



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

In re:

DCIS No. Redacted

Redacted

Appearances: Redacted, pro se, Appellant

Michelle Thompson, Sr. Social Worker, Department of Health and Social Services

Katrina Harris, Sr. Social Worker, Department of Health and Social Services

I.

Redacted ("Appellant") opposes a decision by the Department of Health and Social Services ("DHSS") to close her Medical Assistance benefits based upon being over the income limit for a household of one (1).

The Department of Health and Social Services ("DHSS") contends that the Appellant is over the income limit for a household of one (1).

II.

On March 30, 2010, DHSS sent to Appellant a Notice to Close Your Medical Assistance, effective April 30, 2010. (Exhibit 3)

On April 7, 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 April 13, 2010, benefits have not continued. (Exhibit 1)

The Appellant was notified by certified letter dated April 16, 2010, that a fair hearing would be held on May 25, 2010. The hearing was conducted on that date in Newark, Delaware.

This is the decision resulting from that hearing.

III.

DHSS testified that during recertification of the Appellant's benefits, the Appellant submitted verification that she was receiving social security benefits of \$1078 per month. DHSS testified that this income exceeds the maximum monthly income for a household of one (1) of \$903, and they accordingly closed her benefits. The Appellant testified that when she first applied and was approved for medical assistance, her monthly income was \$1056, exceeding the maximum monthly income for a household of one (1). The DHSS representative who testified at hearing explained that she was not the Appellant's caseworker when the Appellant first applied for medical assistance, and could not explain why the Appellant would have been initially approved, if her income exceeded the maximum monthly limit. The Appellant testified that her husband passed away in July of 2009. The Appellant further testified that she has a heart condition, and cannot afford insurance. Lastly, the Appellant testified that she incurred out-of-pocket expenses for medical costs after April 30, 2010.

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, DHSS determined that the Appellant's monthly income amounted to \$1078.00. DHSS applied a monthly income limit for a household of one (1) amounting to \$903.00 and closed Appellant's medical assistance benefits.

Pursuant to DSSM 16230.1.1, DHSS 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, DHSS correctly determined that the Appellant's total monthly countable income is over the income limit for a household of one (1). Whether or not the Appellant was approved for medical assistance when she had a monthly income of \$1056 is not determinative in this case. What is at issue is whether DHSS correctly determined the Appellant's eligibility at the time of recertification. As the Appellant's husband passed away in July of 2009, it is entirely possible that the Appellant's medical assistance at that time was based on a maximum monthly income limit for a household of two (2), not one (1). As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. I conclude that substantial evidence supports DHSS' decision to close the Appellant's medical assistance benefits.

However, because the Appellant filed her request for a fair hearing before the closing date of her medical assistance benefits, and requested that assistance continue at that time, her medical assistance should have continued. According to DSSM 5308, if the recipient requests a hearing within the timely notice period, assistance will not be suspended, reduced, discontinued, or terminated (but is subject to recovery by the agency if its action is sustained on appeal) until a decision is reached after a fair hearing, unless the recipient specifically requests reduction or discontinuance, or if a listed exception applies. In this instance, the Appellant requested that her

medical assistance benefits continue within the timely notice period. As a result, the Appellant's medical assistance benefits should have continued, when in fact they did not. Because the Appellant was entitled to continued benefits, DHSS should make prompt corrective payments for the out-of-pocket expenses incurred by the Appellant.

IV.

For these reasons, the decision of the Department of Health and Social Services to close Appellant's Medical Assistance benefits effective April 31, 2010 is AFFIRMED. The Department of Health and Social Services is further instructed to make prompt corrective actions concerning the Appellant's out-of-pocket medical expenses incurred during the pendency of this case.

Date: June 9, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

June 9, 2010

POSTED

cc: Redacted
Michelle Thompson, Sr. Social Worker, Team 150
Katrina Harris, Sr. Social Worker

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DHSS Hearing Summary dated April 13, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped April 7, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated March 30, 2010, consisting of three (3) pages.

EXHIBIT #4 – Copy of “Your Monthly Benefits” statement from the Social Security Administration, covering dates November 2009 through January 2010, consisting of one (1) page.

EXHIBIT #5 – Copy of a DCISII Screenshot, consisting of one (1) page.