



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  
Samuel Perez, Claimant's husband

Donna Strother, Social Worker/Case Manager, Division of Social Services  
Leslie Turney, Social Worker/Case Manager Supervisor, Division of Social Services

I.

Redacted ("Claimant") opposes a decision by the Division of Social Services ("DSS") to close her 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 October 26, 2009, DSS sent to Claimant a Notice to Deny Your Medical Assistance, effective December 1, 2009. (Exhibit 3).

On November 2, 2009, the Claimant filed a request for a fair hearing. (Exhibit 2).

The Claimant was notified by certified letter dated March 3, 2010, that a fair hearing would be held on March 19, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

### III.

The Claimant applied for medical assistance benefits. At that time, she revealed her husband's workers' compensation income in the amount of \$2,065.52 per month. DSS then entered the unearned compensation income information into the calculations for Claimant's case and determined that the new household gross monthly income amounted to \$2,065.52 per month. The Claimant testified that his income was correct at the time the agency calculated his household income. He expects to receive Title II Social Security benefits in the future.

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 did not receive an earned income deduction (disregard) of \$90.00 because the household's income is not considered earned under DSSM 16250. Accordingly, DSS determined that the Claimant's monthly income amounted to \$2,065.52. DSS applied a monthly income limit for a family of two (2) amounting to \$1,215.00 and denied the Claimant's application for benefits.

The Claimant's fair hearing request noted that they believed the household should be counted as a family of three (3).

Pursuant to DSSM 16240.1, a budget unit includes the following:

- Pregnant woman and unborn child(ren)
- The spouse if the income of the stepparent makes some of the stepchildren ineligible, do not count the stepparent income. The stepparent and his or her own children remain in the budget unit.
- Unmarried partners if the couple have a child for whom they have assumed parental-like responsibility. The child and the unmarried partners will first be included in the budget unit. An unmarried partner (who is not the parent of the child) must be excluded when his or her income makes the child or the other unmarried partner ineligible.
- Include both unmarried partners when determining the eligibility of a mutual child.
- Other natural or adopted children under age 18 that both parents have in common. Families have the choice of including or excluding siblings. If a child has income, include the child with income in the budget unit, but do not count that child's income when determining the eligibility of the siblings, the parents, or other individuals in the budget unit. The child's income is counted when determining his or her own eligibility. Please note that the income of a child who is a minor parent is counted when determining the eligibility of his or her own child, unless the income is otherwise excluded.
- Other related or unrelated children under age 18 (such as a niece, cousin, friend's child, minor sibling of adult). This is permissible because there is no technical requirement that the child be living in the home of a specified relative. If the children are ineligible in the big budget unit, place them in a separate budget unit. Include the adult sibling who has assumed parental-like

responsibility for a minor sibling in the budget unit. If the income of the adult sibling renders the minor ineligible, place the minor in a separate budget unit.

I note that the Fair Hearing Summary reveals that the Claimant's son is eighteen (18) years old and is eligible for medical assistance benefits. The agency testified that the Claimant's son has been established as his own budget unit. DSSM 16240.1 reflects that individuals over the age of eighteen (18) must be considered as their own budget units. As a result, the Claimant's son cannot be considered with the Claimant's budget unit as he is already a separate unit.

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.

Based upon the information provided, DSS correctly determined that the Claimant's total monthly countable income is over the income limit for a family of two (2). 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 application for medical assistance benefits and that decision is affirmed on the record before me.

Redacted is encouraged to reapply when he receives his Social Security Title II benefits.

IV.

For these reasons, the October 26, 2009 decision of the Division of Social Services to effective December 1, 2009 is AFFIRMED.

Date: April 12, 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

April 12, 2010

POSTED

cc: Redacted  
Donna Strother, Team 910  
Leslie Turney, Team 910  
Kevin Taylor, Team 910

EXHIBITS FILED IN OR FOR THE PROCEEDING

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

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing date-stamped November 2, 2009, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance, dated October 26, 2009 consisting of three (3) pages.