



**Public Affairs Office**

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# MEDICAID FACT SHEET

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## **HHS ISSUES FINAL REGULATIONS WITH COMMENT ON CITIZENSHIP GUIDELINES FOR MEDICAID ELIGIBILITY**

### **Overview of New Requirements on Citizenship Documentation for Medicaid Benefits**

On July 06, 2006 HHS placed on display at the Federal Register interim final regulations to be published July 12, 2006 for states to implement a new requirement. Effective July 1, persons applying for Medicaid must document their citizenship. The new documentation requirement is outlined in Section 6036 of the Deficit Reduction Act of 2005 (DRA) and is intended to ensure that Medicaid beneficiaries are citizens without imposing undue burdens on them or the states.

Recognizing the diversity of beneficiaries served by Medicaid, the regulations provide for a range of ways that citizenship status and personal identity may be documented. Because seniors and people with a disability who receive Medicare or Supplemental Security Income already have met certain documentation requirements, the regulation does not include new documentation requirements for these groups. This exemption reflects the special treatment of these groups in the statute, implying that they should be exempt from additional documentation requirements.

For all other individuals, in addition to the range of documents outlined in the regulation, states can also document citizenship and identity through data matches with government agencies. Additional types of documentation, such as school records, may also be used for identity of children. If other forms of documentation cannot be obtained, documentation may be provided by a written affidavit, signed under penalty of perjury, from two citizens, one of whom cannot be related to the applicant or recipient, who have specific knowledge of a beneficiary's citizenship status. Applicants or recipients must also submit an affidavit stating why the documents are not available. Affidavits are only expected to be used in rare circumstances. Current beneficiaries should not lose benefits during the period in which they are undertaking a good-faith effort to provide documentation to the state.

The interim final regulations match most of the guidance that was provided to State Medicaid Directors on June 9, 2006. Comments from the public will be accepted through August 11, 2006.

American citizenship or legal immigration status has always been a requirement for Medicaid eligibility; however, beneficiaries could assert their status by checking a box on a form. The DRA requires actual documentary evidence before Medicaid eligibility is granted or renewed beginning July 1, 2006. The provision requires that a person provide both evidence of citizenship and identity. In many cases, a single document will be enough to establish both citizenship and identity such as a passport. However, if secondary documentation is used, such as a birth certificate, the individual will also need evidence of their identity. Once citizenship has been proven, it need not be documented again with each eligibility renewal unless later evidence raises a question.

## **Guidance Details**

### ***Documentary Evidence***

The law specifies certain forms of acceptable evidence of citizenship and identity, and provides for the use of additional forms of documentation as established by federal regulations, when appropriate. Today's regulations outline acceptable additional forms of documentary evidence.

The regulations adopt a hierarchical approach already in use by other programs in which documentary evidence of citizenship and identity is sought first from a list of primary documents. If an applicant or recipient presents evidence from the listing of primary documentation, no other information would be required. When such evidence cannot be obtained, the state will look to the next tier of acceptable forms of evidence.

In particular, the following forms of documentation may be accepted:

- Acceptable primary documentation for identification and citizenship:
  - A U.S. Passport.
  - A Certificate of Naturalization (DHS Forms N-550 or N-570).
  - A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561).
- Acceptable secondary documentation to verify proof of citizenship (an identity document is also required):
  - A U.S. birth certificate (data matches with a State Vital Statistics Agency may be used in place of a birth certificate, at the State's option).
  - A Certification of birth issued by the Department of State (Form DS-1350).
  - A Report of Birth Abroad of a U.S. Citizen (Form FS-240).
  - A Certification of Birth Abroad (FS-545).
  - A U.S. Citizen I.D. card (DHS Form I-197).
  - An American Indian Card issued by the Department of Homeland Security with the classification code "KIC". (Issued by DHS to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).
  - Final adoption decree

- Evidence of civil service employment by the U.S. government before June 1976,
- An official military record of service showing a U.S. place of birth
- A Northern Mariana Identification Card. (Issued by the INS to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 4, 1986).
- Acceptable third level documentation to verify proof of citizenship:
  - Extract of U.S. hospital record of birth established at the time of the person's birth and was created at least 5 years before the initial application date and indicates a U.S. place of birth.
  - Life or health or other insurance record showing a U.S. place of birth and was created at least 5 years before the initial application date.
- Acceptable fourth level documentation to verify proof of citizenship:
  - Federal or State census record showing U.S. citizenship or a U.S. place of birth.
  - Institutional admission papers from a nursing home, skilled nursing care facility or other institution and was created at least 5 years before the initial application date and indicates a U.S. place of birth.
  - Medical (clinic, doctor, or hospital) record and was created at least 5 years before the initial application date and indicates a U.S. place of birth unless the application is for a child under 5.
  - Other document that was created at least 5 years before the application for Medicaid. These documents are Seneca Indian tribal census record, Bureau of Indian Affairs tribal census records of the Navaho Indians, U.S. State Vital Statistics official notification of birth registration, an amended U.S. public birth record that is amended more than 5 years after the person's birth or a statement signed by the physician or midwife who was in attendance at the time of birth.
  - Written affidavit. Written affidavits may be used only in rare circumstances when the state is unable to secure evidence of citizenship from another listing. If the documentation requirement needs to be met through affidavits, the following rules apply: There must be at least two affidavits by individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship (the two affidavits could be combined in a joint affidavit). At least one of the individuals making the affidavit cannot be related to the applicant or recipient and cannot be the applicant or recipient. In order for the affidavit to be acceptable the persons making them must be able to provide proof of their own citizenship and identity. If the individual(s) making the affidavit has (have) information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit should contain this information as well. The State must obtain a separate affidavit from the applicant/recipient or other knowledgeable individual (guardian or representative) explaining why the evidence does not exist or cannot be obtained. The affidavits must be signed under penalty of perjury.
- Acceptable documentation to verify proof of identity:
  - A current state driver's license bearing the individual's picture or State identity document also with the individual's picture.
  - Certificate of Indian Blood, or other U.S. American Indian/Alaska Native tribal document.

- A school identification card with a photograph of the individual.
- U.S. military card or draft record.
- Identification card issued by the Federal, State, or local government with the same information included on driver's licenses.
- Military dependent's identification card.
- Native American Tribal document.
- U.S. Coast Guard Merchant Mariner card.
- Data matches with other agencies can be used to verify identity such as those with Federal or State governmental, public assistance, law enforcement, or corrections agencies, at the State's option. Such agencies may include food stamps, child support, corrections, including juvenile detention, motor vehicle, or child protective services.
- For Children under 16, an Affidavit signed under penalty of perjury by a parent or guardian attesting to the child's identity.

***Driver's License Documentation to Establish Both Citizenship and Identification***

Section 6036(a)(3)(B)(iv) of the DRA permits the use of a valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the Immigration and Nationality Act, but only if the state issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a Social Security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen. CMS is not currently aware that any state has these processes in place at this time. Therefore, until such time that a state has this requirement in place, this documentation may not be accepted.

***Reasonable Opportunity***

At the time of application or redetermination, the state must give an applicant or recipient a "reasonable opportunity" to present documents establishing U.S. citizenship or nationality and identity. The guidance advises:

- An individual who is already enrolled in Medicaid will remain eligible if he/she continuously shows a good faith effort to present satisfactory evidence of citizenship and identity.
- Applicants for Medicaid should not be made eligible until they have presented the required evidence.
- If the applicant or recipient tries in good faith to present satisfactory documentation, but is unable because the documents are not available, the state should assist the individual in securing these documents.
- If the applicant or recipient cannot obtain the necessary documents and needs assistance (i.e., is homeless, mentally impaired, or physically incapacitated), and lacks someone who can act on their behalf, then the state must assist the applicant or recipient to document U.S. citizenship and identity.

## *Compliance*

As with other Medicaid program requirements, states must implement an effective process for assuring compliance with documentation of citizenship in order to obtain federal matching funds, and effective compliance will be part of Medicaid program integrity monitoring. In particular, audit processes will track the extent to which states rely on more indirect (third and fourth level) categories of documentation, and on affidavits, with the expectation that such categories would be used relatively infrequently and less over time, as state processes and beneficiary documentation improves.

States will receive the normal 50 percent match for administrative expenses related to implementation of the new law.

## *Outreach*

The Centers for Medicare & Medicaid Services, the agency that oversees the Medicaid program, has launched an outreach program to educate states and interested groups about the new requirement. These outreach efforts include presentations to interested groups and tools that states may use to help applicants and recipients understand the requirement. The tools include talking points, questions and answers, a sample press release, drop-in article and lists of acceptable documents. The agency will also work closely with states to help them reach out to their current Medicaid enrollees and the general public outlining the new rules. CMS has already begun to hold training sessions with state officials including regular telephone consultations during which the agency provides whatever technical assistance the states request. CMS has also provided speakers at national conferences of interested groups such as tribal organizations and advocacy groups for minority communities.

For more information about the citizenship documentation requirement, go to:

[http://www.cms.hhs.gov/MedicaidEligibility/05\\_ProofofCitizenship.asp#TopOfPage](http://www.cms.hhs.gov/MedicaidEligibility/05_ProofofCitizenship.asp#TopOfPage)

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