



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

Mrs. Smith

Appearances: Mrs. Smith, Claimant
Mr. Smith, Claimant's husband

Natalia Milbourne, Sr. Social Worker/Case Manager, Division of Social Services

I.

Mrs. Smith ("Claimant") opposes a decision by the Division of Social Services ("DSS") to deny her application for medical assistance benefits.

The Division of Social Services ("DSS") contends that the Claimant's income is over the limit to be eligible for the Special Low Income Medicare Beneficiary ("SLMB") program or any other medical assistance plan.

II.

On May 3, 2011, DSS sent to Claimant a Notice to Deny Your Medical Assistance. (Exhibit 3)

The Claimant filed a request for a fair hearing on June 29, 2011. (Exhibit 2).

The Claimant was notified by certified letter dated August 23, 2011, that a fair hearing would be held on September 12, 2011. The hearing was conducted on that date in Newark, Delaware.

This is the decision resulting from that hearing.

III.

Pursuant to Delaware Social Services Manual ("DSSM") 16220.4, an individual must be uninsured in order to qualify and receive the medical assistance benefits sought by the Claimant. An uninsured individual is defined as an individual who does not have Medicare, CHAMPUS, or other comprehensive health insurance.

Pursuant to DSSM §17300.3.2.6, countable income is used to determine eligibility for benefits. Countable income is earned or unearned income minus appropriate deductions (disregards). Pursuant to Delaware Social Services Manual ("DSSM") 17400, a Specified Low-Income Medicare Beneficiary (SLMB) is an

individual who meets all of the eligibility requirements for Qualified Medicare Beneficiary (QMB) status except for income in excess of the QMB income limit. Pursuant to DSSM 17400.1, effective for calendar years beginning 1995, the income limit for SLMBs is 120% of the Federal Poverty Level.

DSS determined that the Mr. Smith's Social Security (Title II) benefit income, after allowable standard deductions, amounted to \$1,374.00. ($\$1,394.00 - \$20.00 = \$1,374.00$). The Claimant's Social Security (Title II) benefit income amounted to \$551.00. The Claimant's total monthly income of \$1,925.00 placed her over the income limit of \$1,656.00 per month for SLMB benefits. ($\$1,374.00 + \$551.00 = \$1,925.00$).

The Claimant testified that she needs help with the Medicare insurance premiums. Her husband previously was treated for cancer and she needs to undergo an operation and cannot afford it. The Claimant additionally testified that her mortgage, doctor bills, life insurance, electric and telephone bills should be considered in determining eligibility.

As this benefit is based solely on income, there are no deductions made for expenses and the fact that income is used to pay for medical treatment, prescription costs or other living expenses is not taken into account when determining gross income figures for Medical Assistance eligibility purposes.

A careful review of the statutes and regulations in this instance does not provide a basis for a more favorable outcome in this matter. Mr. Campbell received the standard deduction and no other reductions in income are allowed when considering medical assistance eligibility.

Based upon the information provided, DSS correctly determined that the Claimant's monthly countable income is \$1,925.00. The income limit for a household of two (2) for medical assistance benefits on the date that the notice was issued was \$1,656.00 per month. As a result, substantial evidence supports the agency's decision to send a Notice to Deny Your Medical Assistance. (Exhibit 3)

IV.

For these reasons, the May 3, 2011 decision of the Division of Social Services to Deny the Claimant's Medical Assistance, effective April 1, 2011, is AFFIRMED.

Date: October 18, 2011



MICHAEL L. STEINBERG, J.D.
HEARING OFFICER

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

October 18, 2011

POSTED

cc: Mrs. Smith
Natalia Milbourne, DSS
Stephanie Fitzgerald, Team 180

EXHIBITS FILED IN OR FOR THE PROCEEDING

EXHIBIT #1 - DSS Hearing Summary consisting of two (2) pages date-stamped August 17, 2011.

EXHIBIT #2 - The Claimant's request for a fair hearing date stamped July 5, 2011, consisting of one (1) page.

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