



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

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

R.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

UNION COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 12572-2016

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. No exceptions were filed. Procedurally, the time period for the Agency Head to file a Final Decision is January 12, 2017 in accordance with an Order of Extension.

The matter arises regarding the denial of Petitioner's application for Medicaid to cover services he received at Trinitas Hospital. Petitioner is a citizen of Portugal and arrived in the United States in March 2015 under a visa that permitted him to remain here until May 30, 2015. Petitioner visited Trinitas Hospital for treatment of an ear ache on March 19, 2016.

Trinitas Hospital is seeking to have Petitioner's bills paid by Medicaid under the rules that permit individuals who are subject to the five year waiting period for qualified aliens and individuals who are not qualified aliens to be covered for an emergency medical condition. However, this requires that these individuals meet all other Medicaid requirements but for their alien status.

The Initial Decision determined that Petitioner failed to meet the Medicaid residency requirements. A "resident" is defined as "a person who is living in the State voluntarily and not for a temporary purpose, that is, with no intention of presently removing therefrom." N.J.A.C. 10:71-3.5(a). The Initial Decision raised questions about Petitioner's residency as it relates to his status as an illegal alien. These are two different issues. While Petitioner originally entered the United States under a valid visa, he has overstayed his authorized time period and is currently here without any legal authority. He is not subject to circumstances of his visa as he has ignored the requirement that he exit the country by May 30, 2015. His emergency room visit in 2016 occurred while he was undocumented or illegal.

This federal law permits federal payments to states for medical assistance provided to aliens who are not lawfully admitted to the United States for permanent residence ("undocumented aliens") when the services are "necessary for the treatment of an emergency medical condition of the alien." 42 U.S.C. § 1396(v). The federal

regulation implementing 42 U.S.C. § 1396(v) provides that FFP is available to states for medical services rendered to undocumented aliens that are "necessary to treat an emergency medical condition." 42 CFR § 440.255(a).¹

As to Petitioner's residence, the record shows that he is residing at an Elizabeth address. While this would establish that Petitioner met the requirements for Emergency Services for Aliens, it does not mean that his claim for the treatment of otalgia warrants an emergency condition. The claim is processed separately and may yet be denied.

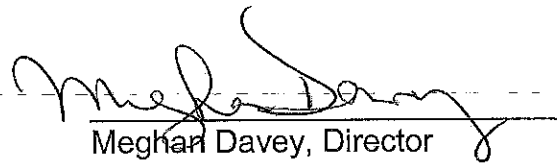
Thus, for the reasons above, I hereby REVERSE the Initial Decision's finding regarding Petitioner's eligibility and order that Union County continue processing the case so as to permit the medical claim to be processed.

THEREFORE, it is on this th 11 day of JANUARY 2017,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Union County shall continue to process the case for determination on coverage of the March 2016 service at Trinitas Hospital.


Meghan Davey, Director
Division of Medical Assistance
and Health Services

¹ To that end Trinitas Hospital certified that Petitioner's otalgia or ear pain meets the criteria for emergency services for aliens which only provides coverage when there is a sudden onset of "acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in (1) placing the patient's health in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunction of any body part or organ." 42 CFR § 440.255.