



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. 0000000000

Ms. Smith

Appearances: Ms. Smith, pro se, Appellant
Ms. Jones Appellant's Sister

Julia Turner-Wheeler, Sr. Social Worker/Case Manager, Team #910, Division of Social Services

I.

Ms. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medical Assistance benefits to Family Planning Services based upon being over the income limit for a household of one (1) for Medicaid for Uninsured Adults.

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of one (1).

II.

On June 28, 2011, DSS sent to Appellant a Notice About Your Medical Assistance, effective August 1, 2011. (Exhibit 3)

On July 12, 2011, the Appellant filed a request for a fair hearing, requesting that assistance continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated July 14, 2011, assistance has continued. (Exhibit 1)

The Appellant was notified by certified letter dated August 8, 2011, that a fair hearing would be held on August 26, 2011. Due to evacuations caused by Hurricane Irene, the fair hearing did not happen on that date. The Appellant was notified by certified letter dated September 7, 2011, that a fair hearing would be held on September 30, 2011. The hearing was held on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that during a renewal, the Appellant reported employment with the State of Delaware. DSS testified that the Appellant was paid biweekly, and submitted paystubs dated June 6, 2011 and June 17, 2011. DSS testified that after averaging these two (2) paystubs, it determined that the Appellant earned \$647.05 in gross biweekly income. Since there are 26 biweekly pay periods in a year, merely multiplying a

biweekly income by two (2) yields an erroneous result because it fails to account for the two (2) “extra” pay periods in the year. To account for these “extra” pay periods, federal policy requires DSS to multiply a biweekly gross income by 2.16, resulting in a monthly income reflecting one twelfth (1/12) of the Appellant’s yearly gross income. (DSSM 16230) Following this federal policy, DSS determined that the Appellant would receive a total of \$1,397.63 in gross earned income for the month of August 2011 ($\$647.05 \times 2.16 = \$1,397.63$).

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 her household’s income is considered earned under DSSM 16230. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1,307.63 ($\$1,397.63 - \$90.00 = \$1,307.63$). DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and the agency reduced the Appellant’s medical assistance benefits from Medicaid for Uninsured Adults to Family Planning Services.

At the hearing, the Appellant testified that due to her age, Family Planning Services do not provide her with any real benefit. In addition, she testified that she requires nine (9) different medications, and cannot afford them without assistance. The Appellant’s sister testified that the Appellant is a seasonal, part-time employee of the State of Delaware and that her hours vary. The Appellant’s sister testified that the renewal occurred during the height of the season, and that her sister usually works fewer hours, earning less income.

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.

In order to determine eligibility for Medicaid for Uninsured Adults, DSSM 16250 instructs DSS that after applying appropriate disregards to income, to compare the countable family income to the income eligibility standard for the budget unit size. Uninsured adults must have family income at or below 100% of poverty.

According to Administrative Notice A-05-2011, 100% of the federal poverty level for a household of one (1) is equal to \$908.00 per month.

Based upon the information provided, DSS correctly determined that the Appellant’s total monthly countable income is over the income limit for a household of one (1) for Medicaid for Uninsured Adults eligibility. While the Appellant may take home less income than DSS used in determining eligibility, according to DSSM 16230.1, DSS must use the gross income amount, not the after-tax income amount. As a result, the Appellant was properly sent the Notice About Your Medical Assistance. I conclude that substantial evidence supports DSS’ decision to reduce the Appellant’s medical assistance benefits to Family Planning Services. The Appellant is encouraged to submit more current paystubs, reflecting her reduced income, now that the summer season has ended.

IV.

For these reasons, the June 28, 2011 decision of the Division of Social Services to reduce the Appellant's Medical Assistance benefits effective August 1, 2011 is AFFIRMED.

Date: October 28, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

October 28, 2011

POSTED

cc: Ms. Smith
Julia Turner-Wheeler, DSS, Team #910

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated July 14, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped July 12, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance, dated June 28, 2011, consisting of five (5) pages.