



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, Claimant, pro se
Redacted, Claimant's husband

Valerie Turner, Social Worker Supervisor, Division of Social Services
Dionne Williams, Sr. Social Worker/Case Manager

I.

Redacted ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny her medical assistance benefits application based upon being over the income limit for a household of two (2).

The Division of Social Services ("DSS") contends that the Claimant is over the income limit for a household of two (2).

II.

On December 15, 2009, DSS sent to Claimant a Notice to Deny Your Medical Assistance, effective January 1, 2010. (Exhibit 3).

On January 14, 2010, the Claimant filed a request for a fair hearing. (Exhibit 2).

The Claimant 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 Claimant applied for medical assistance benefits on November 6, 2009. She provided pay stubs to the agency. After reviewing the pay stubs, the agency determined that her income amounted to \$574.20 secondary to her self-employment day care work. Her husband, Redacted, was employed at Parkview and his pay stubs revealed monthly income in the amount of \$2,556.67.

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 Claimant did receive an earned income deduction (disregard) of \$90.00 for her husband and herself because the household’s income is considered earned under DSSM 16250. ($\$574.20 - \$90.00 = \$484.20$) ($\$2,556.67 - \$90.00 = \$2,466.67$).

The agency next added the Claimant’s income with her husband’s income to reach a monthly income amount. ($\$484.20 + \$2,466.67 = \$2,950.87$) Accordingly, DSS determined that the Claimant’s monthly income amounted to \$2,950.87. DSS applied a monthly income limit for a family of two (2) amounting to \$1,215.00 and denied the Claimant’s medical assistance benefits application.

The Claimant testified that after paying the household bills, she does not have enough income remaining to purchase food or other items. The Claimant further testified that there were three (3) members of the household including an eighteen (18) year old daughter, Redacted.

Pursuant to DSSM 16240.1, a budget unit includes the following:

- Pregnant woman and unborn child(ren)
- The spouse if the income of the stepparent makes some of the stepchildren ineligible, do not count the stepparent income. The stepparent and his or her own children remain in the budget unit.
- Unmarried partners if the couple have a child for whom they have assumed parental-like responsibility. The child and the unmarried partners will first be included in the budget unit. An unmarried partner (who is not the parent of the child) must be excluded when his or her income makes the child or the other unmarried partner ineligible.
- Include both unmarried partners when determining the eligibility of a mutual child.
- Other natural or adopted children under age 18 that both parents have in common. Families have the choice of including or excluding siblings. If a child has income, include the child with income in the budget unit, but do not count that child’s income when determining the eligibility of the siblings, the parents, or other individuals in the budget unit. The child’s income is counted when determining his or her own eligibility. Please note that the income of a child who is a minor parent is counted when determining the eligibility of his or her own child, unless the income is otherwise excluded.

• Other related or unrelated children under age 18 (such as a niece, cousin, friend's child, minor sibling of adult). This is permissible because there is no technical requirement that the child be living in the home of a specified relative. If the children are ineligible in the big budget unit, place them in a separate budget unit. Include the adult sibling who has assumed parental-like responsibility for a minor sibling in the budget unit. If the income of the adult sibling renders the minor ineligible, place the minor in a separate budget unit.

Testimony revealed that the Claimant's daughter, Redacted is currently eighteen (18) years old and is eligible for medical assistance benefits. DSSM 16240.1 reflects that individuals over the age of eighteen (18) must be considered as their own budget units. As a result, the Claimant's daughter cannot be considered with the Claimant's budget unit. In addition, the Claimant's household income places her over the income limit for a family of two (2).

Based upon the information provided, DSS correctly determined that the Claimant's total monthly countable income is over the income limit for a family of two (2). As a result, the Claimant was properly sent a Notice to Deny Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to deny the Claimant's application for medical assistance benefits and that decision is affirmed on the record before me.

IV.

For these reasons, the December 15, 2009 decision of the Division of Social Services to deny the Claimant's medical assistance application, effective January 1, 2010 is AFFIRMED.

Date: May 3, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

May 3, 2010

POSTED

cc: Redacted
Valerie Turner, Team 730
Dionne Williams, Team 730

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary dated March 9, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing dated January 14, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance, dated December 15, 2010 consisting of three (3) pages.