

## New Requirements for Citizenship Documentation in Medicaid

On February 8, 2006 the President signed the Deficit Reduction Act of 2005 (DRA). Among the significant changes DRA makes to Medicaid is the addition of a new federal requirement, effective July 1, 2006, that all U.S. citizens and nationals applying for or renewing their Medicaid coverage provide documentation of their citizenship status.

This fact sheet provides information on the new requirement and recent CMS guidance, and examines their implications for Medicaid beneficiaries and the states.

### Pre-DRA Medicaid citizenship documentation requirements

Under federal law, all U.S. citizens who meet Medicaid's financial and other non-financial eligibility criteria are entitled to Medicaid coverage. Certain legal immigrants are eligible. The Medicaid program has long required states to establish that individuals applying for Medicaid are U.S. citizens or in satisfactory immigration status. Prior to DRA, state Medicaid programs could determine citizenship by allowing applicants to attest in writing that they are citizens, under penalty of perjury. At present, all states except Montana, New Hampshire, New York, and Georgia use the self-declaration option to establish U.S. citizenship.

### DRA mandate to document citizenship

Section 6036 of the DRA amends federal Medicaid law to require that all citizens applying for or renewing their Medicaid coverage provide "satisfactory documentary evidence of citizenship or nationality." The law specifies documents that are acceptable for this purpose and authorizes the HHS Secretary to designate additional acceptable documents. No federal matching funds will be available for services provided to individuals from whom states do not obtain the required citizenship documentation.

The new citizenship documentation requirement does not change Medicaid rules relating to immigrants. Undocumented immigrants remain eligible only for Medicaid emergency services. New legal immigrants are excluded from Medicaid during their first five years in the U.S. Nor does DRA alter the eligibility criteria for U.S. citizens. However, by introducing a documentation requirement, the new provision makes the process of *obtaining* eligibility more difficult for citizens.

### State responsibilities

Effective July 1, 2006, states must obtain documentation of citizenship from all citizens applying for Medicaid on or after this date. Individuals already enrolled in Medicaid will be required to document their citizenship at the time of redetermination. Documentation of citizenship is a one-time requirement.

No Medicaid applicants are exempt from the documentation requirement and states are not authorized to waive or postpone the documentation requirement for any group of applicants or any individual applicant.

### CMS guidance

On June 9, 2006, CMS issued guidance to the states regarding implementation of the citizenship documentation requirement. Using the authority provided in DRA, the guidance expands on the list of acceptable documents and prescribes the process states should follow in obtaining documentation. CMS plans to issue regulations that will formalize the documentation process and structure outlined in the guidance.

**Acceptable documents.** The CMS guidance establishes four levels of citizenship documentation, rank-ordering them in a "hierarchy of reliability." The guidance requires states to seek the highest-level evidence available, and designates those documents named by DRA – the "primary" and "secondary" evidence below – as the most reliable:

- "Primary evidence" includes a U.S. passport, a Certificate of Naturalization, or a Certificate of U.S. Citizenship.
- "Secondary evidence" includes birth certificates and specified other records, in combination with specified identity documents.
- Third- and fourth-level evidence includes many non-governmental documents (e.g., hospital extract records, health and insurance records, admission papers from nursing homes, written affidavits).

Documents listed as "secondary evidence" or lower-tier evidence must be accompanied by an acceptable form of identity documentation, such as a state-issued driver's license or other document specified by the guidance. Original documents or copies certified by the issuing agency are required; copies are not acceptable.

The guidance stipulates that written affidavits should be used only in rare circumstances, when a state cannot secure any other evidence of citizenship or identity. In such cases, written affidavits, made under penalty of perjury, are required from two individuals, at least one of whom is not related to the applicant/beneficiary. The individuals making the affidavit must be able to prove their own citizenship and identity and must explain, if known, why documentary evidence of citizenship is not available for the applicant or beneficiary.

Children are subject to the same documentation requirement as adults. However, school records, including daycare or nursery school records, and affidavits signed by a parent or guardian are also acceptable forms of identity.

**State assistance.** The CMS guidance provides that individuals already enrolled in Medicaid must be given a "reasonable opportunity" to present documentation before a state undertakes any action to terminate eligibility. However, new applicants cannot obtain Medicaid eligibility until they present the required evidence.

Exceptions to the “reasonable opportunity” time limit for presenting citizenship documentation are allowed if a state determines that a Medicaid enrollee has made a “good faith” effort to secure documentation but has been unable to do so. In this case, the state is advised to assist the individual in securing documentation. States may perform data matches with other agencies to assist individuals, but only after it has been ascertained that none of the acceptable documents is available.

CMS guidance also advises states to assist individuals who are homeless, amnesia victims, or physically disabled or mentally ill, and who lack someone to act on their behalf, and cannot produce the required evidence.

**Outreach.** The DRA provision includes a requirement that the HHS Secretary establish an outreach program designed to “educate individuals who are likely to be affected” by the requirement. The guidance contains no details of the program.

**Compliance.** CMS will monitor states to ensure that they have implemented an effective process to comply with the citizenship documentation requirement. The agency will also monitor the states to determine the extent to which they are using primary evidence, and will require corrective action to ensure that states routinely obtain the most reliable evidence.

**Funding.** The DRA does not allocate any new federal funds for state costs associated with administering the documentation requirement, such as costs for data systems and storage or application assistance personnel. Federal funds will be available to states based on the 50 percent match rate generally available for Medicaid administrative costs.

## Implications

**Medicaid coverage will be delayed or denied for many.** The DRA precludes states from enrolling Medicaid applicants until they provide citizenship documentation. Research shows that the addition of documentation and other application requirements deters program participation. Citizens applying for Medicaid who do not have the required documents on hand or cannot obtain them will face a delay in coverage or be unable to qualify, and, without Medicaid, are likely to remain uninsured.

**Low-income citizens may not have access to documents that satisfy the new requirement.** Many U.S. citizens may lack the documents required to establish citizenship. For example, many African Americans born in the rural South did not have access to a hospital birth and lack any type of birth record. Other groups of citizens, including the mentally ill, people with developmental disabilities, the homeless, and nursing home residents, may face special obstacles to obtaining necessary documents.

**Obtaining required documents may be difficult and costly for low-income citizens.** Obtaining documents such as passports and birth certificates can be costly and time-consuming. The low-income individuals who are eligible for Medicaid may find it difficult to afford the necessary documents and may face other barriers, such as transportation barriers, to obtaining them.

### **Providers may face more uncompensated care costs.**

Providers that furnish care to individuals who do not have immediate access to the required documents (e.g., heart attack victim) may incur new uncompensated costs. The guidance is silent regarding whether federal matching funds are available for services provided during the 3-month retroactive eligibility period that begins with application.

### **Documentation requirements disrupt state efforts to streamline Medicaid enrollment and depresses participation.**

In recent years, states have streamlined and simplified the Medicaid application process by minimizing documentation requirements, permitting self-declaration of income and citizenship status, and using automation. DRA’s requirement that states collect citizenship documents and maintain physical copies of them curbs states’ capacity to streamline their operations.

### **States have little time to develop the systems necessary to implement the guidance.**

CMS issued its guidance just three weeks before states must comply with its requirements. The implementation process outlined in the guidance is highly prescriptive, and states have little time to establish the new administrative systems needed to meet its requirements.

### **States will incur new administrative costs as a result of the DRA requirement.**

Although states receive federal matching funds for administrative activities, implementation of the citizenship documentation requirement will increase states’ administrative costs, requiring new state dollars.

### **Effective state implementation requires flexibility, effort, and resources.**

Evidence from New York, a state that already requires citizenship documentation in Medicaid, reveals that to implement the requirement in a way that accommodates both programmatic needs and the circumstances of a low-income beneficiary population with unique needs, several key elements must be in place. Significant flexibility in administering the requirement, extensive outreach, state financial resources, and multiple years of experience have contributed to New York’s success.

## Conclusion

As a result of the citizenship documentation requirement, citizens applying for or renewing their Medicaid coverage will soon face additional barriers to demonstrating their eligibility and obtaining coverage. Especially in light of the steadily rising number of low-income uninsured Americans, it will be important to monitor the effect of the documentation requirement on the participation of eligible U.S. citizens in Medicaid.

As the implementation date approaches, the extent to which states will be able to exercise flexibility in administering the new requirement, and the impact of states’ new responsibilities on their operations and budgets, remain to be determined. The stakes for both states and beneficiaries are substantial.

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