



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

Carrie Custis, Sr. Social Worker/Case Manager, Team #630, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medical Assistance to Family Planning Medicaid 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) to qualify for Medicaid for Uninsured Adults.

II.

On April 29, 2010, DSS sent to Appellant a Notice About Your Medical Assistance, effective June 1, 2010. (Exhibit 3) This notice served to inform Appellant that she was over the income for a family of (1) to qualify for Medicaid for Uninsured Adults, and could be covered only under Family Planning Services Medicaid.

On May 6, 2010, the Appellant filed a request for a fair hearing requesting that benefits continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated May 7, 2010, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated May 14, 2010, that a fair hearing would be held on June 4, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

According to testimony and the Notice About Your Medical Assistance dated April 29, 2010, DSS calculated that the Appellant would receive gross monthly wages of \$1213.78 from the Appellant's employer, GNC.

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 did receive an earned income deduction (disregard) of \$90.00 because the household's income is considered earned under DSSM 16230. Accordingly, DSS determined that the Appellant's countable monthly income amounted to \$1,123.78 ($\$1213.78 - \$90.00 = \1123.78). DSS applied a monthly income limit for a household of one (1) amounting to \$903.00 and the agency reduced her benefits to Family Planning Medicaid.

In her request for a fair hearing, the Appellant stated that her total wages change from week to week based on the hours she is assigned. The Appellant further testified at hearing that she earns below the federal poverty level. The Appellant testified that the results of an internet search showed that the federal poverty level is \$13,500 per year. The Appellant testified that she earns less than \$1500 per month, and that even if she earned \$1500 per month, she would still be under the federal poverty level.¹ However, the Appellant did not contest DSS' determination of her gross monthly income except to say that her paystubs showed that her income fluctuated each week.

Section 16110 of the Division of Social Services Manual ("DSSM") outlines that in 1995, the Health Care Financing Administration (HCFA - renamed Centers for Medicare and Medicaid Services [CMS] on June 14, 2001) approved a program that extends Medicaid coverage to uninsured individuals age 19 or over with income at or below 100% of the federal poverty level who are not otherwise categorically eligible.

As a result of this legislation extending Medicaid coverage, DSSM 16250 identifies that after applying appropriate deductions to income, DSS must compare the countable family income to the eligibility standard for the budget unit size. DSSM 16250 further identifies that uninsured adults must have family income at or below 100% of the federal poverty level.

According to DSSM Administrative Notice A-10-2009, the monthly federal poverty level for a household of one (1) for 2010 is \$903. (A-10-2009 October 2009 Cost of Living Adjustments) This translates to a yearly federal poverty level of \$10,836². Therefore, in order to qualify for Medicaid for Uninsured Adults, the Appellant would have to earn at most \$903 a month, or \$10,836 per year.

¹ I note that if the Appellant's claim that the federal poverty level was set at \$13,500 was correct, earning \$1500 per month would cause her to exceed that level ($\$1500 \times 12 = \$18,000$).

² I note that a quick internet search reveals that the federal poverty level for Alaska is \$13,500. For the contiguous forty-eight (48) states, however, the federal poverty level is \$10,836 (or \$903 per month). Both Alaska and Hawaii have higher federal poverty thresholds than the contiguous forty-eight (48) states.

Based on 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 About Your Medical Assistance, removing the Appellant from coverage under Medicaid for Uninsured Adults. I conclude that substantial evidence supports DSS' decision to change the Appellant's medical assistance benefits.

IV.

For these reasons, the April 29, 2010 decision of the Division of Social Services to change Appellant's medical assistance benefits effective June 1, 2010 is AFFIRMED.

Date: June 10, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

June 10, 2010

POSTED

cc: Redacted
Carrie Custis, Team #630

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated May 7, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped May 6, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance, dated April 29, 2010, consisting of six (6) pages.