



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
Mrs. Smith, Appellant's Wife

Milly Guerrent, Sr. Social Worker, Team # 399, 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 two (2).

The Division of Social Services ("DSS") contends that the Appellant is over the income limit for a household of two (2).

II.

On April 28, 2011, DSS sent to Appellant a Notice to Close Your Medical Assistance, effective May 31, 2011. (Exhibit 3)

On May 27, 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 July 5, 2011, benefits have continued. (Exhibit 1)

The Appellant was notified by certified letter dated July 12, 2011, that a fair hearing would be held on August 29, 2011. The hearing was conducted on that date in Georgetown, Delaware.

This is the decision resulting from that hearing.

III.

DSS testified that the Appellant was receiving Medicaid for Uninsured Adults. DSS testified that the Appellant began receiving \$291.00 in gross weekly unemployment compensation. 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 \$1,260.03 in gross unemployment compensation for the month of June 2011 ($\$291.00 \times 4.33 = \$1,260.03$).

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 no disregards, as all of his income was unearned. Accordingly, DSS determined that the Appellant's monthly income amounted to \$1,260.03. DSS applied a monthly income limit for a household of two (2) amounting to \$1,226.00 and closed the Appellant's medical assistance benefits.

At the hearing, the Appellant testified that he lost his job of over twenty (20) years in 2010. The Appellant testified that he is very ill and has suffered from diabetes his whole life. The Appellant testified that he requires multiple medications each month; without assistance for these costs, he testified, he would be unable to stay where he lives. The Appellant further testified that he is unable to work and requires surgery. The Appellant testified that he is visually impaired, with 20/60 vision in one (1) eye and no vision in the other eye. As a result of his poor eyesight, he testified, he is no longer able to drive. The Appellant testified that while he has applied for disability benefits, he was denied. The Appellant testified that while he has attended Unemployment Compensation offices in an attempt to find employment, he has not found any employment. Lastly, the Appellant testified that his unemployment compensation benefits will end in roughly four (4) weeks.

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 two (2) is equal to \$1,226.00 per month.

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 two (2) by \$34.00. Although the Appellant testified that he suffers from numerous illnesses that require prescription medication, DSSM 16230.1.1 instructs DSS to count a household's gross income, regardless of medical expenses. 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. I encourage the Appellant to re-apply for medical assistance benefits when his unemployment compensation benefits end.

IV.

For these reasons, the April 28, 2011 decision of the Division of Social Services to close the Appellant's Medical Assistance benefits effective May 31, 2011 is AFFIRMED.

Date: September 22, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

September 22, 2011

POSTED

cc: Mr. Smith
Milly Guerrent, Team # 399, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 – Copy of DSS Fair Hearing Summary dated July 5, 2011, consisting of two (2) pages.

EXHIBIT #2 – Copy of the Appellant's request for a fair hearing date-stamped May 27, 2011, consisting of one (1) page.

EXHIBIT #3 – Copy of the Notice to Close Your Medical Assistance, dated April 28, 2011, consisting of three (3) pages.