



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 (through an interpreter)
Redacted, Appellant's Daughter-in-Law

Linda Greene, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close her 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 May 3, 2010, DSS sent to Appellant a Notice to Deny Your Medical Assistance, effective May 31, 2010. (Exhibit 3)

On June 3, 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 May 27, 2010, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated June 11, 2010, that a fair hearing would be held on June 22, 2010. The hearing was conducted on that date in Newark, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that the Appellant completed a review of her medical assistance benefits. DSS testified that the Appellant indicated she received monthly Social Security benefits of \$698. DSS testified that it was further determined that the Appellant received monthly long term disability benefits of \$314.95. DSS testified that the Appellant's monthly income was determined to be \$1012 (\$698 + \$314 = \$1012).

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. DSSM 16230.1.1 states that sick pay paid through an insurance company as disability pay is considered unearned income. In this case, the Appellant received no disregards because income from social security and her long term disability benefits are considered to be unearned. (DSSM 16230.2) Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1012. DSS applied a monthly income limit for a household of one (1) amounting to \$903.00 and closed Appellant’s medical assistance benefits.

At the hearing, the Appellant conceded that the amount used by DSS in determining her medical assistance eligibility was correct. The Appellant’s daughter-in-law testified that the Appellant must see physicians on a daily basis to treat her heart problems, thyroid, and diabetes. In addition, the Appellant’s daughter-in-law testified that the Appellant has numerous upcoming surgeries, for which she needs insurance. The Appellant’s daughter-in-law testified that after deducting rent and utilities, the Appellant has only \$50 in net income per month. The Appellant testified that her long term disability payments were to last only until a physician could determine whether or not she would return to work. The Appellant testified that based upon her physician’s opinion, she will not be able to return to work. The Appellant testified that as a result, she requested that her long term disability benefits end.

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 to Deny 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 deny Appellant’s Medical Assistance benefits effective May 31, 2010 is AFFIRMED.

Date: June 28, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

June 28, 2010
POSTED

cc: Redacted
Linda Greene, Team 805

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary dated May 27, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped June 3, 2010, consisting of one (1) page.

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