

## **ISSUE**

Petitioner's appeal of MRS' denials of Petitioner's chosen employment outcome and services in support of that outcome.

## **FINDINGS OF FACT**

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

1. Over two years ago, Petitioner was found eligible for vocational services through MRS. (Testimony of Ms. REDACTED).
2. In developing his Individualized Plan for Employment (IPE) with MRS, Petitioner identified a chosen employment outcome of owning and operating a small business. (Testimony of Ms. Lord).
3. Specifically, Petitioner wanted to own and operate a non-emergency medical transportation (NEMT) provider company called Suite Fleet Transportation. (Testimony of Petitioner; Testimony of Ms. Lord).
4. In support of that goal, Petitioner completed a Business Readiness Review Preliminary Business Questionnaire at MRS' request. (Exhibit B, pages 4-7; Testimony of Ms. Lord).
5. As part of that questionnaire, Petitioner reported that he had over 25 years of experience in transportation and was currently working in the trucking industry, where fleet management is most important in delivering goods. (Exhibit B, page 4).
6. He also indicated that he needed investment capital for, among other things, four vehicles, storage space for vehicles, office and computer equipment, software, vehicle insurance, vehicle registration, and advertising. (Exhibit B, page 5).
7. Petitioner further reported that he was asking MRS to cover all of the required investment capital, but that he would work on securing the necessary funds through a loan if necessary. (Exhibit B, page 5).
8. In addition to the questionnaire, Petitioner also submitted a Personal Financial Statement indicating that he had \$5,000 in total assets and \$4,000 in accounts/bills due. (Exhibit C, page 8).
9. Petitioner further developed a Business Plan. (Exhibit #1, pages 2-12).

10. In that plan, he noted that he was in the process of registering his company as a vendor for the State of Michigan, Medicaid and companies who cater to NEMT clients. (Exhibit #1, page 3).
11. He was also in the process of obtaining commercial insurance for the business and workers compensation. (Exhibit #1, page 3).
12. The Business Plan further identified a need for NEMT services in Petitioner's community given a lack of providers, and it discussed the business' strengths and opportunities; long-term growth strategies; and threats and weaknesses. (Exhibit #1, pages 3-4).
13. Petitioner also provided a market analysis he completed; and he discussed his marketing/advertising needs, operations, invoicing, and payroll. (Exhibit #1, pages 5-10).
14. The Business Plan identified a plan to purchase 3 vehicles, vehicle storage, insurance, advertising, computer equipment, a suite, office equipment, and software. (Exhibit #1, page 10).
15. The identified total cost was to be REDACTED. (Exhibit #1, page 10).
16. Petitioner also identified income projections of REDACTED per month REDACTED per year and expenses of REDACTED per month REDACTED per year. (Exhibit #1, page 11).
17. In developing Petitioner's case, MRS referred Petitioner to Warren Galloway & Associates LLC for a small business feasibility study. (Exhibit #2, page 15).
18. On April 11, 2024, Petitioner and Mr. Galloway met virtually to discuss Petitioner's proposed business venture. (Exhibit #2, page 15).
19. Later that month, Mr. Galloway issued a Feasibility Study. (Exhibit #2, pages 14-23).
20. In that study, he noted that, while 4 vehicles were requested initially, Petitioner identified a request for 3 vehicles, and total assistance of REDACTED, in the Business Plan. (Exhibit #2, page 21).
21. Mr. Galloway specifically found that Petitioner had outstanding professional work experience in transportation and trucking industries that would prepare him for the NEMT industry; and that Petitioner possesses the knowledge, desire, and qualifications to pursue a career in the NEMT field. (Exhibit #2, pages 15-16).

22. Mr. Galloway also found that Petitioner's disability would justify the type of self-employment vocational rehabilitation goals Petitioner was proposing. (Exhibit #2, page 19).
23. Mr. Galloway further found that Petitioner had completed a very detailed analysis of the strengths, weaknesses, opportunities, and threats related to Petitioner's small business idea. (Exhibit #2, page 19).
24. Overall, Mr. Galloway found that Petitioner could become a successful operator of a NEMT business. (Exhibit #2, page 20).
25. However, despite the above findings, Mr. Galloway did not recommend that MRS approved Petitioner's request. (Exhibit #2, pages 20-22).
26. Specifically, he found that:

Mr. REDACTED has shown that he has the desire to become a business owner to pursue self-sufficiency, but this program is geared to support very small startups with very limited capital or resource needs that will prepare them to fully launch their business. Typically they are microbusinesses, given the extremely limited funding and that Michigan Rehabilitation Services is not a lender or small business service agency; they are exclusively a rehabilitation agency.

The real question in this small business feasibility study is whether Michigan Rehabilitation Services is the right agency to support this business. The answer is no because Mr. REDACTED small business needs are so much greater than this disability agency can provide. There are numerous other organizations that focus on supporting small business owners like Mr. REDACTED that could potentially provide the resources for him to successfully launch and grow this business. We discussed this scenario during our initial conversation.

*Exhibit #2, page 20*

27. Moreover, regarding capital and funding sources, Mr. Galloway also wrote:

A commercial loan will be needed for this project given the amount Mr. REDACTED needs, but the REDACTED is still not sufficient given the following is missing. working capital line of credit, a larger marketing budget, accountant, lawyer, I don't see salary on the sources statement, training, membership

in trade organizations, vehicle repairs and maintenance, etc. (will they need an office) Mr. REDACTED might need close to REDACTED to launch this business.

The MRS program is not the type of funding source for this type of business capital need. Mr. REDACTED will need investors, loans, or other funding options to obtain the necessary capital over a longer period.

*Exhibit #2, page 22*

28. Following completion of the April 2024 Feasibility Study, MRS determined that additional information must be provided before it could make a decision on Petitioner's chosen employment outcome. (Testimony of Ms. Lord).
29. It also wanted an updated small business feasibility study completed. (Exhibit #4, page 35).
30. While the development process continued and Petitioner continued to work with MRS and Mr. Galloway, Petitioner modified the assistance he was requesting to two vehicles, vehicle storage, auto insurance, website, work apparel, car signs, business cards, computer equipment, office equipment, phones, software. (Exhibit #4, pages 35-36; Exhibit #6, pages 58-59).
31. Petitioner also indicated that he had no money or resources to contribute to the business, and that he was requesting that MRS cover the entirety of the initial costs of his business, which Petitioner now estimated to be REDACTED or more. (Exhibit #4, pages 35-36; Testimony of Petitioner).
32. On November 18, 2024, Mr. Galloway issued a Comprehensive Small Business Feasibility Study for Petitioner's proposed business. (Exhibit #6, pages 42-63; Exhibit D, pages 9-52).
33. At that time, Petitioner was requesting assistance with two vehicles, vehicle storage, auto insurance, website, work apparel, car signs, business cards, computer equipment, office equipment, phones, software. (Exhibit #6, page 59).
34. The total amount Petitioner identified as needed for his small business was REDACTED, and Petitioner was seeking 100% of that amount from MRS. (Exhibit #6, pages 59, 62).
35. In the study, Mr. Galloway found that Petitioner has experience as a barber

and in landscaping, but that those two businesses did not give him experience in the NEMT industry and that Petitioner's lack of experience would be a barrier to success. (Exhibit #6, page 46).

36. He also found that Petitioner could overcome that barrier through different methods such as job shadowing another NEMT owner, working with a mentor/coach or pursuing technical assistance, but that Petitioner was not willing to do those things. (Exhibit #6, page 46).
37. Mr. Galloway further found that securing client contracts was critical to the success of Petitioner's business, but that the process of doing so takes time and work, and that, while Petitioner appeared to believe he will have automatic success when he launched the business there are no guarantees he will penetrate the market. (Exhibit #6, pages 44, 47).
38. Mr. Galloway also noted that Petitioner could work with a broker, with some potential ones identified by Mr. Galloway, but that Petitioner then would have to pay for broker fees. (Exhibit #6, page 44).
39. Other identified challenges included the regulatory environment for NEMT, technology adoption, industry consolidation, and workforce challenges. (Exhibit #6, page 56).
40. However, the primary barrier Mr. Galloway identified for Petitioner was a lack of capital, both in initial startup capital and working capital, with the Comprehensive Small Business Feasibility Study stating in part:

**Resources needed**

*Mr. REDACTED will need a commercial loan to properly launch and scale this NEMT business. His capital needs are estimated at a minimum of REDACTED (see page 16) to formally launch this business.*

**Reason for Business Failure**

According to most business experts, lack of capital is considered one of the primary reasons businesses fail; many cite it as the most prevalent reason, as insufficient funds can hinder operations, prevent expansion, and leave a business vulnerable to unexpected costs, ultimately leading to closure.

\* \* \*

Mr. REDACTED does not understand the importance of having working capital for his business. With private pay and contractual pay, revenue can be very slow for a NEMT business.

To successfully launch and grow a business, you must have access to capital. **Unfortunately, Mr. REDACTED does not have any money for his business, so working capital is his only option to cover expenses when account receivables are slow or revenue is not meeting projections.**

Working capital is crucial for Suite Fleet Transportation because it provides the necessary funds to cover day-to-day operations, pay bills like salaries and supplier invoices, manage seasonal fluctuations, and seize growth opportunities, essentially ensuring the business can function smoothly and weather unexpected challenges while maintaining liquidity; without sufficient working capital, Suite Fleet Transportation may struggle to meet short-term obligations, impacting its ability to operate and potentially leading to financial instability.

\* \* \*

A commercial loan will be needed for this business given the amount Mr. REDACTED needs, but the **REDACTED** is still not sufficient given the following (see financial reports) the company is losing money every month. Personal cash, or working capital line of credit will be needed to cover his losses until his company's revenue exceeds expenses. Mr. REDACTED might need an estimated **REDACTED** to launch this business. *REDACTED requested from MRS and REDACTED in cash or working capital given this is the amount he will lose during the company's first year*). Mr. REDACTED does not have any cash, nor is he willing to pursue a commercial loan for the business to cover his losses during the first year.

\* \* \*

### **Refusal to pursue other resources to fund his business**

**In the first small business feasibility report, I identified resources Mr. REDACTED should pursue. These resources are listed below again, but Mr. REDACTED has made it known to me several times he is not interested in obtaining a loan or other resources for his business. He wants MRS to pay for everything.**

**In refusing to pursue other resources, his business will not survive. Mr. REDACTED will not be able to sustain short-term or long-term debt obligations. You will see on the financial reports that he is losing money from day one and does not have the cash or access to working capital to cover his debt obligations. Therefore, if Mr. REDACTED does not pursue other resources for his business, he will be undercapitalized, which is the main reason why businesses fail.**

*Exhibit #6, pages 54-59*

41. Overall, based on the identified undercapitalization and other barriers, Mr. Galloway further found in part:

The MRS program is not the type of funding source for this type of business capital need. Mr. REDACTED will need investors, loans, or other funding options to obtain the necessary capital over a longer period.

\* \* \*

- Mr. REDACTED does not have any cash, assets, loan money, or equity to invest in the business, therefore, he will not be able to generate enough money to pay himself a reasonable salary to manage and operate his business. The two drivers are the revenue stream for his business and Mr. REDACTED is not driving. Therefore, they have to be paid first with any revenue that is generated. Given the losses on the financial reports, Mr. REDACTED will have difficulty during the first year paying himself enough income (REDACTED per month) to become self-sufficient.

\* \* \*

- Furthermore, the business lacks the financial flexibility to handle unexpected challenges, such as vehicle breakdowns, long-term driver absences, or other emergencies. The lack of working capital will substantially affect Mr. REDACTED's ability to cover his debt to operate his business.

\* \* \*

- While it's believed that Mr. REDACTED has growth potential, the operation faces significant limitations. These financial projections do not account for broker fees or Medicaid/Medicare billing. For the first year, the model assumes that 100% of payments are either made at the time of service or within 30 days, reflecting the nature of private transportation.

*Exhibit #6, pages 59-62-63*

42. The Comprehensive Small Business Feasibility Study also included Payroll, Sales Forecasts, Operating Expenses, Cash Flow Forecasts, Income Statements, Balance Sheets and Financial Ratios for years 1-3 calculated by Mr. Galloway. (Exhibit #7, pages 65-79).
43. He further completed and included a Breakeven Analysis, Diagnostic Tools, Cost of Goods Calculator, and Amortization and Depreciation Schedules. (Exhibit #7, pages 80-86).
44. On December 2, 2024, the Comprehensive Small Business Feasibility Study was sent to Petitioner. (Exhibit #5, page 40).
45. On December 18, 2024, a MRS District Manager also reviewed the Comprehensive Small Business Feasibility Study, making the following conclusions:

Conclusions based on financial report:

1. The business is under capitalized both at the time of creation and during ongoing operations. There is insufficient funding during the start-up to cover expenses before the business can start earning income.

Also, it is projected that the business will incur a loss for at least the first 12 months of operations. There is no plan to provide working capital during this period to prevent insolvency.

2. Current projections of revenue and expenses indicate that the business will not only never earn a profit in the first year of operation but will experience continued substantial losses. Projected loss for the first 12 months of operation is REDACTED. The financial plan does not describe how this loss will be financed (see item 1 above).

3. The 2027 Balance Sheet reports that by the end of three years of operations the business will have a liability of REDACTED and a negative owner's equity of REDACTED). This indicates that the business will continue to incur substantial losses and continue to mount large liabilities.

*Exhibit E, page 53*

46. On December 23, 2024, MRS notified Petitioner via email that it would not be moving forward with the development of an IPE with Petitioner's desired vocational goal of a NEMT small business. (Exhibit #8, pages 88-89).
47. The reason given for that decision was that MRS "has determined that this vocational goal will not lead to a Competitive Integrated Employment (CIE) outcome. (Exhibit #8, pages 88-89).
48. In part, the email also provided:

Following the receipt of the feasibility report dated November 18, 2024, and a review of the same with Mr. Galloway on Dec 17, 2024, Michigan Rehabilitation Services will not be moving forward with the development of the Individualized Plan for Employment (IPE) . . .

Mr. Galloway's report showed that the business was not feasible including but not limited to the reasons below:

1. The feasibility report indicated that the business is undercapitalized both at the time of creation and ongoing operations. There is insufficient funding during the start up to cover expenses before the business can start earning income. Also, it is projected that the business will incur a loss for at least the first 12 months of operations. There is no plan to provide working capital during this period to prevent insolvency.
2. The current projections of revenue and expenses indicate that the business will not only never earn a profit in the first year of operation but will experience continued substantial losses.

Projected loss for the 1st 12 months of operations is REDACTED. The financial plan

does not describe how this loss will be financed.

3. The 2027 balance sheet reports that by the end of three years of operations the business will have liability of REDACTED. This indicates that the business will continue to incur substantial losses and continue to mount large liabilities.

*Exhibit #8, page 88*

49. The email further advised Petitioner that, if he disagreed with MRS' decision, he could request an appeal within thirty days. (Exhibit #8, page 88).
50. On January 16, 2025, MRS received the request for hearing filed by Petitioner in this matter with respect to the decision to deny Petitioner's chosen employment outcome and services in support of that outcome.

### **CONCLUSIONS OF LAW**

The purpose of Title I of the Rehabilitation Act of 1973, as amended, 29 USC 720 *et seq.*, is to provide for a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation which is an integral part of a statewide workforce investment system, and designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, interests and informed choice, so that such individuals may prepare for and engage in gainful employment. See 29 USC 720(a)(2).

Applicants are eligible for MRS services if they have “a physical or mental impairment that constitutes or results in a substantial impediment to employment and if they require MRS services to prepare for, secure, retain, advance in or regain employment consistent with their abilities and capabilities.” Rehabilitation Services Manual (RSM) 3100, page 1.

Following the eligibility determination, a vocational needs assessment is conducted to determine the goals, nature, and scope of rehabilitation services to be included in an Individualized Plan for Employment (IPE). See RSM 3275, page 1.

The IPE is a written document prepared on a form approved by MRS, but developed so that it affords the eligible individual meaningful opportunity to exercise informed choice in the selection of the employment goal, the specific vocational rehabilitation services required to achieve the employment goal, the entities that will provide services, and the methods of service provision. See RSM 5050, page 1.

Regarding IPEs, including their employment goals of competitive integrated employment, RSM 5050 specifically provides in part:

### **POLICY**

The Individualized Plan for Employment (IPE) is designed to achieve an employment outcome of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the individual. The IPE must be promptly developed by both the MRS counselor and the individual, no later than 90 days following eligibility determination. If additional time is needed, it must be mutually agreed upon by the individual and as appropriate the individual's representative and MRS counselor. Planning and approval of the IPE shall be conducted within the framework of a counseling relationship.

\* \* \*

## **DEFINITION**

### **Competitive Integrated Employment (CIE)**

Means work that –

- Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that –
  - Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment;
  - Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and
  - In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

- Is eligible for the level of benefits provided to other employees; and
- Is at a location –
  - Typically found in the community; and
  - Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., individuals and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and
- Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

### **Employment Goal**

Means, at a minimum, an occupational grouping found in the Dictionary of Occupational Titles, or as an occupational grouping identified in the U.S. Bureau of Labor Statistics, Occupational Employment Statistics (OES) codes used in Aware or as an occupational grouping in the Occupational Information Network (O-Net). This is a specific and achievable employment objective.

### **Employment Outcome**

Means, with respect to the individual, entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, including customized employment, self-employment, telecommuting, or business ownership, or supported employment that is consistent with an individual's

strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

### **Individualized Plan for Employment (IPE)**

Is an agreed upon document developed to identify the individual's selection of the employment goal and employment outcome, specific vocational rehabilitation services necessary to achieve the employment outcome, the entities that will provide services, cost of services and the methods of service provision as well as timelines for services.

*RSM 5050, pages 1-3*

Moreover, regarding Self-Employment and Small Business, RSM 5200 states in part:

#### **Policy:**

Self-employment, including small business, may be considered as a vocational option for eligible individuals if:

- it reflects the individual's informed choice;
- is consistent with the individual's strengths, resources, priorities, concerns, interests, abilities and capabilities, including appropriate accommodations.

#### **Procedure:**

Self-employment plans shall be supported, at least in part, by resources beyond MRS, and make appropriate use of available community benefits and resources.

All self-employment plans that involve starting a business venture shall have a viable Business Plan prior to the approval of the Individualized Plan for Employment.

Small business enterprises may be supported by Michigan Rehabilitation Services (MRS) as part of an IPE if they:

- comply with all relevant state, federal and local laws and regulations
- are owned and operated by the individual being served by MRS

- are organized as a “for profit”, as appropriate
- do not involve speculative activities (i.e., pyramid ventures)
- are designed to become a major source of income for the individual to the greatest extent practical.

A case closed successfully in any form of self-employment shall reflect income and other criteria described in the Business Plan or the IPE.

Because business enterprise plans require extensive development activities, the period of time required to develop an IPE will often exceed the standard 90-day time frame. Closure of business enterprise and other self-employment cases must be considered on an individual basis, consistent with the criteria for successful employment established in the IPE and is likely to exceed the minimum 90-day follow-up period required for all successful closure.

**Information:**

Services in support of self-employment, including small business, may include technical assistance and other consultation services to conduct market analyses and develop business plans, as well as other services necessary, including but not limited to training, restoration, occupational licenses, association fees, tools, equipment, initial stocks and supplies, and assistive technology.

Self-employment is a broad category for various options. It may include self-employed tradesmen, professionals, contractual service or technical workers, as well as various forms of small or micro business enterprise. Generally, self-employment is defined as:

“The consumer owns, manages and operates the planned endeavor for profit or fee and is not considered to be an employee of another person, business, or organization.”

Business enterprise, as a type of self-employment, may be supported by MRS if it falls into one of the following sub-categories:

- Micro enterprise – a proprietorship that usually consists of only the owner, has difficulty securing loans from

traditional lending sources, and generally requires a modest initial investment of funds.

- Small business – Independently owned and operated and not dominant in its field.
- Telecommuting: “commuting via electronic transmission from a geographically disperse location where an individual can work at home on a computer and transmit data and documents via telephone lines and is not employed by any other entity.” (Note: Telecommuting may also be other than self-employment.)

Assistance with business enterprise development should include coordination of all possible resources including local and statewide partners/providers, businesses, institutions of higher education, family members, banks, and micro-enterprise lenders. Technical assistance for business planning and financial support may be purchased or acquired at no cost from local providers. Judgment must be exercised in using informed choice principles to enable consumers to select provider(s) who have demonstrated performance and best meet the needs of the individual consumer at the least expense to MRS. Contributions by the individual may include non-financial resources.

A primary role of the rehabilitation counselor is to assist the individual with a plan for business enterprise to obtain support and information for assessment, planning, and implementation of the business plan. This should include the identification and acquisition of resources to support the plan. Each district office has a small business champion who is responsible for providing current and more detailed guidance for small business development, especially identification of pertinent resources and service providers.

A step-by-step process for determining the viability, feasibility, market and financial resources for each business proposal is contained in the Michigan Rehabilitation Services Handbook for Business Enterprises.

*RSM 5200, pages 1-3*

Here, as discussed above, Petitioner was found to be eligible for services, but MRS has denied Petitioner’s chosen employment outcome, as well as services in support of that outcome, and Petitioner has appealed those denials.

In support of MRS' decision, Anahita Lord, a District Manager, testified she is familiar with Petitioner's case and Petitioner's chosen employment goal of owning a small business, as well as the documentation Petitioner had provided at MRS' request. She also testified that two feasibility studies were completed at MRS' request, with the second requested because of additional questions and conflicting information, such as the cost of vehicle insurance, arising from or after the first study. Ms. Lord further testified that, based on the findings in the second feasibility study and her own review, MRS determined that Petitioner's chosen employment goal would not lead to competitive integrative employment due to undercapitalization and, consequently, could not be approved. She also testified that MRS will continue to work with Petitioner, but cannot support his requested employment outcome or services in support of that outcome based on the information it has at this time.

Warren Galloway, the small business consultant Petitioner was referred to by MRS and who completed both feasibility studies in this case, also testified for MRS regarding his role in this case and the feasibility studies he completed, with the last one completed in November of 2024. He further testified as to what he is looking for in conducting a feasibility study and his main concerns in this case, where Petitioner had no access to working capital that could bridge the gap between the start of the business, when losses are expected, and a time when the business could be profitable.

During later questioning by Petitioner, Mr. Galloway testified regarding the differences between his findings in the first feasibility study and the second, which Mr. Galloway attributed to new information, and he discussed the specific projections he made in the second feasibility study. He conceded that, for many of the projections, the numbers were just estimates and, for several others, the specific amount of expenses he used in his calculations were not based on any specific, identifiable expenses that Petitioner would incur.

In response, REDACTED REDACTED, Petitioner's fiancée, testified that she has been by Petitioner's side during the whole process of trying to obtain assistance from MRS, which has taken over two years. She also testified that they have met with multiple counselors; provided all of the significant amount of information requested; and developed a well-written business plan.

She further testified that Ms. Lord was unfamiliar with the case when taking it over and requested a second, unnecessary feasibility study that has only delayed the process longer.

Petitioner testified that he is a REDACTED year-old father who has experience owning a small business and in the transportation industry, where he works as a truck driver, and that he reached out to MRS after being diagnosed with prostate cancer to transition to owning a small NEMT business. He also testified that the process with MRS has been excruciating, with no services offered and no small business coach provided, but that he has given them all the information they requested, even when they keep asking for more and putting up roadblocks.

He also testified that, after completing extensive research, he developed income projections and a business plan that show that his business could be profitable and sustainable. He did concede that he has no working capital,

Petitioner further testified that he now just wants assistance with purchasing two vehicles and insurance for the first year.

Given the above record and applicable policies, the undersigned ALJ now finds that MRS' actions should be affirmed/

Petitioner's evidence and argument successfully raise doubts about some of the findings in the second feasibility study conducted in this case and which MRS' decision was primarily based on.

For example, while Mr. Galloway found in the second feasibility study that Petitioner's work experience as a barber and in landscaping was not relevant to the NEMT industry and would be a barrier to success, that conclusion inexplicably ignores Petitioner's experience in the trucking and transportation industries, experience that Mr. Galloway himself discussed and cited in the first feasibility study as outstanding professional work experience that would prepare Petitioner for the NEMT industry, with Petitioner also possessing the knowledge, desire, and qualifications to pursue a career in the NEMT field.

Moreover, with respect to projected expenses that Mr. Galloway identified and utilized in determining that Petitioner's business would operate at loss during the first few years and was severely undercapitalized, Petitioner's questioning revealed the lack of foundation for many of Mr. Galloway's assumptions and the absence of specific, identifiable expenses that Petitioner would be incurring as calculated.

However, despite those findings, the second feasibility study as a whole and the remainder of the record demonstrates that MRS' decision was proper.

Even given the lack of specific, identifiable expenses, both Mr. Galloway's testimony and the second feasibility study he completed credibly and extensively explain the need for sufficient capital, including working capital, for the success of Petitioner's small business and how the lack of it in this case could be fatal to the success of the small business.

Petitioner may project that his business will be operating successfully in all aspects, including obtaining clients, hiring workers, delivering services and receiving timely payments, at a high level right away, but that is not certain; and Petitioner's business would have no room for error given his lack of funds or access to any additional capital, with Petitioner indicating that he would not be seeking any loans and wanted MRS to cover 100% of the costs. Accordingly, even if Petitioner had sufficient capital to start his business, which itself is doubtful for the reasons explained by Mr. Galloway, his undisputed lack of working capital demonstrates why his business plan is not viable.

Moreover, the concerns about undercapitalization have been present throughout this case, with even the more positive first feasibility study expressly discussing the problems raised by Petitioner's lack of capital. And, in response to those ongoing concerns, Petitioner offers no persuasive argument.

Petitioner did testify that he is now willing to limit his request to assistance in purchasing two vehicles and insurance for one year, but that new request is beyond the scope of this case as it occurred after the decision at issue. Additionally, even if it was considered, it does not change any analysis. Petitioner's new request would limit his initial costs, and what he is requesting from MRS, but it does not address his complete lack of working capital and, if anything, Petitioner's business would seem to be less likely to succeed if he did not have any funds from MRS for expenses like advertising.

Accordingly, MRS properly took into account the entirety of the record, including the credible and thorough recommendations made by a qualified small business consultant, and correctly found that Petitioner's chosen employment outcome and services in support of that outcome, had to be denied given the lack of the required viable business plan and the determination that Petitioner's requested vocational goal will not lead to a competitive integrated employment outcome.

#### **DECISION AND ORDER**

For all of the reasons stated in the foregoing opinion, Respondent MRS' actions are **AFFIRMED**.