



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

Greg McLaurin, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medical Assistance benefits 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).

II.

On December 7, 2009, DSS sent to Appellant a Notice About Your Medical Assistance, effective September 1, 2009. (Exhibit 3).

On December 11, 2009, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant was notified by certified letter dated February 3, 2010, that a fair hearing would be held on February 18, 2010. A continuance was granted on March 2, 2010. The Appellant was notified by certified letter dated March 4, 2010 that a fair hearing would be held on March 30, 2010. A hearing was conducted on that date in New Castle, Delaware

This is the decision resulting from that hearing.

III.

The Appellant applied for medical assistance benefits on September 25, 2009 via the online process ASSIST. The agency later learned that the Appellant was receiving income from Wachovia Bank. The Appellant provided two (2) paystubs to the agency in the amount of \$1,072.02 for August 31, 2009 and \$1,014.40 for September 15, 2010. These amounts were added together and then divided by two (2) to reach an average bi-weekly income amount of \$1,043.21. ($\$1,072.02 + \$1,014.40 = \$2,086.42 \div 2 = \$1,043.21$). Pursuant to the requirements of Delaware Social Services Manual ("DSSM") 16230, \$1,043.21 was multiplied by a factor of 2.16 to account for months that have five (5) weeks, and the calculation resulted in a gross income figure of \$2,253.33. ($\$1,043.21 \times 2.16 = \$2,253.33$).

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 not considered earned under DSSM 16250. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$2,163.33. (\$2,253.33 - \$90.00 = \$2,163.33). DSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and reduced the Appellant’s Medical Assistance benefits to Family Planning Medicaid.

The Appellant testified that she is no longer working at Wachovia. She currently works at Happy Harry’s. She has polycystic ovary syndrome and cannot afford her co-pays. She cannot obtain birth control and has received no information about Family Planning.

The Appellant additionally testified that her rent is \$770.00 per month and her utilities are \$200.00 per month. She cannot afford any additional expenses after she pays for her food and other monthly bills.

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.

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). As a result, the Appellant was properly sent a Notice About Your Medical Assistance. I conclude that substantial evidence supports DSS’ decision to reduce the Appellant’s Medical Assistance benefits to Family Planning Medicaid.

The Appellant was advised to submit her new income information to the agency so her benefit eligibility could be recalculated.

IV.

For these reasons, the December 7, 2009 decision of the Division of Social Services to reduce the Appellant’s Medical Assistance benefits to Family Planning Medicaid, effective September 1, 2009, is AFFIRMED.

Date: April 5, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

April 14, 2010

POSTED

cc: Redacted
Louise Castro, Team 033
Greg McLaurin, Team 033

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary date-stamped December 24, 2009, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped December 11, 2009, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to About Your Medical Assistance, dated December 7, 2009 consisting of two (2) pages.

EXHIBIT #4 – Copy of the Appellant's pay stubs consisting of three (3) pages.