

reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on September 9, 2016. Based upon my review of the record, I hereby ADOPT the Initial Decision in its entirety and incorporate the same herein by reference.

Pursuant to 8 U.S.C. §1612 and §1613, a legal alien who entered the country after August 22, 1996 is not eligible to receive Medicaid benefits for a period of five years. Similarly, N.J.A.C. 10:71-3.3(d)(1) provides that an alien lawfully admitted for permanent residence who has entered the United States after August 22, 1996, who otherwise meets the eligibility criteria, is entitled to full Medicaid benefits only after being present in the United States for five years.

In this case, Petitioner obtained a permanent legal resident card on February 27, 2000. However, Petitioner returned to India in September 2005, where he remained until 2014. Petitioner's permanent residency card expired on May 15, 2010. He was issued a new permanent resident card on September 7, 2014 and moved back to the United States on a permanent basis in August 2015.

In accordance with 8 USC §1101(a)(13)(C), "[a]n alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking admission into the United States for purposes of the immigration laws unless the alien:

- (i) has abandoned or relinquished that status,
- (ii) has been absent from the United States for a continuous period in excess of 180 days."


It is clear from the record that Petitioner abandoned his permanent resident status in September 2005 when he moved back to India and was absent from the United States for nine years. As Petitioner received his permanent residence card on September 7, 2014, he is ineligible for Medicaid benefits until September 7, 2019.

I suggest that Petitioner apply for coverage through the Health Insurance Marketplace at HealthCare.gov.

THEREFORE, it is on this ^{18th} day of October 2016,

ORDERED:

That the Initial Decision affirming the denial of Medicaid eligibility is hereby ADOPTED as the Final Decision in this matter.


Meghan Davey, Director
Division of Medical Assistance
and Health Services