



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

Deborah Elliott, Social Worker, Division of Social Services

Jolynn Esham, 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 benefits 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 March 23, 2010, DSS sent to Appellant a Notice to Deny Your Medical Assistance, effective April 1, 2010. (Exhibit 3).

On March 30, 2010, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant was notified by certified letter dated April 13, 2010, that a fair hearing would be held on May 17, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

The Appellant recertified for medical assistance benefits. When the Appellant recertified on March 15, 2010, Ms. Elliott noted that his daughter, Redacted, remained on his case. Ms. Elliott testified that she also has the Appellant's ex-wife's case in her workload and knew that Redacted was on her mother's case. Ms. Elliott then removed Redacted from the Appellant's household. The Appellant became a household of one (1) for purposes of determining his eligibility for medical assistance benefits. The agency then recalculated his self employment income and applied the new household size to determine his eligibility.

Pursuant to Delaware Social Services Manual (“DSSM”) 16230.1.2, a self-employment standard deduction is used to calculate self-employment income. The self-employment standard deduction is considered the cost to produce income. The self-employment standard deduction is a percentage that is determined annually and announced in the Cost-of-Living Adjustment (COLA) Administrative Notice each October. Currently, the self-employment standard deduction is 51%.

To calculate self-employment income, the agency uses the gross proceeds and subtracts the self-employment standard deduction. The result is the amount included in the individual’s gross income. Standard earned income deductions are then applied to the individual’s gross income.

To receive the self-employment standard deduction, the individual must provide verification that costs are incurred to produce the self-employment income. Verification can include, but is not limited to, tax records, ledgers, business records, receipts, check receipts, and business statements. The individual does not have to verify all business costs to receive the standard deduction.

If the individual does not claim or verify any costs to produce the self-employment income, the self-employment standard deduction will not be applied.

Upon recertification, the agency determined that the Appellant received \$451.25 from his self employment doing odd jobs and \$2,045.16 from other employment based upon his canceled checks and 2008 Federal Income Tax forms. The agency added these two (2) amounts together and concluded that the Appellant’s gross income before expenses amounted to \$2,496.41. ($\$451.25 + \$2,045.16 = \$2,496.41$). The agency then reduced the Appellant’s gross income by the amount of business expenses they counted, \$1,002.13, and further reduced his income by an earned income disregard of \$90.00 to reach a monthly income amount of \$1,363.38. ($\$2,496.41 - \$1,002.13 - \$90.00 = \$1,363.38$).

Pursuant to 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 \$1,363.38. DSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and denied the Appellant’s medical assistance benefits.

The Appellant testified that he pays child support in the amount of \$260.00 per month and believed that it was fair to deduct his child support payments from his monthly income to properly reflect the income available to him.

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.

The Appellant testified that he has joint custody of his daughter, Redacted, and because she spends almost fifty (50) percent of her time at his home, the Appellant believed that it was not fair that Redacted was counted in his wife’s household size.

Pursuant to DSSM 3004.1.1, in joint custody situations, the first part to apply for and have eligibility determined for TANF can receive it for than child. The agency testified that DSSM 3004.1.1 applied to all determinations in addition to Temporary Assistance for Needy Children (“TANF”) cases. In this

instance, the Appellant's ex-wife applied for benefits for Redacted before the Appellant applied. Therefore, Redacted properly remains on her case.

Finally, the Appellant testified that he had his 2009 Federal Income Tax forms available at the hearing, which reflected reduced income figures as compared to his 2008 forms. The Appellant testified that his 2009 Federal Income Tax forms were completed on April 15, 2010.

I note that the agency made their determination about the Appellant's benefit eligibility on March 15, 2010, one (1) month before the Appellant filed his 2009 income taxes with the Internal Revenue Service. The agency was unaware of his new income figures at the time they made their determination on March 23, 2010. As a result, his 2009 Federal Income Tax forms are not relevant to this determination. He was encouraged to re-apply for benefits.

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 one (1). As a result, the Appellant was properly sent a Notice to Deny Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to deny the Appellant's medical assistance benefits.

IV.

For these reasons, the March 23, 2010 decision of the Division of Social Services to deny the Appellant's Medical Assistance benefits, effective April 1, 2010, is AFFIRMED.

Date: May 27, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

May 27, 2010
POSTED

cc: Redacted
Jolynn Esham, Team 930
Deborah Elliott, Team 930
Susan Lingenfelder, Team 930

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary date-stamped April 7, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated March 30, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance, dated March 23, 2010 consisting of three (3) pages.