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MEDICAID FACT SHEET

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HHS ISSUES CITIZENSHIP GUIDELINES FOR MEDICAID ELIGIBILITY

Overview of New Guidance on Citizenship Documentation for Medicaid Benefits

HHS today issued guidelines for states to implement a new requirement, effective July 1, that persons applying for Medicaid 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 guidelines provide for a range of ways that citizenship status and personal identity may be documented. 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. Affidavits can only be used in rare circumstances. Additional types of documentation, such as school records, may be used for children. 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 guidance letter to state Medicaid directors reflects extensive input from experts and groups. CMS received input from such groups as the National Association of State Medicaid Directors, the National Association of Community Health Centers, the National Mental Health Association and the Tribal Technical Advisory Group to CMS.

Today's letter will be followed by federal regulations that will appear in the Federal Register.

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. 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

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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 guidance outlines acceptable additional forms of documentary evidence.

The guidance adopts 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. *A state must first seek documents from the primary list before looking to the secondary or tertiary lists.*

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.
 - 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 five 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. The affidavits must be supplied by at least two individuals, one of whom is not related to the applicant or recipient. Each must attest to having personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship. The individuals making the affidavit must be able to prove their own citizenship and identity for the affidavit to be accepted. Those making affidavits will be subject to prosecution for perjury. If the persons claiming knowledge of another's citizenship has 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. A second affidavit from the applicant/recipient or other knowledgeable individual explaining why documentary evidence does not exist or cannot be readily obtained must also be requested.
- 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.

- Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.
- Children who are age 16 or younger may have their identity documented using other means, when the child does not have or cannot get any document on the preceding lists.
 - School identification card with a photograph.
 - Military dependent's identification card if it contains a photograph.
 - School record that shows date and place of birth and parent(s) name.
 - Clinic, doctor or hospital record showing date of birth.
 - Daycare or nursery school record showing date and place of birth.
 - 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 should 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 lower (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, will launch an aggressive 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 will 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 will hold training sessions with state officials including regular telephone consultations during which the agency will provide whatever technical assistance the states request. CMS will also provide 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

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