



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

Heather Turssline, Sr. Social Worker/Case Manager, Division of Social Services
Phillip Krause, Social Worker Supervisor, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medical Assistance benefits to Family Planning Medicaid 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 May 11, 2010, DSS sent to Appellant a Notice About Your Medical Assistance, effective May 31, 2010. (Exhibit 3).

On May 17, 2010, the Appellant filed a request for a fair hearing. (Exhibit 2). The Appellant asked that her benefits continue during the duration of the hearing process. According to the Fair Hearing Summary, the Appellant's benefits have continued. (Exhibit 1).

The Appellant was notified by certified letter dated May 28, 2010, that a fair hearing would be held on June 16, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

The agency learned that the Appellant was receiving income from the Law Offices of Dean Campbell. The Appellant provided two (2) paystubs amounting to \$476.00 each representing fifty six (56) hours of work, which together totaled \$952.00. ($\$476.00 \times 2 = \952.00). The Appellant contended that her monthly income should amount to \$952.00.

However, pursuant to the requirements of Delaware Social Services Manual ("DSSM") 16230, \$476.00 was multiplied by a factor of 2.16 to account for months that have five (5) weeks, and the calculation

resulted in a gross income figure of \$1,028.16. ($\$476.00 \times 2.16 = \$1,028.16$). Neither the State regulation nor the Federal regulation provides an alternative means of calculation to allow the Appellant to avoid the application of the 2.16 multiplier.

Pursuant 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 considered earned under DSSM 16250. Accordingly, DSS determined that the Appellant's monthly income amounted to \$938.16. ($\$1,028.16 - \$90.00 = \938.16). DSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and reduced the Appellant's Medical Assistance benefits to Family Planning Medicaid.

The Appellant testified that she earned less income in June 2010 than she did in May 2010. Her May 2010 household expenses exceeded \$1,000.00 not including food. She begins each month in the hole. Her hours of work vary and are not set. She feels that she is being penalized and does not know what to do.

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 household of one (1). As a result, the Appellant was properly sent a Notice About Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to reduce the Appellant's Medical Assistance benefits to Family Planning Medicaid.

The Appellant was encouraged to submit new wage information so the agency could recalculate her medical assistance benefits and she would not need to re-apply for benefits because her case was already opened.

IV.

For these reasons, the May 11, 2010 decision of the Division of Social Services to reduce the Appellant's Medical Assistance benefits to Family Planning Medicaid, effective May 31, 2010, is AFFIRMED.

Date: June 22, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

June 22, 2010

POSTED

cc: Redacted
Heather Turssline, Team 812
Phillip Krause, Team 812

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary dated May 21, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated May 17, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to About Your Medical Assistance, dated May 11, 2010 consisting of one (1) page.