



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
Krystal Wright, Appellant's daughter

Kara Bristow, Sr. Social Worker/Case Manager, Division of Social Services
Christine Best, 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 Medical Assistance to Family Planning Medicaid and to reduce her children's medical assistance to Delaware Healthy Children's Program, based upon being over the income limit.

The Division of Social Services ("DSS") contends that the Appellant is over the income limit.

II.

On December 11, 2009, DSS sent to Appellant a Notice About Your Medical Assistance reducing her Medical Assistance to Family Planning Medicaid and her children's medical assistance to the Delaware Healthy Children's Program, effective January 1, 2010.

The Appellant filed a request for a fair hearing on February 10, 2010. (Exhibit 2). According to the Fair Hearing Summary benefits have not continued. (Exhibit 1)

The Appellant was notified by certified letter dated February 24, 2010, that a fair hearing would be held on March 18, 2010. The hearing was conducted on that date in New Castle, Delaware. This is the decision resulting from that hearing.

III.

The agency testified that the Appellant applied for food benefits on December 11, 2009 and provided income information to the agency at that time. When the income information was entered into the DCISII computer system, the Appellant's medical assistance benefits were reduced to Family Planning Medicaid for the Appellant and to the Delaware Healthy Children's Program for the Appellant's children.

The agency testified that they added the Appellant's employment income of \$2,948.15 to her child support of \$795.97. ($\$2,948.15 + \$795.97 = \$3,744.12$). The agency further testified that after they applied appropriate disregards, the Appellant's income amounted to \$3,502.15.

The agency testified that the Appellant's daughter, Redacted, has been opened in Medicaid currently based upon child support updates the agency recently received.

Pursuant to 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.

The Appellant testified that she experienced an asthma attack during her son's delivery in 2004. Her treating physician informed her that she should undergo gastric bypass surgery. Following the surgery, her asthma symptoms decreased and she was treated as an outpatient.

The Appellant testified that she has severe adhesions and has undergone multiple surgeries to correct them. She experiences severe menstrual cramps and had planned to undergo an ablation, which had been scheduled for January 12, 2010. She takes seven (7) medications but cannot afford them. The Appellant additionally does not absorb nutrients and she is anemic. The Appellant further testified that she needs medical care but cannot afford it.

I find that substantial evidence does not support the agency's actions in this case and their decision is not affirmed on the record before me. The agency included a Notice dated February 4, 2010 with the documentation they submitted to support their actions. The Notice at issue is the December 11, 2009 Notice, which was not submitted into evidence in this case. In addition, the agency did not testify about how many individuals were in the household at the time they made their determination or the income limit applicable to the household. They did not testify about how they arrived at a figure of \$3,502.15 for the Appellant's household income. The Appellant's employment income and her child support amounted to \$3,744.12. Even after applying an earned income disregard of \$90.00, the calculation reveals a remainder of \$151.97, which was not explained as a deduction in their testimony. ($\$3,744.12 - \$3,502.15 = \$241.97 - \$90.00 = \$151.97$). After considering all of these factors, I conclude that I must reverse and remand this decision. If the State requires another hearing in this matter, they should provide the relevant documentation paying particular attention to the date of the action taken and supplying the relevant documentation to the Hearing Officer so a proper adjudication can proceed.

For these reasons, the December 11, 2009 decision of the Division of Social Services to reduce Appellant's Medical Assistance benefits to Family Planning Medicaid and her children's Medical Assistance benefits to Delaware Healthy Children Program, effective January 1, 2010, is REVERSED and REMANDED for the reasons indicated above.

Date: April 12, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

April 12, 2010

POSTED

cc: Redacted
Kara Bristow, Team 135
Christine Best, Team 135

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages dated-stamped February 19, 2010.

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

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance dated February 4, 2010, consisting of one (1) page.

EXHIBIT #4 – Copy of the Appellant's medical documentation consisting of two (2) pages.