



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, Claimant

Debra Shields, Sr. Social Worker/Case Manager, Division of Social Services
Joanne Friend, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny her Medicaid, based upon being over the income limit for a household of four (4).

The Division of Social Services ("DSS") contends that the Claimant is over the income limit for a household of four (4) and that they properly denied Claimant's application for medical assistance benefits.

II.

On January 28, 2010, DSS sent to Claimant a Notice to Deny Your Medical Assistance, effective February 1, 2010. (Exhibit 3)

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

The Claimant was notified by certified letter dated March 19, 2010, that a fair hearing would be held on April 12, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

The Claimant submitted two (2) pay stubs to the agency, dated January 5, 2010 in the amount of \$494.81 and another dated January 16, 2010 in the amount of \$561.88 from her employment at Donut Connection. Pursuant to Delaware Social Services Manual ("DSSM") 16230, her gross income was added together and divided by two (2) to reach an average weekly wage amount. ($\$494.81 + \$561.88 = \$1,056.69 \div 2 = 528.35$). The result 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 \$1,141.23. ($\$528.35 \times 2.16 = \$1,141.23$).

In this case, the Claimant received an earned income deduction (disregard) of \$90.00 because her income is considered earned under DSSM 16250. After the earned income disregard was applied to the Claimant's monthly income amount, the agency concluded that her monthly net income amounted to \$1,051.23. ($\$1,141.23 - \$90.00 = \$1,051.23$).

The Claimant submitted four (4) of her husband's pay stubs to the agency, which were dated December 23, 2009 in the amount of \$562.50, December 30, 2009 in the amount of \$600.00, January 6, 2010 in the amount of \$491.25, and January 13, 2010 in the amount of \$495.00 from his employment at Village Cupboard. Pursuant to DSSM 16230, his gross income was added together and divided by four (4) to reach an average weekly wage amount. ($\$562.50 + \$600.00 + \$491.25 + \$495.00 = \$2,148.75 \div 4 = \537.19). The result was multiplied by a factor of 4.33 to account for months that have five (5) weeks, and the calculation resulted in a gross income figure of \$2,326.02. ($\$537.19 \times 4.33 = \$2,326.02$).

In this case, the Claimant's husband 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 Claimant's husband's monthly income amount, the agency concluded that her husband's monthly net income amounted to \$2,236.02. ($\$2,326.02 - \$90.00 = \$2,236.02$).

Pursuant to the 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. Accordingly, DSS determined that the Claimant's monthly income amounted to \$3,287.25 after adding the Claimant's income with her husband's income. ($\$1,051.23 + \$2,236.02 = \$3,287.25$). DSS applied a monthly income limit for a family of four (4) amounting to \$1,838.00 and denied the Claimant's medical assistance application.

The Claimant testified that she has Uveitis and Multiple Sclerosis. Several treating doctor's letters were read into the record to support the Claimant's testimony about her impairments. The Claimant takes injections every other day for her Multiple Sclerosis and will not be able to continue working if she cannot obtain medical assistance. She needs injections in her eyes as well.

The Claimant testified that she needs help and cannot afford her medications. She had no extra income to pay her doctor bills and prescription costs after paying for basic household expenses.

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 to the agency at the time of application, DSS correctly determined that the Claimant's total monthly countable income is over the income limit for a family of four (4). As a result, the Claimant was properly sent a Notice to Deny Your Medical Assistance. I find that substantial evidence supports the agency's decision to deny the Claimant's medical assistance application and their action is affirmed on the record before me.

IV.

For these reasons, the January 28, 2010 decision of the Division of Social Services to deny the Claimant's Medical Assistance, effective February 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
Joanne Friend, Team 860
Debra Shields, Team 860

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages dated February 17, 2010.

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

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