**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS**
**STATE OF GEORGIA**

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| **D[redacted] F[redacted],** | : | |
| | : | |
| **Petitioner,** | : | **Docket No.:** |
| | : | **OSAH-DCH-EMA-[redacted]-67-Baxter** |
| **v.** | : | |
| | : | **Agency Reference No.:** [redacted] |
| **DEPARTMENT OF COMMUNITY HEALTH,** | : | |
| | : | |
| **Respondent** | : | |

FILED
OSAH
JUN 08 2016
Jenna Judy, Legal Assistant

## INITIAL DECISION

Petitioner, D[redacted] F[redacted] through Doctors Hospital of Augusta ("Doctors"), appeals the Department of Community Health's ("DCH") decision to deny Petitioner Medicaid benefits for Emergency Medical Assistance ("EMA"). To receive EMA Medicaid in Georgia, non-qualified aliens, like Petitioner, must (1) have been treated for an "emergency medical condition," (2) be a resident of Georgia, and (3) meet all other Georgia Medicaid eligibility criteria, including the applicable resource limit. See Economic Support Services Manual of the Georgia Department of Human Services ("Medicaid Manual") §§ 2054, 2215. After careful consideration of the briefs and supporting affidavits and documents, and for the reasons set forth below, DCH's decision to deny Petitioner Medicaid benefits is hereby **AFFIRMED**.

### I. PROCEDURAL BACKGROUND

A hearing was scheduled for December 21, 2015, and a pre-hearing conference was held on December 16, 2015. During that conference, the Parties represented that there were no material facts in dispute. Instead, the Parties stated that this case rested on Petitioner's immigration status. As such, the Court directed DCH and Petitioner to file briefs in support of their positions, which they timely filed on January 21, 2016 and January 22, 2016, respectively. DCH filed a response on February 11, 2016, and Petitioner filed a response on February 12, 2016. On April 7, 2016, the Court issued an Order finding that Petitioner's immigration status did not preclude him from receiving EMA Medicaid. The Court reserved ruling on whether Petitioner met the remaining eligibility requirements.

The Court subsequently ordered a second pre-hearing conference, which was scheduled for April 13, 2016. During the call, the Parties elected to forgo an evidentiary hearing and rest solely on the aforementioned briefs, except that the Parties requested time to file a supplemental brief regarding the resource limit issue. Petitioner submitted its supplemental brief on May 9, 2016. DCH submitted its response to Petitioner's supplemental brief on May 19, 2016.

## II. FACTUAL BACKGROUND

Based on the documents provided by the Parties, the Court sets forth the following summary of facts.

### A. Petitioner's Medical Condition

On July 3, 2013, Petitioner, a citizen of Belize, was performing maintenance on a butane tank in Belize when the tank exploded, causing severe injuries, including second- and third-degree burns to seventy to ninety percent of his body. (Exs. P-A; P-V; P-W; R-20.) Petitioner was airlifted to a medical center in Belize, and then flown by air ambulance to the United States where he sought entrance as a humanitarian medical parolee. (Exs. P-A; P-G; P-W; P-X; R-11; R-20.) Petitioner's I-94 Arrival/Departure Form was stamped to expire on August 3, 2013.[1] (Exs. P-X; R-11.) Petitioner was admitted to Doctors Hospital in Augusta, Georgia on July 5, 2013. (Exs. P-G; P-V; R-20.)

Petitioner spent nearly seven months—July 5, 2013 through January 30, 2014—in the burn unit where he received surgeries, skin grafts, and therapies for his injuries. (Exs. P-F; P-V.) Specifically, Petitioner received over 35 surgeries and grafts. (Ex. P-F.) Based on the doctors' notes provided by Petitioner, the risk associated with his surgeries was high.[2] (See Ex. P-G.) In December 2013, Petitioner's heart was only functioning at ten to fifteen percent and his respiratory status included a right lung filled with a liquid, presumably blood. (Id.) Petitioner's doctors were unsure whether he would survive. (Ex. P-H, p. 9.) Petitioner, however, was alert and conversant during portions of his hospitalization. (Ex. P-F, pp. 8-9.)

On or about January 31, 2014, Petitioner was transferred to the inpatient rehabilitation unit. (Exs. P-F; P-H, p. 20; R-34.) Following complications, Petitioner was readmitted to the burn unit on February 13, 2014, and then transferred to the rehabilitation again on or about

[1] Petitioner's parole expired in August 2013. Petitioner's wife submitted a green card application on Petitioner's behalf in March 2014. (See Ex. E of Petitioner's Supplemental Brief, hereinafter "F[redacted] Declaration," ¶ 2.) Petitioner obtained a green card in March 2015. (Id. at ¶ 3.)

[2] DCH did not challenge the accuracy of the doctors' notes or Petitioner's characterization of what was contained therein.

February 18, 2014. (Ex. P-H, pp. 21-22.) On February 26, 2014, Petitioner was discharged from the rehabilitation unit. (Ex. P-H, p. 22.) Petitioner's physician, Robert Mullins, provided physician's statement documents, which stated that he provided emergency medical services, as defined in accordance with EMA Medicaid's standards, from July 5, 2013 through February 26, 2014. (Ex. P-I.) During his hospitalization, Petitioner accrued over $13 million in medical charges. (See Ex. P-A.)

During a discharge planning meeting, Petitioner's wife, C F, stated that she intended to fly Petitioner back to Belize when he was discharged, if appropriate, or remain in the United States with Petitioner if he needed additional burn care prior to returning to Belize. (Ex. R-22.) During an interview with Richmond County Department of Family and Children Services ("DFCS") on September 6, 2013, Mrs. F stated that she and Petitioner planned to return to Belize and did not intend on staying in Georgia. (Ex. R-23, ¶ 4.)

**B. Petitioner's Financial Resources**

Prior to his injury, Petitioner worked as an independent contractor making approximately $18,000 per year. (Ex. P-D, ¶ 4.) Mrs. F was unemployed. (Id.) According to banking records, Mrs. F had $11,277.75 in her banking account as of July 22, 2013. (Ex. F of Petitioner's Supplemental Brief, hereinafter "F Bank Records," p. 10.) The balance included a $10,000 deposit made on July 8, 2013. (Id. at p. 6.) According to Mrs. F a sum of $10,000 was received from friends to pay for medical services that Petitioner received in Belize. (F Declaration, ¶ 6.) Mrs. F stated the money did not belong to the couple. (Id.) The bank records demonstrate, however, that the money was not used solely for medical service payments, but was used for general day-to-day expenses. (See F Bank Records.)

On August 5, 2013, an additional $7,500 was deposited into Mrs. F' account. (F Bank Records, p. 11.) Mrs. F stated that her father provided her $7,000 to purchase an automobile. (F Declaration, ¶ 6.) The bank records seem to corroborate that approximately $7,000 was spent in one lump sum, though no receipt for the purchase of a vehicle was provided. (F Bank Records, p. 14.)

**C. Petitioner's Application for Medicaid**

On August 28, 2013, Richmond County DFCS received Petitioner's Medicaid application, which was dated July 23, 2013. (Ex. R-18; R-30.) The Medicaid application was denied on September 10, 2013, because, according to DFCS, Petitioner did not meet the state's

residency requirement. (Exs. R-24, ¶ 4; R-25; R-30.) Petitioner resubmitted the July 23, 2013 application to Richmond County DFCS on December 9, 2013. (See Ex. R-31.) Richmond County DFCS denied the application again on December 17, 2013, due to Petitioner's failure to meet the state's residency requirement. (Id.) Petitioner resubmitted the July 23, 2013 application to Richmond County DFCS a third time on January 16, 2014. (See Ex. R-32.) This time, Petitioner also sent the application to Haralson County DFCS. (See Ex. P-B.) Richmond County DFCS issued another denial on March 11, 2014, stating that Petitioner did not meet the state's residency requirement.[3] (Ex. R-32.) Haralson County DFCS issued a letter on April 30, 2014, approving Petitioner's EMA Medicaid eligibility for dates of service from October 2013 through February 2014. Haralson County DFCS denied Petitioner's eligibility for services received in August 2013 and September 2013, stating that Petitioner exceeded the state's resource limit, and denied Petitioner's eligibility for services received in March 2014, April 2014, and May 2014 based on Petitioner's purported failure to meet the state's residency requirement. (Exs. P-B; R-29, ¶ 4.)

After receiving approval from Haralson County, Doctors submitted an EMA Medicaid claim on or about May 17, 2014, in the amount of $13,131,388.59. (Ex. P-A.) The Georgia Medical Care Foundation ("GMCF") reviewed the claim to determine Petitioner's Medicaid eligibility. Upon review, GMCF determined that Petitioner was ineligible for EMA Medicaid because Petitioner was not a resident of Georgia and was not a legal or undocumented immigrant. (Exs. P-A; R-33.) Doctors, on behalf of Petitioner, requested a fair hearing on April 2, 2015.[4] (Ex. P-A.)

## III. ANALYSIS

The following analysis sets forth Petitioner's eligibility for EMA Medicaid. Because this matter involves an application for Medicaid benefits, Petitioner has the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(e). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4). The Court finds Petitioner has not met his burden in demonstrating that he was a resident of Georgia during his hospitalization and thus, is not

[3] Petitioner did not appeal the September 10, 2013, December 17, 2013, or March 11, 2014 denials.

[4] When Doctors requested a fair hearing, DCH stated that the request could not be processed because Doctors had not included a denial letter or final adverse action letter with its request for fair hearing. DCH agreed to accept a copy of a letter from GMCF dated October 30, 2014, in which GMCF found that Petitioner was not an immigrant at the time he sustained his injuries, and was therefore not covered for EMA services and that open-ended chronic care was not covered. (See Exs. P-A, P-J, P-K, P-L, P-M, P-N, P-O.)

eligible for Medicaid.

**A. Medicaid Program Overview**

Medicaid is a joint federal-state program that provides comprehensive medical care for certain classes of eligible recipients whose income and resources are determined to be insufficient to meet the costs of necessary medical care and services. 42 U.S.C. §§ 1396-1396v; Moore v. Reese, 637 F.3d 1220, 1232 (11th Cir. 2011). Participation is voluntary, "but once a state opts to participate it must comply with federal statutory and regulatory requirements." Moore, 637 F.3d at 1232. Each participating state is required to designate a single state agency to administer its Medicaid plan. 42 U.S.C. § 1396a(a)(5); 42 C.F.R. §§ 431.10(a), (b)(1). In Georgia, that agency is DCH. O.C.G.A. § 49-2-11(f). Individuals may apply for Medicaid through DFCS, which issues guidelines on Medicaid eligibility in the Medicaid Manual.

Aliens who are not permanently residing in the United States under color of law generally are not entitled to full Medicaid coverage.[5] See 42 U.S.C. § 1396b(v)(1); 42 C.F.R. § 435.406. Such aliens may, however, receive limited Medicaid benefits for medical assistance necessary for the treatment of an emergency medical condition, known as EMA Medicaid. See 42 U.S.C. § 1396b(v)(2). EMA Medicaid is only available to individuals who have received services related to an emergency medical condition as defined in Section 1903(v) of the Social Security Act and meet all other general Medicaid requirements except those related to citizenship/immigration status and enumeration.[6] Medicaid Manual § 2054-1; see also 42 U.S.C. § 1396b(v); 42 C.F.R. § 440.255. Accordingly, Petitioner, as a non-qualified alien, is only eligible for EMA Medicaid if he (1) received services necessary for the treatment of an emergency medical condition and (2) met all other state Medicaid requirements. See 42 U.S.C. § 1396b(v)(2).

**B. Treatment of an Emergency Medical Condition**

As discussed, the state must provide payment for emergency services received by non-qualified aliens, provided that the alien meets all other general Medicaid eligibility criteria. 42 C.F.R. § 435.406; see also 42 U.S.C. § 1396b(v); Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 401; Eligibility of Aliens for Medicaid, 55

[5] As determined in the Court's April 7, 2016 Order, Petitioner, as a non-qualified alien, is not entitled to full Medicaid coverage.

[6] Enumeration is the process by which a Social Security number is obtained and validated. Medicaid Manual, § 2220-1.

Fed. Reg. 36,813 (Sept. 7, 1990); Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, State Medicaid Manual ("CMS Manual") § 3211.9. Emergency services are those required after the sudden onset of an emergency medical condition. 42 C.F.R. § 440.255(b)(1). An "emergency medical condition" is defined as:

> a medical condition . . . manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—
>
> (A) placing the patient's health in serious jeopardy,
> (B) serious impairment to bodily functions, or
> (C) serious dysfunction of any bodily organ or part.

42 U.S.C. § 1396b(v)(3); see also 42 C.F.R. § 440.255(b)(1); CMS Manual § 3211.11; Medicaid Manual § 2054-1. An acute symptom is one "'characterized by sharpness or severity . . . having a sudden onset, sharp rise, and short course . . . [as] opposed to *chronic*.'" Greenery Rehabilitation Group v. Hammon, 150 F.3d 226, 232 (2d Cir. 1998) (quoting Webster's Third New International Dictionary 23 (1981)).

The term "emergency medical services" should be construed broadly to include "any services necessary to treat an emergency medical condition in a consistent and proper manner supported by professional judgment." Eligibility of Aliens for Medicaid, 55 Fed. Reg. 36,813 (Sept. 7, 1990). Such treatment includes those services immediately required "to stabilize the condition, such that the absence of this treatment would reasonably be expected to cause any of three results listed in 42 U.S.C. § 1396(v)(3)(A), (B), or (C)." Diaz v. Div. of Soc. Servs., 360 N.C. 384, 389-90 (2006).

DCH argues that Petitioner's condition did not constitute an emergency medical condition because he was "stabilized" before being transported to the United States. DCH bases its argument, not on the facts of this case, but on an unrelated federal code section, which generally prohibits hospitals from transferring individuals who have not been stabilized unless the individual or the individual's representative provides written consent or a physician or qualified medical personnel certifies that the benefits of transferring outweigh the increased risk. See 42 U.S.C. §§ 1395dd(c), (d), (e). The statute DCH relies upon defines "stabilized" to mean that "no material deterioration of the condition is likely, within a reasonable medical probability, to result from or occur during the transfer of the individual from a facility . . . ." 42 U.S.C. § 1395dd(e)(3)(B). DCH states—without providing any supporting evidence or affidavits—that

Mrs. [redacted] did not consent to the transfer in writing and Doctors never provided the necessary certification. DCH therefore inferred that Petitioner "had to have been in a stabilized condition" when he was transferred from Belize to the United States. DCH therefore concludes Petitioner's condition was not an emergency medical condition.

DCH's argument is not persuasive. The federal statute regarding medical transfers merely provides guidance to hospitals and enforces those rules through civil monetary penalties, and does not necessarily lead to the conclusion that Petitioner's condition was not an emergency. The definition of "stabilized" in the federal statute does not necessarily rule out the existence of an emergency medical condition. For example, an individual's health may be in such serious jeopardy that transfer to another facility may not necessarily cause deterioration of the already dire medical condition, and the benefits of sending such individual to a hospital with more expertise outweigh the risks. Indeed, the Court has no way of knowing whether Petitioner was stabilized because DCH submitted absolutely no evidence regarding the circumstances surrounding the transfer *in this case*.

Moreover, the documents presented sufficiently establish that Petitioner was in critical condition when he entered the United States and remained critical for months. Petitioner submitted statements from Petitioner's physician attesting that he provided emergency medical services based on Medicaid's definition. While the Parties presented very little information regarding the services Petitioner received, the Court has no reason to question the physician's medical opinion. The Court therefore finds that Petitioner's condition generally met the broad definition of an emergency medical condition provided in 42 C.F.R. § 440.255, and the emergency services related to Petitioner's condition are eligible for Medicaid reimbursement if he meets the remaining state eligibility requirements.

**C. General Eligibility Requirements**

In order to qualify for EMA Medicaid, non-U.S. citizens must meet all Medicaid eligibility requirements under the state plan except those related to citizenship/immigration status. Medicaid Manual § 2054-1; see also 42 U.S.C. § 1396b(v)(2); 42 C.F.R. § 440.255(b). Specifically, Petitioner must meet the applicable resource limit and Georgia's residency requirement. See Medicaid Manual §§ 2054, 2225.

**1. Resource Limit**

To qualify for Medicaid programs, which are categorized into classes of assistance, applicants must meet income and resource level prerequisites, which vary depending on the class of assistance. "The value of [a couple's] countable resources cannot exceed the appropriate resource limit in order for [the couple] to be eligible to receive ABD Medicaid." Medicaid Manual § 2300-1. Resources are assets, which include both income and resources. Id. An asset is usually income in the month of receipt, and any portion of the countable asset that is retained becomes a resource on the first day of the month following the month of receipt. Id. An asset cannot be considered income and a resource in the same month. Id. The values of some resources may be totally or partially excluded. Medicaid Manual § 2300-2.

DCH denied Petitioner services during the months in which Petitioner's resources exceeded the state's resource limit because he received $10,000 from donations and $7,500 from his wife's father. Petitioner contends that the $10,000 and $7,500 deposits should be excluded from the resource calculation because the Medicaid Manual disregards bills paid by a third party for an item other than food, shelter, or clothing. See Medicaid Manual § 2405-2. Petitioner further argues that the $7,500 deposit should also be disregarded because Mrs. F[redacted] father gave her the cash to purchase a vehicle and the value of one automobile per household is excluded from the resource calculation. See Medicaid Manual § 2308.

The Court finds that the $10,000 and $7,500 deposits must be included in the resource calculation. The $10,000 deposit is considered income during the month it was received, July 2013, because it was unearned money given as a gift. See Medicaid Manual § 2499-6. The third parties who donated money to Petitioner and his wife never made a vendor payment on their behalf as required by Section 2405-2 of the Medicaid Manual. Rather, the money was given directly to Mrs. F[redacted] and deposited into an account with which she paid for regular expenses not connected to medical bills. After July 2013, the remaining amount of the deposit is properly considered a resource. See Medicaid Manual § 2399-3 (resources include money held by applicant that has not been considered income that month).

The $7,500 deposit was also unearned money given as a gift, and therefore properly counted as income. See Medicaid Manual § 2499-6. While it is true that the fair market value of a vehicle may be excluded from the resource calculation, the couple did not receive a vehicle, but were given cash. That the money was later used to purchase a vehicle does not negate the fact

that the deposit began as income because it was money given directly to the F[redacted] and deposited into their personal bank account to use at their discretion. See Medicaid Manual § 2499-6. Accordingly, DCH properly counted the $17,500 worth of deposits into the couple's account as resources.

**2. Residency**

EMA Medicaid applicants must be residents of Georgia to be eligible for Medicaid. Medicaid Manual § 2225; see also 42 C.F.R. § 435.403; CMS Manual §§ 3211.10, 3211.11, 3230; Salem Hosp. v. Comm'r of Pub. Welfare, 410 Mass. 625 (1991) (holding state's residency criteria did not violate 42 U.S.C. § 1396(b)). Residency must be established at the time of the initial application. Medicaid Manual § 2225-2. The Code of Federal Regulations contains procedures that Medicaid agencies must use in determining residency. 42 C.F.R. §§ 435.2(c), 435.403; see also Helen Hayes Hosp. v. DeBuono, 95 N.Y.2d 148, 155-56 (2000). Generally, an individual's residence is the state where the individual "is living with the intention to remain there permanently or for an indefinite period . . . ." CMS Manual § 3230.2; see also 42 C.F.R. § 435.403(h)(1). While there is no specific durational requirement, the individual cannot simply be in Georgia for a visit. Medicaid Manual § 2225-1.

Petitioner contends that because Georgia's Medicaid Manual states that applicants must "live or intend to live in Georgia indefinitely," Georgia merely requires indefinite presence in the state and not intent to remain. See Medicaid Manual § 2225-1 (emphasis added). The same Manual section goes on to state that an applicant is considered a resident of the state in which she or he "lives and intends to remain indefinitely." Medicaid Manual § 2225-2 (emphasis added). Furthermore, state agencies must abide by the Code of Federal Regulations, which unambiguously requires that applicants have intent to remain in the state indefinitely. See 42 C.F.R. §§ 435.2(c), 435.403; see also Helen Hayes Hosp., 95 N.Y.2d at 155-56. Applicants must therefore intend to remain in Georgia indefinitely in order to meet Georgia's residency requirement.

When adults are incapable of indicating intent, however, the state of residence is the state where the individual is living. 42 C.F.R. § 435.403(h)(2); Medicaid Manual § 2225-2 ("If an adult applicant became mentally incapable after age 18, consider the adult to be a resident of the state in which s/he is physically present."). For Medicaid purposes, an individual is considered incapable of expressing intent if the individual has an I.Q. of 49 or less, is judged legally

incompetent, or is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other licensed person in the field of intellectual disability. 42 C.F.R. § 435.403(c); see also CMS Manual § 3230. Moreover, institutionalized[7] individuals who become incapable of indicating intent are residents of the state in which they are physically present, unless another state[8] makes the placement. 42 C.F.R. § 435.403(h)(4). For example, a Medicaid applicant from New Jersey who was admitted to a hospital in New York after suffering a work-related injury that rendered him comatose was found to be a resident of New York for Medicaid purposes because he was incapable of expressing intent and present in a New York institution. Shah v. DeBuono, 257 A.D.2d 256, 257-60 (1999) (stating although "every other conceivably relevant indicator" suggested that applicant was a New Jersey resident, the federal rules are unambiguous), aff'd by Helen Hayes Hosp. v. DeBuono, 95 N.Y.2d 148 (2000).

Here, Petitioner was institutionalized in Georgia and was not placed in the institution by an out-of-state agency; therefore the residency standard is dependent on whether he is capable of providing intent. Unlike the applicant in Shah, where the Medicaid applicant was comatose and clearly incapable of providing intent, Petitioner's ability to communicate intent is unclear from the record. Because 42 C.F.R. § 435.403 requires proof through medical documentation, the Court declines to assume that Petitioner was incapable of expressing intent just because his condition was severe. In fact, Petitioner's records note that Petitioner was alert and conversant

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[7] For Medicaid eligibility purposes, "institutions" include medical institutions that:

> (a) [Are] organized to provide medical care, including nursing and convalescent care;
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> (b) [Have] the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;
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> (c) [Are] authorized under [s]tate law to provide medical care; and
>
> (d) [Are] staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include adequate and continual medical care and supervision by a physician; registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and a physician's guidance on the professional aspects of operating the institution.

42 C.F.R. §435.1010; see also 42 C.F.R. § 435.403(b). The Court finds that Doctors is a medical institution.

[8] DCH's contention that Belize constituted an out-of-state placement for purposes of this regulation is incorrect. 42 C.F.R. § 400.203 defines "state" to mean the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

during some points of his hospitalization. Accordingly, the exception to the general rule that Petitioner must show intent to remain is not applicable here.

The Court finds that Petitioner did not establish Petitioner's intent to remain in Georgia indefinitely. Petitioner failed to provide any statements or evidence from Petitioner regarding his intent to remain. Both parties relied on statements from Mrs. F[redacted], however, in their arguments regarding Petitioner's intent to remain in Georgia. DCH argues Mrs. F[redacted]' statement that she intended for the couple to return to Belize if Petitioner was discharged from the hospital shows that the couple did not intend to remain in Georgia. Petitioner, contrastingly, contends the same statements show proof of the couple's intent to remain indefinitely. Neither interpretation, however, is illuminative of *Petitioner's* intent to remain in Georgia. In fact, the Court has no information about Petitioner's intentions, or even where Petitioner is currently living. Petitioner's documents simply did not show, implicitly or otherwise, that Petitioner intended to remain in Georgia indefinitely. Petitioner therefore did not meet his burden in demonstrating that he met Georgia's residency requirement.

**D. Public Charge**

DCH contends that Petitioner should be denied EMA Medicaid because someone, other than Petitioner, submitted an I-134 form on his behalf when Petitioner entered the country stating that Petitioner would not become a public charge. As part of the parole process, aliens complete a form I-134 Affidavit of Support affirming that they will not become a public charge. See https://www.uscis.gov/i-134. A "public charge" is an alien who, after admission into the United States, is likely to become primarily dependent on the United States' government for subsistence.[9] See U.S. Department of State Foreign Affairs Manual, Volume 9 § 302.8. The attorney general may waive the public charge requirement for humanitarian purposes. 8 U.S.C. § 1255a(d)(2)(B)(i). DCH did not proffer Petitioner's I-134 and no evidence was tendered regarding who signed the document or when it was signed. Petitioner also failed to provide a citation to support the notion that someone signing Petitioner's I-134 waived Petitioner's ability to receive EMA Medicaid. The Court therefore finds that the I-134 did not affect Petitioner's eligibility.

[9] In the public charge context, public cash assistance includes means-tested benefits such as supplemental security income, temporary assistance for needy families, and state and local cash assistance programs that provide for income maintenance. See U.S. Department of State Foreign Affairs Manual, Volume 9 § 302.8-2(B)(1). Medicaid assistance is only considered public cash assistance if the payments are for long-term institutional care. Id.

## IV. CONCLUSION

Petitioner did not meet Georgia's Medicaid requirements because he failed to establish that he was a resident of Georgia during his hospitalization. Accordingly, DCH's decision to deny Petitioner's application is **AFFIRMED**.

**SO ORDERED**, this 8th day of July, 2016.

**AMANDA BAXTER**
**Administrative Law Judge**