



The Delaware Code (31 Del. C. §520) provides for judicial review of hearing decisions. In order to have a review of this decision in Court, a notice of appeal must be filed with the clerk (Prothonotary) of the Superior Court within 30 days of the date of the decision. An appeal may result in a reversal of the decision. Readers are directed to notify the DSS Hearing Office, P.O. Box 906, New Castle, DE 19720 of any formal errors in the text so that corrections can be made.

**DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF SOCIAL SERVICES**

In re:

DCIS No. Redacted

Redacted

Appearances: Redacted, pro se, Appellant  
Redacted, Appellant's mother

Linda Greene, Social Worker Supervisor, Division of Social Services

**I.**

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to deny his Medicaid re-application, based upon being over the income limit for a household of one (1).

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of one (1) and that they properly closed the Appellant's medical assistance benefits case.

**II.**

On January 7, 2010, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective January 31, 2010. (Exhibit 3)

On January 28, 2010, the Appellant filed a request for a fair hearing and requested that benefits continue until a hearing decision was issued. (Exhibit 2). According to the Fair Hearing Summary benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated March 22, 2010, that a fair hearing would be held on April 15, 2010. The hearing was conducted on that date in New Castle, Delaware.

This is the decision resulting from that hearing.

**III.**

The agency testified that the Appellant submitted a renewal application on January 4, 2010. Along with his application, the Appellant produced pay stubs from his employment at Premium Aquatics and Armco Aquatics. The Appellant's Premium Aquatics income in the amount of \$196.56 and was added to his Armco Aquatics income of \$904.67 resulting in household income of \$1,101.23. ( $\$904.67 + \$196.56 = \$1,101.23$ ).

Pursuant to the Division of Social Services Manual ("DSSM") 16230, countable income is used to determine eligibility for benefits. DSSM 16230 defines countable income as earned or unearned income minus any disregards, if applicable. In this case, the Appellant received an earned income deduction (disregard) of \$90.00 because his income is considered earned under DSSM 16250. After the earned income disregard was applied to the Appellant's monthly income amount, the agency concluded that his monthly net income amounted to \$1,011.23. ( $\$1,101.23 - \$90.00 = 1,011.23$ ). DSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and closed the Appellant's medical assistance benefits.

The Appellant questioned why his child support was not deducted from his income. In addition, the Appellant asserted that his income has changed and his income from Armco Aquatics has been reduced.

The agency testified that they calculated the Appellant's income prospectively and used the Appellant's December 2009 income when they re-calculated his benefits in January 2010 to determine his February 2010 benefit eligibility.

Pursuant to DSSM 16230.1.1, DSS is only permitted to utilize gross income, and not net income (after expenses), for purposes of eligibility. As this benefit is based solely on income, there are no deductions made for medical or other expenses and a person's medical condition is not taken into consideration when determining eligibility.

I conclude that the regulations under DSSM 16230.1.1 do not provide a basis for the agency to deduct the Appellant's child support payments. Further, the Appellant established that his income amounted to \$1,101.23 per month in December 2009 when he underwent recertification for benefits. His income places him over the income threshold at the time the agency processed his recertification for benefits. The Appellant was encouraged to re-apply for benefits with his new income information.

Based upon the information provided, DSS correctly determined that the Appellant's total monthly countable income is over the income limit for a family of one (1). As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. I find that substantial evidence supports the agency's decision to deny the Appellant's medical assistance re-application and their action is affirmed on the record before me.

IV.

For these reasons, the January 7, 2010 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits, effective January 31, 2010, is AFFIRMED.

Date: May 3, 2010



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MICHAEL L. STEINBERG, J.D.  
HEARING OFFICER

THE FOREGOING IS THE FINAL DECISION OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

May 3, 2010

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POSTED

cc: Redacted  
Barbara Best, Team 805  
Linda Greene, Team 805

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages date-stamped February 16, 2010.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped January 28, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance dated January 7, 2010, consisting of three (3) pages.