



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

Jolynn Esham, Sr. Social Worker/Case Manager, Division of Social Services

Monique Cornish, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medicaid to Family Planning Medicaid, based upon being over the income limit for a household of three (3).

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of four (3) and that they properly reduced Appellant's medical assistance benefits.

II.

On June 4, 2010, DSS sent to Appellant a Notice About Your Medical Assistance, effective July 1, 2010. (Exhibit 3)

On June 22, 2010, the Appellant filed a request for a fair hearing and requested that benefits continue until a hearing decision was issued. (Exhibit 2). According to the Fair Hearing Summary benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated July 9, 2010, that a fair hearing would be held on July 26, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing

III.

Pursuant to Division of Social Services Manual (“DSSM”) 15120.2, for Section 1931 Medicaid, there are two income tests to determine financial eligibility. The first test is a gross income test and the second is a net income test. For the gross income test, DSS must compare the family's gross income to 185% of the applicable standard of need.

The agency learned that the Redacted, the Appellant’s husband, received income from his employment at Mountaire Farms. Pursuant to the requirements of Delaware Social Services Manual (“DSSM”) 16230, his weekly income was divided by four (4) and multiplied by a factor of 4.33 to account for months that have five (5) weeks, and the calculation resulted in a gross income figure of \$1,814.44. Because Redacted income included a small amount of overtime each week, his overtime was included in the calculations. The State testified that Redacted overtime amounted to a total of \$550.44 for the month.

In this case, the Appellant’s income did receive an earned income deduction (disregard) of \$90.00 because the household’s income is considered earned under DSSM 16250. ($\$1,814.44 - \$90.00 = \$1,724.44$). The agency further reduced Redacted income by an additional \$30.00. ($\$1,724.44 - \$30.00 = \$1,694.44$).

Pursuant to the Division of Social Services Manual (“DSSM”) 16230, countable income is used to determine eligibility for benefits. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1,694.44. DSS applied a monthly income limit for a family of three (3) amounting to \$1,144.00 and reduced the Appellant’s medical assistance to the Family Planning Medicaid. The Appellant testified that she did not dispute the figures used in the calculations.

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.

I find that substantial evidence supports the agency’s determination that the Appellant’s total monthly countable income was over the income limit for a family of three (3) at the time the determination was made. As a result, the Appellant was properly sent a Notice About Your Medical Assistance reducing her medical assistance to Family Planning Medicaid, effective July 1, 2010.

IV.

For these reasons, the June 4, 2010 decision of the Division of Social Services to reduce the Appellant's Medical Assistance to Family Planning Medicaid, effective July 1, 2010 is AFFIRMED.

Date: August 5, 2010



Michael L. Steinberg, J.D.
HEARING OFFICER

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

August 5, 2010
POSTED

cc: Redacted
Monique Cornish, Team 930
Jolynn Esham, Team 930
Susan Lingenfelder, Team 930

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 15, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance dated June 4, 2010, consisting of five (5) pages.