



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. 000000000

Mr. Smith

Appearances: Mr. Smith, pro se, Claimant
Ms. Jones, Claimant's Girlfriend

Dawn Ferguson, Social Worker/Case Manager Supervisor, Team #033, Division of Social Services
Ruby Bryant, Social Worker/Case Manager, Team #033, Division of Social Services

I.

Mr. Smith ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny his application for Medicaid for Uninsured Adults based upon being over the income limit for a household of one (1).

The Division of Social Services ("DSS") contends that the Claimant is over the income limit for a household of one (1) to qualify for Medicaid for Uninsured Adults.

II.

On April 8, 2011, DSS sent to Claimant a Notice to Deny Your Medical Assistance, effective February 1, 2011. (Exhibit 3)

On June 9, 2011, DSS received a request for a fair hearing, signed by the Claimant on April 14, 2011. (Exhibit 2)

The Claimant was notified by certified letter dated July 12, 2011, that a fair hearing would be held on July 26, 2011. The hearing was conducted on that date in New Castle, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that the Claimant applied for medical assistance on February 14, 2011. DSS testified that on this application, the Claimant reported that he received \$1,746.00 in monthly Social Security (Title II) benefits. DSS testified that they verified this information with the Social Security Administration. In addition, DSS testified that the Claimant did not report to them that he paid any monthly dependent care costs.

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. DSSM 16230.2 identifies Social Security benefits as a type of unearned income, and notes that unearned income is counted as paid without application of any disregards. In this case, the Claimant did not receive an earned income deduction (disregard) of \$90.00 because all of his household’s income is considered unearned under DSSM 16230. Accordingly, DSS determined that the Claimant’s monthly income amounted to \$1,746.00. DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and the agency denied the Claimant’s medical assistance benefits.

The Claimant testified that as he owes back child support payments, he does incur monthly dependent care expenses. However, the Claimant confirmed that DSS was correct in determining that he received \$1,746.00 in monthly Social Security benefits. The Claimant further testified that he is not eligible for Medicare until 2012. The Claimant’s girlfriend testified that as the Claimant has a disability, there should be programs to assist him in obtaining health insurance.¹

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.

Based upon the information provided, DSS correctly determined that the Claimant’s total monthly countable income is over the income limit for a family of one (1). While the Claimant testified that he incurs monthly dependent care expenses, no evidence was submitted to show that the Claimant informed DSS of these expenses at the time of application.² As a result, the Claimant was properly sent a Notice to Deny Your Medical Assistance, effective February 1, 2011. I conclude that substantial evidence supports DSS’ decision to deny the Claimant’s medical assistance benefits.

¹ I note that at the hearing, DSS offered to provide information concerning their Community Health Access Program (“CHAPs”), which offers discounted medical services to qualified individuals.

² I note that unless the Claimant’s monthly dependent care expenses amount to more than \$838.00, his income remains over the limit for eligibility for Medicaid for Uninsured Adults. (\$1,746.00 - \$908.00 = \$838.00)

IV.

For these reasons, the April 8, 2011 decision of the Division of Social Services to deny the Claimant's medical assistance benefits effective February 1, 2011 is AFFIRMED.

Date: August 4, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

August 4, 2011

POSTED

cc: Mr. Smith
Dawn Ferguson, DSS, Team #033
Ruby Bryant, DSS, Team #033

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated June 20, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing date-stamped June 9, 2011 but dated April 14, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance, dated April 8, 2011, consisting of four (4) pages.