



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

Mr. Smith

Appearances: Mr. Smith, pro se, Appellant

Gayle King, Sr. Social Worker, Team # 312, Division of Social Services
Denise Curtis, Sr. Social Worker Supervisor, Division of Social Services

I.

Mr. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close his 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 June 2, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective June 30, 2011. (Exhibit 3)

On June 28, 2011, the Appellant filed a request for a fair hearing requesting that benefits continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated June 28, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated July 8, 2011, that a fair hearing would be held on July 29, 2011. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that during the renewal process, the Appellant submitted current wage information in the form of two (2) biweekly paystubs. DSS testified that it accurately entered the information on these paystubs into the DSS computer system. DSS testified at the hearing that these paystubs revealed that the Appellant would have a gross income of \$1,763.30 for the month of July 2011. DSS testified that its computer system is set-up to computer monthly income according to its policies. DSS testified that after the Appellant's income was entered into the computer system, he was determined to be financially over-eligible for continued Medicaid for Uninsured Adults medical assistance.

As this Hearing Officer noted during the hearing, the June 2, 2011 Notice to Close Your Medical Assistance identified that the Appellant's gross monthly income was found to be \$1,904.36. Although DSS testified that it recognized the discrepancy, it could not testify as to its cause. However, a review of DSS policy in how to compute monthly earned income explains this disparity. DSS' testimony that the Appellant had earned gross income of \$1,763.30 was based upon simple addition of the gross amounts reflected on the Appellant's submitted paystubs. (Exhibit 4) DSS testified that the paystub dated May 6, 2011 showed \$926.29 in gross income, while the paystub dated May 20, 2011 showed \$837.01 in gross income ($\$926.29 + \$837.01 = \$1,763.30$). (Exhibit 5) However, the Division of Social Services Manual ("DSSM") 16230.1.1 instructs that a DSS worker may average submitted paystubs, which in the present case would result in an average biweekly income of \$881.65 ($(\$926.29 + \$837.01)/2 = \881.65)

Since there are 26 biweekly pay periods in a year, merely multiplying a biweekly income by two (2) yields an erroneous result because it fails to account for the two (2) "extra" pay periods in the year. To account for these "extra" pay periods, federal policy requires DSS to multiply a biweekly gross income by 2.16, 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 \$1,904.36 in compensation for the month of July 2011 ($\$881.65 \times 2.16 = \$1,904.36$).

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 disregard of \$90.00, as all of his income was earned. Accordingly, DSS determined in the June 2, 2011 notice that the Appellant's monthly income amounted to \$1,814.36 ($\$1,904.36 - \$90.00 = \$1,814.36$). DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and closed the Appellant's medical assistance benefits.

At the hearing, the Appellant testified that he lives with his fiancée. The Appellant further testified that when he received his renewal materials, he thought it was just a formality, as he earned \$600.00 less per month than when he originally applied and was approved for benefits. The Appellant testified that when he originally applied, although the calculations to determine whether he was eligible were confusing, he went ahead and applied and received medical assistance. The Appellant testified that had he known the income limit was set at \$908.00, he would not have applied for medical assistance benefits.

The Appellant further testified that he has been working at the Delaware Veteran's Home for the past year, after losing better-paying employment. The Appellant testified that with his previous employer, he earned roughly \$42,000.00 per year, and was able to purchase health insurance. The Appellant testified that in his current employment, he is technically listed as "casual/seasonal" and therefore is ineligible for benefits. In addition, the Appellant testified that on his current income, he is unable to afford to purchase health insurance. The Appellant testified that he suffers from high blood pressure and high cholesterol, which requires three (3) medications to control. The Appellant testified that although he eats healthily, only the medications have worked to keep his conditions stable. Lastly, the Appellant testified that he felt the \$908.00 income limit was too low.

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. To be eligible, 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.

According to DSSM 16240.1, unmarried partners may be included in a single budget unit only if they have a child in common, who resides with them.

Based upon the information provided, DSS correctly determined that the Appellant's total monthly countable income is over the income limit to be eligible for Medicaid for Uninsured Adults as a household of one (1). Although the Appellant testified that he resides with his fiancée, according to DSSM 16240.1 she cannot be added to his budget unit until they are married. 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 June 2, 2011 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits effective June 30, 2011 is AFFIRMED.

Date: September 1, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

September 1, 2011

POSTED

cc: Mr. Smith
Gayle King, Team # 312, DSS
Denise Curtis, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated June 28, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped June 28, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated June 2, 2011, consisting of four (4) pages.

EXHIBIT #4 – Copy of a calculator printout, consisting of one (1) page.

EXHIBIT #5 – Copy of Paystubs from the Delaware Veteran's Home, dated May 6 and May 20, 2011, consisting of two (2) pages.