



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 Appellant

Appearances: Redacted Appellant , pro se, Appellant

Louise Gauani, Sr. Social Worker/Case Manager, Division of Social Services

I.

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

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of one (1).

II.

On December 3, 2009, DSS sent to Appellant a Notice About Your Medical Assistance, effective January 1, 2010. (Exhibit 3).

On December 28, 2009, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant was notified by certified letter dated January 25, 2010, that a fair hearing would be held on February 5, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

The Appellant recertified for medical assistance benefits. The agency determined that the Appellant's income included \$1,337.00 per month in Title II Social Security income. DSS then entered the income information into the calculations for Appellant's case and determined that the household's new gross monthly income amounted to \$1,337.00 per month.

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 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, DSS determined that the Appellant's monthly income amounted to \$1,337.00. DSS applied a monthly income limit for a family of one (1) amounting to \$903.00 and reduced the Appellant's medical assistance benefits to Family Planning Medicaid.

The Appellant testified that she has a serious medical condition, which requires ongoing treatment. She cannot afford her medications, which amount to \$1,272.53 per month. Her Medicare coverage does not start until June 2010. She continues to require medical attention for her impairments.

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.

At the hearing, the Appellant asked that I consider DSSM 2014.1 and 9065. However, both of these regulations involve food stamp cases or other related programs and they did not apply to Medicaid based programs. The agency confirmed this conclusion in their testimony. Thus, a careful review of the relevant statutes and regulations does not provide a basis for a more favorable decision in this case.

Based upon the information provided, DSS 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. I conclude that substantial evidence supports DSS' decision to reduce the Appellant's medical assistance benefits to Family Planning Medicaid.

IV.

For these reasons, the December 3, 2009 decision of the Division of Social Services to close Appellant's Medical Assistance benefits, effective January 1, 2010, is AFFIRMED.

Date: February 22, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

February 22, 2010

POSTED

cc: Redacted Appellant
Louise Gauani, Team 910
Kevin Taylor, Team 910

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary date-stamped January 5, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated December 28, 2009, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance, dated December 3, 2009 consisting of four (4) pages.