



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
Redacted Appellant , Appellant's husband

Kim Hudson, Social Worker Supervisor, Division of Social Services

I.

Redacted Appellant ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close her Medical Assistance case 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).

II.

On December 17, 2009, DSS sent to Appellant a Notice to Deny Your Medical Assistance, effective December 31, 2009.

On December 24, 2009, the Appellant filed a request for a fair hearing asking that benefits continue during the pendency of the hearing process (Exhibit 2). According to the Fair Hearing Summary, benefits have continued.

The Appellant was notified by certified letter dated January 21, 2010, that a fair hearing would be held on February 15, 2010. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

Pursuant to Delaware Social Services Manual (“DSSM”) 16230, countable income is used to determine eligibility for benefits. Pursuant to DSSM 16230.1.1, DSS is only permitted to utilize gross income, and not net income (after expenses), for purposes of eligibility.

The agency testified that they learned Mr. Redacted Appellant had received an increase in his Social Security benefits to \$1,250.00 per month. Mr. Redacted Appellant’s income was the only income coming into the household. The agency had previously treated the Appellant as “not married” because her husband was receiving SLMB benefits. A conclusion that the Appellant was “not married” under the eligibility rules meant that she had no income when she was considered as “not married” and qualified for Adult Poverty Medicaid as a result. When Mr. Redacted Appellant’s income exceeded the income limit for SLMB or QMB, his income was then included in the household and the Appellant was no longer treated as “not married” under the eligibility rules.

The Appellant testified that the increase in her husband’s Social Security benefit occurred because the State of Delaware paid a portion of her husband’s Medicare. Because the State paid the Medicare premium, additional income was imputed to her husband causing his Social Security to increase.

The agency then clarified that the Appellant had initially received \$1,078.00 per month when he applied for Social Security benefits in December 2008. The Appellant had worked in 2007 and when the Social Security Administration credited his account for the 2007 earnings, his benefit increased to \$1,250.00. The increase was not caused by Medicare premiums paid by the State of Delaware under the SLMB program.

Pursuant to DSSM §17300.3.2.6, countable income is used to determine eligibility for benefits. Countable income is earned or unearned income minus appropriate deductions (disregards). A Qualified Medicare Beneficiary (QMB) must have countable income that does not exceed 100% of the official poverty line. (DSSM §17300.3) A Special Low Income Beneficiary (SLMB) must have countable income that does not exceed 120% of the official poverty line (DSSM §17400).

During their calculations, the agency compared the household income to both income limits for the QMB and SLMB programs. For QMB, the income limit for a family of one (1) is \$1,215.00, which the Appellant’s husband exceeded. For SLMB, the income limit for a family of one (1) is \$1,457.00, which the Appellant’s husband exceeded.

The agency next compared the household income to a family of two (2), or \$1,215.00 for Adult Poverty Medicaid program and found that the household was over the income limit for this program.

I find that substantial evidence supports the agency’s determination that the Appellant’s total monthly countable income was over the income limit for a family of two (2) at the time the determination was made. Based upon the information provided, DSS correctly determined that

the Appellant's household monthly countable income is \$1,250.00. The income limit for a household of two (2) for medical assistance benefits on the date that the notice was issued was \$1,215.00 per month. As a result, the Claimant was properly sent a Notice to Close Your Medical Assistance.

IV.

For these reasons, the December 17, 2009 decision of the Division of Social Services to close the Appellant's Medical Assistance, effective December 31, 2009, is AFFIRMED.

Date: March 1, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

March 1, 2010

POSTED

cc: Redacted Appellant
Shawn McCreary, Team 811
Kim Hudson, Team 811

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages date-stamped January 6, 2008.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped December 29, 2009, consisting of one (1) page.