



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: August 21, 2018
MAHS Docket No.: 18-005860
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 August 1, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Family Independence Manager Tamika Parks. Ms. Parks testified on behalf of the Department. The Department submitted 50 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's Medicaid monthly deductible?

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 submitted a Medicaid redetermination on February 28, 2018. [Dept. Exh. 4-11].
2. On March 22, 2018, the Department mailed Petitioner a Verification Checklist, requesting wages from employment and self-employment. [Dept. Exh. 12-13].
3. On March 29, 2018, Petitioner submitted his 2017 taxes along with carbon copies of two checks written to Petitioner. The amount Petitioner reported on Line 12 of

his 2017 Taxes was budgeted as unearned income. [Hearing Summary; Dept. Exh. 14-20].

4. On April 20, 2018, the Department mailed Petitioner a Health Care Coverage Determination Notice informing him that his Medicaid was denied beginning May 1, 2018 ongoing, due to excess income. [Dept. Exh. 21-27].
5. On April 30, 2018, the Department mailed Petitioner a second Verification Checklist, requesting proof of income. [Dept. Exh. 28-29].
6. On May 1, 2018; May 7, 2018; and May 8, 2018, Petitioner submitted copies of checks from [REDACTED] LLC written to himself. The amount from the checks was totaled and budgeted as Petitioner's self-employment income. [Hearing Summary; Dept. Exh. 30-38].
7. On May 18, 2018, the Department mailed Petitioner a Health Care Coverage Determination Notice indicating he was eligible for Medicaid with a monthly deductible. [Dept. Exh. 41-47].
8. On June 4, 2018, Petitioner submitted a Request for Hearing to the Department disputing the income amount used by the Department in determining he had a monthly deductible for his Medicaid program. [Dept. Exh. 2-3].

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, Petitioner contends that an LLC is not self-employment. A review of the Department's policy regarding "Income from Self-Employment," BEM 502 (71/2017) indicates that Limited Liability Companies (LLCs) are not self-employment. BEM 502, p 1 (7/1/2017).

To verify **Self-Employment Income** for Medicaid the Department turns to:

Form 1040, 1040NR, 1040EZ, 1041, Federal income tax returns.

Schedule C, Profit or Loss From Business, including all attachments. This form is used in conjunction with IRS Form 10040, 1040NR or 1041. Schedule C is acceptable even if not yet filed with the IRS.

A non-tax filer may submit a completed Schedule C to verify expenses without a 1040.

A tax-filer may submit a Schedule C along with the accompanying 1040.

Schedule F, Farm Rental Income and Expenses may be filed in conjunction with Form 1040.

The DHS-431, Self-Employment Statement, is not acceptable verification for Medicaid purposes. BEM 502, pp 7-8.

To verify **Self-Employment Expenses** for Medicaid the Department looks at:

Form 1040, 1040NR, 1040EZ, 1041, Federal income tax returns.

Schedule C, Profit or Loss From Business, if accompanied by a tax return.

Schedule F, Farm Rental Income and expenses if accompanied by a tax return. BEM 502, p 8.

BEM 502 was cited in support that the checks written to Petitioner from his LLC was earned income. However, this Administrative Law Judge was unable to find support for that assertion in BEM 502. According to BEM 502, Self-Employment income is determined by examining tax returns, the Schedule C, the Schedule F of a Self-Employment Statement, as listed above.

Therefore, this 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 that the checks written from the LLC to Petitioner was earned income.

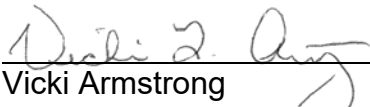
DECISION AND ORDER

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 earned income, if any, from his LLC, in accord with and cite to, Department policy.
2. Issue a new Health Care Coverage Determination based on the redetermination.

VLA/nr



Vicki Armstrong
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) 763-0155; 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

DHHS

Vivian Worden
41227 Mound Rd.
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48314

Macomb 36 County DHHS- via electronic
mail

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Petitioner

[REDACTED] MI