



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

Linda Greene, Social Worker/Case Manager Supervisor, 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 to 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 March 19, 2010, DSS sent the Appellant a Notice to Close Your Medical Assistance, effective March 31, 2010. (Exhibit 3)

On March 29, 2010, the Appellant filed a request for a fair hearing, in which he requested that assistance continue. (Exhibit 2) According to the fair hearing summary dated April 5, 2010, assistance has 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.

At hearing, both DSS and the Appellant were under the impression that the Appellant's Medicaid for Uninsured Adults had been terminated due to the Appellant being over the maximum income for a family of one (1). The Appellant testified that he did not believe he was over income;

rather, the Appellant testified that the entirety of his monthly \$1229.00 Social Security benefit was being withheld by the Social Security Administration (SSA) due to overpayment. There was no testimony concerning the completion of the Appellant's medical assistance case review.

Pursuant to Division of Social Services Manual ("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 instance, no testimony was provided to establish when the Appellant's redetermination was due, or whether the Appellant timely submitted such redetermination. Because the testimony fails to prove that the Appellant did not timely complete and return a new DSS application form, the agency's actions cannot be upheld.

Further, the Appellant's medical assistance should not be terminated due to being over income. DSSM 4005 states that unearned income, including RSDI benefits payable under Title II of the Social Security Act, are countable for determining program eligibility. However, DSSM 4005 further notes that "If the Social Security Administration is recouping money from an individual's RSDI benefit due to an overpayment," the countable unearned benefit amount is what is actually received, not the gross amount. In this instance, since the Appellant testified that he does not receive any of his monthly Social Security benefit of \$1229.00, none of the benefit should be used in determining Medicaid eligibility.

As a result, 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.

Date: June 17, 2010



---

MICHAEL L. STEINBERG, J.D.  
HEARING OFFICER

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

June 17, 2010

---

POSTED

cc: Redacted  
Linda Greene, Team 805

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary consisting of two (2) pages date-stamped April 5, 2010.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped March 29, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of a Notice to Close Your Medical Assistance, dated March 19, 2010, consisting of four (4) pages.