



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

Ms. Smith

Appearances: Ms. Smith, pro se, Appellant

Christine Best, Sr. Social Worker/Case Manager, Team #135, Division of Social Services

Rebekah Hennlein, Sr. Social Worker/Case Manager, Team #135, Division of Social Services

I.

Ms. Smith ("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 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 12, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective May 31, 2011. (Exhibit 3)

On August 10, 2011, the Appellant filed a request for a fair hearing, requesting that assistance did not continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated August 12, 2011, benefits have not continued. (Exhibit 1)

The Appellant was notified by certified letter dated September 15, 2011, that a fair hearing would be held on September 29, 2011. The hearing was conducted on that date in New Castle, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that on May 5, 2011, the Appellant contacted the change report center to inform them that her husband had passed away. In addition, DSS testified, the Appellant also submitted updated paystubs for herself from U.S. Security. DSS testified that these paystubs show that the Appellant was paid weekly. (Exhibits 4, 5, 6, and 7) DSS testified that it first averaged these four (4) paystubs $((\$480.00 + \$336.00 + \$336.00 + \$480.00)/4 = \$408.00$ average weekly gross income). (Exhibits 4, 5, 6 and 7) 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 \$1,766.64 in earned income for the month of June $(\$408.00 \times 4.33 = \$1,766.64)$.

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 deduction (disregard) of \$90.00 because her household’s income is considered to be earned under DSSM 16230. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1,676.64 $(\$1,766.64 - \$90.00 = \$1,676.64)$. DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and the agency closed the Appellant’s medical assistance benefits.

At the hearing, the Appellant testified that after her husband of thirty-six (36) years passed away in October 2010, she began working for the same company he worked for on January 7, 2011. The Appellant testified that her husband had worked full-time as a private school teacher and part-time as a security officer for the company that later became U.S. Security. The Appellant testified that when she began working for U.S. Security, she was given her late husband’s position, and worked four (4) hours per day as a security officer at the Child Development Center. The Appellant testified that as she could not live on an income resulting from only twenty (20) hours of weekly employment, she was given the position as a “floater,” to supplement those twenty (20) hours a week. The Appellant testified that as of September 1, 2011, she works a total of eight (8) hours per week as a security officer at the Child Development Center, and a total of thirty-two (32) hours per week as a security officer at the Chase Brandywine Realty Trust building in Wilmington. In addition, she testified, she now pays \$87.00 per month for medical insurance through her employer. After this expense is deducted, she testified, her monthly income amounts to \$1,494.80. The Appellant testified that having to shoulder this expense for medical insurance further reduces her income, making it difficult for her to meet her monthly living expenses. Lastly, the Appellant testified that she needs help to restructure her mortgage payment, as she cannot afford the \$908.00 monthly payment on her income.

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.

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 standard for the budget unit size. 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 for a household of one (1). While the Appellant may take home less income than DSS used in determining eligibility, according to DSSM 16230.1, DSS must use the gross income amount, not the after-tax income amount. 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.

IV.

For these reasons, the May 12, 2011 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits effective May 31, 2011 is AFFIRMED.

Date: October 21, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

October 21, 2011

POSTED

cc: Ms. Smith
Christine Best, DSS, Team #135
Rebekah Hennlein, DSS, Team #135

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated August 12, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped August 10, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated May 12, 2011, consisting of four (4) pages.

EXHIBIT #4 – Copy of a Paystub from U.S. Security dated April 1, 2011, consisting of one (1) page.

EXHIBIT #5 – Copy of a Paystub from U.S. Security dated March 25, 2011, consisting of one (1) page.

EXHIBIT #6 – Copy of a Paystub from U.S. Security dated March 18, 2011, consisting of one (1) page.

EXHIBIT #7 – Copy of a Paystub from U.S. Security dated March 11, 2011, consisting of one (1) page.