



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, Claimant

Shirley Sato, Sr. Social Worker/Case Manager, Division of Social Services  
Wendy Tunis, Supervisor, Georgetown Office, Division of Social Services

I.

Redacted ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny his Medical Assistance benefits based upon being over the income limit for a household of two (2).

The Division of Social Services ("DSS") contends that the Claimant is over the income limit for a household of two (2).

II.

On June 30, 2010, DSS sent to the Claimant a Notice to Deny Your Medical Assistance, effective June 1, 2010. (Exhibit 3) DSS subsequently determined that the Claimant had a household of two (2), and sent the Claimant a second Notice to Deny Your Medical Assistance on July 22, 2010, effective June 1, 2010. (Exhibit 4)

On July 22, 2010, the Claimant filed a request for a fair hearing. (Exhibit 2)

The Claimant was notified by certified letter dated August 4, 2010, that a fair hearing would be held on August 16, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

### III.

DSS testified that the Claimant initially applied for medical assistance benefits for himself, reporting a household of one (1). DSS testified that the Claimant subsequently informed them that his minor son and his adult daughter both live with him. Accordingly, DSS changed the Claimant's household to two (2), and on July 22, 2010 redetermined that the Claimant was still over-income for medical assistance eligibility based upon a household of two (2). Based upon the Claimant's submitted paystubs, DSS determined that the Claimant earned \$1,483.60 each month. The Claimant did not contest the amount of income used by DSS in its calculations.

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 Claimant received a \$90.00 earned income disregard. Accordingly, DSS determined that the Claimant's monthly income amounted to \$1,393.60 ( $\$1,483.60 - \$90.00 = \$1,393.60$ ). DSS applied a monthly income limit for a household of two (2) amounting to \$1,215.00 and denied the Claimant's medical assistance benefits.

At the hearing, the Claimant testified that he is recently divorced, and without health insurance for the first time in his life. The Claimant testified that he has COBRA insurance, which costs him \$640 per month. The Claimant testified that after the COBRA payment is taken from his income, he has very little income with which to pay his bills. The Claimant testified that as a result of this expense, he is unable to move out of the marital dwelling, and so continues to live with his ex-wife.

The Claimant next testified that he needs health insurance in order to treat his severe rheumatoid arthritis. The Claimant testified that he requires infusions to treat his arthritis every six (6) months just to be able to walk. The Claimant testified that is a case worker for the state of Delaware. The Claimant testified that although his client load has increased from seventy (70) clients in 2008 to one hundred eleven (111) clients today, he is still considered to be a part-time employee. The Claimant testified that he is searching for better-paying employment, but that he has been unable to find any full-time work. Lastly, the Claimant testified that while his daughter is aged eighteen (18), she does not work and goes to the University of Delaware full-time. The Claimant testified that while his daughter is legally an adult, he must still support her as a full-time college student.

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.

According to DSSM 16240, the budget unit for purposes of determining medical assistance eligibility is composed of various adults who are legally or financially responsible for each other and various children (related or unrelated) for whom the adults have legal responsibility or for whom the adults have accepted parental-like responsibility. DSSM 16240.3 specifically excludes from this budget unit related adults age eighteen (18) or over.

Based upon the information provided, DSS correctly determined that the Claimant's total monthly countable income is over the income limit for a household of two (2). As DSSM 16230.1.1 requires, DSS must base eligibility on the Claimant's gross monthly income; as a result, the agency correctly did not include the Claimant's COBRA premiums in determining his gross income. Further, as stated by DSSM 16240.3, the Claimant's household cannot include his college-bound daughter, as she is aged eighteen (18) or over. As a result, the Claimant was properly sent a Notice to Deny Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to deny the Claimant's medical assistance benefits.

IV.

For these reasons, the July 22, 2010 decision of the Division of Social Services to deny the Claimant's Medical Assistance benefits effective June 1, 2010 is AFFIRMED.

Date: August 26, 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

August 26, 2010  
POSTED

cc: Redacted  
Shirley Sato, Team 720  
Wendy Tunis, Team 720

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated July 26, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing date-stamped July 22, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance, dated June 30, 2010, consisting of three (3) pages.

EXHIBIT #4 – Copy of the Notice to Deny Your Medical Assistance, dated July 22, 2010, consisting of three (3) pages.