



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 MEDICAID AND MEDICAL ASSISTANCE**

In re:

DCIS No. Redacted

Redacted

Appearances: Redacted, pro se, Appellant
Redacted, Appellant's daughter

Sandy Brooks, Social Worker/Supervisor, Division of Medicaid and Medical Assistance

Donna Melson, Sr. Social Worker/Case Manager, Division of Medicaid and Medical Assistance

Kathy Trumbauer, Sr. Social Worker/Case Manager, Division of Medicaid and Medical Assistance

I.

Redacted ("Appellant") opposes a decision by the Division of Medicaid and Medical Assistance ("DMMA") to reduce her Qualified Medicare Beneficiary ("QMB") benefits to Special Low Income Beneficiary ("SLMB") benefits based upon being over the income limit for a household of one (1).

The Division of Medicaid and Medical Assistance ("DMMA") contends that the Appellant is over the income limit for a household of one (1) to qualify for QMB benefits.

II.

On April 19, 2010, DMMA sent to Appellant a Notice About Your Medical Assistance, effective May 1, 2010. (Exhibit 3)

On June 1, 2010, the Appellant filed a request for a fair hearing (Exhibit 2).

The Appellant was notified by certified letter dated July 6, 2010, that a fair hearing would be held on July 12, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

The agency testified that the Appellant was erroneously opened in the QMB program on December 15, 2009, with an effective date of January 1, 2010 due to an agency computer error. The Cost of Living Adjustment (“COLA”) was deducted from her income when there was no COLA in 2010.¹ When the system error was corrected, the Appellant was closed in the QMB program with an effective date of May 1, 2010 because she had been placed in the QMB program erroneously for three (3) months.

The Appellant testified that she has incurred many medical bills and needs QMB coverage.

Pursuant to Delaware Social Services Manual (“DSSM”) 16230, countable income is used to determine eligibility for benefits. Pursuant to DSSM 16230.1.1, DMMA is only permitted to utilize gross income, and not net income (after expenses), for purposes of eligibility.

Pursuant to DSSM §17300.3.2.6, countable income is used to determine eligibility for benefits. Countable income is earned or unearned income minus appropriate deductions (disregards). A Qualified Medicare Beneficiary (QMB) must have countable income that does not exceed 100% of the official poverty line. (DSSM §17300.3) A Special Low Income Beneficiary (SLMB) must have countable income that does not exceed 120% of the official poverty line (DSSM §17400).

The record reflects that the Appellant receives \$927.00 in Social Security retirement insurance benefits. The agency applied a standard \$20.00 disregard to the Appellant’s income to reach a monthly income amount of \$907.00. ($\$927.00 - \$20.00 = \907.00). The agency then applied the income limit for a family of one (1) or \$903.00 and reduced the Appellant to the SLMB program.

As this benefit is based solely on income, there are no deductions made for expenses and the fact that income is used to pay for medical treatment, prescription costs or other living expenses is not taken into account when determining gross income figures for Medical Assistance eligibility purposes.

Finally, a careful review of the remaining relevant statutes and regulations does not provide a basis for a more favorable outcome in this instance.

Based upon the evidence adduced at the hearing, I find that DMMA correctly determined that the household monthly countable income is \$907.00. The income limit for a household of one (1) for QMB benefits on the date that the notice was issued was \$903.00 per month. As a result, substantial evidence supports DMMA’s decision to send a Notice to About Your Medical Assistance to the Appellant reducing her QMB benefits to SLMB benefits. (Exhibit 3)

¹ The agency testified that normally COLAs are disregarded for the first three (3) months of the year and apply in April.

IV.

For these reasons, the April 19, 2010 decision of the Division of Medicaid and Medical Assistance to reduce the Appellant's Medical Assistance from QMB benefits to SLMB benefits, effective May 1, 2010, is AFFIRMED.

Date: July 22, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

July 22, 2010

POSTED

cc: Redacted
Sandy Brooks, Team 131
Donna Melson, Team 131
Kathy Trumbauer, Team 131

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages date-stamped June 22, 2010.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped June 10, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance dated April 19, 2009, consisting of four (4) pages.