

May 3, 2006

DRA Citizenship Documentation Requirement for Medicaid: Working with Your State on Implementation

State groups concerned about the new citizenship documentation requirement for Medicaid that will take effect on July 1, 2006 can be working with their state Medicaid officials to ensure that the requirement is implemented in a way that is least burdensome for Medicaid applicants and beneficiaries and for the state. The Deficit Reduction Act (DRA) amends the federal Medicaid statute to require that individuals declaring to be a citizen (or national) of the U.S. for purposes of qualifying for Medicaid must present satisfactory documentary evidence of citizenship (or nationality).¹ This requirement applies not only to new applicants for Medicaid but also to existing beneficiaries when they seek to renew their eligibility. Effective July 1, the federal government will not match the costs of Medicaid services for any individual declaring to be a citizen who does not meet this documentation requirement. The implications for Medicaid applicants and beneficiaries are summarized in a recent analysis posted on the Center's website at <http://www.cbpp.org/4-20-06health.htm>.

The Problem

States are now facing the enormous task of implementing the new citizenship documentation requirement for Medicaid. To date, CMS has not provided any instructions or guidance to states on how they should go about administering the new requirement and we do not know when guidance will be forthcoming. In the absence of guidance, state officials are left to interpret the citizenship documentation provisions of the DRA on their own. Some state officials may opt for a very strict reading of the law to avert the risk of being denied federal matching payments. As a result, they may miss the opportunity to develop rules and procedures that comply with the law, but at the same time do not impose avoidable burdens on Medicaid applicants and beneficiaries, as well as on eligibility workers.

What You Can Do

Urge your state Medicaid officials to immediately begin developing a plan for how the Medicaid citizenship documentation requirement will be implemented. Jump-start this process by raising key questions and by offering suggestions for establishing the least burdensome rules and

¹ Section 6036 of the DRA, P.L. 109-171, amends section 1903 of the Social Security Act by adding paragraph (i)(22) and subsection (x).

procedures. It will be most effective if a range of groups — such as health advocates, organizations representing children and families, seniors and people with disabilities, hospitals, clinics, managed care plans and others with a stake in protecting access to Medicaid — are enlisted in this effort. A coalition of such groups can:

Request a meeting with state officials. Prepare for the meeting by becoming well-versed in how application and renewal procedures currently work and by thinking through suggestions for the kinds of changes that may be needed to implement the new requirement.

Offer assistance. Many state groups have developed expertise on simplifying forms and procedures and on conducting outreach activities — and many have successfully worked with Medicaid officials in these areas. Build on such relationships and draw on proven approaches and skills to ensure access to Medicaid for eligible individuals is not impeded.

Keep the door open. It will be important to establish a process for providing feedback to state officials and continuing to work through problems that surface as a result of the new requirement. Gathering information from community groups, legal services, providers and others who are in contact with applicants and beneficiaries affected by the new requirement will help indicate whether procedures are working or need to be revised. (It also will be critical to collect specific stories that help document the hardship the new requirement causes and prepare to share such stories with policymakers and the media, when appropriate.)

Questions to Raise/Suggestions to Offer

As a starting point, here are some basic questions that can be raised with state officials regarding how they plan to implement the citizenship documentation requirement. In addition, **three attachments** to this paper address specific topics in detail, including: (1) documents states may consider accepting; (2) procedures states can use that minimize burdens on applicants and beneficiaries, and (3) ideas on how states can use existing records to document citizenship.

Outreach Activities

- Has the state agency begun to plan outreach efforts to notify existing beneficiaries and new applicants about the requirement to document citizenship after July 1?
- What types of efforts are being planned?
- What types of outreach materials will be developed to support the effort?

Suggestion for Implementation

Outreach messages and materials should make it clear that non-citizen immigrants do not need to submit a U.S. birth certificate or passport to qualify. Such messages should clarify that:

- legal immigrants may be eligible for Medicaid and are required to submit their immigration documents,
- undocumented immigrants may still be eligible for emergency Medicaid coverage, and
- individuals listed on an application who are not applying for benefits for themselves (such as immigrant parents applying for coverage for their citizen children) do not need to submit proof of their own citizenship or immigration status.

- Will the state enlist community groups, providers and others in the outreach effort?
- How will the Medicaid agency work with other state agencies and outside groups to ensure that Medicaid applicants and beneficiaries understand that this new requirement does not affect eligibility for other benefits, such as food stamps?
- How will the Medicaid agency train groups involved in outreach to ensure they will be able to assist applicants and beneficiaries in complying with the new rules?

Suggestion for Implementation

Have on hand at local offices and Medicaid outstation locations — and distribute to providers and community organizations — clear instructions on how to obtain a birth certificate in your state. Include information on the cost and the amount of time it may take to obtain the documents. Also provide the National Center for Health Statistics website (www.cdc.gov/nchs/howto/w2w/w2welcom.htm) for state-specific information about ordering birth certificates. A private company, VitalChek, can help in obtaining a birth certificate in any state, for an additional handling charge. Individuals can visit www.vitalchek.com. Other private companies also offer such services.

Forms and Procedures

- Will application and renewal forms be revised to inform people about the new citizenship documentation requirements? Will a separate notice or flyer alerting individuals to the new rules be attached or distributed with application and renewal forms?
- What documents will be accepted as proof of citizenship and identity? **(See Attachment 1.)**
- How much time will applicants and current beneficiaries have to secure and submit documents proving their citizenship? **(See Attachment 2.)**
- What will eligibility workers do to help Medicaid applicants and beneficiaries to secure documentation of citizenship or identity? Will the Medicaid agency assist in defraying the costs families and individuals may incur as they attempt to obtain the documents?
- What steps are being considering by the state Medicaid agency to obtain citizenship documents through data matches with other agencies? **(See Attachment 3.)**
- How will eligibility staff be trained to conduct data matches with other agencies?

Suggestion for Implementation

Send renewal notices earlier than usual to give beneficiaries a “heads up” about the new requirement and more lead time to understand and comply with it. (For example, if enrollees generally receive a renewal notice 30 days before their renewal date, consider sending the notice out as early as 90 days beforehand to provide more time.) A special outreach message on the envelope and renewal form can draw attention to the need to read the enclosed materials carefully and ask for assistance if needed.

Share what you learn. At the Center on Budget and Policy Priorities we are eager to hear about your efforts to work with your state to create a process that is as smooth as possible. Please let us know what questions come up and how you have approached problems, so we can assist you and others in this important work. For more information, contact Donna Cohen Ross (cohenross@cbpp.org), Leighton Ku (ku@cbpp.org) or Judy Solomon (Solomon@cbpp.org).

Attachment 1

DRA Citizenship Documentation Requirement for Medicaid: Documents That Could be Used to Prove Citizenship and/or Identity for Medicaid

Beginning on July 1, states will be faced with implementing the new requirement contained in the Deficit Reduction Act (DRA) that citizens applying for or renewing their eligibility for Medicaid document their citizenship.² To date, CMS has not provided any instructions or guidance to states on how they should go about administering the new requirement and we do not know when guidance will be forthcoming.

The Problem

The DRA specifies, in statutory language, certain documents that will enable an individual to meet the documentation requirements. The DRA also gives the Secretary of Health and Human Services (HHS) authority to specify documents other than those listed in the statute that would constitute satisfactory documentary evidence of citizenship or identity. As of this writing, the Secretary has not exercised this authority, and it is not clear when or if HHS will issue guidance specifying additional documents that can be used to prove citizenship or identity.

There are two ways of meeting the DRA requirement for satisfactory documentary evidence of citizenship. One is to present a single document — i.e., a passport or similar document — that proves both citizenship and personal identity. The other is to present two documents: one that proves citizenship and one that establishes personal identity. Because many low-income Americans do not have passports, it is likely that citizens applying for Medicaid, as well as most current Medicaid beneficiaries seeking to renew their eligibility, will have to meet the DRA requirement using two documents.

Documents for States to Consider

Three lists follow. The first is for documents that prove both citizenship and identity; an individual providing one of these documents would meet the DRA requirement. The other two lists are for documents that prove citizenship only, and for documents that establish personal identity only; to meet the DRA requirement, an individual would have to present one document from each list. In each case, the DRA specifies certain documents that will enable an individual to meet these requirements; such documents are listed *without an asterisk*

The lists also include documents, marked *with an asterisk*, that are not specified in the DRA itself, but are specified by the Department of Justice (DOJ) or the Social Security Administration (SSA) as acceptable proof of citizenship in the following federal guidelines:

- (1) Section 104.23 of a proposed regulation issued by DOJ that is posted on the website of the Centers for Medicare & Medicaid Services (CMS) as being “Acceptable Proof of

² Section 6036 of the DRA, P.L. 109-171.

Citizenship” by a Medicaid applicant or beneficiary.³ These items are cited with the superscript ^{DOJ}.

(2) Social Security Administration guidance concerning evidence of U.S. citizenship for a social security number.⁴ These items are cited with the superscript ^{SSA}.

As noted, the Secretary of HHS has not specified in guidance or otherwise that documents relied upon by its sister federal agencies, DOJ or SSA, can be used to meet the new DRA requirement. It seems reasonable, however, for state Medicaid agencies to rely on such documents until HHS issues its own guidance.

Proof of Both Citizenship (or Nationality) and Identity

- (1) A United States passport.
- (2) Form N-550 or N-570 (Certificate of Naturalization).
- (3) Form N-560 or N-561 (Certificate of United States Citizenship).
- (4) 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.
- (5) A previous U.S. passport (e.g., expired).⁵

Proof of Citizenship or Nationality_(must be accompanied by Proof of Identity, below)

- (1) A certificate of birth in the United States.⁶
- (2) Form FS-545 or Form DS-1350 (Certificate of Birth Abroad).
- (3) Form I-97 (United States Citizen Identification Card).⁷

³ The CMS guidance is available at http://www.cms.hhs.gov/MedicaidEligibility/05_Immigrants.asp#TopOfPage, as accessed on April 24, 2006. The proposed rule was published at 63 *Federal Register* 41662 (August 4, 1998). Section 8 CFR 104.23 was proposed by DOJ to establish “fair and nondiscriminatory procedures” for applicants for public benefits who are U.S. nationals (including citizens and certain residents of U.S. territories) “to provide proof of citizenship,” 63 *Federal Register* 41669. The section is found at 63 *Federal Register* 41680-81. The proposed regulation is primarily based on interim guidance from DOJ, published at 62 *Federal Register*: 61362, Nov. 17, 1997

⁴ Social Security Administration, Section RM 00203.310 of the Program Operations Manual (POM), “Evidence of U.S. Citizenship for an SSN Card,” <https://s044a90.ssa.gov/apps10/poms.nsf/lrx/0100203310!opendocument>, accessed April 24, 2006.

⁵ Under U.S. State Dept. rules, a previous passport, issued within the past 15 years, can be used to prove U.S. citizenship and secure a new passport (<http://foia.state.gov/FORMS/Passport/ds0082.pdf>). The Social Security Administration (Program Operations Manual, Section RM 00203.310) also permits expired passports to be used to establish citizenship in issuing a Social Security number; it notes that prior to 1980, young children were sometimes listed in their parents’ passports. Both agencies also note that passports that were issued with a validity date of less than five years cannot be used for this purpose.

⁶ The DRA specifies only “certificate of birth in the United States.” However, proposed 8 CFR 104.23, referenced on the CMS website, also specifies a birth certificate showing birth in “Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa or the Northern Marianas Islands (on or after November 4, 1986) (unless the applicant was born to foreign diplomats residing in such a jurisdiction).”

⁷ The DRA lists “Form I-97 (United States Citizen Identification Card),” but this appears to be a drafting error. Form I-97 is not an identification card, but a form entitled “[Record of TRWOV Arrivals and Departures](#),” where TRWOV

- (4) Form FS-240 (Report of Birth Abroad of a Citizen of the United States).
- (5) Form I-873 (or prior versions), Northern Marianas Card.*^{DOJ}
- (6) Statement provided by a U.S. consular official certifying that the individual is a U.S. citizen (given to an individual born outside the United States who derives citizenship through a parent but does not have an FS-240, FS-545, or DS-1350).*^{DOJ, SSA}
- (7) Form I-197 (U.S. Citizen Identification Card) or the earlier version I-179 (ID Card for use of Resident Citizen in the United States).*^{DOJ, SSA}
- (8) Form I-872 (or prior versions), American Indian Card with a classification code "KIC" and a statement on the back identifying the bearer as a U.S. citizen (issued by the Service to U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).*^{DOJ, SSA}

If an individual cannot present one of the documents listed above, any of the following documents may be relied upon to establish U.S. citizenship or nationality:*⁸

- (9) A religious record of birth or baptism or circumcision, recorded in the United States or the territories within three months of birth, which shows that birth occurred in the United States.*^{DOJ, SSA}
- (10) Evidence of civil service employment by the U.S. government before June 1, 1976.*^{DOJ}
- (11) Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s).*^{DOJ, SSA}
- (12) Adoption finalization papers showing the child's name and place of birth in the United States or its territories, or if the adoption is not finalized, and no birth certificate is available, a statement from a state-approved adoption agency showing the child's name and place of birth.*^{DOJ, SSA}
- (13) Census records showing name, U.S. nationality or a U.S. place of birth and applicant's date of birth or age.*^{DOJ}
- (14) Military record that shows a U.S. place of birth.*^{SSA}
- (15) Evidence of collective naturalization, such as evidence that shows collective naturalization of those born in Puerto Rico before Jan. 14, 1941, born in the Virgin Islands before Feb. 25, 1927, born in Guam before August 1, 1899, or born in the Northern Marianas Islands before Nov. 4, 1986.*^{SSA}
- (16) Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship.*^{DOJ, 9, 10}

means "transit without visa." The correct forms should be Form I-197 (United States Citizen Identification Card) or Form I-179 (ID Card for use of Resident Citizen in the United States) (see item #7 above). Both the DOJ proposed rule 8 CFR 104.23 and the SSA POMS guidance reference Forms I-197 and I-179, as does the Department of Homeland Security's current version of the Employment Eligibility Verification form (Form I-9).

⁸ Proposed 8 CFR 104.25(a), 63 *Federal Register* at 41681 (August 4, 1998), states that "Documents must be original and unexpired. Certified copies of documents evidencing U.S. nationality are acceptable. The benefit granting agency shall accept documentation . . . that reasonably appears on its face to be genuine and to relate to the applicant." The DRA does not require state Medicaid agencies from applying this same standard for accepting documents with respect to citizenship documentation and CMS has not yet specified a standard.

⁹ Supplemental Security Income regulations (20 CFR 416.1610(c)) state that if a person cannot provide other evidence of citizenship, the person may: "(1) Explain why you cannot give us any of the documents; and (2) Give us any information you have which shows or results in proof that you are a citizen or a national of the United States. The kind of information we are most concerned about shows—

- (i) The date and place of your birth in the United States;

- (17) Evidence of specific circumstances that indicate citizenship or nationality for certain persons living in the U.S. territories (specified in DOJ proposed 8 CFR 104.23(b)(7)-(14), 63 *Federal Register* 41681 (August 4, 1998)).* ^{DOJ}
- (18) Evidence of citizenship for certain persons who are children of U.S. citizens or married to U.S. citizens (specified in DOJ proposed 8 CFR 104.23(b)(15)-(18), 63 *Federal Register* 41681 (August 4, 1998)).* ^{DOJ}

If such documents are not available, the proposed DOJ regulation at 8 CFR 104.23(c), 63 *Federal Register* 41681, provides a benefit granting agency the option to consult agency records:

- (19) An agency may in lieu of requiring an applicant to present evidence of U.S. citizenship rely upon records of citizenship maintained by that agency or by a federal agency responsible for administering a federal benefit program, such as computer matching of records. * ^{DOJ}

Finally, if none of the conditions above can be met, the proposed DOJ regulation at 8 CFR 104.23(d), 63 *Federal Register* 41681, provides a benefit granting agency two additional options:

- (20) An agency may accept a written declaration made under penalty of law from one or more third parties indicating a reasonable basis for personal knowledge that an applicant who cannot produce evidence of U.S. citizenship is a U.S. citizen. * ^{DOJ}
- (21) An agency may accept a receipt for an application for evidence of U.S. citizenship as temporary evidence of citizenship, as long as the agency requires the applicant to present the actual evidence of citizenship before making a final determination. * ^{DOJ}

The Social Security Administration also lists other documents that can serve as satisfactory proof of citizenship if other evidence (such as those listed above) cannot be promptly secured (e.g., within 10 working days):

- (22) Institutional admission papers from a nursing home, skilled care facility or other institution that provide biographical data, such as U.S. place of birth.* ^{SSA}
- (23) Medical records (such as clinic, doctor or hospital records) that provide biographical data, such as U.S. place of birth. * ^{SSA}
- (24) Life or health or other insurance records that provide biographical data, such as U.S. place of birth. * ^{SSA}
- (25) Certain tribal records that were created at least five years earlier, including a Seneca Indian tribal census record or a Bureau of Indian Affairs tribal census record for Navaho Indians. * ^{SSA}

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- (ii) That you have voted or are otherwise known to be a citizen or national of the United States; or
 - (iii) The relationship to you and the citizenship of any person through whom you obtain citizenship.”

¹⁰ Examples of other documents accepted by the U.S. State Department for issuance of passports include: baptismal records, hospital birth certificates, early school records, family bible record, or doctor’s record of post-natal care. These documents must be early public records showing the date and place of birth, preferably created within the first five years of life. (http://travel.state.gov/passport/get/first/first_830.html)

Proof of Identity (must be accompanied by Proof of Citizenship, above)

The DRA specifies that any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act is satisfactory documentary evidence of personal identity. Although CMS has not specified any documents in guidance, items 1 through 12 are specified by the Department of Justice in final regulations that implement section 274A(b)(1)(D), found at 8 CFR 274a.2 (http://www.access.gpo.gov/nara/cfr/waisidx_02/8cfr274a_02.html)

- (1) Driver's license or identification card issued by a state, the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa or Swains Island, containing a photograph, or a driver's license or identification card without a photograph that contains identifying information such as date of birth, sex, height, color of eyes, and address;
- (2) School identification card with a photograph;
- (3) Voter's registration card;
- (4) U.S. military card or draft record;
- (5) Identification card issued by federal, state, or local government agencies, which contains a photograph or identifying information such as name, date of birth, sex, height color of eyes, and address;
- (6) Military dependent's identification card;
- (7) Native American tribal documents;
- (8) United States Coast Guard Merchant Mariner Card;
- (9) Driver's license issued by a Canadian government authority;
- (10) For individuals under age 18 who are unable to produce any of the documents above:
 - (a) School record or report card;
 - (b) Clinic doctor or hospital record;
 - (c) Daycare or nursery school record.
- (11) For minors under the age of 18 who are unable to produce one of the documents above, an attestation of the minor's identity completed and signed by the child's parent or legal guardian.
- (12) For those who are disabled and unable to produce any of the documents above, the same types of alternative documentation of identity listed for those under the age of 18 (in #10 and #11), except that a parent, legal guardian, representative of a nonprofit organization, association or program may sign the forms for the person.

Attachment 2

DRA Citizenship Documentation Requirement for Medicaid: States Can Use Procedures that Minimize Burdens on Applicants and Beneficiaries

Beginning on July 1, states will be faced with implementing the new requirement contained in the Deficit Reduction Act (DRA) that citizens applying for or renewing their eligibility for Medicaid document their citizenship.¹¹ To date, CMS has not provided any instructions or guidance to states on how they should go about administering the new requirement and we do not know when guidance will be forthcoming. However, existing federal statutes and administrative guidance can provide states with direction on how to proceed in a way that minimizes the potential harm to Medicaid applicants and beneficiaries.

Procedures for States to Consider

The following are some suggested procedures states can use to relieve Medicaid applicants and beneficiaries of some of the burden of complying with the new citizenship documentation requirement by obtaining the necessary documents from existing state files and by providing individuals ample time to secure the documents on their own.

States should allow applicants who declare they are citizens a “reasonable opportunity” to obtain the documents they need to meet the citizenship documentation requirement.

Many applicants for Medicaid will not have the documents they need readily available, so they will have to send away or follow other procedures to obtain birth certificates or other proof of citizenship. In some states it can take over a month to get a birth certificate. As noted, the new requirement to document citizenship is not an eligibility requirement. Thus, as soon as an applicant declares — under penalty of perjury — his or her citizenship and meets all financial and non-financial eligibility requirements, benefits should be granted

Citizenship Documentation and Medicaid Eligibility

The new DRA citizenship documentation requirement is *not* a condition of Medicaid eligibility. Rather, it is a prohibition on federal matching payments for the costs of Medicaid services to individuals who have not presented “satisfactory documentary evidence of citizenship.” Because the new rule is *not* an eligibility requirement, it does not change the rules that govern how eligibility should be determined and renewed. As a result, state Medicaid agencies may not deny or terminate Medicaid eligibility for citizens who are otherwise eligible but who have not presented “satisfactory documentary evidence of citizenship.”

In establishing the requirement for citizenship documentation, the DRA did not amend the provisions of the federal Medicaid statute relating to non-financial eligibility requirements. Instead, it amended the provision of the federal Medicaid statute that prohibits the payment of federal matching funds for certain state expenditures. Thus, if an individual declares that he or she is a citizen and meets all the financial and non-financial requirements for Medicaid eligibility under a state’s Medicaid plan, the individual is eligible for Medicaid. The presentation of “satisfactory documentary evidence” affects the availability of federal matching funds for medical assistance provided to the individual but *not* his or her entitlement to Medicaid coverage. This is why state Medicaid agencies will have a strong interest in making documentation procedures as easy as possible. Losing federal matching funds for the costs of Medicaid services to eligible citizens would put unnecessary pressure on state budgets.

¹¹ Section 6036 of the DRA, P.L. 109-171.

without delay in accordance with federal rules that set standards for timely determinations of Medicaid eligibility.¹²

States can look to the procedures they already use for non-citizens, who are allowed a reasonable opportunity to provide the required documentation of immigration status. Section 1137(d)(1)(A) of the Social Security Act provides individuals who declare that they are not citizens, but that they are in a “satisfactory immigration status” that would make them eligible for Medicaid, with a reasonable opportunity to submit evidence of such status. Once all eligibility requirements are met, states must provide benefits while such individuals obtain the documents they need. If it is later determined that the individual is not eligible because he or she did not supply the required documents, the state must provide the individual notice and an opportunity for a fair hearing. States are protected from penalties for providing erroneous benefits during the entire time period, including the fair hearing process.¹³

Whenever possible, in processing renewals of Medicaid eligibility by current beneficiaries, states should use information that is already available in Medicaid files and other sources to document citizenship.

Federal regulations limit the scope of information that can be required of Medicaid beneficiaries at renewal to information that is necessary to determine ongoing eligibility and information that is subject to change, such as income and residency.¹⁴ In addition, longstanding CMS guidance requires that states review existing data sources before requesting information from beneficiaries.¹⁵ Among the information that states must review is information from Social Security files. SSI State Data Exchange (SDX) files and the Social Security Administration NUMIDENT files include information that can be used to document the citizenship status of many SSI recipients and other individuals. **(See Attachment 3, “States Can Use Computer Matching to Document Citizenship.”)** States should consult these files and other sources, such as food stamp and TANF records, before requiring that beneficiaries provide documents proving they are citizens. In many cases, agencies may already have copies of birth certificates or passports in their records that were collected for other purposes, such as to document a person’s age. For individuals whose birth was

¹² 42 CFR §435.911.

¹³ Undated draft guidance from CMS on the new DRA provision provides: “At the time of application, the State must give the applicant a reasonable opportunity to present documents establishing U.S. citizenship or Nationality. Therefore, each State may employ a ‘reasonable opportunity period’ consistent with its administrative requirements. The reasonable opportunity period must not cause the State to exceed the Federal regulations for timely determination of eligibility in 42 DFR 435.911. The reasonable opportunity period must also be consistent with the time available to Qualified Aliens who have signed a declaration under section 1137(d) to submit evidence of satisfactory immigration status to the State. FFP will be available with respect to citizen applicants during the reasonable opportunity period and eligibility process, to the same extent as described in section 1137(e)(2) and (e)(4) with respect to qualified alien applicants. These provisions assure FFP during a reasonable opportunity to present documents while not delaying eligibility and during a fair hearing process respecting the sufficiency of the documents presented or compliance by the applicant with the requirement to present.” This undated draft guidance has not to date been issued by CMS and does not necessarily represent CMS policy.

¹⁴ 42 CFR §§ 435.902 and 435.916.

¹⁵ Letter to State Medicaid Directors, April 7, 2000, archived at <http://www.cms.hhs.gov/SMDL/>

paid for by Medicaid, the state Medicaid agency should be able to document that the person was born in the U.S.

States should allow current beneficiaries a “reasonable opportunity” to obtain documents when renewing their coverage.

When a state is unable to document a Medicaid beneficiary’s citizenship through existing sources of information, the state should allow the beneficiary, or others acting on behalf of the beneficiary, a reasonable opportunity to obtain necessary documents. Because the new documentation requirement is not a condition of eligibility, an inability to supply the documents within the usual renewal period should *not* lead to a termination of coverage. States should process the renewal of eligibility as soon as necessary information, such as income and residency, is submitted.

Timely processing of renewals is especially important for beneficiaries in nursing homes and other institutions. Continuity of care is critical for such vulnerable people and they also are likely to need assistance from nursing home or state agency staff in obtaining the required documents. Staff helping residents obtain the required documents will need ample time to provide assistance to all who need the help, and as a result, they are likely to need more time than usually allowed for renewal of Medicaid eligibility.

Attachment 3

DRA Citizenship Documentation Requirement for Medicaid: States Can Use Computer Matching of Existing Records to Document Citizenship in Medicaid

Beginning on July 1, states will be faced with implementing the new requirement contained in the Deficit Reduction Act (DRA) that citizens applying for or renewing their eligibility for Medicaid document their citizenship.¹⁶ To date, CMS has not provided any instructions or guidance to states on how they should go about administering the new requirement and we do not know when guidance will be forthcoming.

The Problem

Many applicants for Medicaid — as well as beneficiaries seeking to renew their eligibility — will not have the documents they need readily available, and the necessary documents may be difficult to obtain. Individuals may spend considerable time and money attempting to obtain the documents — or they may forgo completing an application or renewal form if it is too daunting — when, in fact, the state may be able to obtain some or all of the necessary documents by searching existing state databases.

Procedures for States to Consider

State or local Medicaid eligibility agencies may be able to find satisfactory evidence of U.S. citizenship through computer matching of existing records. This could substantially reduce administrative burdens because one matching effort could provide proof of citizenship for thousands of individuals, without creating additional paperwork burdens for individuals applying for or renewing coverage. On a case-by-base basis, computer matching can be used to find citizenship information for individuals who do not readily have a birth certificate, passport or similar document available.

At least three different types of computer matching can be used:

- (1) *Vital Records Data.* Many states have automated vital records systems, which retain birth certificate data for persons born in that state. In many cases, access to this online data base can be provided to eligibility workers, who can check if an individual was born in that state and is therefore a native-born U.S. citizen. Even if the eligibility workers cannot directly access these data, the eligibility agency may be able to transmit a list of Medicaid beneficiaries and other relevant data (e.g., date of birth, place of birth) to the vital records agency which can match those data. In general, vital records agencies can only check for births in that state, not for births in other states. There is no cross-state vital records system yet.
- (2) *SSI Data.* SSI State Data Exchange (SDX) data files are frequently shared between the Social Security Administration and state eligibility agencies. The SDX file includes an “Alien

¹⁶ Section 6036 of the DRA, P.L. 109-171.

Indicator Code” (position 578) that indicates whether a given SSI recipient is a U.S. citizen or a non-citizen immigrant. These data could be matched on a batch basis against a list of disabled and aged Medicaid beneficiaries and used to check thousands of people at a time or could be checked on a case-by-case basis.

- (3) *Other Social Security data.* The Social Security Administration maintains a very large file (the NUMIDENT file) for all persons who have Social Security numbers. The NUMIDENT file contains partial information on citizenship and relatively complete information on each person’s place of birth. (Information on citizenship began to be collected in the 1980s, but date and place of birth data have been collected for much longer.) These data could be matched with Medicaid eligibility data (e.g., name, Social Security number and date of birth) to indicate which Medicaid beneficiaries are U.S. born and therefore native citizens, and in some cases, may provide other evidence of citizenship. State or federal agencies could arrange with the Social Security Administration to match lists of Medicaid beneficiaries or certain groups of beneficiaries (e.g., dual eligibles) with these Social Security records.

Computer matching of records could be considered as proof that someone is a citizen, but should not be considered proof that someone is not a citizen. For example, names may not match because of spelling or other input errors or names may match but the computerized records may be incomplete or out of date. Someone born outside the U.S. may have become a naturalized citizen since the information in an SSA data base was last updated. In the event that a computer match does not provide proof that an individual *is* a citizen, the eligibility agency should attempt to examine other information.