



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:**5-24-2021-004

**DECISION DATE:** May 24, 2021

State Agency Appearances: Monique Townsend, Senior Social Worker (by telephone)  
William Gonzalez Rodriguez, Supervisor (by telephone)

**I-Statement of the Issue(s)**

The Appellant opposes the action of the Division of Social Services (“DSS”) that determined his son was not eligible to receive medical assistance under the Appellant’s case.

DSS contends that it properly determined that the Appellant’s son was not eligible to receive medical assistance under the Appellant’s case.

**II-Procedural History**

DSS sent a Notice to Deny Your Medical Assistance to the Appellant. (S. Exhibit 3).

The Appellant filed a request for a Fair Hearing and indicated that he wanted the benefits to continue during the pendency of the hearing process. (S. Exhibit 1). According to the Fair Hearing Summary, the benefits have not continued. (S. Exhibit 4).

The Fair Hearing requested by the Appellant was conducted on, April 5, 2021, by telephone.

This is the decision resulting from that hearing.

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

DSS testified that the Appellant disagrees with the decision to deny his son's Medicaid. DSS testified that the case was processed correctly, and the appropriate policies were used to make the determination to deny the Medicaid. DSS explained that the Appellant's son's Medicaid was denied on the Appellant's case, but is open in another case.

This Fair Hearing Officer noted that according to the Appellant's Fair Hearing Request, the Appellant believes that his son should not have been removed from his case. The Appellant testified that he was not informed of the reason why his son was removed from his case, except to say that his son was on another case.

This Fair Hearing Officer confirmed with the Appellant that he was representing himself at this Fair Hearing.

DSS entered the exhibits into the record. (S. Exhibits 1 through 5).

DSS testified that the Appellant met with an intake worker on February 28, 2020 for a face-to-face interview. At that time, the Appellant verbally stated that his son was not living in the home, but he included his son on the application. The child was not living with the Appellant, but was living with the mother. Therefore, the child was removed from the Appellant's case and added to another case. DSS explained that the system automatically denied the child because the child is open in a different case. So, when the Appellant completed his Renewal, a year passed, and the child was no longer living in his home. DSS testified that a child cannot receive medical assistance in two (2) different cases and since the Appellant stated clearly that the child was not living with him, the child was removed from the Appellant's case.

The Appellant testified that it was not properly recorded that his son's primary residence is at his mother's. The Appellant explained that he has joint legal custody, and his son's medical coverage is covered by his mother's employer. The Appellant explained that his son needs Medicaid when his son is with him, so he has medical coverage while the child is with him.

DSS testified that the Court Order clearly states, and emphasizes, that if the child's mother has private insurance for the child, she must provide a copy of the private insurance to the Appellant. The state medical [assistance] would be a secondary insurance. In this case, the child's mother filed first, which is why he is included on her case, but she should provide a copy of the child's medical card to the Appellant.

The Appellant testified that he has requested his son's medical insurance cards from his child's mother, but she has not complied. DSS offered to look further into the case with a DSS supervisor to find out if a card could be given to the Appellant regarding his son's medical assistance. The Appellant noted that he would appreciate any information DSS could provide.

DSS advised the Appellant that the Medicaid card cannot be used as the primary insurance when there is a private insurer. DSS advised the Appellant to go to the Division of Child Support Services ("DCSS") and reopen the child support Order because the mother has failed to provide

him with a medical insurance card. At that point, DCSS will submit the case to a Commissioner and the Commissioner will have the mother provide him with a copy.

In closing, DSS believes that it has shown through direct testimony and supporting documentation that the case was properly processed. DSS requested that the decision to deny the request for medical assistance be upheld.

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

In this instance, DSS correctly determined that the Appellant's son was not eligible to receive medical assistance under the Appellant's benefits case because the child was open in medical assistance in another case.

According to the testimony, the Appellant's son is open in medical assistance under his mother's case. Additionally, the child's mother provides private, employer sponsored medical insurance for the child. The Appellant did not dispute that his son has medical assistance or insurance, but believed he should have medical assistance for his son, because the child's mother has refused to give the Appellant copies of the child's medical card.

The Delaware Social Services Manual, Section 14100.5 Determination of Eligibility lists the requirements for medical assistance eligibility. In this case, the Appellant's son is eligible to receive medical assistance and as discussed above, is open in medical assistance in his mother's case. Consequently, the Appellant's son cannot receive medical assistance in two (2) separate benefit households and two (2) separate benefit cases. As discussed during the Fair Hearing, the Appellant should work with DCSS to obtain copies of his son's medical insurance cards.

#### **V-Decision**

For the above reasons, the DSS Notice to Deny Your Medical Assistance is **AFFIRMED**.



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JOAN R. KIRBY, ESQ.  
HEARING OFFICER

Decision Date: **May 24, 2021**

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

**May 24, 2021**  
**POSTED**

## **SUMMARY OF DOCUMENTARY EVIDENCE**

### **STATE EXHIBITS**

S. EXHIBIT 1 - A copy of the Appellant's Fair Hearing request, consisting of one (1) page.

S. EXHIBIT 2 - A copy of a DSS Notice to Deny Your Medical Assistance addressed to the Appellant, consisting of five (5) pages.

S. EXHIBIT 3 - A copy of a DSS Notice to Deny Your Medical Assistance addressed to the Appellant, consisting of four (4) pages.

S. EXHIBIT 4 - A copy of the Appellant's completed Renewal Form, consisting of two (2) pages.

S. EXHIBIT 5 - A copy of a DSS Fair Hearing Summary, consisting of two (2) pages.

### **APPELLANT'S EXHIBITS**

None.