



Petitioner's citizen status. On the application, Petitioner stated she was permanent resident and had entered the country on October 7, 2017. In a request for information, Petitioner provided an I-94 print out from 2017 stating he had entered in May 2017 and could remain until November 2017. (P-2) A Form I-797C, which states "THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT," notified Petitioner that the United States Citizenship and Immigration Services (USCIS) received her Form I-130 and Form I-485 on October 3, 2018. (P-1) Through the USCIS system, Hudson County verified that Petitioner has been a lawful permanent resident alien since November 16, 2018. Nothing indicated that he held prior any LPR status. Accordingly, Hudson County denied Petitioner's application for benefits.

The requirement that prevents Petitioner from being eligible for Medicaid is commonly known as the five-year bar and originated in the 1996 federal legislation called Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The Appellate Division set forth the law in *Guaman v. Velez*, 421 N.J. Super. 239 (App. Div. 2011).

In 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), 8 U.S.C.A. §§ 1601 to 46, and significantly limited a non-citizen's access to federally-subsidized medical benefits. *A.B. v. Div. of Med. Assistance & Health Servs.*, 407 N.J. Super. 330 (App.Div.), cert. denied, 200 N.J. 210,(2009). PRWORA's self-declared purpose was "to remove the incentive for illegal immigration provided by the availability of public benefits." 8 U.S.C.A. § 1601(6).

To that end, PRWORA divided aliens into two categories — qualified and unqualified — and limited Medicaid eligibility to "qualified aliens," which it narrowly defined as lawful permanent residents, designated refugees, aliens granted asylum, and other specified categories of lawfully-present aliens. 8 U.S.C.A. §§ 1612(b), 1641(b). Only qualified aliens who entered the country prior to August 22, 1996, or otherwise lived in the country for five years from the date of lawful permanent resident designation (the five-year bar), however, were eligible for non-emergency federal Medicaid benefits. 8 U.S.C.A. §§ 1612(b)(2)(B), 1613(a). For all intents and purposes,

federally-funded Medicaid is largely unavailable for people arriving in the United States after August 22, 1996 unless they have resided in this country for at least five years. 8 U.S.C.A. § 1613(a).

Ibid at 249-50.

The federal law clearly requires that this five year bar start after the individual becomes a LPR. The regulations at N.J.A.C. 10:71-3.3(d) reflect this requirement when read in totality. The requirement is that the individual is lawfully admitted for permanent residence but only eligible for Medicaid after having been present for five years. As only qualified aliens can receive full Medicaid benefits imposing the five year requirement based on their status as an unqualified alien is a misreading of the law. See 8 U.S.C.A. § 1613 “an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien’s entry into the United States with a status within the meaning of the term “qualified alien”. See also *Odi v. Alexander*, 378 F. Supp. 3d 365, 380 (E.D. Pa. 2019); holding that “federal law mandates that states administering Medicaid must implement the five-year bar for Medicaid programs, and qualified aliens—including those with LPR status—must be present in the country with that status for five years before they can be eligible for Medicaid benefits.”

As such, I FIND that Hudson County properly denied Petitioner’s application. The five year bar would end in 2023 at which point he can reapply. In the meantime, Petitioner may be eligible for coverage through New Jersey’s Health Insurance Marketplace GetCoveredNJ [www.nj.gov/getcoverednj/](http://www.nj.gov/getcoverednj/) or 1-833-677-1010.

THEREFORE, it is on this <sup>26<sup>th</sup></sup> day of MAY 2023,

ORDERED:

That the Initial Decision is hereby ADOPTED.

carol grant  
OBO Jennifer  
Langer Jacobs

Digitally signed by  
carol grant OBO  
Jennifer Langer Jacobs  
Date: 2023.05.25  
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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services