

Department of Public Health
and Human Services

Section:
Financial Requirements

HEALTHY MONTANA KIDS

Subject:
Self-employment Income

Supersedes: **New to HMK Manual**

General Rule – Annual net earnings from self-employment is counted when determining financial eligibility for the Healthy Montana Kids (HMK) coverage group.

Self-employment is the act of engaging in a trade or business. A trade or business is generally an activity carried on for a livelihood or in good faith to make a profit. So long as a profit motive exists, an individual does not have to make a profit to be in a trade or business. The individual may be a contractor, franchise holder, owner/operator, partner, etc. They must meet the following criteria to be considered self-employed:

1. Income is received directly from the business or trade, not from wages or salary from an employer;
2. The individual is responsible for payment of their entire Social Security and Federal withholding taxes associated with this income;
3. The individual does not have an employee/employer relationship with another individual and the services performed cannot be controlled by an employer (such as setting the job or work schedule, etc.);
4. The individual should file self-employment tax forms (Schedule F, C, C-EZ, SE, Form 1065, etc); and
5. The individual 'materially participates' in the production of the income (i.e., their direct activities, such as physical labor, decision-making, etc. cause the income to be generated).

NOTE: The most recent income tax return will provide the family with the information necessary to complete the HMK application. Beginning April 16 (i.e., tax returns are typically filed by April 15 of each year), HMK will request tax returns from the previous year. For example, beginning April 16, 2010, HMK will request copies of 2009 tax returns to substantiate business income.

**SELF-
EMPLOYMENT
STRUCTURES**

There are many types of self-employment structures. Some of the most common structures are:

1. Sole Proprietorship – A self-employment business that is not incorporated and has one owner. The business income and liabilities are the responsibility of the single owner.

NOTE: Limited liability companies (LLCs) are not sole proprietorships. LLCs are a business structure with corporation and partnership qualities. An LLC provides protection from personal liabilities like a corporation and the tax advantages of a partnership.

2. Partnership – A self-employment business that is set up with two or more partners. In addition to personal income tax forms, partnerships are also required to file 1065 and K-1 forms. The business income and liabilities are the responsibility of all the partners, with the partnership defining shares of ownership and responsibility. Partnership income is determined in the same way as other self-employment.

NOTE: Limited liability companies and limited partnerships do not meet this definition.

3. Independent Contractor – An individual who pays their own employment taxes and does not have an employee/employer relationship is considered self-employed.
4. Sharecropper – When a sharecropper pays the costs of doing business and receives a portion of the net income in exchange for labor, he is considered self-employed. However, if the sharecropper is not responsible for paying the costs of doing business, he is not considered self-employed.

CORPORATIONS

Corporations can be considered self-employment enterprises. However, the income individuals receive is not considered self-employment income. Any wages received by an individual from the corporation are considered countable earned income.

NOTE: Although wages paid to corporate officers are considered wages, fees paid to corporate directors are considered self-employment earnings.

**AGRICULTURE
STABILIZATION
& CONSERVATION
SERVICES (ASCS)**

Cash payments received for Agriculture Stabilization and Conservation Services (ASCS) are counted as earned self-employment income. These include but are not limited to: Commodity Credit Corporation, acreage reduction and conservation payments and other one-time or instalment payments made to farmers for crop or other losses unrelated to a Presidentially Declared Disaster.

The Disaster Relief Act specifies payments received due to a Presidentially Declared Disaster are excluded income.

RENTAL INCOME

Income derived from rental property is considered self-employment income. The cost of doing business is deducted from the gross income to determine net countable income.

BOARDERS

Treat commercial boarding houses (businesses established as commercial enterprises which offer meals and lodging for compensation with the intent to make a profit) as a self-employment business. For example, a Bed & Breakfast Inn is considered a commercial boarding house.

NEW BUSINESS

If self-employment income is derived from a new business, income must be averaged using the income and expenses from the months the business has been in operation. If there is no reliable history of income or expenses, projection of the anticipated income and expenses must be negotiated with the family.

**PREVIOUS SELF-
EMPLOYMENT
INCOME IS NOT
REPRESENTATIVE**

When last year's self-employment income is not reflective of current income (e.g., the family's logging business has slowed because the local sawmill shut down), the family can submit a year-to-date Income and Expense Statement for their business. The net profit will be divided by the number of months the Income and Expense Statement covers and multiplied by 12 to prospect the family's annual income.

**ALLOWABLE
EXPENSES**

Business expenses allowed by the Internal Revenue Service (IRS) are also allowed when determining HMK eligibility. Examples of allowable expenses include:

1. Interest paid on business loans or equipment;
2. Federal, state and local income taxes;

3. Social Security taxes;
4. Half of self-employed taxes (line 27 of Form 1040);
5. Self-employed health insurance premiums (line 29 of Form 1040);
6. Meals and entertainment;
7. Supplies, etc.

NOTE: Carry-over losses from the previous year(s) cannot be used to reduce income.

NOTE: The Healthy Montana Kids **Plus** (HMK **Plus**) coverage group limits business expenses that can be used to reduce self-employment income. For example, entertainment, meals, depreciation, taxes and self-employed health insurance premiums are not allowable business expenses.

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