



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

In re:

DCIS No. Redacted

Redacted

Appearances: Redacted, pro se, Appellant

Joann Friend, Presenter, Division of Social Services

Susan Ortega, Social Worker, Supervisor, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Department of Health and Social Services ("DHSS") to reduce her Medical Assistance to Family Planning Medicaid based upon being over the income limit for a household of one (1).

The Department of Health and Social Services ("DHSS") contends that the Appellant is over the income limit for a household of one (1) to qualify for Medicaid for Uninsured Adults.

II.

On January 20, 2010, DHSS sent to Appellant a Notice about your Medical Assistance, effective January 31, 2010. (Exhibit 3). This notice served to inform Appellant that she was over the income for a family of (1) to qualify for Medicaid for Uninsured Adults, and could be covered only under Family Planning Services Medicaid.

On January 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 February 1, 2010, benefits have continued. (Exhibit 1).

The Appellant was notified by certified letter dated February 9, 2010, that a fair hearing would be held on March 1, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

According to testimony and the Notice about your Medical Assistance dated January 20, 2010, DHSS was informed via data exchange that the Appellant began to receive \$294 a week in unemployment income starting January 6, 2010. DHSS determined that the Appellant would receive a total of \$1,273.02 in unemployment compensation for the month of February.

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 16230.2 defines unearned income as income received without performing work-related activity and notes that unearned income is counted as paid without application of any disregards. In this case, the Appellant did not receive an earned income deduction (disregard) of \$90.00 because the household’s income is not considered earned under DSSM 16250. Accordingly, DHSS determined that the Appellant’s monthly income amounted to \$1,273.02. DHSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and the agency reduced her benefits to Family Planning Medicaid.

In her request for a fair hearing dated January 25, 2010, the Appellant stated that she has serious illnesses for which she needs medical assistance. The Appellant further suggested that counting unemployment income when determining eligibility is fundamentally unfair. At the hearing, the Appellant testified that she is currently seeking employment, and requires insurance for her medical conditions until she can provide for herself. She testified that without medical assistance benefits, she is unable to afford necessary surgery. However, the Appellant did not contest DHSS’ determination of her gross monthly income.

Pursuant to DSSM 16230.1.1, DHSS 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, DHSS correctly determined that the Appellant’s total monthly countable income is over the income limit for a family of one (1). As a result, the Appellant was properly sent a Notice about your Medical Assistance, removing the Appellant from coverage under Medicaid for Uninsured Adults. I conclude that substantial evidence supports DHSS’ decision to change the Appellant’s medical assistance benefits.

IV.

For these reasons, the January 20, 2010 decision of the Department of Health and Social Services to change Appellant’s medical assistance benefits effective January 31, 2010 is AFFIRMED.

Date: March 16, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

March 16, 2010
POSTED

cc: Redacted
Joann Friend, Presenter for Department of Social Services
Susan Ortega, Supervisor for Department of Social Services

EXHIBITS FILED IN OR FOR THE PROCEEDING

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

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

EXHIBIT #3 – Copy of the Notice about your Medical Assistance, dated January 20, 2010, consisting of four (4) pages.