



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  
Redacted, Appellant's Daughter and Interpreter

Mary Barlow, 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 family's Medical Assistance benefits based upon being over the income limit for a household of four (4).

The Division of Social Services ("DSS") contends that the Appellant, her husband, and her two (2) children were no longer eligible for Extended Medicaid for Wages, being over the income limit for a household of four (4).

**II.**

On April 13, 2010, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective April 30, 2010. (Exhibit 3)

On May 25, 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 20, 2010, benefits have not continued. (Exhibit 1)

The Appellant was notified by certified letter dated June 14, 2010, that a fair hearing would be held on June 25, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

### III.

DSS testified that during the course of a renewal, the Appellant submitted paystubs for both herself and her husband. DSS testified that the Appellant's paystubs showed that two (2) weeks she worked thirty-two (32) hours, one (1) week she worked thirty-eight (38) hours, and one (1) week she worked forty (40) hours. According to the Notice to Close Your Medical Assistance, the submitted paystubs showed that the Appellant would earn \$1,334.59 and her husband would earn \$3,054.09, for a total income of \$4,388.68 for the month of April 2010 ( $\$1,334.59 + \$3,054.09 = \$4,388.68$ ).

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.<sup>1</sup> Accordingly, DSS determined that the Appellant's monthly income amounted to \$4,388.68. DSS applied a monthly income limit for a household of four (4) amounting to \$3,401.00 and closed the Appellant's family's medical assistance benefits.

At the hearing, the Appellant conceded that the amount used by DSS in determining her family's medical assistance eligibility was correct. The Appellant further testified that since May 2010, both her and her husband's hours of work had been reduced. The Appellant testified that she is now working an average of three (3) days per week.

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 four (4). As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to close the Appellant's family's medical assistance benefits.

Further, because the Appellant did not file her request for a fair hearing until after the closing date of her medical assistance benefits, her medical assistance benefits should not have continued through the pendency of this case. 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 after April 30, 2010, the closing date of her medical

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<sup>1</sup> As the income was earned, both the Appellant and her husband were each entitled to an earned income deduction of \$90, for a total deduction of \$180 ( $\$90 \times 2 = \$180$ ). I note that even had these deductions been applied, the Appellant's income would still exceed the maximum allowable for a household of four (4) ( $\$4,388.68 - \$180 = \$4,208.68$ ).

assistance benefits. As a result, DSS correctly did not continue benefits during the pendency of this proceeding.

IV.

For these reasons, the decision of the Division of Social Services to close Appellant's Medical Assistance benefits effective April 30, 2010 is AFFIRMED.

Date: July 13, 2010



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MICHAEL L. STEINBERG, J.D.  
HEARING OFFICER

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

July 13, 2010

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POSTED

cc: Redacted  
Mary Barlow, Team 312

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary dated May 20, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped May 25, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated April 13, 2010, consisting of five (5) pages.