



MEDICAIDAlert

In February 2006, the President signed into law budget reconciliation legislation—the so-called Deficit Reduction Act (DRA)—that fundamentally alters many aspects of the Medicaid program. Some of these changes are mandatory provisions that states must enact and that will make it more difficult for people to either qualify for or enroll in Medicaid. Other changes are optional provisions that allow states to make unprecedented changes to the Medicaid program through state plan amendments. This series of issue briefs is designed to inform advocates about the specifics of these changes and to highlight key implementation issues and strategies to mitigate the harm these provisions could cause to people on Medicaid.

Citizenship: Millions Now Must Prove Citizenship to Keep Medicaid Coverage

Several of the provisions passed as part of the budget reconciliation agreement directly target beneficiaries by introducing measures that could make it more difficult to enroll in Medicaid or to acquire the services traditionally provided by the program. One of the more damaging provisions, Section 6036, will require that states obtain proof of citizenship from all new Medicaid applicants and from current enrollees who renew their eligibility. Although this provision does not change the law about who qualifies for Medicaid—that is, the eligibility criteria will remain the same for both citizens and immigrants—it does change the paperwork burden for people who need Medicaid. The provision requires for the first time that anyone applying for Medicaid as a U.S. citizen submit either a birth certificate or passport (or one of a number of similar but relatively uncommon official documents) to prove their citizenship status.¹ While ostensibly designed to root out cases of immigrants falsely declaring citizenship when applying for Medicaid, the new provision invariably will create a substantial barrier for the more than 50 million U.S. citizens enrolled in Medicaid.

Currently, most states allow applicants to self-attest under penalty of perjury that they are citizens. In addition, states can demand documentation when they suspect that any applicant was not truthful in declaring citizenship. This system has proven itself to be both efficient and effective. In fact, the new documentation requirement directly contradicts the findings of a report released six months earlier by the Inspector General of the Department of Health and Human Services (HHS). According to the director of the Centers for Medicare and Medicaid Services (CMS), the report found that “states have little evidence that many non-eligible, non-citizens are receiving Medicaid as a result” of the self-declaration policy. Moreover, CMS administrators agreed that there was no reason at that time to enforce a documentation requirement.²

Under the new legislation, however, the present system will be replaced by one that is more administratively burdensome by requiring citizenship documents from *all* applicants, a move that could prevent many otherwise eligible children and adults from obtaining necessary health care services. This issue brief explains the implications of the provision and outlines steps advocates can take to mitigate the negative consequences of this new requirement.

How will the requirement be implemented? How much flexibility do states have in implementing these changes?

Beginning on July 1, 2006, all new Medicaid applicants and all current Medicaid enrollees who have not previously proved their citizenship status must produce a birth certificate, passport, or other similar document. The legislation however, does not specifically dictate how states must implement the requirement, which gives advocates an opportunity to ameliorate the harm this provision will cause (see the section on what advocates can do for specific steps your state can take).

While the legislation requires the establishment of an outreach program to educate individuals who will likely be affected by the new requirement, it is unclear how this outreach will take place and what mechanisms, if any, will be in place to ensure that it is effective. For example, the legislation does not discuss the timeframe for implementation and whether outreach activities will coincide with implementation of this new requirement.

States can expect the bulk of the administrative burden to fall between July 1 and December 31, 2006. Since most Medicaid enrollees must have their eligibility renewed every six months, these individuals will have to produce citizenship documentation during the first six months after the new requirement takes effect. People who are required to renew every 12 months will have to go through this process some time between July 1, 2006 and July 1, 2007. After this time, states will continue to have to verify the citizenship status of new applicants.

Acceptable Documentation

Any one of these:

- U.S. Passport
- Certificate of Naturalization
- Certificate of U.S. Citizenship

OR

Any one of these:

- Birth Certificate in the U.S.
- Certification of Birth Abroad
- U.S. Citizen ID Card
- Report of Birth Abroad

plus

- Additional Personal ID (e.g., Driver's License)

How will the documentation requirement affect people with Medicaid?

While originally designed to crack down on the number of immigrants illegally enrolling in the Medicaid program, the provision will create additional barriers for all Medicaid beneficiaries, particularly minorities, the elderly, and individuals living in rural communities.

- **Eligible citizens will lose Medicaid coverage.**

Under the provision, all U.S. citizens applying for or receiving Medicaid must submit documents proving their citizenship, which in most cases means having access to either a birth certificate or passport. According to the Center on Budget and Policy Priorities, roughly 1.7 million U.S.-born adult Medicaid beneficiaries do not have access to the documents now required for enrollment. In addition, an estimated 1.4 to 2.9 million children lack both a birth certificate and passport.³ Without this necessary documentation, millions of eligible citizens could be denied coverage, leaving them entirely uninsured.

Requiring applicants to submit proof of citizenship will needlessly force otherwise eligible beneficiaries off of Medicaid. Much of the savings that will result from the new requirement will stem from keeping eligible low-income citizens away from the program because they are unable to produce the necessary documents.

- **The requirement will hurt the wrong people.**

Although the requirement ostensibly will prevent non-U.S. citizens from enrolling in Medicaid, the provision will disproportionately hurt low-income citizens and their families by making it more difficult for them to obtain health care services through Medicaid. This is because individuals enrolled in Medicaid are less likely than the general population to have access to a passport or birth certificate. According to a recent survey commissioned by the Center on Budget and Policy Priorities, U.S.-born adults with incomes below \$25,000 are almost twice as likely as adults with incomes above \$25,000 to report not having a passport or birth certificate available.⁴

Moreover, the provision will disproportionately affect those who are elderly, African American, live in rural areas, or have less than a high school education. These individuals are least likely to have ever been issued a birth certificate, and they are even less likely to have a passport. In addition, applicants who have been homeless or who have lost their citizenship documents because of a fire, hurricane, or other natural disaster will have to go through the difficult process of obtaining a birth certificate from their home state before enrolling in Medicaid.

- **The most vulnerable beneficiaries will be most affected.**

The new provision will not affect all enrollees equally. Many Medicaid enrollees—for example, those who live in rural areas and were born outside of a hospital, or those who were forced to leave their homes as a result of emergencies or natural disasters—are much less likely to have access to a birth certificate. As a result, the documentation requirement will particularly hurt those who have been underserved in the past and who are in the greatest need of care. The law makes absolutely no exceptions, even for those who need immediate care or who have an incapacitating illness such as Alzheimer's disease that makes gathering citizenship documents almost impossible.⁵

In particular, low-income African Americans will be disproportionately affected by the documentation requirement. Compared to other racial and ethnic groups, African Americans (especially older individuals) are less likely to have been born in a hospital, and therefore issued a birth certificate, due to a historical legacy of racism and segregation in the United States.

- **The provision will effectively create an application fee for Medicaid.**

With millions of U.S. citizens reporting that they do not have access to a birth certificate, passport, or other proof of citizenship, the provision could force many low-income families to pay for certified copies of birth from their home state. Most states require a processing fee of between \$10 and \$20 before issuing a copy of a birth certificate.⁶ What's more, the time required to process requests could seriously delay the delivery of needed care for individuals waiting to receive a copy of their birth certificate.

Applying for a passport is not a practical option for most Medicaid applicants. Besides the prohibitively high application fee—\$97 for adults and \$82 for children under the age of 16—applicants must also prove citizenship by submitting a birth certificate or similar documentation. Ironically, these are the same documents now required to apply for Medicaid.

- **The requirement will create new administrative costs and burdens.**

According to the Inspector General of the Department of Health and Human Services (HHS), approximately 50 percent of state officials have reported that they would have to hire additional personnel to handle the increased workload if birth certificates or passports are required for Medicaid enrollment.⁷ In addition, the requirement could result in a surge of requests for birth certificates from state agencies. The National Association for Public Health Statistics and Information Systems predicts a 25 to 50 percent increase in the volume of birth certificate requests as a result of the documentation requirement, which could cause significant delays in processing birth certificate applications.⁸

The Centers for Medicare and Medicaid Services (CMS) already has a significant administrative burden to deal with—the implementation of Medicare Part D. This new, unnecessary Medicaid provision will take staff time away from working out the problems with Part D and other important tasks. Verifying the citizenship status of the more than 50 million U.S. people enrolled in Medicaid is not only unnecessary, but it will also serve to create new administrative costs for the program.

What was the rationale behind the legislation?

The documentation requirement was introduced as a way to prevent immigrants from falsely claiming U.S. citizenship to enroll in Medicaid. The provision is based on the *erroneous assumption* that non-U.S. citizens are illegally enrolling in Medicaid in large numbers and costing the program a significant amount of money. Below we discuss a few of the most common arguments that supporters of the legislation have made to defend the requirement.

- **The U.S. should not be paying for health care for illegal immigrants.**

Defenders have argued that the legislation roots out fraud by ensuring that Medicaid enrolls only U.S. citizens and not ineligible immigrants. However, it is important to note that most states already have the authority to investigate any applications that they suspect are potentially fraudulent and to demand documentation. Moreover, requiring U.S. citizens to submit papers proving their citizenship is entirely unnecessary. A recent report by the Inspector General of HHS *found no substantial problem with fraudulent enrollments and did not recommend the implementation of a documentation requirement.*⁹

- **Those who need care will still have access.**

Defenders have argued that Medicaid officials could decide to accept documentation of citizenship later if applicants are in immediate need of care. However, the statute makes no specific mention of a grace period and does not guarantee that this will be the case. In other words, under the new legislation, eligible citizens can be denied access to care if they are unable to provide documentation, regardless of how sick they are.

- **Medicaid spending is growing out of control.**

Defenders cite estimates from the Congressional Budget Office suggesting that the provision will reduce Medicaid spending by \$220 million between 2006 and 2010.¹⁰ However, much of the savings will be achieved by denying Medicaid to otherwise eligible citizens rather than by ridding the system of immigrants who are illegally obtaining coverage.

What can advocates do to minimize the harm done by this change?

The documentation requirement allows states very little flexibility. Beginning on July 1, 2006, every person applying for Medicaid as a U.S. citizen must provide proof of citizenship. There are a few things advocates can do, however, to help mitigate the potentially disastrous effects of the new provision.

- ✓ **Encourage your state to waive the processing fee for birth certificate copies** for Medicaid applicants.
- ✓ **Encourage Medicaid administrators to institute a grace period or “presumptive eligibility” period** for applicants who lack citizenship documents. This will allow applicants to obtain needed services while waiting for official documentation.
- ✓ **Encourage state Medicaid administrators to seek citizenship verification from other Medicaid-related programs** (such as the Social Security Administration, TANF, or foster care) that may already require such documentation, or from the state’s vital records office.

- ✓ **Encourage state Medicaid offices to maintain a permanent record of every applicant who submits proof of his or her citizenship status.** This will allow states to adopt a “once is enough” policy so that individuals who reapply for Medicaid are not forced to prove their status again.
- ✓ **Encourage officials at HHS to include the above measures in guidance and regulations** issued for this provision.
- ✓ **Engage in outreach efforts to inform people in Medicaid about the new requirement** and help them gather the appropriate paperwork.
- ✓ **Keep track of the harm caused by the requirement.** Document cases of eligible beneficiaries who face delays or are denied Medicaid coverage because of the provision and track the hardships they experience as a result. Share these stories with appropriate advocates, policymakers, and media sources to show how the documentation requirement hurts eligible citizens. Also encourage affected applicants to share their experience with Families USA’s story bank, so that we can bring attention to the harm caused by the legislation.
- ✓ **Stay abreast of legislation to repeal the provision.** For example, Senator Daniel Akaka (D-HI) recently introduced a bill (S. 2305) to repeal the documentation requirement.¹¹

Conclusion

Requiring all Medicaid applicants and enrollees to submit proof of their citizenship status will force many otherwise eligible beneficiaries to lose access to health care. It is a needless provision that will pose an additional barrier to care for millions of low-income citizens.

The documentation provision is part of a series of budget measures designed to reduce spending by discouraging enrollment in Medicaid and increasing out-of-pocket costs for those who do enroll. These changes are part of a larger Administration plan to radically restructure and dismantle Medicaid as it was originally designed.

We will continue to fight against these changes and to protect Medicaid so that it works for those who need it most. Families USA stands ready to assist state advocates fighting these battles and looks forward to helping you work through the challenges you face during the year ahead.

Endnotes

¹The provision exempts “aliens” from the requirement who are also enrolled in Medicare or qualify for Supplemental Security Income (SSI) benefits. We suspect this is a drafting error in the legislation since the requirement only affects citizens and does not change the requirements for immigrants applying for Medicaid. Since the statute does not affect immigrants, Congress most likely intended to exempt eligible *citizens* in this category. However, it is unclear whether this error will be fixed before the requirement is implemented.

² Daniel Levinson, *Self-Declaration of U.S. Citizenship for Medicaid* (Washington: Department of Health and Human Services, Office of Inspector General, July 2005).

³ Leighton Ku, Donna Cohen, and Matt Broaddus, *Survey Indicates Budget Reconciliation Bill Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens* (Washington: Center on Budget and Policy Priorities, January 26, 2006).

⁴ *Ibid.*

⁵ See note 1, above.

⁶ According to the National Center for Health Statistics, 38 states charge between \$10 and \$20 for a certified copy of an individual’s birth certificate, five states charge between \$5 and \$10 (Florida, Nebraska, North Dakota, Vermont, and West Virginia), and four states charge between \$20 and \$30 (Michigan, New Jersey, New York, and Texas). The remaining three states (Massachusetts, Mississippi, and Tennessee) and the District of Columbia charge different amounts depending on the method used to obtain the copy.

⁷ Daniel Levinson, *op. cit.*

⁸ Leighton Ku et al., *op. cit.*

⁹ Daniel Levinson, *op. cit.*

¹⁰ Congressional Budget Office, *Additional Information on CBO’s Estimate for the Medicaid Provisions in the Conference Agreement for S. 1932, the Deficit Reduction Act of 2005* (Washington: U.S. Congress, January 27, 2006).

¹¹ The text of the proposed legislation is available online at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2305is.txt.pdf.



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