



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

Inez Roach, 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 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 January 6, 2010, DSS sent to Appellant a Notice About Your Medical Assistance, effective February 1, 2010. (Exhibit 3).

On January 11, 2010, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant 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 agency learned that the Appellant was receiving income from Senior Management. The Appellant provided pay stubs in the amount of \$487.27 for pay date November 27, 2009 and in the amount of \$487.51 for pay date December 11, 2009. Pursuant to the requirements of

Delaware Social Services Manual (“DSSM”) 16230, her gross income, \$974.78 was divided by two (2) to determine her monthly average income of \$487.39. ($\$487.27 + \$487.51 = \$974.78 \div 2 = \487.39). The average income was multiplied by a factor of 2.16 to account for months that have five (5) weeks, and the calculation resulted in a gross income figure of \$1,052.76. ($\$487.39 \times 2.16 = \$1,052.76$).

Pursuant 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 receive an earned income deduction (disregard) of \$90.00 because the household’s income is considered earned under DSSM 16250. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$962.76. ($\$1,052.76 - \$90.00 = \962.76). 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 asthma and requires medication to control her impairment. She must purchase medications and has other expenses, which were not taken into consideration by the agency.

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.

The Appellant further testified that the agency improperly included holiday pay from her December 11, 2009 pay stub in calculating her income. She maintains that she did not work all of the hours reflected on her pay stub because her employer included 6.5 hours of holiday pay in her December 11, 2009 paycheck. (Exhibit 4).

Pursuant to DSSM 16230, the agency is not to budget prospectively changes in income due *solely* to things such as an extra pay cycle, bonus pay, and overtime or holiday pay.

I note that while DSSM 16230 does not provide the agency with the authority to budget prospectively changes in the Appellant’s income due to holiday pay when the holiday pay is the sole reason for the change. I additionally note that the agency provides a regulation that includes unearned income in the household income calculations. *See* DSSM 16230.2.

After considering the above noted relevant regulations, I find that because the Appellant’s paychecks from November 27, 2009 and December 11, 2009 were within 24¢ of each other that her income did not change solely because of her holiday pay. Instead, her income from December 11, 2009 was consistent with her November 27, 2009 paycheck. Therefore, the agency properly included the Appellant’s holiday pay as it is considered unearned and included under DSSM 16230.2.

Based upon the information provided, DSS correctly determined that the Appellant’s total monthly countable income is over the income limit for a household 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.

The Appellant testified that her income varied. The Appellant was encouraged to provide additional wage information to the agency for further calculations.

IV.

For these reasons, the January 6, 2010 decision of the Division of Social Services to reduce the Appellant's Medical Assistance benefits to Family Planning Medicaid, effective February 1, 2010, is AFFIRMED.

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
Inez Roach, Team 710
Diane Earley, Team 710

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary date-stamped February 16, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped January 28, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to About Your Medical Assistance, dated January 6, 2010 consisting of three (3) pages.

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