



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

Ms. Smith

Appearances: Ms. Smith, pro se, Appellant
Mrs. Mom Smith, Appellant's Mother

Kristen Mears, Sr. Social Worker/Case Manager, Division of Social Services, Team 720
Melissa Worthy, Sr. Social Worker/Case Manager, Division of Social Services

I.

Ms. Smith ("Appellant") opposes a decision by the Division of Social Services ("DSS") to reduce her Medical Assistance benefits from Medicaid for Uninsured Adults to Family Planning Services 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 24, 2011, DSS sent to Appellant a Notice About Your Medical Assistance, effective August 1, 2011. (Exhibit 3)

On July 11, 2011, the Appellant filed a request for a fair hearing, requesting that assistance continue during the pendency of the case. (Exhibit 2) According to the Fair Hearing Summary dated August 1, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated August 30, 2011, that a fair hearing would be held on September 19, 2011. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that with her renewal form, the Appellant reported a new employer and provided paystubs from that employer. (Exhibit 6) DSS testified that the two (2) biweekly wages provided by the Appellant from her employer, Nourish LLC, were first averaged ($(\$476.00 + \$560.00)/2 = \$518.00$). (Exhibit 6) Then, DSS testified, it applied a multiple of 2.16 to determine the Appellant's gross monthly income. 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 \$1,117.80 in compensation for the month of August 2011 ($\$518.00 \times 2.16 = \$1,118.88$)¹.

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. Accordingly, DSS determined that the Appellant's monthly income amounted to \$1,027.80 ($\$1,117.80 - \$90 = \$1,027.80$). DSS applied a monthly income limit for a family of one (1) amounting to \$908.00 and reduced the Appellant's medical assistance benefits from Medicaid for Uninsured Adults to Family Planning Services.

DSS testified that after it received the request for a fair hearing from the Appellant, contact was made via telephone on July 14, 2011, wherein the Appellant verbally requested that her request for a fair hearing be withdrawn. (Exhibit 4) DSS testified that at that time, a second renewal form was sent to the Appellant. DSS testified that on July 26, 2011 the Appellant submitted additional paystubs from January to May 2011, and informed the caseworker that she did not want to withdraw her request for a fair hearing. (Exhibit 5) DSS testified that upon review of these additional wages submitted by the Appellant, it appeared that her wages increased as the summer months approached.

At the hearing, the Appellant testified that when she received her notice dated June 24, 2011, she did not understand how DSS could budget her income for August, when August had not yet occurred. The Appellant testified that according to her submitted paystubs, her income amounted to \$1,027.80, less than \$120.00 over the income limit. In addition, the Appellant testified that she has been laid off from her employer since August, and did not receive payment for work already performed before the lay-off. Lastly, the Appellant testified that she suffers from a personality disorder: In order for her to be a productive member of society, she testified, she requires medications that she cannot afford without medical assistance.

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.

DSSM 16230 further identifies that countable income is earned or unearned income from which certain disregards (if applicable) have been deducted. Determine eligibility prospectively based on the best estimate of income and circumstances that will exist in the month for which the eligibility determination is being made. Changes in income are budgeted prospectively after verifying the information. Changes include, but are not limited to, changes in hourly rates, new jobs, changes from part to full time status (or vice versa), or

¹ I note that while my figure differs from that utilized by DSS, it is a negligible amount in the Appellant's favor.

loss of jobs. Do not budget prospectively changes in income due solely to things such as an extra pay cycle, bonus pay, and overtime or holiday pay. Earnings should be converted to reflect 1/12 (one twelfth) of annual income by utilizing the following conversion factors: Weekly—4.33; Bi-weekly—2.16; Semi-monthly—2.

In order to determine eligibility for Medicaid for Uninsured Adults, DSSM 16250 instructs DSS after applying appropriate disregards to income, to compare the countable family income to the income eligibility standard for the budget unit size. 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.

Based upon the information provided, DSS correctly determined that the Appellant's total monthly countable income is over the income limit for a household of one (1). Although the Appellant's contention that adding her two (2) submitted paystubs equals a figure less than \$120.00 over the gross income limit for a household of one (1), DSSM 16230 explicitly instructs DSS to utilize a conversion factor of 2.16 in computing monthly income from biweekly paystubs. Further, DSSM 16230 instructs DSS to prospectively budget to determine eligibility, based on the best estimates available at the time the determination is made. Although this Hearing Officer appreciates the Appellant's argument that she needs help to pay for required medications, DSSM 16230.1.1 states that no consideration to an applicant's medical condition may be given when determining eligibility. As a result, the Appellant was properly sent the Notice About Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to reduce the Appellant's medical assistance benefits. The Appellant is encouraged to re-apply for Medicaid for Uninsured Adults coverage as her income has now decreased.

IV.

For these reasons, the decision of the Division of Social Services to reduce the Appellant's Medical Assistance benefits effective August 1, 2011 is AFFIRMED.

Date: October 20, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

October 20, 2011

POSTED

cc: Ms. Smith
Kristen Mears, DSS, Team 720
Melissa Worthy, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

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

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped July 11, 2011, consisting of two (2) pages.

EXHIBIT #3 – Copy of the Notice About Your Medical Assistance, dated June 24, 2011, consisting of four (4) pages.

EXHIBIT #4 – Copy of Case Remarks dated July 14, 2011, consisting of one (1) page.

EXHIBIT #5 – Copy of a letter from the Appellant, dated July 26, 2011, consisting of one (1) page.

EXHIBIT #6 – Copy of the Appellant's paystubs from Nourish, LLC, covering pay periods May 1, 2011 through May 15, 2011 and May 16, 2011 through May 31, 2011, consisting of one (1) page.