Issue BRIEF

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Best Practices:
How States Can Reduce the Burden of the Citizenship Documentation Requirement

In February 2006, President Bush signed the Deficit Reduction Act (DRA) into law. One of the most notable provisions of this law is that it requires people who apply for or receive Medicaid and declare that they are U.S. citizens to provide documentation of their citizenship status and identity. This law did not change any of the rules about who qualifies for Medicaid, nor did it change any of the rules pertaining to immigrants who apply for or receive coverage through Medicaid or the State Children's Health Insurance Program (SCHIP). However, it did change the rules about what paperwork people have to submit to their state agencies when they apply for Medicaid if they are U.S. citizens.[1] Previously, federal law allowed states to decide what documentation people needed to submit to prove that they were U.S. citizens. Most states required applicants to attest to their citizenship under penalty of perjury and required additional documentation only in certain circumstances. Now, federal law and regulations strictly prescribe the kinds of documentation that are acceptable. States were required to start collecting documentation of citizenship and identity beginning on July 1, 2006.

The citizenship documentation requirement has the potential to keep millions of U.S. citizens who are eligible for Medicaid from obtaining coverage through the program. Extensive research has shown that additional documentation requirements pose a substantial hurdle that can keep eligible people from applying for or getting Medicaid. And indeed, many states have seen a significant decline in Medicaid enrollment since the citizenship documentation requirement went into effect.[2]

As states implement this burdensome requirement, they are learning lessons about how to make it easier for themselves and for the people who are applying for or receiving Medicaid. These promising practices cannot solve all of the problems caused by this onerous new requirement, but they can help.

FamiliesUSA
The Voice for Health Care Consumers

Beginning in June 2006, Families USA conducted a nationwide survey to determine what kinds of choices states were making about how to implement the citizenship documentation requirement and the effects that those choices had on the people applying for or receiving Medicaid. We reviewed states' implementation policies and interviewed Medicaid agency representatives and advocates at the state level. This issue brief explores some of the state-level practices that appear to be most effective at reducing the burden on U.S. citizens who apply for or receive Medicaid. These practices generally fall into six main categories:

1. Data matching
2. Providing assistance to applicants and enrollees
3. Establishing flexible definitions and timeframes for compliance
4. Conducting strong outreach to residents, counties, and community partners
5. Simplifying the documentation requirements
6. Reviewing denials and terminations

CMS Guidance on the DRA Requirement

The Centers for Medicare and Medicaid Services (CMS) has issued several "guidance" documents that are designed to help states implement the new citizenship documentation requirement.

- On June 9, 2006, just three weeks prior to the implementation deadline, CMS issued guidance that introduced a complex hierarchy of appropriate documentation, and it made the documentation a strict criterion for eligibility.
- CMS issued Interim Final Regulations on July 12, 2006, that guided states' implementation of the new requirement. The Interim Final Regulations made some improvements to the June 9 guidance—most importantly, by exempting individuals who receive Supplemental Security Income (SSI) or Medicare because they have already proven their U.S. citizenship through applying for those programs.
- In December 2006, Congress passed a bill that included technical corrections to the DRA, which also exempted people who receive Social Security Disability Insurance (SSDI) and federally assisted foster youth[3] for the same reason.
- In February 2007, CMS issued guidance telling states about these additional exemptions.

In many ways, CMS went beyond what the Deficit Reduction Act mandated by requiring that individuals submit original documents (rather than photocopies), creating the hierarchy of documents, and delaying benefits to new applicants until they comply with the requirements. Moreover, the Interim Final Regulations left states with many decisions to make about how to check the citizenship status of people applying for or receiving Medicaid.

1. Data Matching

CMS regulations require that applicants and renewing enrollees submit original documentation, essentially demanding that individuals take the time to bring in—or risk mailing—their original birth certificate and a form of valid identification (such as a driver's license). This is one of the most burdensome stipulations of the regulations. However, states may use data matching, which eliminates the need for many applicants and enrollees to track down original documents. In electronic data matching, states compare the information they receive from a person applying for Medicaid (or information in the file of a person who already receives Medicaid) with information that is on file in the state's vital records office or other federal or state government files.[4] States are allowed to match data with vital records offices to prove citizenship, and they can check their databases and files for other state programs to prove identity.[5]

The requirement that individuals provide original documents is onerous for states as well as for individuals. Using data matching enables states to find indisputable proof of an individual's citizenship status without requiring that person to produce paper documents. Data matching also lessens the burden for people who may not have an original birth certificate or other approved document and who would have to apply for one. (Having to apply for this documentation could lead to a delay in their Medicaid application, an application cost that they may not be able to afford, and costs for states that must retrieve and print official documents.) Moreover, many people apply for Medicaid by mail, and the use of data matching may mean that they would not have to make a special trip to their county human services office to present documents in person or take the risk of mailing their original documents to the state office.

Many states can perform data matches for the majority of their state-born residents with the state vital records department, which proves U.S. citizenship at minimal cost to both the individual and the state. At least 21 states are using data matching with vital records departments. Most states that are not currently using data matching report that they are working to develop the capacity to do so. While data matching is a promising tool, it has some limitations: States have not yet figured out how to perform data matches with vital records departments across state lines, and electronic data are not available for everyone who applies for Medicaid, especially if they have not participated in other state social service programs.

- **Preemptive data matching**: Some states began using data matching prior to the implementation of the new rule in order to preempt the requirement for as many enrollees as possible. For example, **California** checked its vital records for information about the 900,000 people who were already enrolled in Medicaid before it implemented the citizenship documentation requirement. Those individuals for whom the state found birth certificates on file were not asked to produce them during the course of their Medicaid renewal. When a state Medicaid agency confirms citizenship prior to requesting the information from the applicant or enrollee, it reduces confusion and prevents potential enrollee discouragement.

- **Centralized verification units**: Performing centralized data matches at the state level is ideal. State Medicaid agencies are in a better position than county or district offices to negotiate with vital records departments and request large batches of information at a time. Having state Medicaid agencies handle data matching also reduces the workload of overwhelmed county workers and ensures that data requests are handled uniformly.
- **Data matching with state agencies**: States have the option of using an electronic interface with other state agencies to verify identity. **Pennsylvania** and **Hawaii** match clients with the Department of Motor Vehicles (DMV) and the Attorney General's office, respectively. States should pursue data matching with as many state agencies as possible, including child support agencies, the DMV, school systems, and foster youth agencies.

The Challenges of Data Matching

Establishing an effective electronic data matching system has proven to be challenging, and not just from a technological standpoint. **Kansas**, for example, has been unable to get around several technical and bureaucratic hurdles. The Medicaid agency and the state vital records department have not been able to negotiate how to allow access to the state's Medicaid application clearinghouse. Largely as a result of this problem, many applications are still pending or are being denied, and the number of Medicaid enrollees has dropped by 20,000 as of March 2007.[6]

- **The SDX database**: The Social Security Administration (SSA) verifies the citizenship of everyone who applies for benefits. Therefore, federal law exempts anyone who is receiving Medicare or Social Security Disability Insurance (SSDI), as well as most people who receive SSI, from the Medicaid documentation requirement. And the Interim Final Regulations allow states to check the SDX database, which is provided to states on a monthly basis by the Social Security Administration, for the citizenship status of any SSI enrollees who are not automatically exempt from the requirement. States can go even further to identify residents who have applied for or received benefits from SSA, even if they are not receiving these benefits at the time they apply for Medicaid. **Alabama** has adopted this expanded use of the SDX database, verifying citizenship for anyone who has ever applied for or received SSI or SSDI.

2. Providing Assistance to Applicants and Enrollees

The Interim Final Regulations require states to assist special populations, such as homeless individuals, people who are mentally impaired, and people with disabilities, with verifying citizenship and identity. However, assistance should not be limited to only special populations. While the groups listed in the Interim Final Regulation are vulnerable, there are many other individuals who need Medicaid and who may also have difficulty complying with the new requirement on their own. Some states are taking a proactive role in helping all clients obtain documentation.

- **Vital records information without data matching**: Many states are struggling with technical hurdles that make electronic data matching impossible at this time. The information technology employed at Medicaid agencies and vital records departments is often incompatible, and it can take time to make the systems "talk" to each other. To get around this

problem, states can establish an inter-agency agreement between the Medicaid agency and the vital records department that allows Medicaid to obtain a paper verification of birth from vital records at a reduced cost. This record is not a "formal" birth certificate and generally takes less time for vital records to produce. For example, the **District of Columbia** has a "Memorandum of Understanding" with its vital records department. The city pays for one staff person in the vital records department to conduct birth record searches and send confirmation documents to its Medicaid agency. In **Minnesota**, county offices send batches of citizenship verification requests to vital records and pay them $9 for each written confirmation of in-state birth (rather than the standard $16 for a birth certificate).

- **Obtaining documents on behalf of enrollees**: Even in states with the capacity to do data matching, it is difficult to capture both citizenship and identity verification for all applicants and enrollees. In general, identity is often more difficult to verify than citizenship. Moreover, most states have diverse demographics with many residents born out of state. This means that doing in-state data matching can lead to incomplete results, so some states have decided to obtain out-of-state birth records on behalf of residents. In **Pennsylvania**, a verification center electronically verifies birth certificates and driver's licenses, while county assistance offices help applicants and enrollees request documents from out of state and find appropriate evidence of identity.
- **Creating new positions to provide assistance**: While state policy may instruct district offices to provide a high level of assistance to clients who require it, workers in those offices often already face overwhelming workloads. States that have hired new staff specifically to address the documentation requirement are able to provide much greater assistance than those who rely on existing, overworked staff. In lieu of hiring new, specialized staff for the job, one state, **Maine**, has proposed placing Temporary Assistance for Needy Families (TANF) erollees in its job training program at the Medicaid agency's central office to assist clients with obtaining documents and at vital records departments to help locate paper birth certificates for people born before 1996. (The vital records department has electronic records only for people born after 1996.)
- **Covering associated fees**: The cost of obtaining a birth certificate, which can be as high as $32.50 (in 2007), could preclude many eligible, low-income people from enrolling in Medicaid. In order to eliminate this barrier to coverage, some states are paying to obtain out-of-state birth certificates for their residents. Some states that lack adequate funding to pay for documents have opted to help clients find acceptable documentation other than a birth certificate.

3. Establishing Flexible Definitions and Timeframes for Compliance

The DRA regulations require that states allow a "reasonable opportunity period" for all individuals to obtain and submit documentation. They also require that states continue to cover current enrollees who are in the process of documenting their citizenship status for the first time as long as they are making a "good faith effort" to obtain citizenship and identity documentation. States have significant flexibility when it comes to defining these terms in their state policies.

- **Defining "good faith effort"**: States can define "good faith effort" using their own criteria. They do not have to view evidence that an individual has requested documentation. **Arkansas**'s and **Connecticut**'s state policies require workers to help Medicaid applicants and enrollees obtain the necessary documents and ensure that they have enough time to meet the documentation requirements. In both states, as long as the applicant or enrollee is cooperating with the agency, Medicaid considers the individual to be making a good faith effort and grants necessary extensions.
- **Defining "reasonable opportunity period"**: The regulations indicate that states must give enrollees and applicants adequate time to secure documents before determining that they are ineligible. And, if individuals are cooperating with their Medicaid caseworkers, they should be entitled to extensions. States can determine the length of such extensions. Many states' policies permit current enrollees to take considerable time to submit their documentation. Extensions for new applicants are usually shorter, but these extensions still provide more time than typical processing deadlines. In **North Carolina**, applications can be designated as "pending" for up to six months, and system codes trigger the district office to send out periodic reminder letters.

How Long Does It Take?

It can take up to eight weeks to obtain a birth certificate ordered from another state's vital records department. Gathering appropriate documentation for both citizenship and identity and then delivering the originals to the local Medicaid office, either by going in person during regular business hours or by mailing them in, could be challenging for a working family or person with disabilities. Given the complexity and difficulty of completing these tasks within standard processing deadlines, states should allow residents liberal amounts of time to meet the documentation requirement.

CMS has given states the right to extend normal processing deadlines. Unfortunately, not all states have taken advantage of this provision. **Colorado** allows only 10 days for its "reasonable opportunity period," and advocates there are concerned that this has contributed to recent enrollment declines in the state. **Ohio**'s policy does not permit extensions beyond the standard 30 days for applicants and 45 days for enrollees. Although other factors may be at work, Ohio's Medicaid enrollment dropped by 39,000 children and parents between September 2006 and March 2007—the largest drop in that state in 10 years.[7]

4. Conducting Strong Outreach to Residents, Counties, and Community Partners

In addition to tracking down the necessary documentation, many more people must now go to Medicaid or welfare offices in person to present that documentation rather than completing the application process by mail. States that want to prevent this new requirement from becoming a barrier to enrollment are looking at ways to make it easier for members of the community to make in-person visits and for their offices to handle the additional work. Many states have worked with community stakeholders, such as federally qualified health centers (FQHCs), community-based organizations, and health care providers, to develop state rules, train staff, and provide targeted information to applicants and enrollees to make sure the entire process works as smoothly as possible. We discuss some of the measures states have developed below:

- **Holding evening drop-in hours**: To accommodate Medicaid applicants who work during normal business hours, the **District of Columbia** is keeping five of its seven "service centers" open until 8:00 pm on Wednesday.
- **Establishing deputized centers**: Medicaid agencies can establish relationships with affiliated entities and other organizations in the community to collect and authenticate documentation. **Connecticut** has designated many of its presumptive eligibility and other outreach sites as "outstation locations," which are authorized to view and make copies of original documents on behalf of Medicaid caseworkers. **California**'s policy allows federally qualified health centers and disproportionate share hospitals (DSH) to verify documentation, but not community-based organizations. In **Virginia**, the Medicaid agency has deputized health departments, FQHCs, and outreach programs to review documents, certify that they have seen the original documents, and send copies to the state for the case files. The terms of the arrangement are established in a Memorandum of Agreement (MOA). Unfortunately, at the time of this writing, participation in the program was not satisfactory, and the state was looking at how to improve the process.
- **Creating facilitated enrollment programs**: **New York**'s Medicaid agency contracts with community-based organizations to facilitate enrollment in the program. Participating social and health services providers now assist clients who need to meet the documentation requirement. The "facilitated enrollers" must view the original document, make a copy, and annotate on the copy that they saw the original. They send the copy, along with the completed application, to the local Medicaid office.
- **Developing targeted training**: Some states are training clerical workers (rather than caseworkers) to accept documents in order to decrease wait times for residents and the workloads of eligibility staff. **Arkansas** has trained clerical staff to authenticate and make copies of the citizenship and identity documents that residents present. The **District of Columbia** is currently hiring a document verification clerk for every service center.

5. Simplifying the Documentation Requirements

The Interim Final Regulations retain the four-tier hierarchy that was present in earlier CMS guidance on the citizenship documentation requirement. Where paper documents are used instead of electronic data matching, documents are assigned to tiers according to their reliability. That is, documents listed in Tier 1 are considered by CMS to be the most reliable, and documents in Tier 4 are considered the least reliable. The tiered lists of documentation that can be used to demonstrate identity and citizenship are dizzying, and many states have made efforts to simplify the hierarchy.

- **Developing standardized forms**: Developing standard forms and making them widely available alleviates some of the confusion. Many states have developed a standard attestation of identity for children under 16 years of age, or they have added it as a new section on their Medicaid application, so that providing documentation is unnecessary. Many states have also created an affidavit form for proving citizenship when all other forms of documentation are unavailable.
- **Developing authorization forms**: States that obtain documents on behalf of residents, such as **Pennsylvania**, can ask residents to fill out a standard citizenship/identity disclosure form, which provides the state with the necessary information and authorization to obtain documents as a third party.

6. Reviewing Denials and Terminations

Many states recognize that the citizenship and identity requirements could well keep eligible individuals out of Medicaid. For example, even if a state's implementation policy instructs district offices to exhaust all possible efforts prior to denying an application or terminating a resident's eligibility, busy caseworkers may not be able to provide a high level of assistance. Tracking and maintaining oversight of denials and terminations is the best way for a state to prevent declines in enrollment and renewals.

Based on data from a few states that have been tracking enrollment changes since the requirement went into effect, eligible people are being denied access because they do not have appropriate identification, either because they cannot part with their only valid proof of identity for an undetermined length of time, or because they are not able to leave their job during work hours to bring in their identification.[8] These data demonstrate that the requirement is keeping eligible citizens out of Medicaid.

To track the impact of the citizenship documentation requirement, states should create a new system code to indicate that an application or renewal was denied specifically because the individual did not submit documentation of citizenship and/or identity. Furthermore, states can protect people from being unjustifiably cut off by reviewing all cases that are closed or denied based on failure to submit documentation of citizenship or identity.

- **Reviewing denials and closures**: Some states require eligibility workers in field offices to refer all cases they plan to close to a state-level central office for review, as in the **District of Columbia**. Other states, such as **Wyoming**, are examining all denials and terminations made in field offices and reopening closed cases for further investigation.

- **Developing new system codes**: States are developing closure codes to track denials and terminations. It is important for states to gather clear data on how the requirements affect applicants and enrollees so that they can improve their policies and procedures where necessary. One good example is the state of **Washington**, which uses a code that specifically indicates whether a client failed to present documentation of citizenship or identity. While some states required proof of citizenship prior to the DRA, the identity requirement presents a brand new challenge for almost all states.

What Can Advocates Do?

State Medicaid agencies are reluctantly taking up the citizenship documentation requirement and all of its stipulations. Advocates can use a number of strategies to help states that are eager to maintain enrollment and protect residents:

- **Track enrollment data to identify trends**: While not every state has opted to create new case closure codes that specify failure to meet the citizenship and identity requirement, it is still possible to observe enrollment declines by comparing current enrollment numbers to those of previous years.
- **Know your state's policy—and watch for changes**: States that initially implemented some of the best practices described here may now find the administrative and financial burden of these policies to be overwhelming. At least one state has moved to limit the leniency of its implementation policy, and advocates there are concerned that enrollment will drop. Other states may be considering changes as their overdue redeterminations increase and workloads for verification units grow heavier.
- **Collect personal narratives**: Stories from individuals who are eligible for Medicaid but have been denied coverage or have been cut from the program because of the documentation requirement help put a human face on the situation and can give policymakers a sense of the real-life impact of the requirement. These stories can help counter the rhetoric that the requirement is fulfilling its intended function of removing from the program illegal immigrants who claim that they are U.S. citizens.
- **Highlight the gap between policy and practice**: Advocates often have a better sense of how policy is actually rolling out on the ground. Even in states that have designed implementation policies to minimize harm and give clients leeway, application of the policy can vary widely. Advocates are in a good position to point out failures and suggest improvements, such as more extensive training and better materials for district workers, and state oversight of denials and terminations.
- **Establish partnerships with other stakeholder groups**: Many parties are interested in avoiding declines in Medicaid enrollment, including Medicaid managed care organizations and health care providers. Forming alliances with these groups before confronting the state about problems or asking for policy reforms could greatly strengthen your argument. Managed care organizations and health care providers could also provide great outreach and education to clients.

Conclusion

The survey we have conducted has identified some of the innovative tactics that states have developed to avert large-scale enrollment drops and help residents navigate the arduous documentation requirements. Quite clearly, in the absence of guidelines that address the numerous practical problems the requirements have introduced, states have taken the lead in filling in the blanks. The process of creating sound state policies that comply with the CMS guidance is ongoing. Families USA hopes that these survey results serve as a resource for advocates to learn about the strategies and interpretations that states have used.

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[1] And, for those U.S. citizens who already have Medicaid, the law added new paperwork when they undergo their first renewal after July 1, 2006.

[2] Donna Cohen Ross, *New Medicaid Citizenship Documentation Requirement Is Taking Its Toll: States Report Enrollment Is Down and Administrative Costs Are Up* (Washington: Center on Budget and Policy Priorities, March 13, 2007).

[3] Children who receive foster care or adoption assistance under Title IV parts B and E.

[4] Such additional files may include cash assistance, law enforcement or corrections, or information from other databases.

[5] Centers for Medicare and Medicaid Services, Interim Final Rule, *Medicaid Program; Citizenship Documentation Requirements* (Baltimore: Department of Health and Human Services, July 2006), available online at http://www.cms.hhs.gov/MedicaidEligibility/05_ProofofCitizenship.asp. States may also check the SDX database maintained by the Social Security Administration to prove citizenship for certain individuals who receive Supplemental Security Income (SSI). This applies only in a few states that do not automatically enroll into Medicaid people who have SSI.

[6] Robert Pear, "Citizens Who Lack Papers Lose Medicaid," *The New York Times*, March 12, 2007.

[7] Ibid.

[8] Donna Cohen Ross, op. cit.

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