



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

Carrie Custis, Sr. Social Worker/Case Manager, Team #312, Division of Social Services

Denise Curtis, Social Worker/Case Manager Supervisor, Division of Social Services

I.

Redacted ("Appellant") opposes a decision by the Division of Social Services ("DSS") to close her 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 March 15, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective March 31, 2011. (Exhibit 3)

On March 28, 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 March 31, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated April 12, 2011, that a fair hearing would be held on May 27, 2011. A continuance was granted on June 22, 2011. The Appellant was notified by certified letter dated June 23, 2011, that a fair hearing would be held on July 8, 2011. The hearing was conducted on that date in Dover, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that it learned via a Department of Labor Unemployment Insurance Claim History match that the Appellant received \$259.00 in gross weekly unemployment compensation. (Exhibit 4) Since there are 52 weekly pay periods in a year, merely multiplying a weekly income by four (4) yields an erroneous result because it fails to account for the four (4) “extra” pay periods in the year. To account for these “extra” pay periods, federal policy requires DSS to multiply a weekly gross income by 4.33, 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 \$1,121.47 in unemployment compensation for the month of April ($\$259.00 \times 4.33 = \$1,121.47$).

DSS testified that in addition, the Appellant provided paystubs for her part-time employment with Harrington Raceway. (Exhibit 5) DSS testified that these paystubs showed that the Appellant was paid biweekly, earning \$3.50 per hour. (Exhibit 5) As these paystubs reflected an inconsistent number of hours each week, DSS first took an average of the submitted paystubs and determined the Appellant’s average biweekly income equaled \$141.78 ($(\$126.94 + \$156.63)/2 = \141.78). Since there are 26 weekly pay periods in a year, merely multiplying a biweekly income by two (2) yields an erroneous result because it fails to account for the two (2) “extra” pay periods in the year. To account for these “extra” pay periods, federal policy requires DSS to multiply a biweekly gross income by 2.16, resulting in a monthly income reflecting one twelfth (1/12) of the Appellant’s yearly gross income. (DSSM 16230) Following this federal policy, DSS determined that the Appellant would receive a total of \$306.26 in earned income for the month of April ($\$141.78 \times 2.16 = \306.26).

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. DSSM 16230.2 identifies unemployment compensation as a type of unearned income, and notes that unearned income is counted as paid without application of any disregards. In this case, the Appellant did receive an earned income deduction (disregard) of \$90.00 because part of her household’s income is considered earned under DSSM 16230. Accordingly, DSS determined that the Appellant’s monthly income amounted to \$1,337.73 ($\$1,121.47$ unemployment + $\$306.26$ earned income - $\$90.00$ earned income disregard = $\$1,337.73$). DSS applied a monthly income limit for a family of one (1) amounting to \$907.00 and the agency closed the Appellant’s medical assistance benefits.

At the hearing, the Appellant testified that she did not actually receive \$259.00 in weekly unemployment compensation because she had taxes withheld from her unemployment compensation. The Appellant further testified that she has many medical issues that began with an aneurysm she suffered in 2009. The Appellant further testified that due to these medical concerns, her physicians do not want her to work, even part-time. Lastly, the Appellant testified that she has always adhered to a strong work ethic, and requires medical assistance for her medical issues.

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. 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 \$907.00 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). While it is true that the Appellant takes in less income than DSS used in determining eligibility, according to DSSM 16230.1, DSS must use the gross income amount, not the after-tax income amount. 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 March 15, 2011 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits effective March 31, 2011 is AFFIRMED.

Date: July 21, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

July 21, 2011

POSTED

cc: Redacted
Carrie Custis, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated March 31, 2011, consisting of two (2) pages.

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

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated March 15, 2011, consisting of three (3) pages.

EXHIBIT #4 – Copy of a Delaware Department of Labor Unemployment Insurance Claim History for the Appellant, dated May 24, 2011, consisting of one (1) page.

EXHIBIT #5 – Copy of the Appellant's paystubs from Gaming Entertainment, dated January 10, 2011 and January 24, 2011, consisting of two (2) pages.