



**State of New Jersey**

**DEPARTMENT OF HUMAN SERVICES**

Division of Medical Assistance and Health Services

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**GREGORY WOODS**  
Assistant Commissioner

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

A.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

UNION COUNTY BOARD

OF SOCIAL SERVICES,

RESPONDENTS.

**ADMINISTRATIVE ACTION**

**ORDER OF RETURN**

**OAL DKT. NO. HMA 20298-25**

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the OAL case file, the documents in evidence, and the Initial Decision. Neither party filed exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is June 8, 2026, pursuant to N.J.S.A. 52:14B-10, which requires the

Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt.

This case concerns Petitioner's appeal of the Union County Board of Social Services' (Union County) denial of a Medicaid application due to immigration status. The main issue presented here is whether Union County correctly determined the start of the five-year waiting period applicable to certain qualified aliens. Specifically, the question is whether Petitioner's five-year waiting period began upon obtaining "qualified alien" status under the Violence Against Women Act (VAWA) in August 2017, or upon adjustment to lawful permanent resident status in July 2024.

Petitioner, represented by Legal Services of New Jersey, disputes Union County's interpretation and asserts that the five-year period commenced with initial VAWA self-petitioner approval, rather than the date Petitioner obtained lawful permanent resident status.

On October 22, 2025, Petitioner applied for the New Jersey Family Care program. (R-1-16). Union County denied the application, stating that the five-year waiting period started after Petitioner became a lawful permanent resident in July 2024. (R-23-29). As a result, Union County found Petitioner eligible only for the New Jersey Family Care Medical Emergency Payment Plan (MEPP). (R-72-78).

On August 30, 2017, Petitioner filed a self-petition under VAWA and was classified as a "qualified alien" by United States Citizenship and Immigration Services. ID at 2. Petitioner has lived continuously in the United States since that date. Ibid. On July 26, 2024, Petitioner became a lawful permanent resident. Ibid.

The Administrative Law Judge (ALJ) found that Union County wrongly denied Petitioner's Medicaid eligibility by miscalculating the five-year period related to immigration status. ID at 3. The ALJ decided that Petitioner became a qualified alien on

August 30, 2017, when the VAWA self-petition was filed, and that this date, not a later adjustment to lawful permanent resident status in July 2024, should be used for eligibility analysis. Ibid.

In analyzing the applicable law, the ALJ relied on 42 C.F.R. 435.406 as well as 8 U.S.C. Sect. 1641, Sect. 1612 (b)(1) and Sect. 1613, which governs qualified aliens seeking means-tested public benefits. ID at 2. The Initial Decision emphasized that federal law recognizes certain battered immigrants and VAWA self-petitioners as qualified aliens for Medicaid eligibility. ID at 3. The ALJ concluded that the five-year period began at the time Petitioner attained qualified alien status and did not restart upon adjustment to lawful permanent resident status. Ibid.

The ALJ disagreed with Union County's position that an applicant must hold a lawful permanent resident status for five years before applying for Medicaid benefits. ID at 4. Instead, the ALJ held that the key date is the date when the applicant first became a qualified alien under federal law. Ibid.

Because of this, the ALJ concluded that the denial of Petitioner's Medicaid application was legally incorrect and unsupported by the governing statutes and regulations. Ibid. The ALJ reversed the denial and directed Union County to review the application in accordance with Initial Decision's findings. Ibid.

I agree with the ALJ's legal findings and conclusion, but the ALJ made a mistake by treating the Initial Decision as a final decision. This represents a misinterpretation of the October 2, 2023, waiver, which allows an Initial Decision to be accepted without agency head review in certain cases. The waiver applies if the beneficiary exceeds the income or resource limit or fails to provide the required information. In this case, the Initial Decision states that the recommended decision of the Office of Administrative Law, should be deemed adopted as the Final Agency Decision, pursuant to 42 U.S.C. §

1396(e)(14)(A) and N.J.S.A. 52:14B-10(f), and that "the Assistant Commissioner of the Division of Medical Assistance and Health Services cannot reject or modify this decision." ID at 4. However, the ALJ was wrong to treat this as a final decision because the issue is about immigration status, not one of the three waiver scenarios. Therefore, this case must comply with the standards established for the fair hearing process. N.J. Stat §52:14B-10.

Federal law clearly recognizes VAWA self-petitioners as "qualified aliens" for federal means-tested benefits, like Medicaid. Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), individuals who establish eligibility under the VAWA obtain qualified alien status and may subsequently adjust to lawful permanent resident status.

While 8 U.S.C. §1613 imposes a five-year waiting period for qualified aliens entering the United States after August 22, 1996, the statutory framework does not require certain qualified aliens to possess lawful permanent resident status for five years before becoming eligible for Medicaid benefits. VAWA self-petitioners are considered "qualified aliens", and battered immigrants with an approved petition or a prima facie determination under VAWA are often exempted from the federal five-year bar for certain benefits, particularly when recognized as "qualified aliens."

The record demonstrates that Petitioner obtained qualified alien status on August 30, 2017, through a VAWA self-petition and continuously maintained that status. By the time Petitioner applied for New Jersey Family Care benefits in October 2025, the applicable five-year period had already been satisfied. Union County's contrary conclusion improperly disregarded Petitioner's earlier recognized qualified alien classification and erroneously treated the later adjustment to lawful permanent resident

status as a new triggering event. No provision in the governing federal statutes or regulations supports Union County's restrictive interpretation.

Additionally, New Jersey regulations also recognize VAWA self-petitioners as qualified aliens for Medicaid eligibility. To qualify for Medicaid, a person must be a U. S. citizen, a lawful permanent resident, or an alien approved for temporary residence who qualifies as an eligible alien. Certain legal aliens who are victims of domestic violence are entitled to full Medicaid benefits. N.J. A. C. § 10:69-3.9.

Union County's decision was incorrect because it used Petitioner's later adjustment to lawful permanent resident status as the starting point for eligibility, ignoring the earlier qualified alien status. The law and regulations, including 42 C.F.R. 435.406, 42 C.F.R. 435.4, and 8 U.S.C. 1612, 1613, and 1641, support the conclusion that the five-year waiting period starts when the applicant first becomes a qualified alien. Petitioner's VAWA self-petitioner status was the key event for eligibility.

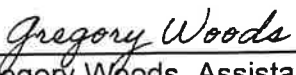
Therefore, I FIND that Union County's denial of Petitioner's Medicaid application was incorrect. I further FIND that Petitioner should not have been limited solely to MEPP as the five-year waiting period was already satisfied before the October 2025 application.

For these reasons, I ADOPT the Initial Decision and RETURN this case to Union County for further action, including recalculating Petitioner's eligibility using August 30, 2017, as the start date for the five-year waiting period.

THEREFORE, it is on this 5th day of JUNE 2026,

ORDERED:

That the Initial Decision is hereby ADOPTED.

  
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Gregory Woods, Assistant Commissioner  
Division of Medical Assistance and Health Services