



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

Ms. Smith

Appearances: Ms. Smith, pro se, Appellant
Ms. Jones, Appellant's Sister

Marietta Wharton, Operations Administrator Area 3, Division of Social Services,
Team #190

I.

Ms. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") closing her Medical Assistance benefits based upon being over the income limit for Medicaid for Uninsured Adults 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 June 17, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective June 30, 2011. (Exhibit 3)

On June 27, 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 July 8, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated August 8, 2011, that a fair hearing would be held on August 22, 2011. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that the Appellant was receiving Medical Assistance benefits. DSS testified that after the Appellant began receiving Social Security (Title II) benefits, it determined that the

Appellant's household income exceeded the limit for a household of two (2), rendering the Appellant ineligible for continued coverage under Medicaid for Uninsured Adults. DSS testified that it determined that for the month of July 2011, the Appellant would receive \$495.00 in Social Security (Title II) benefits while her husband would receive \$244.83 in pension payments and \$932.50 in Social Security (Title II) payments. DSS testified that this amounted to a total household income of \$1,672.33 ($\$244.83 + \$932.50 + \$495.00 = \$1,672.33$).

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 no disregards, as the household's income is considered to be unearned under DSSM 16230. Accordingly, DSS determined that the Appellant's monthly income amounted to \$1,672.33. DSS applied a monthly income limit for a family of two (2) amounting to \$1,226.00; as the Appellant's household income exceeded this amount, DSS determined that she was no longer eligible for Medicaid for Uninsured Adults and her assistance was closed.

At the hearing, the Appellant testified that because her husband pays for Medicare, he actually receives only \$836.00 in monthly Social Security benefits. (Exhibit 2) The Appellant testified that as she is aged sixty-two (62), she is not yet eligible for Medicare. The Appellant testified that when she applied for Social Security (Title II) benefits, it was not explained to her that she would not be eligible for Medicare until she reached age sixty-five (65). The Appellant's sister testified that after the Appellant applied for Social Security benefits, she became blind in both eyes. The Appellant's sister testified that until the Appellant informs the Social Security Administration that she is completely blind (therefore becoming eligible for Medicare), she requires health insurance. The Appellant testified that she has numerous medical conditions, for which she requires twelve (12) daily medications. (Exhibit 2) The Appellant testified that she cannot afford these medications without Medical Assistance benefits. Lastly, the Appellant testified that she is seriously disabled due to her blindness: The Appellant testified that as her husband is functionally illiterate, she was the person in their household who did everything. Now that she can no longer see, she testified, there is no one to help her through the process of being approved for Medicare benefits.

According to DSSM 16250, in order to qualify for Medicaid for Uninsured Adults, after applying appropriate disregards to income, DSS is instructed to compare the countable family income to the income eligibility standard for the budget unit size. The income eligibility standard for uninsured adults is family income at or below 100% of poverty.

According to Administrative Notice A-05-2011, 100% of the federal poverty level for a household of two (2) is equal to \$1,226.00 per month.

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 Appellant's total monthly countable income is over the income limit for a household of two (2) for her to qualify for Medicaid for Uninsured Adults. Although the Appellant testified that her husband's Social Security Benefits are reduced to \$836.00 per month after his Medicare premium is deducted, DSSM 16230 provides no disregards to account for this deduction. As a result, the Appellant was properly sent a Notice to Close Your Medical Assistance. Although understanding the Appellant's frustration, I conclude that substantial evidence supports DSS' decision to close the Appellant's Medical Assistance benefits.

IV.

For these reasons, the June 17, 2011 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits effective June 30, 2011 is AFFIRMED.

Date: September 16, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

September 16, 2011

POSTED

cc: Ms. Smith
Marietta Wharton, DSS, Team #190

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated July 8, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped June 27, 2011, consisting of five (5) pages.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated June 17, 2011, consisting of four (4) pages.