



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. 0000000000

Mr. Smith

Appearances: Mr. Smith, pro se, Appellant

Denise Frasier, Social Worker/Case Manager Supervisor, Division of Social Services
Cynthia Carly, Sr. Social Worker/Maintenance Worker, Division of Social Services

I.

Mr. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close his Medical Assistance benefits 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 May 31, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective June 30, 2011. (Exhibit 3)

The Appellant filed a request for a fair hearing date-stamped June 8, 2011, in which he requested that assistance continue. (Exhibit 2) According to the fair hearing summary dated June 9, 2011, assistance has continued. (Exhibit 1)

The Appellant was notified by certified letter dated July 5, 2011 that a fair hearing would be held on July 21, 2011. A Continuance was granted on August 9, 2011. The Appellant was notified by certified letter dated August 30, 2011 that a fair hearing would be held on September 19, 2011. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that it discovered on the May renewal form submitted by the Appellant that the Appellant was receiving unemployment compensation benefits through the State of Maryland. (Exhibit 5) DSS testified that on this renewal form signed by the Appellant on May 19, 2011, the Appellant reported that he

was receiving \$908.00 in monthly unemployment compensation benefits as well as \$95.00 in Supplemental Security Income (“SSI”). (Exhibit 5) DSS testified that in addition, the Appellant provided them with verification of his unemployment compensation, showing that he was receiving \$227.00 in weekly unemployment compensation benefits. (Exhibit 4) Since there are 52 weekly pay periods in a year, merely multiplying a weekly income by four (4) yields an erroneous result because it fails to account for the four (4) “extra” pay periods in the year. To account for these “extra” pay periods, federal policy requires DSS to multiply a weekly gross income by 4.33, resulting in a monthly income reflecting one twelfth (1/12) of the Appellant’s yearly gross income. (DSSM 16230) Following this federal policy, DSS determined that the Appellant would receive a total of \$1,059.09 in gross unemployment compensation for the month of July ($\$227.00 \times 4.33 = \982.91)¹.

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 all of his income was considered unearned. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1,059.09. DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and closed the Appellant’s medical assistance benefits.

At the hearing, the Appellant contested the income amounts DSS used in determining his medical assistance benefits. The Appellant testified at the time of his renewal, he nominally received \$227.00 in weekly unemployment compensation from the State of Maryland; however, he testified, he actually received \$100.00 less per month in unemployment compensation benefits than what was reported. The Appellant testified that he noticed that his weekly checks had been reduced by \$25.00. The Appellant testified that when he called to question this reduction, he was told that due to a stimulus program, everyone receiving unemployment compensation had had his or her monthly benefits reduced by \$100.00. The Appellant testified that he never received \$1,059.09 in monthly unemployment benefits. The Appellant further testified that while he did receive \$95.00 in monthly SSI benefits, those benefits ended in June. Lastly, the Appellant testified that his unemployment benefits have ended while this hearing was pending.

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.

DSSM 16230 identifies that countable income is earned or unearned income from which certain disregards (if applicable) have been deducted. Determine eligibility prospectively based on the best estimate of income and circumstances that will exist in the month for which the eligibility determination is being made. Changes in income are budgeted prospectively after verifying the information.

Further, DSSM 16230.2 states that unearned income is income received without performing work-related activity. Unearned income is counted as paid without application of any disregards.

In order to determine eligibility for Medicaid for Uninsured Adults, DSSM 16250 instructs DSS that after applying appropriate disregards to income, to compare the countable family income to the income eligibility

¹ I note that DSS’ income calculation is incorrect. Both the notice dated May 31, 2011 and testimony show that only the Appellant’s unemployment compensation was counted, disregarding his monthly SSI income. However, weekly unemployment compensation benefits of \$227.00 result in a gross monthly benefit of \$982.91 when the 4.33 multiple is applied, not \$1,059.09.

standard for the budget unit size. To be eligible, uninsured adults must have 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 one (1) is equal to \$908.00 per month.

Based upon the information provided, DSS correctly determined that the Appellant's total monthly countable income is over the income limit to be eligible for Medicaid for Uninsured Adults as a household of one (1). Although DSS was incorrect in its determination of the Appellant's gross income, when calculating his documented monthly unemployment compensation utilizing the formula set out in DSSM 16230, the Appellant's gross monthly income remains above the \$908.00 income limit for a household of one (1). Further, although the Appellant testified that he actually received less unemployment compensation than reported each month, there is no indication that this information was reported to DSS as required by DSSM 16230, nor does DSSM 16230.2 appear to provide any relief for involuntary withholdings from unearned income sources. 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. I encourage the Appellant to re-apply for benefits, as he is no longer receiving unemployment compensation.

IV.

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

Date: October 5, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

October 20, 2011

POSTED

cc: Mr. Smith
Denise Frasier, DSS
Cynthia Carly, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – DSS Fair Hearing Summary consisting of two (2) pages dated June 9, 2011.

EXHIBIT #2 – Copy of Appellant's Request for a Fair Hearing date-stamped June 8, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of a Notice to Close Your Medical Assistance, dated May 31, 2011, consisting of four (4) pages.

EXHIBIT #4 – Copy of a Verification of Maryland Unemployment Insurance Benefit Status letter, dated February 28, 2011 and received by DSS on May 23, 2011, consisting of one (1) page.

EXHIBIT #5 – Copy of a renewal form signed by the Appellant on May 19, 2011 and received by DSS on May 23, 2011, consisting of two (2) pages.