

matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is March 10, 2025, in accordance with an Order of Extension.

This matter arises from the Department of Human Services, Division of Aging Services' (DoAS) February 9, 2024, termination of Petitioners' Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), Qualifying Individual Medicare Savings Program (QI) benefits. A Fair Hearing was held and an Initial Decision was entered on December 9, 2024, upholding DoAS' denial of Petitioners' application.

The federal Medicaid Act, Title XIX of the Social Security Act, 42 U.S.C. § 1396, et seq., provides for a joint federal-state program to provide medical assistance to individuals whose income and resources are insufficient to meet the "costs of necessary medical services." 42 U.S.C. § 1396-1. Medicaid provides "medical assistance to the poor at the expense of the public." Estate of DeMartino v. Div. of Med. Assist. & Health Servs., 373 N.J. Super. 210, 217 (App. Div. 2004) (quoting Mistrick v. Div. of Med. Assist. & Health Servs., 154 N.J. 158, 165 (1998); citing Atkins v. Rivera, 477 U.S. 154, 156, 106 S. Ct. 2456, 2458, 91 L. Ed. 2d 131, 137 (1986)), certif. denied, 182 N.J. 425 (2005); see also 42 U.S.C. § 1396-1. The New Jersey Legislature intended the Medicaid program "to provide medical assistance, insofar as practicable, on behalf of persons whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense." N.J.S.A. 30:4D-2.

N.J.A.C. 10:78-4.3(b)(1) addresses the calculation of self-employment income, which is at issue in this matter:

For self-employed persons, income shall be calculated using adjusted gross income reported on the family's Federal income tax form(s) from the prior year as the baseline and adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed

from the period of time covered by the Federal income tax form. The report may be in the form of a percentage increase or decrease.

In the present matter, Petitioners, who are a married couple, applied for renewal of the QMB/SLMB/QI program, which pay for their Medicare Part B premiums. (R-1, R-2). Petitioners provided letters from Social Security and their 2023 tax returns so that DoAS could determine their income. Ibid. The documents showed that D.S.'s annual social security income is \$12,576 and R.S.'s annual social security income is \$15,360. DoAS calculated the household's total countable income as \$27,936. Ibid. The maximum income allowed for a married couple in the program is \$27,600, therefore DoAS found Petitioners ineligible for the program benefits. Ibid.

During the fair hearing, Petitioners argued that the business they own experienced a loss in 2023 and that this loss should be deducted from the combined income they receive from Social Security. ID at 3. Petitioners submitted various documents to support their position including information on financial eligibility for NJFamilyCare based on the Modified Adjusted Gross Income, information from the HHS.gov website, and instructions for completing a social security application. Ibid.

DoAS argued that the loss was not taken into consideration because there is no regulation that states that a business loss should be deducted from the household's total countable income. ID at 3.

The Administrative Law Judge (ALJ) listened to the testimony and reviewed the documents provided by Petitioners and determined that none of the information provided in the documents supported the argument that losses shall be deducted from other income to achieve a net household income. Ibid. Relying on L.B. and F.B. v. Gloucester Cnty. Bd. Of Soc. Servs. and DMAHS, 2014 N.J. AGEN LEXIS 496, *7, Initial Decision (July 15, 2014) and C.D. v. DMAHS and Ocean Cnty. Bd. Of Soc. Servs., HMA 10065-

23, Final Decision (January 26, 2024), the ALJ found that losses shall not be deducted from other income to achieve a net household income. ID at 4. Ultimately, the ALJ concluded that Petitioners' monthly gross household income of \$2,328 exceeded the limit. ID at 5.

Petitioners filed exceptions to the Initial Decision which, in summary, state that the Initial Decision ignored the instructions that the Social Security and Medicaid office sends to applicants and that based on the documents provided, Petitioners should qualify for benefits because their income is below the limit.

Petitioner's arguments during the hearing and in the filed exceptions are misplaced. Section 416.1111(b) of the Social Security Administration's Code states:

Net earnings from self-employment – We count net earnings from self-employment on a taxable year basis. However, we divide the total of these earnings usually among the months in the taxable year to get your earnings for each month. For example, if your net earnings for a taxable year are \$2,400, we consider that you received \$200 in each month. **If you have net losses from self-employment, we divide them over the taxable year in the same way, and we deduct them only from your other earned income.**

(Emphasis added).

As social security income is not earned income, any losses from self-employment would not be deducted from the social security income.

I agree with the Initial Decision and I FIND that DoAS' determination was proper as Petitioners were no longer eligible for QMB/SLMB/QI benefits. Medicaid Communication No. 24-02 states that the maximum gross monthly household income limit for SLMB/QI for a married couple is \$2,300. As Petitioners' monthly gross household income is \$2,328, they exceed the limit. For the reasons stated above, Petitioners' business losses shall not be deducted from other income to achieve a net household income.

Thus, based on the record before me and for the reasons enumerated above, I hereby ADOPT the Initial Decision and FIND that the denial of Petitioner's application was appropriate.

THEREFORE, it is on this 10th day of MARCH 2025,

ORDERED:

That the Initial Decision is hereby ADOPTED.

Gregory Woods
Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services