



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

Redacted, Appellant's Sister

Jeanette Nieves, Temporary Social Worker, Division of Social Services

Kathryn Christ, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close his Medical Assistance after he did not participate in a case review.

The Division of Social Services ("DSS") contends that the Appellant did not submit documentation so the agency could review his case by the deadline date.

II.

On August 20, 2009, DSS sent the Appellant a Notice to Close Your Medical Assistance, effective August 31, 2009. (Exhibit 3).

On December 13, 2009, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant was notified by certified letter dated April 1, 2010, that a fair hearing would be held on April 27, 2010. The hearing was conducted on that date in New Castle, Delaware.

This is the decision resulting from that hearing.

III.

DSS contends that they informed the Appellant in a notice dated July 13, 2009 that his Medical Assistance case was due for review. (See Delaware Social Services Manual ("DSSM") 14100.6). DSS testified that the Appellant was sent a recertification letter on July 13, 2009 informing him that he needed to return the necessary renewal form by August 5, 2009. On August 20, 2009, after the agency did not

receive the requested information, the Appellant was sent a letter closing his Medical Assistance because he did not participate in the review process. (Exhibit 3).

The Appellant testified that he never received the renewal form notice dated July 13, 2009. The Appellant testified that the first time he was aware that the renewal was needed was when he received the Notice to Close Your Medical Assistance dated August 20, 2009. The Appellant testified that he was informed by DSS representatives that he could retain medical assistance coverage if he completed the renewal form by August 31, 2009. The Appellant testified that on August 31, 2009, he physically took his completed renewal form to a Delaware Social Services building, where he watched DSS employees fax his renewal form to the appropriate division. The Appellant testified that he received both copies of the renewal form and a confirmation number for the fax. The Appellant testified that he could not find the confirmation number or the copies, and therefore could not bring them to the hearing. The agency testified that they never received the faxed renewal form. Ms. Nieves testified that when she spoke to the Appellant in September, he informed her that he had never received the renewal form sent in July.

Pursuant to DSSM 14100.6, when a redetermination is due, the recipient is required to complete and return a new DSS application form. Failure to complete and return a DSS application form will result in termination of eligibility. In this case, I fully credit the Appellant's testimony that he did not receive the renewal form sent in July 2009. Testimony reveals that upon discovering that his medical assistance would be closed, the Appellant promptly attempted to submit his renewal form so his assistance would continue. Although the Appellant could not provide the confirmation number of the faxed renewal form to the fair hearing (and I note that the date that he faxed the form and the date of the hearing are separated by eight (8) months), I fully credit the Appellant's testimony that he watched an agency employee fax his renewal form to the correct agency division and received a confirmation number for that fax. As a result, testimony establishes that the Appellant substantially complied with DSSM requirements in returning the renewal application, even though his case worker did not receive the document. Therefore, the agency's actions cannot be upheld.

DSS has not met their burden in their action to close the Appellant's medical assistance benefits.

IV.

For these reasons, the decision of the Division of Social Services is REVERSED and REMANDED to DSS for further consideration consistent with this decision. In addition, the Appellant's medical assistance benefits should be reinstated back to September 1, 2009.

Date: May 17, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

May 17, 2010
POSTED

cc: Redacted
Kathryn Christ, DSS

Jeanette Nieves, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages date-stamped March 31, 2010.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated December 14, 2009, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance dated August 20, 2009, consisting of four (4) pages.

EXHIBIT #4 --- Copy of the Appellant's Renewal Letter dated July 13, 2009 consisting of four (4) pages.