



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, Appellant

Julia Turner-Wheeler, Sr. Social Worker/Case Manager, Team #910, Division of Social Services

Denise Curtis, Sr. Social Worker Supervisor, Division of Social Services

I.

Mr. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close her son's Medical Assistance benefits based upon being over the income limit for a household of three (3).

The Division of Social Services ("DSS") contends that the Appellant's son was no longer eligible for the Delaware Healthy Children program because the Appellant's household was over the income limit for a household of two (2).

II.

On May 31, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective June 30, 2011. (Exhibit 3)

On June 15, 2011, the Appellant filed a request for a fair hearing requesting that benefits continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated June 27, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated July 8, 2011, that a fair hearing would be held on July 29, 2011. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

### III.

DSS testified that during a renewal, the Appellant submitted her two (2) most recent paystubs from the previous thirty (30) days. DSS testified that these paystubs allowed them to determine that the Appellant would earn \$2,879.99 in gross income for the month of July 2011.

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 received an earned income disregard of \$90.00. (DSSM 16230.1.4) Accordingly, DSS determined that the Appellant’s monthly income amounted to \$2,789.99 ( $\$2,879.99 - \$90.00 = \$2,789.99$ ). DSS applied a monthly income limit for a household of two (2) amounting to \$2,036.00 and closed the Appellant’s son’s medical assistance benefits through the Delaware Healthy Children’s Program. (Exhibit 3)

At the hearing, the Appellant testified that when she received the denial notice, she was confused: The Appellant testified that her income had not changed since her recertification at the end of 2010, in which her son was approved for medical assistance. The Appellant testified that when she questioned a front desk employee at her DSS center, that employee confirmed that the paystubs the Appellant submitted for her renewal reflected the same income as the paystubs she submitted for the recertification at the end of 2010. The Appellant testified that the income reflected in those earlier paystubs remained the same on the paystubs she submitted for her renewal in April 2011. In addition, the Appellant testified, she brought to the hearing more current paystubs, that also reflected no change in her income. Lastly, in her request for a fair hearing, the Appellant indicated that she cannot afford health insurance for both herself and her son. (Exhibit 2)

DSS testified that it was not prepared to address wages used in the recertification at the end of 2010. DSS testified that the process they use is to perform a renewal and then an interim, in which verifications of income are not required if there has been no change. DSS testified that the wages used during the recertification in 2010 could have been up to one (1) year old. However, DSS testified, it had no personal knowledge of what wages were used in 2010, and therefore could not confirm or deny the Appellant’s contention that her wages remained the same.

Pursuant to DSSM 18400, financial eligibility for the Delaware Healthy Children Program will be determined using the rules at DSSM 16230 through 16230.3. DSSM 18500 states that after applying appropriate disregards to income, countable family income must be at or below 200% FPL. Compare the countable family income to the income eligibility standard for the budget unit size.

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.

According to Administrative Notice A-05-2011, 200% of the federal poverty level equals \$2,036.00

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 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 son's medical assistance benefits.

IV.

For these reasons, the May 31, 2011 decision of the Division of Social Services to close Appellant's Medical Assistance benefits effective June 30, 2011 is AFFIRMED.

Date: September 1, 2011



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MICHAEL L. STEINBERG, J.D.  
HEARING OFFICER

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

September 1, 2011

POSTED

cc: Mr. Smith  
Julia Turner-Wheeler, DSS, Team 910  
Denise Curtis, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated June 27, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped June 15, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated May 31, 2011, consisting of five (5) pages.