



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, Claimant

Twila Rost, Social Worker/Case Manager, Division of Social Services

**I.**

Redacted ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny her medical assistance benefits application, based upon being over the income limit for a household of one (1).

The Division of Social Services ("DSS") contends that the Claimant is over the income limit for a household of one (1) and that they properly denied Claimant's medical assistance benefits application.

**II.**

On December 18, 2009, DSS sent to Claimant a Notice to Deny Your Medical Assistance, effective October 1, 2009. (Exhibit 3)

On December 28, 2009, the Claimant filed a request for a fair hearing. (Exhibit 2).

The Claimant was notified by certified letter dated February 8, 2010, that a fair hearing would be held on February 26, 2010. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

**III.**

The Claimant applied for medical assistance. At the time of his application, he did not provide complete information about his earnings. He produced two (2) pay stubs: one (1) pay stub was dated October 30, 2009 and one (1) pay stub was dated November 6, 2009. His case worker then asked the Claimant's employer to complete an Employment Verification Form, which was later returned to her and dated December 8, 2009. The employer, Hanover Foods, reported that the Claimant began work on October 20, 2009 and the Form indicated that the Claimant earned \$9.00 per hour and worked twenty-eight (28) hours per week. The Claimant additionally signed the form, which did not provide employment termination information.

When Ms. Rost received the Employment Verification Form she accepted the employer's statement as providing an accurate reflection of the Claimant's monthly income. She multiplied twenty-eight (28) hours by \$9.00 to determine the Claimant's weekly income of \$252.00 per week. ( $\$9.00 \times 28 = \$252.00$ ). Pursuant to the requirements of Delaware Social Services Manual ("DSSM") 16230, \$252.00 was multiplied by a factor of 4.33 to account for months that have five (5) weeks, and the calculation resulted in a gross income figure of \$1,091.16. ( $\$252.00 \times 4.33 = \$1,091.16$ ). In this case, the Appellant's did receive an earned income deduction (disregard) of \$90.00 because his household's income is considered earned under DSSM 16250. ( $\$1,091.16 - \$90.00 = 1,001.16$ ). Accordingly, DSS determined that the household monthly income amounted to \$1,001.16. DSS applied a monthly income limit for a family of one (1) of \$903.00 and denied the Appellant's medical assistance application.

The Appellant offered his W-2 statement from Source One (Hanover Foods) into evidence at the hearing to establish that he only earned \$411.00 in income from his work at Hanover Foods in 2009. He testified that the production at Hanover Foods continues from April through November. He has not worked since he received \$411.00 from his employment with Source One (Hanover Foods).

The Claimant testified that he signed the Employment Verification Form on December 8, 2009 because he believed he would be able to work after that time period. However, he has not been working.

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.

Based upon the information provided, DSS did not correctly determine that the Claimant's total monthly household countable income was over the income limit for a family of one (1). As a result, substantial evidence does not support the agency's decision to send the Claimant a Notice to Deny Your Medical Assistance. The agency is to consider the Claimant's W-2 statement in determining whether the Claimant was eligible for medical assistance benefits since October 1, 2009.

#### IV.

For these reasons, the December 16, 2009 decision of the Division of Social Services to deny the Claimant's Medical Assistance application effective October 1, 2009 is REVERSED and REMANDED to consider the Claimant's income of \$441.00 during the month of October 2009.

Date: March 10, 2010



MICHAEL L. STEINBERG, J.D.  
HEARING OFFICER

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

March 10, 2010  
POSTED

cc: Redacted  
Twila Rost, Team 710

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Hearing Summary consisting of two (2) pages date-stamped January 19, 2010.

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing date-stamped January 19, 2010, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance dated December 16, 2009, consisting of two (2) pages.

EXHIBIT #4 – Copy of an Employment Verification Form dated December 8, 2009 consisting of one (1) page.

EXHIBIT #5 – Copy of an earnings statement and W-2 form consisting of two (2) pages.