



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. 000000000

Ms. Smith

Appearances: Ms. Smith, pro se, Claimant

Marietta Wharton, Operations Administrator, Team #190, Division of Social Services

I.

Ms. Smith ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny her Medical Assistance.

The Division of Social Services ("DSS") contends that the Claimant has comprehensive health insurance, and therefore is not eligible for Medicaid for Uninsured Adults.

II.

On April 5, 2011, DSS sent the Claimant a Notice to Deny Your Medical Assistance, effective May 1, 2011. (Exhibit 3)

On May 13, 2011, the Claimant filed a request for a fair hearing.

The Claimant was notified by certified letter dated August 16, 2011, that a fair hearing would be held on August 30, 2011. The hearing was conducted on that date in Newark, Delaware.

This is the decision resulting from that hearing.

III.

At hearing, the Claimant testified that when she moved to Delaware from New York, she applied for medical assistance. The Claimant testified that when she applied, she informed DSS that she had health insurance through a program provided by the State of New York, but that it would soon expire: The Claimant testified that she would not re-certify her medical assistance through

New York, which would cause her benefits to end. The Claimant testified that she did not, in fact, re-certify her medical assistance benefits case with New York, and that she assumes her health insurance coverage did end. The Claimant testified that while she is employed through Kosy Kids DayKare, she has no health insurance through her employer.

DSS testified that the Claimant's application for medical assistance was denied on the basis that she indicated on her application that she had comprehensive health insurance. DSS testified that the only avenue it has for discovering whether an applicant has health insurance coverage is if that applicant indicates such a fact on his or her application. DSS testified that a letter or some other documentation indicating that the Claimant's health insurance through the State of New York had ended would resolve the barrier to the Claimant's eligibility for medical assistance.

According to the Division of Social Services Manual ("DSSM") 16110, states must provide medical assistance to certain mandatory categories of individuals and are permitted to cover optional categories of individuals. On May 17, 1995, legislation provided for a demonstration waiver that extends Medicaid coverage to uninsured individuals age 19 or over with income at or below 100% of the federal poverty level who are not categorically eligible. Individuals who receive long term care services (nursing facility and home and community based waivers), who have comprehensive health insurance as defined in this section, who are entitled to or eligible to enroll in Medicare, or who have coverage through Military Health Insurance for Active Duty, Retired Military, and their dependents are excluded from this category of assistance created under the demonstration waiver.

Pursuant to DSSM 16220.2.1, uninsured individuals age 19 or over may be found eligible as a noncategorical adult in the expanded Medicaid population under the demonstration waiver. However, there is a separate technical eligibility requirement for adults age 19 or over: DSSM 16220.4 holds that in order to be eligible under the Adult Expansion Medicaid program, the individual must be uninsured. According to DSSM 16220.4, "an uninsured individual is defined as an individual who does not have Medicare, Military Health Insurance for Active Duty, Retired Military, and their dependents, or other comprehensive health insurance. An adult who is entitled to or eligible to enroll in Medicare or who has Military Health Insurance for Active Duty, Retired Military, and their dependents or who has any comprehensive health insurance, cannot be eligible for Medicaid as a non categorical adult under the demonstration waiver."

In this instance, DSS testified that the Claimant was not eligible for Medicaid because she already had comprehensive health insurance when she applied for benefits through the State of Delaware. In her testimony, the Claimant testified that she did indicate that at the time she applied, she was receiving medical insurance through the State of New York. DSSM 16220.4 specifically holds that an individual is not eligible under the adult expansion Medicaid program if that person has comprehensive health insurance. As both DSS' and the Claimant's testimony shows that the Claimant had comprehensive health insurance through the State of New York when she applied, the Claimant is deemed to be "insured." As a result, the Claimant cannot fall within the waiver exception outlined in DSSM 16110. Therefore, as the testimony indicates that the Claimant was

insured at the time of application, she is not eligible for the adult expansion, Medicaid for Uninsured Adults program.

Based upon the information provided, DSS correctly determined that the Claimant was not eligible for the Medicaid program. As a result, the Claimant was properly sent a Notice to Deny Your Medical Assistance. I conclude that substantial evidence supports DSS' decision to deny the Claimant's medical assistance benefits. The Claimant is encouraged to re-apply for medical assistance, once she has determined whether her assistance through the State of New York has indeed ended.

IV.

For these reasons, the April 5, 2011 decision of the Division of Social Services to deny the Claimant's Medical Assistance benefits effective 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: Ms. Smith
Marietta Wharton, Team #190, DSS

EXHIBITS FILED IN OR FOR THE PROCEEDING

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

EXHIBIT #2 – Copy of the Claimant's request for a fair hearing date-stamped May 13, 2011, consisting of two (2) pages.

EXHIBIT #3 – Copy of the Notice to Deny Your Medical Assistance dated April 5, 2011, consisting of two (2) pages.

EXHIBIT #4 – Copy of a letter from the Claimant's Employer, Kozy Kids DayKare, dated May 2, 2011, consisting of one (1) page.