



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. Redacted

Redacted

Appearances: Redacted, pro se, Appellant

Kevin Taylor, Supervisor, Team 910, Division of Social Services

I.

Redacted ("Appellant") is appealing the decision to change her medical assistance benefits, removing her and her son from Transitional Medicaid via the Extended Medicaid for Wages program, and placing her son in the Delaware Healthy Children Program and herself in the Family Planning Services Program.

The Division of Social Services ("DSS") contends that Appellant is no longer eligible for transitional medical assistance coverage because she exhausted her time-limited benefits under that program.

II.

By notice dated February 17, 2010, DSS changed the Appellant's medical assistance benefits from Transitional Medicaid to Delaware Healthy Children for her son and Family Planning Services for herself, effective March 1, 2010. (Exhibit 3)

The Appellant filed a request for a fair hearing date-stamped March 15, 2010, requesting that benefits be continued. (Exhibit 2) According to the Fair Hearing Summary dated May 27, 2010, benefits have not been continued. (Exhibit 1)

The Appellant was notified by certified letter dated June 14, 2010, that a fair hearing would be held on June 25, 2010. A hearing was held on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

The Division of Medicaid and Medical Assistance (“DMMA”) used the option under Section 1931(b)(2)(C) of the Social Security Act to disregard all earned income for 12 months after employment causes ineligibility for a family under the Section 1931 coverage group. This effectively extends Medicaid coverage for up to 24 months. A redetermination is required at 12 months. Earned income is counted after the expiration of the 12 month earned income disregard. The family may cascade to Transitional Medicaid. Transitional Medicaid extends for up to one year. The year is divided into two periods of six months each. During the first six month-period there is no income test. During the second six-month period the family’s gross monthly earnings minus dependent care costs must not exceed 185% of the Federal Poverty Level. There are no limits on dependent care costs. A redetermination is required at the end of the Transitional Medicaid 12 month extension.

DSS testified that the Appellant had received twelve (12) months of Transitional Medicaid, ending on March 1, 2010. The Appellant concurred, and testified that she had received twelve (12) months of benefits. The Appellant testified that while she did not contest that she had reached the time limit for her benefits, she requested the hearing to complain that her assigned social worker did not return her calls. The Appellant testified that after receiving the notice dated February 17, 2010, she called her social worker to ask why her benefits were ending. The Appellant testified that although the voice message recording says that social workers will return calls within a set time, her social worker never returned her calls.

Pursuant to Division of Social Services Manual (“DSSM”) 5001, the purpose of a fair hearing is to afford all applicants and recipients the opportunity for an impartial, objective review of decisions, actions and/or delays in actions in programs administered by the Division. While the Appellant’s testified that her social worker was not returning her telephone calls, a fair hearing is not the forum for that type of complaint under DSSM 5001. Instead, the Appellant should address those concerns to her social worker’s supervisor.

According to DSSM 15200, families who establish eligibility for Transitional Medicaid after October 1, 2002, may be eligible for up to twelve (12) months of Transitional Medicaid. The twelve (12) month period for Transitional Medicaid has ended. At this time, the Appellant’s income and family size must be taken into consideration when determining her eligibility for Medical Assistance benefits. I find that because the Appellant’s household income places her over the income limit to receive medical assistance benefits at the level she previously received, DSS properly changed her medical assistance benefits. Substantial evidence supports the agency’s decision to close the Appellant’s Transitional Medicaid benefits and their decision is affirmed on the record before me.

Further, because the Appellant did not file her request for a fair hearing until after the closing date of her medical assistance benefits, her medical assistance benefits should not have continued through the pendency of this case. According to DSSM 5308, if the recipient requests a hearing within the timely notice period, assistance will not be suspended, reduced, discontinued, or

terminated (but is subject to recovery by the agency if its action is sustained on appeal) until a decision is reached after a fair hearing, unless the recipient specifically requests reduction or discontinuance, or if a listed exception applies. In this instance, the Appellant requested that her medical assistance benefits continue after March 1, 2010, the closing date of her Transitional Medicaid benefits. As a result, DSS correctly did not continue benefits during the pendency of this proceeding.

IV.

For these reasons, the decision of the Division of Social Services to change the Appellant's medical assistance benefits effective March 1, 2010 is AFFIRMED.

Date: July 13, 2010



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

July 13, 2010

POSTED

cc: Redacted
Kevin Taylor, Team 910

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of a DSS Fair Hearing Summary dated May 27, 2010, consisting of two (2) pages.

EXHIBIT #2 – Copy of Appellant's request for a fair hearing date-stamped March 15, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance dated February 17, 2010, consisting of six (6) pages.