



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  
ADMINISTRATIVE FAIR HEARING**

**LOG NUMBER: 5-26-2021-001**

**DECISION DATE: May 26, 2021**

**State Agency Appearances:**

Lynn Carter, Sr. Social Worker/Case Manager  
Chantell Porter, Social Worker/Case Manager

**I-Statement of the Issues**

The Appellant opposes a decision by the Division of Social Services ("DSS") to deny him food benefits and medical assistance benefits on March 22, 2021.

The Division of Social Services ("DSS") contends that it properly denied the food benefits due to the Appellant's failure to provide proof of his citizenship status. DSS contends that it properly denied the medical assistance benefits due to the Appellant's household exceeding the applicable income limit for a household of two (2). The Appellant disagrees with the decision to deny him food benefits and medical assistance benefits.

**II- Procedural History**

On March 22, 2021, DSS issued to the Appellant a Notice to Deny Your Food Benefits, informing him that his application for food benefits was denied. (Exhibit 5). Additionally, on March 22, 2021, DSS issued to the Appellant a Notice to Deny Your Medical Assistance, informing him that his household was denied medical assistance benefits. (Exhibit 4). On April 6, 2021, DSS received the Appellant's timely appeals regarding the medical assistance benefits and food benefits. (Exhibit 6).

On April 14, 2021, the Appellant was sent a Notice of Fair Hearing Date and Time, informing him that a Fair Hearing would be held on April 29, 2021 regarding both appeals. The hearing was conducted on that date remotely via telephone. This is the decision resulting from that hearing.

### **III- Statement of Facts**

On February 8, 2021, the Appellant submitted an application for food benefits and medical assistance. (Exhibit 1). The Appellant included himself and his wife as household members. (Exhibit 1). He also indicated that he is a U.S. citizen, but his wife is not. (Exhibit 1). Regarding household income, he reported that his wife earns approximately \$1,000.00 twice a month from her employment with Costco. (Exhibit 1). Along with his application, the Appellant submitted verification of various expenses such as utility bills and taxes. (Exhibit 2). The Appellant also submitted a letter verifying his loss of employment from Iron Hill Brewery due to the COVID-19 pandemic. (Exhibit 3). On March 22, 2021, DSS issued to the Appellant a Notice to Deny Your Food Benefits, informing him that his application for food benefits was denied. (Exhibit 5). Additionally, on March 22, 2021, DSS issued to the Appellant a Notice to Deny Your Medical Assistance, informing him that his household was denied medical assistance benefits. (Exhibit 4).

At the Fair Hearing, Ms. Porter and Ms. Carter testified that the Appellant's food benefit application was initially denied based on citizenship grounds. However, at the Fair Hearing, they acknowledged that the Appellant subsequently submitted proper proof of his household's citizenship status on March 23, 2021. As a result, a subsequent decision on April 9, 2021 was made denying the Appellant's food benefits application based on income.

At the Fair Hearing, Ms. Porter testified that the Appellant's medical assistance application was denied based on the household's income exceeding the income limit for a household of two (2). Ms. Porter testified that she retrieved the Appellant's wife's paystubs dated January 22, 2021 and February 5, 2021 totaling \$1,973.93 and \$972.67, respectively. Ms. Porter averaged these paystubs and multiplied them by a multiplication factor of 2.16 to arrive at \$3,182.33 in gross monthly income. Since the household's gross monthly income exceeded the \$1,930.00 gross income limit for a household of two (2), the medical assistance benefits were denied.

At the Fair Hearing, the Appellant testified that he lost his job due to the COVID-19 pandemic. He testified that he needs medical assistance benefits because of his medical conditions.

### **IV – Discussion and Analysis of Law**

#### **Applicable Law for Food Benefits:**

DSSM §9029 states “Households are required to cooperate in the application process in order to receive food benefits. The household or its authorized representative must complete the application, have an interview, and verify certain information on the application before DSS can determine eligibility.”

DSSM §9032.1(b) requires mandatory verification of the “eligible status of applicant aliens.”

**Applicable Law for Medical Assistance:**

DSSM §2014.3 states the following regarding calculating prospective best estimate:

Obtain all available information from the client and possible income sources to estimate the income. Use all income received in the previous thirty (30) days to determine the future income. If the past income is not an indicator of future income, verify the amount of the expected income from the income source.

When income is received on a weekly, bi-weekly, or semi-monthly basis, convert the income to the monthly amount by multiplying by the appropriate income conversion factor as follows:

Weekly - 4.33

Bi-weekly - 2.16

Semi-monthly - 2

DSSM §15400.4 states the following regarding financial eligibility: "Household income must not exceed 133% of the Federal Poverty Level (FPL)." 133% of the 2021 FPL for a household of two (2) is \$1,930.00.

In reviewing the facts of this case, DSS correctly denied the Appellant food benefits pursuant to DSSM §9029 and DSSM §9032.1(b). DSSM §9029 requires household cooperation during the application process, which includes verifying certain information before DSS can determine eligibility. Furthermore, DSSM §9032.1(b) requires mandatory verification of the "eligible status of applicant aliens." At the Fair Hearing, Ms. Porter and Ms. Carter testified that the Appellant's food benefit application was initially denied based on citizenship grounds. However, at the Fair Hearing, they acknowledged that the Appellant subsequently submitted proper proof of his household's citizenship status on March 23, 2021. Since the Appellant did not provide proper verification of his household's citizenship status prior to the March 22, 2021 denial notice, DSS was correct in denying the food benefits per DSSM §9029 and DSSM §9032.1(b). However, this decision is already moot as DSS made a new denial decision on April 9, 2021 based on income. This decision is not currently under appeal, and the Appellant is free to file an appeal on that decision, of which the focus would be whether the Appellant is income eligible.


Additionally, DSS correctly denied the Appellant medical assistance benefits pursuant to DSSM §15400.4. DSSM §15400.4 states "Household income must not exceed 133% of the Federal Poverty Level (FPL)." 133% of the 2021 FPL for a household of two (2) is \$1,930.00. At the Fair Hearing, Ms. Porter testified that the Appellant's medical assistance application was denied based on the household's income exceeding the income limit for a household of two (2). Ms. Porter testified that she retrieved the Appellant's wife's paystubs dated January 22, 2021 and February 5, 2021 totaling \$1,973.93 and \$972.67, respectively. Ms. Porter averaged these paystubs and multiplied them by a multiplication factor of 2.16 to arrive at \$3,182.33 in gross monthly income. This method of estimating the Appellant's household income comports with the procedure outlined in DSSM §2014.3. Since the household's gross monthly income clearly

exceeded the \$1,930.00 gross income limit for a household of two (2), the medical assistance benefits were correctly denied pursuant to DSSM §15400.4.

### **V- Decision**

For these reasons, the Notice to Deny Your Food Benefits dated March 22, 2021, which denied the food benefits, is **AFFIRMED**. Furthermore, the Notice to Deny Your Medical Assistance dated March 22, 2021, which denied the medical assistance, is **AFFIRMED**.

Decision Date: May 26, 2021

  
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James L. Bobeck, Esq.  
HEARING OFFICER

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

**May 26, 2021**  
**POSTED**

## **SUMMARY OF DOCUMENTARY EVIDENCE**

### **STATE’S EXHIBITS**

EXHIBIT #1 – Application date stamped February 8, 2021 (18 pages)

EXHIBIT #2 – Expenses date stamped February 8, 2021 (6 pages)

EXHIBIT #3 – Letter from Appellant & Verification of Employment Loss date stamped February 9, 2021 (2 pages)

EXHIBIT #4 – Notice to Deny Your Medical Assistance dated March 22, 2021 (5 pages)

EXHIBIT #5 – Notices to Deny Your Food Benefits dated March 22, 2021 (4 pages)

EXHIBIT #6 – Food Benefit and Medical Assistance Appeals date stamped April 6, 2021 (2 pages)

### **APPELLANT’S EXHIBITS**

None