



## State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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JENNIFER LANGER JACOBS  
*Assistant Commissioner*

**STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES**

V.M.,

PETITIONER,

**ADMINISTRATIVE ACTION**

v.

**FINAL AGENCY DECISION**

BERGEN COUNTY BOARD OF

**OAL DKT. NO. HMA 05665-22**

SOCIAL SERVICES,

RESPONDENTS.

As Assistant Commissioner for the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision and the documents in evidence. Petitioner filed exceptions to the Initial Decision were filed. Procedurally, the time period for the Agency Head to file a Final Agency Decision is November 20, 2022, in accordance with an Order of Extension. The Initial Decision was received on August 22, 2022.

I hereby ADOPT the Initial Decision AFFIRMING the denial of Petitioner's application for Medicaid benefits. Petitioner is not a United States' citizen. He was born in Ukraine in 1997 and arrived in the United States in March 2022, as a legal immigrant, on a B1/B2 visa. His visa expired on August 28, 2022. On June 6, 2022, the Bergen County Board of Social Services (BCBSS) denied Petitioner's application because he was neither a citizen nor a Qualifying Alien. Petitioner argues that he is a qualifying alien for purposes of Medicaid eligibility. However, aliens entering the United States after August 22, 1996, if otherwise eligible, are entitled to Medicaid benefits only under certain circumstances including but not limited to: an alien lawfully admitted for permanent residence, but only after having been present in the United States for five years; a refugee admitted pursuant to section 207 of the Immigration and Nationality Act; an asylee admitted pursuant to section 208 of the Immigration and Nationality Act; an alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act, but only after the alien has been present in the United States for five years. N.J.A.C. 10:71-3.3.

At the time Petitioner applied for Medicaid benefits, he held a non-immigrant visitor's visa for person who wish to enter the United States on a temporary basis. I understand that Petitioner has filed an application for Temporary Protected Status (TPS), but this in and of itself, does not sufficiently establish Medicaid eligibility. On July 13, 2022 the Centers for Medicare and Medicaid Services (CMS) provided guidance with regard to health coverage options for certain Ukrainian Nationals. "Ukrainian nationals who have been granted TPS, or have pending applications, and who have been granted employment authorization, are not considered 'qualified non-citizens' for purposes of Medicaid and CHIP eligibility, and thus are not eligible for Medicaid or CHIP, unless they are children and pregnant individuals in states that have adopted the CHIPRA 214 option." However, Ukrainian parolees subsequently granted TPS may be eligible for Refugee Medical Assistance or coverage through the Marketplace. Finally, Ukrainian parolees who do not qualify for full Medicaid benefits based

on their immigration status may be eligible for Emergency Medicaid. See <https://www.medicaid.gov/medicaid/eligibility/downloads/hlth-cov-opt-fr-cer-ukrainian-natnls.pdf>.

The credible evidence in the record indicates that Petitioner failed to meet the citizenship or qualifying non-citizen eligibility requirement pursuant to 42 C.F.R. 435.406. Moreover, there is no evidence in the record that Petitioner would qualify for Medicaid based on his April 29, 2022 application for TPS.

THEREFORE, it is on this <sup>25<sup>th</sup></sup> day of OCTOBER 2022,

ORDERED:

That the Initial Decision is hereby ADOPTED.



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Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services