- **Via First-Class Mail:**

[REDACTED]