

Federal Funds Watch

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Legislative Budget Board



Spotlight: Medicaid and Citizenship Verification

As of July 1, 2006 the provisions that require applicants for Medicaid to establish proof of citizenship came into effect. Medicaid benefits (other than Emergency Services) are limited to U.S. citizens or qualified legal immigrants. Until now, Medicaid applicants have been allowed to self-attest to their citizenship status on their application form (under penalty of perjury). The Deficit Reduction Act of 2005 ends that practice. The Congressional Budget Office estimates that implementation of the citizenship verification provisions will save \$735 million nationally over the next ten years. The U.S. Department of Health and Human Services issued regulations for citizenship documentation on July 6, 2006.

A number of individuals are exempt from providing additional documents. Recipients of Medicare and Supplemental Security Income (SSI) have already satisfied citizenship requirements. Newborn children of mothers eligible for Medicaid are also exempt. A Medicaid application for a child born in the states to an unqualified legal immigrant or an undocumented immigrant requires proof of citizenship only for the child. Current Medicaid clients may comply at the time of renewal. Once citizenship is established, it need not be documented again. States may assist in documenting citizenship and identity through data exchanges with government agencies. For example, the Health and Human Services Commission (HHSC) can conduct matches with electronic birth certificate records for children born in Texas. HHSC explained the new requirement to clients in a June letter and plans to send additional reminders in clients' renewal packages.

The following chart describes a hierarchy established by the Centers for Medicare and Medicaid Services for different forms of documentation that are acceptable for the sake of verifying the citizenship status and identity of Medicaid applicants. Documents verifying citizenship fall into four different levels. The first and highest level of documentation establishes both citizenship status and identity, and is sufficient for the purpose of receiving Medicaid benefits. The next three levels all establish citizenship, but must be used in conjunction with a document establishing identity. For

example, a birth certificate along with a driver's license, will be sufficient to establish Medicaid eligibility.

Documents establishing identity include state driver's licenses and federal, state, or locally issued identification cards that include information such as an individual's name, age, sex, race, height, weight, or eye color. Other accepted documents include Coast Guard and military or military dependents' identification cards as well as draft records. School identification cards may also provide evidence of identity. A full description of these documents can be found in the Immigration and Nationality Act, as amended. In certain states, the required proof of citizenship in order to apply for a driver's license may satisfy proof of both citizenship and identity for Medicaid purposes. The federal government does not currently recognize any state's process for driver's license application as sufficient, but that may change after implementation of the Real ID Act of 2005.

Advocacy groups have expressed concern over the provisions of the Deficit Reduction Act, especially regarding elderly and disabled individuals who have no documentation proving birth in the U.S. On June 28, 2006, a class-action lawsuit was filed in Chicago claiming that the documentation requirement violates plaintiffs' Fifth Amendment rights by depriving them of Medicaid benefits without due process of law. New regulations have since allayed some concerns. Sworn affidavits (signed under risk of perjury) from two citizens (one unrelated) with specific knowledge of the applicant's citizenship status may be used in rare circumstances. Applicants and recipients must be given a "reasonable opportunity" to present documents. Current Medicaid clients will remain eligible if they are making a good faith effort to secure evidence of citizenship and identity.

Medicaid costs are shared with the federal government, and states will be reimbursed for 50 percent of the administrative expenses related to implementation of the new law. Noncompliance would put federal Medicaid dollars at risk and the states' effectiveness in verifying citizenship status will be monitored. Federal audit processes will track the extent of states' reliance on the more indirect forms of documentation and the use of affidavits.

SOURCES FOR VERIFICATION OF CITIZENSHIP AND IDENTITY

PRIMARY DOCUMENTS TO ESTABLISH BOTH CITIZENSHIP AND IDENTITY

EXPLANATION

U.S. Passport	The Department of State issues passports. A U.S. passport does not have to be currently valid to be accepted as evidence of U.S. citizenship, as long as it was originally issued without limitation. If a limitation on a passport exists, then the document can only be accepted as proof of identity.
Certificate of Naturalization	The Department of Homeland Security issues Certificates of Naturalization.
Certificate of Citizenship	The Department of Homeland Security issues Certificates of Citizenship to individuals who derive citizenship through a parent.

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SOURCES FOR VERIFICATION OF CITIZENSHIP AND IDENTITY (CONTINUED)

SECONDARY DOCUMENTS TO ESTABLISH CITIZENSHIP	EXPLANATION
<p>A U.S. public birth record showing birth in:</p> <ul style="list-style-type: none"> • One of the 50 U.S. States; • District of Columbia; • American Samoa; • Swain's Island, Puerto Rico (if born on or after January 17, 1917); • Virgin Islands (on or after January 17, 1917); • Northern Mariana Islands (after November 4, 1986); or • Guam (on or after April 10, 1899) 	<p>The birth record document may be issued by the state, commonwealth, territory or local jurisdiction. It must have been issued before the person was 5 years of age. An amended birth record document that is amended after 5 years of age is considered fourth level evidence of citizenship.</p>
Certification of Birth Abroad	The Department of State issues Certifications to citizens born outside the U.S.
U.S. Citizen Identification Card	The former Immigration and Naturalization Service issued Citizen Identification Cards from 1960 until 1983 to naturalized citizens living near the Canadian or Mexican border who needed them for frequent border crossings. This form of documentation is not currently issued, but is still valid.
American Indian Card	The Department of Homeland Security issues this card to identify a member of the Kickapoo traditional tribe of Texas living near the U.S. Mexican border.
Northern Mariana Card	The former Immigration and Naturalization Service issued the card to citizens born in the Northern Mariana Islands before November 4, 1986. The card is no longer issued, but is still valid.
Final Adoption Decree	The adoption decree must show the child's name and U.S. place of birth.
Evidence of Civil Service Employment by the U.S. Government	The document must show employment by the U.S. government before June 1, 1976.
Official Military Record of Service	The document must show a U.S. place of birth.
THIRD LEVEL DOCUMENTS TO ESTABLISH CITIZENSHIP	
Extract of hospital record on hospital letterhead established at the time of the person's birth, created at least 5 years before the initial application date, and indicating a U.S. place of birth	Souvenir "birth certificates" issued by a hospital are not acceptable.
Life or health or other insurance record showing a U.S. place of birth and created at least 5 years before the initial application date	Life or health insurance records may show biographical information for the person including place of birth.
FOURTH LEVEL DOCUMENTS TO ESTABLISH CITIZENSHIP	
Federal or state census record showing a U.S. place of birth (generally for persons born 1900 through 1950)	An additional form must be completed.
Other document as listed in the explanation that was created at least 5 years before the application for Medicaid	<p>This document must be one of the following and show a U.S. place of birth:</p> <ul style="list-style-type: none"> • Seneca Indian tribal census record • Bureau of Indian Affairs tribal census records of the Navaho • U.S. State Vital Statistics official notification of birth • U.S. public birth record that is amended more than 5 years after the person's birth • Statement signed by the physician or midwife who was in attendance at the time of birth
Institutional admission papers from a nursing home, skilled nursing care facility or other institution, created at least 5 years before the initial application date, and indicating a U.S. place of birth	Admission papers generally show biographical information for the person including place of birth; the record can be used to establish citizenship when it shows a U.S. place of birth.
Medical (clinic, doctor, or hospital) records, created at least 5 years before the initial application date, and indicating a U.S. place of birth	Medical records generally show biographical information for the person including place of birth. An immunization record is not considered a medical record for purposes of establishing citizenship.
Written Affidavits	Affidavits should only be used in rare circumstances. An affidavit must be signed by at least two individuals, one of whom is not related to the applicant/recipient, who have personal knowledge of the events establishing the applicant's or recipient's claim of citizenship. The person(s) signing the affidavit must be able to provide proof of his/her citizenship and identity for the affidavit to be acceptable.

SOURCE: Centers for Medicare and Medicaid Services, modified by the Legislative Budget Board.

The Federal Funds Analysis Team of the Legislative Budget Board conducts research on federal legislation and federal funding issues which impact the state budget. Questions or comments may be directed to Alberto de la Torre at (512) 463-1200 or email at Alberto.DeLa_Torre@LBB.state.tx.us.