



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, Appellant's husband

Janneen Boyce, Social Worker Supervisor, Division of Social Services

I.

Redacted ("Appellant") 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 Appellant is over the income limit for a household of two (2).

II.

On January 20, 2010, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective January 31, 2010. (Exhibit 3).

On January 26, 2010, the Appellant filed a request for a fair hearing. (Exhibit 2).

The Appellant was notified by certified letter dated February 25, 2010, that a fair hearing would be held on March 23, 2010. The hearing was conducted on that date in Wilmington, Delaware.

This is the decision resulting from that hearing.

III.

The Appellant apparently participated in a case review in December 2009. The Appellant's husband, Redacted, was receiving \$291.00 per week in unemployment compensation payments. Pursuant to the requirements of Delaware Social Services Manual ("DSSM") 16230, \$291.00 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 \$1,260.03. ($\$291.00 \times 4.33 = \$1,260.03$). In this case, the Appellant did not receive an earned income deduction (disregard) of \$90.00 because none of the household income is considered earned under DSSM 16250.

Pursuant to the 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. Accordingly, DSS determined that the Appellant's monthly income amounted to \$1,260.03. DSS applied a monthly income limit for a family of two (2) amounting to \$1,215.00 and closed the Appellant's medical assistance benefits.

Redacted testified that he 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.

Testimony revealed that the Appellant's son is currently eighteen (18) years old and is eligible for medical assistance benefits. Mr. Jacoby testified that he supports his step-son, who is his wife's natural child. Redacted maintained that because his step-son continued to attend school and was supported by him, his step-son should be included in the household. DSSM 16240.1 reflects that individuals over the age of eighteen (18) must be considered as their own budget units. As a result, the Appellant's son cannot be considered with the Appellant's budget unit.

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 two (2). As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to close the Appellant's medical assistance benefits and that decision is affirmed on the record before me.

IV.

For these reasons, the January 20, 2010 decision of the Division of Social Services to effective January 31, 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
Janneen Boyce, Team 035
Robin Butler, Team 035

EXHIBITS FILED IN OR FOR THE PROCEEDING

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

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing dated January 26, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated January 31, 2010 consisting of two (2) pages.

EXHIBIT #4 – Copy of a Delaware Department of Labor, Unemployment Insurance Claim History statement dated March 23, 2010 consisting of one (1) page.