



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:

Redacted

DCIS No. Redacted

Appearances:

Redacted, pro se, Appellant

Mary Conner, Sr. Social Worker/Case Manager, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close 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 Appellant is over the income limit for a household of two (2) and that they properly closed the Appellant's medical assistance benefits.

II.

On January 7, 2010, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective January 31, 2010. (Exhibit 3)

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

The Appellant was notified by certified letter dated February 8, 2010, that a fair hearing would be held on February 26, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

The Appellant was recertified for medical assistance benefits. Previously, the Appellant's wife was not residing with him in the household and he was eligible for medical assistance benefits because his income was under the income limit for a family of one (1). However, he reported to the agency on December 31, 2009 that his wife, Grace, was residing with him. The agency learned that the redacted was receiving \$303.00 per week in unemployment compensation payments through a Department of Labor report. Pursuant to the requirements of Delaware Social Services Manual ("DSSM") 16230, \$303.00 was 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 \$1,311.99. ($\$303.00 \times 4.33 = \$1,311.99$). The Appellant additionally had wages of \$627.85 per month from his work at TLC Lawn Care. In this case, the Appellant did receive an earned income deduction (disregard) of \$90.00 because his income is considered earned under DSSM 16250. Although the agency additionally attributed \$627.00 in earned income to redacted, Ms. Conner could not explain at the hearing why this amount was included. I find that the \$627.00 attributed to redacted in earned income was in error because the record does not support a conclusion that she was employed during the period in question.

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. In this case, the Appellant's income did receive an earned income deduction (disregard) of \$90.00 because his household's income is considered earned under DSSM 16250. ($\$627.85 - \$90.00 = \$537.85$). Accordingly, DSS determined that the household monthly income amounted to \$2,387.69. ($\$627.85 + \$627.85 + \$1,311.99 = \$2,387.69$). DSS applied a monthly income limit for a family of two (2) of \$1,215.00 and closed the Appellant's medical assistance.

The Appellant testified that he does not work for TLC Lawn Care during the winter months. Ms. Conner admitted that she carried over the Appellant's earned income amount from his previous applications for benefits and was awaiting verification of that amount from his employer.

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 the agency incorrectly calculated redacted earned income because the record does not support a conclusion that she had any earned income. While the outcome in this matter will remain the same after redacted \$627.85 is deducted from the household income, the Appellant should be provided with correct calculations regarding his household income and that figure should be compared against the income limit for a family of two (2).

In addition, the agency should verify that the Appellant is no longer working at TLC Lawn Care during the winter months and adjust his income accordingly.

Based upon the information provided, DSS did not correctly determine that the Appellant's total monthly household countable income is over the income limit for a family of two (2). As a result, substantial evidence does not support the agency's decision to send the Appellant a Notice to Close Your Medical Assistance.

IV.

For these reasons, the January 7, 2010 decision of the Division of Social Services to close the Appellant's Medical Assistance, effective January 31, 2010, is REVERSED and REMANDED for further calculations consistent with this decision.

Date: March 10, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

March 10, 2010
POSTED

cc: Redacted
Mary Conner, Team 910
Kevin Taylor, Team 910

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages dated January 22, 2010.

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

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance dated January 7, 2010, consisting of four (4) pages.

EXHIBIT #4 – Copy of the Department of Labor printout dated consisting of two (2) pages.