



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

Tony Watson, Supervisor Claymont Office, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close his Medical Assistance benefits based upon being over the income limit for a household of two (2).

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of two (2).

II.

On December 31, 2009, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective January 31, 2010. (Exhibit 3).

On January 15, 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 March 8, 2010, benefits have continued. (Exhibit 1).

The Appellant was notified by certified letter dated March 22, 2010, that a fair hearing would be held on April 13, 2010. On April 29, 2010, a continuance was granted. The Appellant was notified by a certified letter dated April 29, 2010, that a fair hearing would be held on May 4, 2010. The hearing was conducted on that date in Wilmington, Delaware.

This is the decision resulting from that hearing.

III.

According to the Notice to Close Your Medical Assistance dated December 31, 2009, the Appellant informed DSS that he would receive \$1969.92 in out-of-state unemployment compensation in February. DSS entered this income information into the calculations for Appellant's case and the agency determined that his gross monthly income amounted to \$1969.92 per month.

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 no disregards. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1969.92. DSS applied a monthly income limit for a family of two (2) amounting to \$1685.00 and closed Appellant’s medical assistance benefits.

At the hearing, the Appellant conceded that the amount used by DSS in determining his medical assistance eligibility was correct at that time. The Appellant further testified that although his benefits continued, he was not notified as such. As a result, he enrolled his son into the Healthy Children’s Program and paid the monthly premiums. In addition, the Appellant testified that he had several out-of-pocket medical expenses which need to be addressed with the medicaid program.

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 family of two (2). As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. I conclude that substantial evidence supports DSS’ decision to close the Appellant’s medical assistance benefits.

IV.

For these reasons, the decision of the Division of Social Services to close Appellant’s Medical Assistance benefits effective January 31, 2010 is AFFIRMED.

Date: May 24, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

May 24, 2010
POSTED

cc: Redacted
Tony Watson, Supervisor Claymont Office

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary dated March 8, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated January 15, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated December 31, 2009 consisting of two (2) pages.