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**The Impacts of the Citizenship Documentation Requirement on the
Medicaid Program**

by

Jennifer DeRouen Moore, B.B.A.

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**The Impact of the Citizenship Documentation Requirement on the
Medicaid Program**

**Approved by
Supervising Committee:**

David Warner

Kenneth Matwiczak

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Jennifer DeRouen Moore, M.P.Aff.

The University of Texas at Austin, 2008

SUPERVISOR: David Warner

A provision in the Deficit Reduction Act of 2005 (DRA) signed by President Bush in February 2006 requires all persons applying for, or renewing, their Medicaid coverage after June 30, 2006, to provide proof of their citizenship and identity. This provision was included as a response to growing concerns that many illegal immigrants have been fraudulently claiming U.S. citizenship in order to receive Medicaid benefits. Approximately 38 million people who currently receive Medicaid will be affected by the

citizen documentation requirement, and an estimated 10 million new applicants will also be affected. This paper analyzes the impact of the documentation requirement on states and stakeholders and provides recommendations for minimizing the impact on citizens.

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CHAPTER 1. INTRODUCTION

A provision in the Deficit Reduction Act of 2005 (DRA) signed by President Bush in February 2006 requires all persons applying for, or renewing, their Medicaid coverage after June 30, 2006, to provide proof of their citizenship and identity. This provision was included as a response to growing concerns that many illegal immigrants have been fraudulently claiming U.S. citizenship in order to receive Medicaid benefits.¹ Approximately 38 million people who currently receive Medicaid will be affected by the citizen documentation requirement, and an estimated 10 million new applicants will also be affected.² Citizenship will only have to be proven once unless later evidence raises a question. In many cases, a single document will be enough to establish both citizenship and identity such as a passport. However, if secondary documentation is used, such as a birth certificate, the individual will also need evidence of his or her identity.

The new rules will reduce state and federal Medicaid costs by excluding people -- primarily illegal immigrants and some legal immigrants -- who are not eligible for the program. The Congressional Budget Office estimates savings of \$735 million from 2006-2015 by implementing the citizenship documentation requirement.³

There are concerns this requirement will inadvertently cause hardships for eligible United States residents who do not possess or cannot locate appropriate documentation. A survey from the Center on Budget and Policy Priorities estimated that 3.2 to 4.6 million citizens could experience delays in coverage, or lose it altogether, as a result of the new rule.⁴ Health advocates and hospital leaders have pointed out that certain groups will be disproportionately affected, including African Americans born in the South, mentally disabled and elderly individuals, and victims of natural disasters. Also,

misunderstandings about the rules may deter eligible, legal immigrants from attempting to enroll in Medicaid.

Chapter One and Chapter Two provide an introduction to the circumstances surrounding the passage of the citizenship documentation requirement and a background of the Medicaid Program. Chapter 3 details the main components of the requirement. Chapter Four outlines the implications of the requirement on all states, and Chapter Five delves into individual state's experiences in implementing the requirement. Chapter Six reviews the impact on various stakeholder groups. Several recommendations and best practices are discussed in Chapters Seven and Eight.

¹ Commonwealth Fund, *New Medicaid Citizenship Documentation Requirement Begins*, Online. Available: http://www.cmwf.org/statesinaction/statesinaction_list.htm?issue_id=2710#doc380087. Accessed: November 25, 2007.

² United States Government Accountability Office, *Medicaid-States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*, Online. Available: <http://www.gao.gov/new.items/d07889.pdf>. Accessed: January 12, 2008.

³ Congressional Budget Office, *Cost Estimate: S. 1932-Deficit Reduction Act of 2005*, Online. Available: <http://www.cbo.gov/ftpdocs/70xx/doc7028/s1932conf.pdf#search=%22CBO%2C%20Deficit%20reduction%20act%22>. Accessed : November 25, 2007.

⁴ Center on Budget and Policy Priorities, *Survey Indicates Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens*, Online. Available: <http://www.cbpp.org/1-26-06health.htm>. Accessed: November 1, 2007.

CHAPTER 2. BACKGROUND INFORMATION

Description of Medicaid

Title XIX of the Social Security Act is a federal and state entitlement program commonly referred to as the Medicaid Program. This program became law in 1965 and primarily pays for medical assistance for certain individuals with low incomes and resources. Within federal guidelines, each state can make the following decisions regarding the Medicaid program: (1) eligibility standards, (2) the type, amount, duration and scope of services, (3) payment rates, and (4) general administration.¹ “Medicaid is the largest source of funding for medical and health-related services for America’s poorest people.”²

The federal government pays a share of the medical assistance expenditures under each state's Medicaid program. That share, known as the Federal Medical Assistance Percentage (FMAP), is determined annually by a formula that compares the state's average per capita income level with the national income average. States with a higher per capita income level are reimbursed a smaller share of their costs. By law, the FMAP cannot be lower than 50 percent or higher than 83 percent.³

In most years since its inception, Medicaid has had very rapid growth in expenditures. The Centers for Medicare and Medicaid Services (CMS) ties this growth to the following factors:

- The increase in size of the Medicaid-covered populations as a result of federal mandates, population growth, and changes in the economy;
- The expanded coverage and utilization of services;

- The increase in the number of elderly and disabled persons requiring extensive acute and/or long-term health care;
- The results of technological advances to keep a greater number of very low-birth-weight babies and other critically ill or severely injured persons alive and in need of continued extensive and very costly care;
- The increase in drug costs and the availability of new expensive drugs;
- The increase in payment rates to providers of health care services, when compared to general inflation.⁴

According to the Heritage Foundation, 2007 expenditures for Medicaid exceeded \$349 billion, including federal and state funds. Approximately 57 percent of the program was federally funded, and 43 percent was state funded.⁵

Medicaid and Immigrant Health Care

Although Medicaid expenditures are rising significantly, research does not suggest that a significant portion of the increases are tied to or related to illegal immigrants obtaining Medicaid services. Several provisions in federal and state law address immigrant health care and the expenses associated with its provision.

PUBLIC CHARGE

Some immigrant families have been reluctant to seek health services for fear of jeopardizing their immigration status. A significant factor relating to this reluctance is public charge, a federal law enacted to preclude immigrants from becoming reliant on public aid.⁶ The climate of uncertainty created by the lack of a clear standard became a major barrier to immigrant families' participation in programs that protect public health.⁷ In May 1999, the United States Citizenship and Immigration Services issued new

guidance on the public charge law to state that immigrants will *not* be considered a public charge for using health care benefits, including Medicaid.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Undocumented immigrants and non-permanent documented immigrants, such as individuals with student or temporary work visas, are not eligible for Medicaid except for emergency services. Permanent documented immigrants are eligible for Medicaid but are subject to restrictions and stipulations. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), made legal immigrants who entered the United States after 1996 ineligible for Medicaid for five years.⁸ PRWORA gave states the option to continue Medicaid coverage for qualified immigrant adults who entered the U.S. before the law was enacted in August 1996. Qualified immigrant adults entering the U.S. after August 1996 were barred from Medicaid coverage for five years from date of entry. About 40 percent of all documented permanent residents in the United States entered after August 22, 1996 and have been subject to this prohibition.⁹ Five years after passage of PRWORA, non-elderly immigrant adults experienced a 36 percent decline in coverage.¹⁰

All qualified, immigrant children may receive state-funded care following the five-year bar enacted by PRWORA. Recent studies reveal that roughly 1.5 million of the 6 million uninsured children who are otherwise eligible for Medicaid are excluded from the programs due to their immigration status.¹¹ The uninsured rate for *citizen* children declined to 15 percent from 19 percent as Medicaid enrollment increased by 17 percent from 1995 to 2005. In contrast, the uninsured rate for *documented immigrant* children increased to 48 percent from 44 percent, while Medicaid coverage declined by 17 percent during the same time period.¹²

EMERGENCY MEDICAL TREATMENT AND LABOR ACT

The Emergency Medical Treatment and Labor Act (EMTALA) of 1985 requires hospitals participating in Medicare to treat individuals seeking care in hospital emergency departments, and to provide the treatment necessary to stabilize those determined to have an emergency condition, regardless of income, insurance, or immigration status.¹³ Prior to 2003, hospitals and other providers absorbed the costs associated with this care.

Section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 was intended to help offset some of the costs associated with provided care for undocumented immigrants and other specified aliens. The amount allotted for this relief is \$1 billion, or \$250 million per year for fiscal years 2005-2008.¹⁴ This funding is allocated to hospitals and other health care providers for emergency care. Two-thirds of the funds were divided among all 50 states and the District of Columbia based on their relative percentages of undocumented aliens. One-third was divided among the six states with the largest number of undocumented alien apprehensions.¹⁵

As a result of these laws and regulations, public sector health expenditures are much less for immigrants enrolled in public health programs such as Medicaid. Twenty-one percent of total medical costs were paid through public sources for native-born citizens, compared to 16 percent for documented and undocumented immigrants in 2006.¹⁶ Regardless of these statistics, the belief that ineligible documented and undocumented immigrants are enrolling in Medicaid continues.

Office of Inspector General Study

In July 2002, the Office of Inspector General (OIG) initiated a study titled, *Self-Declaration of U.S. Citizenship for Medicaid*, to examine the extent to which states allowed self-declaration of United States citizenship for Medicaid. The OIG also

identified potential vulnerabilities associated with quality control activities and evidence use to document citizenship.¹⁷

Following the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, verification of U.S. citizenship for purposes of Medicaid eligibility has been governed by section 1137(d)(1)(A) of the Social Security Act. The Act requires an applicant to declare under a penalty of perjury that he or she is a national or citizen of the United States.¹⁸ If not a citizen or national, the individual had to attest he or she was in a satisfactory immigration status. According to the OIG study, CMS encouraged self-declaration in an effort to “simplify and accelerate” the Medicaid application process.¹⁹

There were several key findings in the OIG study:

- **Forty-seven states allow self-declaration of United States citizenship for Medicaid, and nearly all of these require evidence if statements seem questionable.** Montana, New Hampshire, New York and Georgia did not permit self-declaration and required applicants to submit documentary evidence to verify U.S. citizenship statements.
- **Twenty-seven states do not verify the accuracy of any U.S. citizenship statements as part of their post eligibility quality control activities.** Of the 20 states that did review statements, nine did so for a nonrepresentative sample of the entire Medicaid population.
- **Several states rely on types of evidence that are not accepted by CMS or the Social Security Administration (SSA) to document citizenship for Medicaid.** Of the 20 states that conduct a quality review to verify statements of U.S. citizenship, 13 use types of evidence that are not accepted by CMS or SSA, such as school records, family Bibles, voter registration records and marriage licenses.²⁰

Based on such findings, the OIG reported self-declaration policies have inherent vulnerabilities in that they can allow applicants to provide false statements of citizenship. The report did not address to what *extent* there could be a problem with illegal immigrants accessing Medicaid, only that the potential exists. The OIG concluded existing safeguards at the point of entry into the Medicaid system and during post eligibility quality control could allow false statements of citizenship to go undetected. To address these issues, the OIG recommended that CMS (1) strengthen post eligibility quality controls in states that allow self-declaration; (2) issue a complete list of evidence that states may reference when determining eligibility; and (3) explore allowing state Medicaid staff to use citizenship verifications from other Medicaid-related programs as an additional resource. However, in their final recommendations the OIG *did not* recommend mandating states to require citizenship documentation for Medicaid eligibility determination. Mark McClellan, then the Administrator of the Centers for Medicare and Medicaid Services, stated “The Inspector General’s report does not find particular problems regarding false allegations of citizenship, nor are we aware of any.”²¹

Interestingly, the OIG found that 28 of 47 Medicaid directors stated there would be a delay in eligibility determination if all Medicaid applicants were required to provide documentary evidence of U.S. citizenship. Further, 25 directors reported this type of requirement would increase eligibility personnel costs. Twenty-one Medicaid directors stated it would be burdensome and/or expensive for applicants to obtain copies of birth certificates or other documentation.

CONCLUSION

This chapter offers the reader a background description of the Medicaid program and some of the reasons for escalating costs. Research does not suggest that a significant portion of the increased expenditures are a result of illegal immigrants obtaining

Medicaid services. The chapter also discusses findings of an Inspector General study that examines the extent to which states allowed self-declaration of United States citizenship for Medicaid. The study did reveal vulnerabilities in states' eligibility determinations; however, it did not include a specific recommendation to implement a citizenship documentation requirement in states' Medicaid programs.

Chapter Three outlines the key components of the documentation requirement, including changes made through subsequent legislation and rule revisions. This chapter also provides the reader with ongoing concerns with the technical aspects of the requirement.

¹ Centers for Medicare and Medicaid Services, *Medicaid Technical Summary*, Online. Available: http://www.cms.hhs.gov/MedicaidGenInfo/03_TechnicalSummary.asp#TopOfPage. Accessed : February 15, 2008.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ The Heritage Foundation, *More Medicaid Means Less Quality Health Care*, Online. Available: <http://www.heritage.org/Research/HealthCare/wm1402.cfm>. Accessed: February 20, 2008.

⁶ National Conference of State Legislatures, *SCHIP and Access for Children in Immigrant Families*, Online. Available: <http://www.ncsl.org/programs/health/forum/pub6682.htm>. Accessed : April 7, 2008.

⁷ Ibid.

⁸ LBJ School of Public Affairs, University of Texas at Austin, *Medicaid and the State Children's Health Insurance Program in Texas: History, Current Arrangements and Options*, Online. Available: http://www.utexas.edu/lbj/research/chasp/medicaid_schip.pdf. Accessed: April 10, 2008.

⁹ Center for American Progress, *Immigrants in the U.S. Health System-Five Myths That Misinform the American Public*, Online. Available: http://www.americanprogress.org/issues/2007/06/pdf/immigrant_health_report.pdf. Accessed : April 10, 2008.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid., p. 3.

¹³ LBJ School of Public Affairs, *Medicaid and the State Children's Health Insurance Program in Texas: History, Current Arrangements and Options*, p. 59.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Center for American Progress, *Immigrants in the U.S. Health System-Five Myths That Misinform the American Public*, p. 4.

¹⁷ Office of Inspector General, *Self-Declaration of U.S. Citizenship for Medicaid*, Online. Available: <http://oig.hhs.gov/oei/reports/oei-02-03-00190.pdf>. Accessed: November 1, 2007.

¹⁸ A national of the United States is either a citizen of the United States; or a person who, though not a citizen of the United States, owes permanent allegiance to the United States. At present, noncitizen U.S. nationals are essentially limited to American Samoans.

¹⁹ Office of Inspector General, *Self-Declaration of U.S. Citizenship for Medicaid*, p. 1.

²⁰ Ibid., p. 3.

²¹ Center on Budget and Policy Priorities, *New Citizenship Documentation Requirement is Taking a Toll*, Online. Available: <http://www.cbpp.org/2-2-07health.htm>. Accessed: February 20, 2008.

CHAPTER 3. THE CITIZENSHIP DOCUMENTATION REQUIREMENT

Although the OIG study only stated the possible vulnerabilities of self-declaration and made no conclusion regarding mandating citizenship documentation, Section 6036 of the Deficit Reduction Act (DRA) of 2005 (Pub. L. No 109-171) added a new subsection to Section 1903 of the Social Security Act. Section 6036 requires individuals declaring they are United States citizens to provide satisfactory documentary evidence of citizenship or nationality when initially applying for Medicaid or upon a recipient's first Medicaid redetermination on or after July 1, 2006.¹ This provision was added to the DRA at the request of Georgia Republican Representatives Charlie Norwood and Nathan Deal who said they wanted to prevent undocumented immigrants from enrolling in Medicaid.

It is important to note that the new rule does not affect the Medicaid application process for legal immigrants; they will still have to show the same documentation verifying their immigration status. Legal immigrants who entered the United States after August 22, 1996 are ineligible for non-emergency Medicaid services until they have lived in the United States for over five years. The Emergency Medical Treatment and Labor Act ensures "public access to emergency services regardless of ability to pay." As such, even illegal immigrants can receive emergency care, funded by Medicaid. The DRA does not alter the eligibility criteria for U.S. citizens. However, the documentation provision adds a new requirement to the process of establishing eligibility for citizens.

Federal financial participation (FFP) will not be provided to states for individuals whose citizenship has not been properly documented. It is not clear as to whether these requirements can be affirmatively enforced by the Centers for Medicare and Medicaid Services against states or whether CMS must initiate funding denial/termination actions

against non-complying states. CMS will also monitor the extent to which states are using primary evidence to establish both citizenship and identity and will require corrective action to ensure the most reliable evidence is routinely being obtained. States may seek federal matching funds for administrative expenses associated with complying with the requirement.²

The Centers for Medicare and Medicaid Services issued guidelines for implementing the citizenship documentation requirement on July 12, 2006, and the guidelines provided for a range of ways that citizenship status and personal identity may be documented. The requirement as codified in Section 6036 of the Deficit Reduction Act of 2005 has also been modified by subsequent legislation and elaborated in additional and successive regulations.

Interim Final Rule – July 12, 2006

PROOF OF CITIZENSHIP

In its interim rule, CMS developed a hierarchical approach to documentation reliability.³ If an individual cannot produce documentation from the primary list of evidence, individuals can produce a document from the second, third or fourth list or tier of documentary evidence to prove citizenship and a document from the fifth list to show identity.⁴ **Figure 3.1** displays the tiered hierarchy of acceptable documentation for proving citizenship and identity for the Medicaid program.

Figure 3.1: Citizenship Documentation Hierarchy

Proving Citizenship and Identity for Medicaid

Note: The applicant or beneficiary who is renewing eligibility must go through the following 4-tier hierarchy until he or she is able to successfully document citizenship. Those who do not have documents from Tier 1 must also supply additional proof of identity. The complete regulations regarding acceptable documentation are explained in the interim final regulations released by CMS on July 12, 2006. For example, states have the option of doing electronic data matches to verify citizenship and identity, so it might not be necessary for every applicant and enrollee to provide paper documentation.

<p>Tier 1 (proves both citizenship and identity)</p> <ul style="list-style-type: none"> ■ U.S. passport ■ Certificate of Naturalization ■ Certificate of U.S. Citizenship 	
<p>Tier 2 (proves citizenship only)</p> <ul style="list-style-type: none"> ■ A U.S. public birth record ■ Certification of Report of Birth ■ Certification of Birth Abroad ■ U.S. Citizen Identification Card ■ Consular Report of Birth Abroad of a U.S. Citizen ■ American Indian card with code KIC^a ■ Northern Mariana card ■ Final adoption decree ■ Evidence of U.S. civil service employment before June 1, 1976 ■ Official military service record that shows U.S. place of birth 	<p>Proof of Identity^f</p> <ul style="list-style-type: none"> ■ Any item from Tier 1 <li style="text-align: center;">or ■ U.S. driver's license with either a photo of the individual or other identifying information (e.g., name, age, sex, race, height, weight, or eye color) ■ School ID card with photo ■ U.S. military card or draft record ■ Government-issued ID with the same information that is included on a driver's license ■ Native American tribal document ■ Certificate of Degree of Indian Blood^g ■ U.S. Coast Guard Merchant Mariner card ■ School records for children under 16, including nursery school or daycare records ■ If none of the above documents is available for a child under 16, a parent or guardian can attest to the identity of the child. The affidavit must be signed under penalty of perjury and cannot be used if an affidavit for citizenship was provided. <p>Note: States also have the option of verifying identity by doing a cross match with other agencies that can certify the identity of the person. Such agencies may include food stamps, child support, corrections, motor vehicle, and child protective services agencies.</p>
<p>Tier 3 (proves citizenship only)^b</p> <ul style="list-style-type: none"> ■ Extract of hospital record on hospital letterhead ■ Life or health insurance record showing U.S. place of birth 	
<p>Tier 4 (proves citizenship only)^c</p> <ul style="list-style-type: none"> ■ Federal or state Census record showing U.S. place of birth ■ Seneca Indian tribal census record ■ BIA tribal census records of the Navajo Indians ■ U.S. state vital statistics official notification of birth ■ Amended U.S. public birth record ■ Statement signed by physician/midwife in attendance at birth ■ Institutional admission papers indicating place of birth^d ■ Medical record indicating U.S. place of birth ■ Written affidavit by at least two individuals^e 	

Because seniors and people with a disability who receive Medicare or Supplemental Security Income (SSI) are likely to have the greatest difficulty meeting the documentation requirements, and in the case of SSI recipients already have met certain documentation requirements, the regulation exempts most of these individuals from the new documentation requirements. This exemption reflects the special treatment of these

groups in the statute, implying that they should be exempt from additional documentation requirements.⁵ Some states do not link SSI and Medicaid including, Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, New Hampshire, North Dakota, Ohio, Oklahoma and Virginia. These states may choose to use the State Data Exchange (SDX) to meet the documentation requirement for SSI recipients in these states. The SDX is an automated data system in which the Social Security Administration shares selected data about SSI beneficiaries with state agencies. This information includes citizenship and identity.

States without agreements with SSA may substitute a check of the SSI file the state receives to meet the requirements of section 6036. States may also use a data match with electronic vital statistics to establish citizenship of an applicant or recipient. Specifically, agencies may “use a cross match with a state vital statistics agency to document a birth record.”⁶ By utilizing this option, states can reduce the paperwork burden of the requirement on state eligibility workers.

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.⁷

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 a 50 percent match for administrative expenses related to implementation of the new law.

OUTREACH

The Centers for Medicare and Medicaid Services launched 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 also include talking points, questions and answers, a sample press release, drop-in article and lists of acceptable documents. CMS will hold training sessions with state officials including regular telephone consultations during which the agency will provide any 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.⁸

ISSUES WITH INTERIM FINAL RULE

There were several areas of concern for stakeholders and advocacy organizations with the interim final rule when it was issued in June 2006. Several provisions of the interim rule affected two of the most vulnerable stakeholder groups, newborns and foster children.

Newborns. In a letter to CMS, Families USA states newborns “who are born to mothers receiving Medicaid will be required to provide citizenship documentation at their next renewal.”⁹ The interim citizenship documentation rule stated that newborns born to undocumented or legal immigrants within the five-year bar must apply for Medicaid and provide citizenship documentation following their birth before they can receive any coverage. In both circumstances, there is no question that these children are American citizens by virtue of the birth in U.S. hospitals.

Families USA asserted this situation posed a problem because it created additional paperwork and potential delays or loss of coverage for infants. Further, it is unlikely parents can show proof of citizenship through state vital record matches because time delays and processing lags do not allow for vital records to be created immediately at the time of birth.

Foster Children. The citizenship documentation requirement provided that children in foster care show proof of citizenship and identity to enroll or remain enrolled in Medicaid. Many advocates assert this requirement was unnecessary because there has been a longstanding link between eligibility for Medicaid and the Title IV-E federal foster care program. Federal law mandates that all children who qualify for foster care payments are eligible for Medicaid. Since the citizenship status of these children is verified for foster care payment purposes, the advocates maintain there is no need to

request documentation for Medicaid enrollment and this represents a duplication of efforts.

Tax Relief and Health Care Act – December 2006

Congress passed the Tax Relief and Health Care Act (TRHCA) of 2006 to amend, in part, Section 1903(x) of the Social Security Act. Section 405(c)(1) of this Act primarily exempted two additional groups of individuals from the documentation requirement. The two groups included those receiving Social Security Disability Insurance (SSDI) based on disability and foster care children who are assisted under Title IV-B of the Social Security Act or receive foster care maintenance or adoption assistance payments under title IV-E.¹⁰

Final Rule - July 13, 2007

The final rule incorporated the exemptions included in the TRHCA exemptions and clarified federal policy concerning deemed eligibility for newborns of women receiving Medicaid.¹¹ Several new forms of proof of citizenship and identity are allowed by the new rule, including:

Tier 2

- States may verify citizenship of a naturalized citizen through the Department of Homeland Security SAVE program.
- States may also verify citizenship under the Child Citizenship Act of an adopted or biological child born outside of the United States.

Tier 3

- Religious records recorded in the U.S. within three months of birth that show a U.S. place of birth and show either the date of birth or the age of the individual at the time the record was created.

- Early school records showing a U.S. place of birth.

Tier 4

- Naturalized citizens may now use affidavits.
- Roll of Alaska Natives maintained by the Bureau of Indian Affairs.

Identification

- A state may accept an identity affidavit signed under penalty of perjury by a residential care facility director or administrator on behalf of an individual living in the facility.
- For children under age 16, clinic, doctor, hospital, or school records (including report cards) may be accepted for identity purposes.
- Affidavits are allowed for children under age 18 if neither a school identity document nor a driver's license is available.
- Affidavits for children may be signed by a caretaker relative.
- A combination of three or more of the following documents may be used to prove identity: employer ID cards, high school and college diplomas from accredited schools (including GED certificates), marriage certificates, divorce decrees, and property deeds/titles.¹²

PREGNANT WOMEN, NEWBORNS, OTHER ELIGIBLE RECIPIENTS

Following constitutional challenges to the policy reversal involving newborns, CMS reinstated deemed eligibility for all newborns, regardless of maternal immigration status. However, documentation must be presented for these babies at their first Medicaid renewal. Interestingly, families are required to prove this citizenship even though these children are citizens under the Constitution since they were born in the United States.¹³

Pregnant women, children, and women eligible for breast and cervical screening can be given presumptive eligibility for Medicaid without documenting their citizenship. However, the documentation must be presented at the time these individuals file a regular Medicaid application.¹⁴

AFFIDAVITS

The final rule allows for states to accept affidavits when no other forms of documentation are available. These affidavits must be submitted by the applicant or beneficiary and two additional persons, one of which may not be a relative. The two persons who attest to the affidavit must be able to show evidence of their citizenship and identity, establish the applicant's citizenship, and state why the documents are unattainable.

NATURALIZED CITIZENS

Naturalized citizens' status will now be able to be verified through a match with a Department of Homeland Security database, eliminating the need to have an original certificate of naturalization.¹⁵

Ongoing Issues with the Documentation Requirement

Although some changes were made, many argue the final CMS regulations do not address the fundamental problems causing substantial numbers of eligible citizens to have their health insurance denied, delayed, or terminated as a result of the citizenship documentation requirement.¹⁶ Some states have adopted the "presumptive eligibility" option, allowing them to provide coverage for an interim period while the applicant obtains the necessary documentation. However, a limited number of states have opted for this option. In these states, applicants who satisfy all other eligibility requirements will continue to be denied coverage until they are able to produce acceptable documents

to prove their citizenship and identity. They will not be covered while awaiting receipt of these documents.

The regulations also continue to require originals of birth certificates, passports and identity documents be provided, except for copies that have been officially certified by the issuing agency. This often precludes individuals from providing documents by mail, fax or electronically and necessitates additional visits to Medicaid offices. Anecdotal evidence has shown that these additional visits can pose problems for working-poor parents who are not permitted to leave their jobs or must forfeit pay when they do so, as well as for people who lack access to transportation, especially in rural areas.¹⁷

CONCLUSION

This chapter describes the citizenship documentation requirement and provides a timeline of changes made to the requirement. Several issues were addressed since the interim rule was released in June 2006; however, critical areas of concern remain. Foremost among these issues are presumptive eligibility and the requirement for original documents.

Chapter Four gives the reader a broad overview of the impact of the requirement on states. This chapter provides a discussion of a GAO report that researched the initial impact of the requirement on stakeholders' Medicaid coverage or denial of services. It also discusses steps states have taken to implement the requirement; administrative burdens faced by states and the fiscal implications of the requirement on states. Chapter Four also presents a general overview of a survey completed by the Center on Budget and Policy Priorities. This report answers the question of whether the requirement is having its intended effect -- keeping undocumented immigrants off of the Medicaid rolls.

¹ Centers for Medicare and Medicaid Services, *Medicaid Fact Sheet*, Online. Available: <http://www.cms.hhs.gov/MedicaidEligibility/downloads/Medicaid%20Fact%20Sheet.pdf>. Accessed : October 4, 2007.

² United States Government Accountability Office, *Medicaid-States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*, Online. Available: <http://www.gao.gov/new.items/d07889.pdf>. Accessed: January 12, 2008.

³ Families USA, *Analysis of the Medicaid Citizenship Documentation Regulations*, Online. Available: <http://www.familiesusa.org/assets/pdfs/DRA-Citizenship-Regulations.pdf>. Accessed: November 22, 2007.

⁴ Section 1903 (x)(3)(B)(iv) of the Social Security Act (added by 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.

⁵ Centers for Medicare and Medicaid Services, *Medicaid Fact Sheet*, p. 1.

⁶ 42 CFR 435.407(b)(1).

⁷ Ibid.

⁸ Kaiser Commission on Medicaid Facts, *New Requirements for Citizenship Documentation in Medicaid*, Online. Available: <http://www.kff.org/medicaid/7533.cfm>. Accessed: October 21, 2007.

⁹ Letter from Families USA, to Centers for Medicare and Medicaid Services, August 11, 2007.

¹⁰ Centers for Medicare and Medicaid Services, Letter to State Medicaid Directors. Online. Available: http://www.nasmd.org/SMD_letters/docs/SMD-Letter-on-Citizenship-Requirements-2-22-2007.pdf. Accessed : March 1, 2008.

¹¹ Kaiser Commission on Medicaid and the Uninsured, *Citizenship Documentation in Medicaid*. Online. Available: http://www.kff.org/medicaid/upload/7533_03.pdf. Accessed: March 1, 2008.

¹² Families USA, *The Medicaid Citizenship Requirement One Year Later*. Online. Available: <http://www.familiesusa.org/assets/pdfs/dra-cit-doc-update-2007.pdf>. Accessed : March 15, 2008.

¹³ Center on Budget and Policy Priorities, *Medicaid Documentation Requirement Disproportionately Harms Non-Hispanics, New State Data Show*, Online. Available: <http://www.cbpp.org/7-10-07health.htm>. Accessed: January 23, 2008.

¹⁴ Ibid., p. 5.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

CHAPTER 4. IMPACT ON STATES – GENERAL OVERVIEW

General Findings

According to the most recent data, 38 million people currently receiving Medicaid will be subject to the new requirement when they renew their coverage. In most cases, Medicaid beneficiaries must renew their coverage every six months.¹

In the first six to twelve months of the new requirement, therefore, states have checked citizenship documents for roughly 38 million beneficiaries, largely mothers and children, almost all of whom are U.S. citizens. The above estimate includes 750,000 people with disabilities. While most disabled Medicaid beneficiaries will be exempt from the new requirement because they are on SSI or Medicare, an estimated 750,000 beneficiaries are *not* exempt and will be required to provide documentation. This group includes non-elderly citizens with serious physical or mental disabilities, whose incomes are just above the SSI income limit, persons in home- and community-based care, and some persons in nursing homes or other facilities.

The new requirement will increase administrative burdens for state Medicaid agencies, slowing eligibility processing. States are notifying applicants of the documentation requirement, verifying their documents, maintaining records that the documents were submitted, delaying enrollment if people cannot locate the documents, and in some cases, trying to help people locate the documents.² If such activities add 15 minutes of administrative effort per beneficiary, as one state estimates, the requirement will increase an average state's workload by about 125 person-years.³ Connecticut's Medicaid director has stated that the requirement is "an enormous administrative burden."⁴

GAO: Report Details States' Issues with Documentation Requirement

In a report titled, *States Reported that Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*, the United States Government Accountability Office (GAO) examined the impact on states' Medicaid programs following the enactment of the citizenship documentation requirement. Specifically, the GAO accumulated reports from 44 states and issued findings on (1) enrollment changes for applicants and recipients and (2) administrative issues encountered as a result of the change.

METHODOLOGY

After surveying the Medicaid offices in the 50 states and the District of Columbia, the GAO was able to use 44 states' responses. The GAO sought enrollment-related responses dealing with: (1) stakeholder groups affected; (2) changes in enrollment as a result of the requirement; (3) reasons for enrollment declines; and (4) assumptions of how long changes in enrollment would continue. The GAO also researched: (1) measures taken to implement the requirement and assist individuals completing the application process or seeking renewal of benefits; (2) changes in the number of individuals needing assistance in the eligibility determination process and the amount of time dedicate to such assistance; (3) the average number of pending and completed eligibility determinations prior to and after implementing the provision; (4) challenges faced during implementation of the requirement; and (5) the budget implications for fiscal years 2007 through 2010.⁵ The survey was completed with CMS guidance and took place November 2006 through June 2007.

ENROLLMENT ISSUES

One way to discuss the GAO findings is to divide the states' results into those that reported declines in enrollment; those that saw no decrease in enrollment; and those states that were uncertain of the impact on enrollment. The factors affecting the impact on access are also reviewed.

Several states noted enrollment declines. Twenty-two of the 44 states reported declines in Medicaid enrollment due to the requirement. Further, a majority of these states attributed the declines to delays in or losses of Medicaid coverage for individuals who appeared to be eligible citizens. State enrollment policies and whether an individual is an applicant or recipient at redetermination are two factors that may have influenced the overall effect of the requirement on individuals' access to the Medicaid program.

Twelve of the twenty-two states reported that enrollment declined because applicants who appeared to be eligible citizens experienced delays in receiving coverage.⁶ Again, the report includes a caveat which states that it is unclear from the survey if the individuals were determined to be ineligible because they were *not citizens* or because they could not provide the necessary documentation to prove citizenship. The study also reveals that the extent of the decline is presently unclear as many states do not track the effect of the documentation requirement on enrollment. This leaves the reader to believe that the extent of the impact on enrollment could be greater if all states were monitoring the requirement's effect on Medicaid enrollment trends.

The ongoing effect of the requirement differed among those states who realized a decline in Medicaid enrollment. Seventeen of the 22 states that reported declines stipulated that they expect the downward enrollment trend to continue, while the remaining five assumed the declines would level off within one year of implementation.⁷

Other states realized no decreases in enrollment or were uncertain of the impact of the requirement on Medicaid enrollment or recertification. Twelve states reported the requirement had no effect on enrollment and the other 10 stipulated they were not aware of the impact on enrollment. Important to note among the 12 states that stipulated no change, the majority of these reported that individuals most frequently applied in person before the requirement was implemented. This is in comparison to those states that reported a decline and individuals most frequently enrolled via mail-in applications.

CONTRIBUTING FACTORS

One contributing policy on the requirement's effect is how long states deemed their "reasonable opportunity" period to be. Thirty-three states reported the number of days they allowed applicants and recipients to meet the requirement before denying applications or terminating eligibility. Limits generally ranged from 10 days to over one year. Some states also allowed an indefinite amount of time to obtain the required documentation, as long as applicants and beneficiaries were making a "good faith effort." Nine of the 33 states reported they allowed 30 days or less to report, and four of these states reported declines in enrollment.⁸

The GAO report also stipulated differences in enrollment trends between new applicants and beneficiaries. Applicants who declare themselves citizens are not eligible for Medicaid coverage until they submit the required documentation, while beneficiaries at redetermination maintain their eligibility while obtaining the necessary documents.⁹ Specifically, the report included an example of how the requirement could potentially affect a pregnant woman who needs her prenatal 20-week ultrasound exam. A pregnant woman at redetermination is eligible to have the ultrasound exam covered by Medicaid, regardless of whether she has submitted her documentation to the state. However, a

pregnant woman who is a Medicaid *applicant* would not be eligible for coverage until she submits all of the necessary documentation. This could mean the applicant must decide to pay for the ultrasound exam out-of-pocket or forgo care.¹⁰

Another area of discrepancy between applicants and beneficiaries that could be a contributing factor to enrollment declines is the amount of time allowed to meet the documentation requirement. Thirteen of the 33 states that provided information on their “reasonable opportunity” timeline reported that applicants in some states were given less time than beneficiaries to meet the requirement. The range was significant, going from 24 to 320 days.

ADMINISTRATIVE ISSUES

A considerable portion of the GAO report addresses administrative issues faced by the states in implementing the documentation requirement. The issues specifically dealt with the additional effort needed to assist applicants and the original documentation needed to meet the requirement. The most frequently used measures implemented by the states to help reduce process barriers include conducting additional training for eligibility workers; revising application and redetermination forms; conducting data matches with states’ vital statistics agencies; modifying information technology systems; and providing educational outreach. Twenty-eight of the 44 participating states reported increased levels of assistance provided to clients in person, and 35 states reported an increase in the amount of time it took the state to complete applications and redeterminations.¹¹ Of these 35 states, most reported that the requirement added five or more minutes per case to the processing time for applications; nine states estimated an additional five to 15 minutes, while 16 states expected the requirement to add more than 15 minutes of processing time per application.¹² The regulations do allow states to use data matches with state vital statistics agencies to verify citizenship and many states reported completing these

searches on behalf of applicants and recipients. Additional costs have been associated with this provision, however, and several states point out ongoing problems in determining citizenship for those born in another state.¹³

States reported additional challenges implementing the documentation requirement in that (1) documents must be originals and (2) the list of acceptable documentation was complex and did not allow for exceptions. Specifically 36 of the 44 states participating in the study stipulated that having to provide original documentation posed a barrier to eligible citizens' ability to meet the requirement. Several barriers associated with the original documentation requirement were highlighted in the report, including: (1) the cost for obtaining documents such as birth certificates is cost prohibitive for some low-income families; (2) the required documents are often used for daily living, i.e., driver's license; and (3) costs associated for returning the original documents has been higher than expected and is of concern to some eligibility workers. CMS stipulated that the agency modeled the documentation requirement after the Social Security Administration's (SSA) process for obtaining a social security card. The SSA mandates that documents be originals and provides a hierarchy of documents with restrictions on the use of less reliable documents. However, the SSA policy allows for more flexibility in certain cases. SSA policy staff is allowed to work with supervisors when a U.S.-born applicant for a Social Security number does not have any of the required documents.¹⁴ The Centers for Medicare and Medicaid Services stipulates the list of acceptable documents is "exhaustive" and a significant expansion of what is allowed under the DRA, and that they are not aware if any case where an individual was unable to provide any of the documents from the list.¹⁵

FISCAL IMPLICATIONS

The Government Accountability Office reported on the fiscal implications for states and the federal government. Seventeen states stipulated having appropriated funds to implement the requirement or planned to do so in future years. The funding ranged from \$350,000 to \$10 million, representing one to twelve percent of states' Medicaid administrative expenditures.¹⁶ Several states reported they did not appropriate funds due to the timing of the requirement within the budget year. CMS did not account for the cost to states and the federal government to implement the requirement in their budget savings.

The GAO also addressed the assumptions and impact of the requirement on the federal government. The CMS Office of the Actuary estimated that there would be significant savings for states and the federal government since the requirement was intended to terminate or deny coverage for 50,000 noncitizens.¹⁷ Specifically, the GAO report states CMS assumed \$40 million in savings for states and \$50 million for the federal government in fiscal year 2008. Although CMS allows for states to claim federal matching funds for administrative expenses incurred for implementing the requirement, these funds were not included in their savings estimate.

States responding to the GAO report highlighted differing findings than what CMS estimated about savings. Generally, the states reported that the intended effect of eliminating coverage for ineligible noncitizens is less prevalent in states than estimated.¹⁸ Only five of the 44 states reported expecting savings after implementing the requirement, although four of the five states reporting savings stated this was mainly due to delays in coverage or lost coverage for those who "appeared" to be citizens.¹⁹ Only one state reported expecting savings from denying benefits to ineligible noncitizens. Nineteen of the remaining states were unsure of how the requirement would affect expenditures in

their states, and the remaining 20 states anticipated no savings from implementing the requirement.

CMS CONCERNS INVOLVING THE FINDINGS

CMS provided comments on the GAO report, addressing several areas of concern regarding the agency's findings. CMS stipulated that the GAO may have overstated the effect of the requirement on enrollment due to the limited data available. However, the GAO countered that their report only found the initial impact of the requirement and found general trends associated with implementation. Specifically, the GAO reported 22 states found a decrease in enrollment; 12 reported no effect on enrollment; and 10 were not aware of the impact to date. The CMS also stipulated that the GAO did not provide individual responses from the state survey and stated this information would have been helpful in identifying problems and best practices. CMS also found that the GAO did not identify data sources to validate the relationship between the implementation of the requirement and enrollment levels.²⁰ The CMS generally viewed the GAO findings in this regard to be more anecdotal.

CMS also expressed concern regarding the GAO's findings being overstated in terms of enrollment since many states reported delays in coverage as compared to denials. However, as mentioned earlier, the GAO reported the consequences associated with delays in coverage for certain populations such as pregnant women.

CMS also countered GAO's findings that the requirement was not very flexible in terms of requiring original documentation and navigating a complex list of acceptable documents. CMS stipulated that the agency has attempted to provide a great deal of flexibility in this regard and that other federal agencies require original documentation as well. The GAO cited that 42 of 44 reporting states conveyed that having to provide original documentation acted as a barrier to meeting the requirement and gaining

coverage. Further the GAO stipulated that the Social Security Administration allows for flexibility in documentation in certain cases.

CBPP: Requirement Disproportionately Harms Non-Hispanics

Another study regarding the Medicaid documentation requirement addresses the issue of who is being affected by the requirement, citizens or undocumented immigrants. A report by the Center on Budget and Policy Priorities (CBPP) titled, *Medicaid Documentation Requirement Disproportionately Harms Non-Hispanics, New State Data Show* answers the question of whether the requirement is having its intended effect -- keeping undocumented immigrants off of the Medicaid rolls. The Center on Budget and Policy Priorities is a public policy organization working at the federal and state levels on public and fiscal policy affecting low- and moderate-income families and individuals.

The July 2007 report outlines who is considered when discussing undocumented immigrants, and the CBPP contends that the majority are Hispanic. Further, the Pew Hispanic Center states that “approximately 78 percent of undocumented immigrants are from Mexico, Central America, or Latin America.”²¹ Considering this, one would anticipate the majority of those expected to be obtaining Medicaid illegally to be Hispanic. As discussed in subsequent chapters, data from Kansas and Virginia reflect the opposite -- Hispanic individuals comprise the group that is least affected.²² However, it is important to note that the report does not consider how many undocumented immigrants were deterred from applying for Medicaid or proceeding with an application due to the requirement.

The CBPP report suggests that Hispanic citizens may be less affected by the requirement compared to other citizen groups due to the fact that (on the whole) they may be concerned that their citizenship status may be called into question, therefore they may

place greater importance on having vital documents to attest to their citizenship in an easily accessible place. The study also found that, as a group, Hispanic citizens tend to apply for a birth certificate immediately after a child's birth.²³

CONCLUSION

This chapter gives the reader an overall sense of how the documentation requirement has affected states by discussing a report by the GAO and the CBPP. Chapter Five discusses some of the issues highlighted in these reports in greater depth by detailing the impact of the requirement on the states of Virginia, Kansas, Wisconsin, Texas and Oregon.

¹ Center on Budget and Policy Priorities, *The New Medicaid Citizenship Documentation Requirement: A Brief Overview*. Online. Available: <http://www.cbpp.org/4-20-06health.htm>. Accessed: November 1, 2007.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ United States Government Accountability Office, *Medicaid-States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*, Online. Available: <http://www.gao.gov/new.items/d07889.pdf>. Accessed: January 12, 2008.

⁶ Ibid., p. 14.

⁷ Ibid., p. 16.

⁸ Ibid., p. 17.

⁹ Ibid.

¹⁰ Ibid., p. 18.

¹¹ Ibid., p. 21.

¹² Ibid.

¹³ Ibid., p. 25.

¹⁴ Ibid., p. 24.

¹⁵ Ibid., p. 21.

¹⁶ Ibid., p. 20.

¹⁷ Ibid., p. 25.

¹⁸ Ibid., p. 26.

¹⁹ Ibid.

²⁰ Ibid., p. 34.

²¹ Center on Budget and Policy Priorities, *Medicaid Documentation Requirement Disproportionately Harms Non-Hispanics, New State Data Show*, Online. Available: <http://www.cbpp.org/7-10-07health.htm>. Accessed: January 23, 2008.

²² Ibid.

²³ Ibid., p. 3.

CHAPTER 5. IMPACT ON INDIVIDUAL STATES

State of Virginia

The Virginia Health Care Foundation (VHCF) and the Virginia Department of Medical Assistance Services (DMAS) conducted a joint study to examine the impact of the Medicaid documentation requirement nine months after implementation and found that the requirement created more problems than anticipated. VHCF was initiated in 1992 by the Virginia General Assembly to promote and fund innovative public-private partnerships that increase access to primary care for Virginia's uninsured and medically underserved. The foundation contracted with Matrix Research Group to conduct a survey of 800 adults who applied for Medicaid for their children through the DMAS Central Processing Unit (CPU) after the provision was implemented. The VHCF found several unintended consequences for these families. The survey generally revealed effects on timeliness of coverage and access to care.

With respect to timeliness of coverage, the study revealed that more than half of the children who were *not yet* enrolled at the time they were surveyed had been waiting four months or more for their applications to be processed through the CPU.¹ For those children who were enrolled at the time of the survey, over 70 percent required more than the allowable 45 days to process, with 21 percent taking more than 76 days.²³

The VHCF also reported the study revealed access to care was compromised as a result of the new requirement. Over 90 percent of those families waiting for coverage at the time of the survey commented they had no other health coverage for their children.⁴ Of these families, 65 percent reported needing health care services during that period. Of those who needed such care, 41 percent were not able to obtain services or receive all of

the care they needed. Further, 18 percent of families reported using the emergency room for primary care while their applications were being processed, while only 3 percent reported that they typically used the emergency rooms for primary care.

The Virginia Health Care Foundation also noted adverse changes in the state's Medicaid enrollment numbers and administrative efficiency as a result of the implementation of the documentation requirement. Through March 2007, there was a net decrease of 11,108 children enrolled in Virginia's Medicaid program compared to an average increase of 1,000 children per month in the 12 months immediately preceding the implementation of the documentation requirement. The VHCF compares this drop in Medicaid enrollment to the increased enrollment in Virginia's State Children's Health Insurance Program (SCHIP). This program continued to increase in the 9-month timeframe reviewed by VHCF, and the VHCF concluded that the Medicaid program would have continued increasing as well if it were not for the documentation requirements. Further, the foundation asserts that "an additional 9,000 children would now be enrolled in Medicaid."⁵ It is important to note, however, the VHCF findings did not reveal *any* other possible reasons for the decline in Medicaid enrollment or the delays in coverage outside of the documentation requirement.

The VHCF also found consequences to the state's administrative efficiencies. The Central Processing Unit's pending cases increased from about 50 cases at the end of each month before the documentation requirement was implemented to 4,000 at the end of January 2007.⁶ As a result, the CPU hired additional staff and costs in the first year exceeded \$144,000. This shortfall did not include the costs associated with obtaining out-of-state birth certificates. The survey showed that 40 percent of respondents reported that the Medicaid application process to be "difficult," compared to only 8 percent in a similar survey conducted in 2004.⁷ Finally, the state found that children being denied

Medicaid in Virginia were born in U.S. hospitals, with more than two-thirds born in Virginia.

As discussed in Chapter Four, prior to the implementation of the requirement, the state of Virginia experienced rapid enrollment growth of Hispanic children due to outreach activities in Hispanic communities. Despite slower growth, enrollment among Hispanic children rose 4.4 percent under the new requirement. Comparatively, enrollment for white children and African American children fell 4.3 percent and five percent respectively. The state reported that the Medicaid agency found only a single case where someone receiving Medicaid had incorrectly claimed to be a United States citizen.

State of Kansas

The Kansas Health Policy Authority states that between 18,000 and 20,000 applicants and previous beneficiaries are without Medicaid.⁸ Approximately 80 percent of individuals adversely affected by the documentation requirement in Kansas are “waiting to enroll” or “waiting to be re-enrolled”.⁹ The delay associated with Medicaid coverage is due to a significant backlog of applications related to delays in processing time. The CBPP study reported that enrollment among Hispanic children declined 2.2 percent, a much smaller decline than the one for white children (7.8 percent) and African American children (9.1 percent).

State of Wisconsin

The state of Wisconsin also reported significant issues involving enrollment since the implementation of the documentation requirement in August 2006. Despite efforts to obtain birth records from the state’s vital records agency, a total of 32,907 individuals lost their coverage or were denied Medicaid enrollment solely because of the federal

requirement.¹⁰ Almost 21,000 of those who were denied or lost coverage are individuals who the state knows are citizens, but who could not document their identity. Over 45 percent (approximately 10,000) of those denied enrollment or who lost coverage due to an inability to produce documentation of their identity were children under the age of 16.¹¹

The state of Wisconsin also faced administrative and funding issues in implementing the citizenship documentation requirement. The requirement cost the state of Wisconsin an additional \$1.8 million in administrative costs, and the Governor's 2007-2009 biennial budget seeks an increase of \$754,000 per year for the new workload created by the documentation procedures.¹²

State of Texas

The Texas Health and Human Services Commission (HHSC) started applying the new requirement on July 1, 2006, for current Medicaid clients during their regular recertification process as well as new applicants. HHSC sent a letter to all Medicaid clients in June 2006 explaining the requirement, and clients received an additional reminder in their renewal packets. Medicaid clients will be required to provide this information only once – either during the application process or during their first recertification after July 1, 2006. The state offers a 6-month grace period to current Medicaid recipients, whereas the same grace period will not be offered to new applicants.

For people born in Texas, HHSC may be able to get the birth certificate electronically, and the client will not need to provide it. To help clients comply with the new requirements, HHSC will:

- Provide clients and applicants with a list of common verification documents.
- Give clients a reasonable amount of time to provide the proof.

- Continue Medicaid coverage if the person is otherwise eligible and unable to provide proof at the first request.
- Provide a form for clients who want to provide an affidavit – or written statement – to prove citizenship and identity. The affidavit must be notarized.

Below is a table showing the number of denied Medicaid applications and cases denied upon review during the timeframe of July 2006 through November 2007.¹³

Table 5.1: Medicaid Applications and Cases Denied on Review

Risk Group	Denied Applications	Cases Denied on Review
Pregnant Women	5,150	645
Child <1	2,137	618
Child 1-5	9,366	2,014
Child 6-18	13,595	2,109
Adults (TANF level)	5,439	201
TOTAL	35,687	5,497

Accordingly, below is an additional table noting the number of Medicaid applications and reviews processed during the same time period.¹⁴

Table 5.2: Medicaid Applications and Reviews Processed

Risk Group	Applications Processed	Reviews Processed
Pregnant Women	337,254	400,325
Child <1	196,960	249,966
Child 1-5	797,514	1,712,432
Child 6-18	918,325	1,590,269
Adults (TANF level)	316,949	143,359
TOTAL	2,567,002	4,096,351

Finally, the table below shows the percentage of application denials in terms of total applications processed for each risk group as well as the percentage of denials based on reviews processed for each risk group.¹⁵

Table 5.3: Total Medicaid Applications Processed and Percentage of Denials by Risk Group

Risk Group	Percentage of Denials Based on Applications Processed	Percentage of Denials Based on Reviews Processed
Pregnant Women	1.53%	0.16%
Child <1	1.08%	0.25%
Child 1-5	1.17%	0.12%
Child 6-18	1.48%	0.13%
Adults (TANF level)	1.72%	0.14%
TOTAL	1.39%	0.13%

These rough estimates show that less than one percent of the current Medicaid caseloads have been denied coverage upon review due to the new eligibility requirement, but the trend is increasing. It is not clear, however, how much time passed between initial application denial and review. Also, these figures reflect new application denials, and not denials based on renewing coverage. Renewal applicants have six months to turn in appropriate citizenship verification. The first six month “grace period” expired January 2007, however HHSC does not currently have a clear picture of renewal denials. HHSC has reported the new requirement is delaying eligibility determination and increasing workloads.¹⁶

The Health and Human Services Commission implemented a data code for denials tied to this requirement, although HHSC had to do retraining because some staff were entered the new code incorrectly. Further, the Commission has had difficulty in determining whether the denied applicants were denied because they were not citizens or because they simply were not able to provide the required documentation. The Commission is hopeful the new code will help clarify this.

State of Oregon

The state of Oregon studied the impact of the DRA citizenship documentation requirement for the period between September 1, 2006, and February 1, 2007. Approximately 125,000 families applied or recertified for Medicaid-funded services during this timeline, and an estimated 188,000 individuals had their identity and citizenship documentation successfully verified.

In order to minimize inefficiencies and issues as a result of implementing the documentation requirement, the Oregon Department of Human Services (DHS) made several administrative changes. Some of these changes included electronically verifying Oregon's birth records at no cost to individuals born in Oregon and providing financial assistance for those who faced hardships in acquiring birth certificates from other states. Further, individuals who are reenrolling are provided between 45 and 90 days to obtain and provide the required documents.

The state of Oregon estimates during the first six months of program implementation, 1,011 (approximately 1 percent of applicants and enrollees) individuals in 708 households had their Medicaid benefits closed or denied due to their inability to prove their citizenship and/or identity with the necessary documentation.¹⁷ These individuals included both first-time applicants and those reapplying for benefits, 33 percent and 67 percent respectively. The Oregon Department of Human Services reported that 91 percent of these households were English speaking and 64 percent of denied applicants were children. DHS also believes that these individuals are *citizens* unable to provide the documentation.

Those denied Medicaid benefits cited several challenges in providing the needed documentation, including:

- Insufficient time to complete the process, even though DHS allowed for up to 90 days for individuals to provide documentation;
- Lack of money or transportation to obtain or provide the required, original documentation; and/or
- Misunderstandings about the new process or what documents were needed to complete the process.¹⁸

The state of Oregon is continuing its efforts to alleviate some of the process barriers associated with implementing the requirement. Some of these efforts include: implementing changes to information systems to help staff track case files pending for documentation issues; clarifying and revising application materials; providing additional staff training to improve consistency among caseworkers.

CONCLUSION

This chapter discusses the impact of the documentation requirement on five states. Specifically, the chapter gives a detailed description of implementation issues dealing with access to care, enrollment declines, administrative and funding consequences. Chapter Six continues the discussion of the impact on several stakeholder groups.

¹ Virginia Health Care Foundation, *Unintended Consequences: The Impact of New Medicaid Citizenship Documentation Requirements on Virginia's Children*, Online. Available: <http://www.vhcf.org/uploads/resource/DRAStudyUnintendedConsequencesFINAL52407.pdf>. Accessed: December 4, 2007.

² *Ibid.*, p. 2.

³ The CPU average processing time prior to implementation of the requirement was 16 days.

⁴ Virginia Health Care Foundation, *Unintended Consequences: The Impact of New Medicaid Citizenship Documentation Requirements on Virginia's Children*, p. 2.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*, p. 4.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Wisconsin Council on Children and Families, *Unintended Consequences: The Effects on Medicaid Documentation Requirements in Wisconsin*, Online. Available: http://www.wccf.org/pdf/medicaid_documentationreq_effects20070515.pdf. Accessed: January 15, 2008.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ E-mail from Stephanie Muth, Governmental Relations, Texas Health and Human Services Commission, December 20, 2007.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Oregon Department of Human Services, *Implementation of the U.S. Deficit Reduction Act of 2005 in Oregon and its Impacts on Oregon Health Plan Clients*, Online. Available: <http://www.oregon.gov/DHS/citizenship/report0705.pdf>. Accessed: December 15, 2007.

¹⁸ Ibid.

CHAPTER 6. IMPACT ON CITIZENS

Survey Indicates the Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens

The Center on Budget and Policy Priorities conducted a survey in January 2007 showing the new citizenship requirement could have large consequences on the health insurance coverage of millions of low-income U.S. citizens.¹² Key findings from the survey include:

- About one in every twelve U.S.-born adults age 18 or older who have incomes below \$25,000 report they do not have a U.S. passport or U.S. birth certificate in their possession. Applying this rate to the number of adult citizens covered by Medicaid over the course of a year indicates that approximately 1.7 million U.S.-born adults who are covered by Medicaid could lose their health insurance because of the new requirement or experience delays in obtaining coverage as they attempt to secure these documents.
- More than one tenth of U.S.-born adults with children who have incomes below \$25,000 reported they did not have a birth certificate or passport for at least one of their children. This indicates that between 1.4 and 2.9 million children enrolled in Medicaid appear not to have the paperwork required.
- Taken together, the survey indicates that Medicaid coverage could be in jeopardy for 3.2 to 4.6 million U.S.-born citizens because they do not have a U.S. passport or birth certificate readily available.
- Several groups of citizens would bear a greater risk of losing Medicaid than others because they are less likely to have the required documents. While 5.7

percent of all adults in the survey (i.e., adults at all income levels) reported they lack these documents, the percentage was larger for certain groups:

- African American adults: 9 percent
- Senior citizens 65 or older: 7 percent
- Adults without a high school diploma: 9 percent
- Adults living in rural areas: 9 percent
- The Center asserts many poor, elderly African Americans may encounter especially serious problems as a result of having been born at home due to poverty or racially discriminatory practices in hospital admissions in some parts of the country before World War II. Because they were not born in a hospital or similar institution, some such elderly African-Americans were never issued a birth certificate.³

ADDITIONAL CONCLUSIONS FROM SURVEY

Based on the above-mentioned findings, there are several implications to citizens based on the documentation requirement. Some low-income citizens may be discouraged from applying for Medicaid or renewing their coverage because they are unable to navigate the systems to secure the needed documentation. In California, for example, it generally takes 10 to 12 weeks to get a birth certificate from the county office in the county where the birth occurred, and it can take six to eight months if the information submitted is not complete.⁴ Because of heightened security procedures, the process for obtaining birth certificates has become more cumbersome in recent years. In some areas, it may be particularly problematic for people to secure birth certificates on a timely basis for stepchildren, foster children, or individuals whose names have changed (e.g., because of marriage).

QUALIFICATIONS TO SURVEY

While the CBPP's survey certainly provides issues to consider when gauging the impact of the new requirement on U.S. citizens and their eligibility for Medicaid, it is important to note a few caveats. As mentioned, the telephone survey was conducted prior to CMS releasing regulation guidance to Medicaid directors or issuing the interim final rule. In doing so, the survey does not include questions about whether applicants have access to the third or fourth level of acceptable documentation. Subsequently, the Center's findings could be somewhat overstated.

NEW APPLICANTS

While current enrollees who are renewing their eligibility must be given "reasonable opportunity" to submit documentation and cannot be denied benefits as long as they are working in good faith to obtain the necessary documents, the documentation rule prohibits states from providing Medicaid to *new* applicants until they provide proof of citizenship. This provision may create a disincentive to applying and can prolong the application process by weeks or even months as applicants go through the process of requesting birth certificates or other documentation that may no longer exist.

IMPACT ON PROVIDERS

Providers who furnish care to citizens who do not have immediate access to the required documents, or to those who lose coverage because they are unable to supply documents, may incur new uncompensated costs.⁵ The documentation rule is silent regarding whether services provided during the three-month retroactive eligibility period that begins with application are eligible for federal matching funds.

ENFORCEMENT ISSUE

The citizenship documentation law also creates enforcement and legal issues, which are anticipated to persist as the rule is implemented across the states. The National Health Law Program cites an interesting enforcement question regarding the rule and asserts it conflicts with another Medicaid provision, 42 USC §1396b(b)(3).⁶ This provision states “The Secretary...shall not approve any plan which imposes, as a condition of eligibility for medical assistance under the plan ... (3) any citizenship requirement which excludes any citizen of the United States.” This provision is not amended by the DRA. However, taken with the DRA, the provisions mean that the Secretary of HHS cannot approve a plan that excludes a citizen, but will not give federal funding to a state that serves a citizen who has not produced the documentation required by the DRA.

CONCLUSION

This chapter provides an in-depth look at some of the specific stakeholder groups who are affected by the documentation requirement. Chapter Seven moves beyond the discussion of the adverse effects of the requirement and initiates a discussion of best practices being used in various states to ease the implementation and administration of the citizenship documentation requirement.

¹ Center on Budget and Policy Priorities, *Survey Indicates the Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens*, Online. Available: <http://www.cbpp.org/1-26-06health.pdf>. Accessed: October 22, 2007.

² The Center referenced a combination of Census data and HHS administrative data to estimate the number of native-born citizens who participated in Medicaid in 2003 and to estimate the number of current beneficiaries who would be subject to the new documentation requirement. Their sample included a telephone survey of 2,026 adults.

³ *Ibid.*, p. 3.

⁴ *Ibid.*

⁵ Kaiser Commission on Medicaid Facts, *New Requirements for Citizenship Documentation in Medicaid*, Online. Available: <http://www.kff.org/medicaid/7533.cfm>. Accessed: October 9, 2007.

⁶ National Health Law Program, *The Deficit Reduction Act of 2005: Congress Targets Beneficiaries for Cuts*, Online. Available: www.healthlaw.org. Accessed: November 20, 2007.

CHAPTER 7. BEST PRACTICES

Although the states and citizens discussed face considerable challenges in implementing the documentation requirement, many have taken steps to ensure the least amount of service disruption. Families USA, a non-profit consumer health care advocacy organization, conducted a survey to gauge what steps states were taking to make an effective transition involving the documentation requirement. Families USA divided the best practices into several categories, including: (1) data matching; (2) providing assistance to applicants and enrollees; (3) allowing for flexibility in timeframes; (4) and reviewing denials and terminations.¹

Data Matching

At least 21 states are conducting data matching with vital records departments in order to prove citizenship for their residents who were born in-state. Data matching eliminates the need for applicants and enrollees to submit original documentation and most data matching can be conducted for a minimal cost. California reviewed its vital records for over 900,000 individuals already enrolled in Medicaid *prior* to the implementing the requirement. Those individuals for whom documentation was found were not asked to produce the document when renewing their Medicaid coverage, thereby eliminating any confusion and discouragement from renewing. Other states such as Pennsylvania and Hawaii utilize electronic interfaces to verify individuals' identities. Specifically, these states interface with the Department of Motor Vehicles (DMV) and the Attorney General's office. Families USA also suggests that states should attempt to interface with child support agencies, school systems, and foster youth agencies.²

Minnesota and the District of Columbia have entered into Memoranda of Understanding to obtain a paper verification of birth from their vital records departments. The state of Minnesota requires their county Medicaid offices to send batches of citizenship documentation requests to their vital records department and pays them \$9 for each written confirmation of in-state birth, rather than the standard \$16 for a birth certificate.³ The District of Columbia also works with its vital records department and pays for one staff person in the department to conduct searches for birth records for its Medicaid office.

Individuals who become eligible for Medicaid through Supplemental Security Income (SSI) and individuals who are dually eligible for Medicaid and Medicare are *exempt* from citizenship documentation requirements. Some states do not provide automatic Medicaid eligibility to SSI recipients.⁴ In these states, individuals on SSI will not be exempt, but these states can *choose* to use data matches with the State Data Exchange (SDX) database, instead of requiring a birth certificate. The SDX is an automated data system in which the Social Security Administration shares data about SSI beneficiaries with states, including information on citizenship status. The state of Alabama verifies citizenship for anyone who has ever applied for or received Supplemental Security Income or Social Security Disability Insurance.

Providing Assistance

States have also found that many of their residents applying for and renewing Medicaid were born out of state, meaning it is more difficult and expensive to perform data matching. The cost of obtaining a birth certificate, which can be as high as \$32.50, could preclude many eligible, low-income people from enrolling in Medicaid.⁵ In order to eliminate this barrier to coverage, some states are paying to obtain out-of-state birth

certificates for their residents.⁶ Some states that lack adequate funding to pay for documents have opted to help clients find acceptable documentation other than a birth certificate. The state of Pennsylvania utilizes its verification center to confirm birth certificates and drivers' licenses electronically and county assistance offices provide in-person assistance for those trying to obtain documentation from out of state.

Allowing for Flexibility in Documentation Definitions and Timeframes

An important aspect to consider involving the documentation requirement is that the DRA regulations allow for states to incorporate flexibility in the definition of a “good faith effort” in obtaining documentation and the “reasonable opportunity period” or timeframe associated with obtaining documentation.⁷ In some cases, this may be a determining factor in the declines states have encountered in their Medicaid enrollments and renewals. Colorado has faced declines in enrollment; however, the state defines its “reasonable opportunity period” to allow only 10 days for applicants and enrollees to obtain documentation. Ohio’s policy does not permit extensions beyond 30 days for applications and 45 days for enrollees. Arkansas’ and Connecticut’s policies differ in that as long as the applicant or enrollee is cooperating with the agency, Medicaid in each state considers the individual to be making a good faith effort and allows for extensions when possible.⁸ Based on research of state enrollment numbers, it does not appear that these states are encountering similar enrollment declines due to the citizenship documentation requirement.

The definition of “reasonable opportunity period” in the documentation requirement permits states to give enrollees and applicants adequate time to obtain the necessary documents before determining they are ineligible. The federal regulation also allows for states to use their discretion in allowing for extensions. North Carolina

Medicaid applications can be designated as “pending” for up to six months, and system codes trigger the district office to send out periodic reminder letters.

Reviewing Denial and Terminations

Families USA stresses tracking and maintaining oversight of denials and terminations is the best practice to ensuring citizens are not being denied Medicaid. Specifically, Families USA states that states should create a tracking system and codes to indicate when an application or renewal is denied due to a problem with documenting citizenship or identity.⁹ States can then identify and work with individuals to ensure that they are not incorrectly being denied services they are entitled to through the Medicaid Program. The state of Washington developed a system code to denote when individuals fail to present documentation of citizenship or identity. The state of Texas has also implemented a similar policy, although many caseworkers were entering the code incorrectly and had to be retrained. The District of Columbia and the state of Wyoming are reviewing denials and terminations made in field offices and reopening cases when necessary for further investigation.¹⁰

CONCLUSION

This chapter provides the reader with proactive steps states are taking to fulfill the citizenship documentation requirement and to minimize service disruption. The best practices highlighted include data matching; providing assistance to applicants and enrollees; allowing for flexibility in timeframes; and reviewing denials and terminations

¹ Families USA, *Best Practices: How States Can Reduce the Burden of the Citizenship Documentation Requirement*, Online. Available: <http://www.familiesusa.org/assets/pdfs/dra-citizenship-best.pdf>. Accessed January 3, 2008.

² Ibid., p. 4.

³ Ibid., p. 5.

⁴ Several states use their own eligibility rules for Medicaid which differ from the Social Security Administration’s SSI rules. In these states a separate application for Medicaid must be filed: Connecticut,

Hawaii, Illinois, Indiana, Minnesota, Missouri, New Hampshire, North Dakota, Ohio, Oklahoma and Virginia.

⁵ Families USA, *Best Practices: How States Can Reduce the Burden of the Citizenship Documentation Requirement*, p. 5.

⁶ Ibid.

⁷ Ibid., p. 6.

⁸ Ibid.

⁹ Ibid., p. 8.

¹⁰ Ibid.

CHAPTER 8. CONCLUSION AND RECOMMENDATIONS

The citizenship documentation requirement is not achieving its intended result. The legislative intent of the verification law was to reduce the number of undocumented immigrants who were thought to be receiving Medicaid coverage illegally, although there has never been any evidence to suggest that this was a problem in the Medicaid program. In a recent survey of nine states conducted by the House of Representatives Committee on Oversight and Government Reform, the six responding states reported that they found a total of only eight undocumented individuals by enforcing the requirement.¹

The savings to the federal government are minimal. According to the House Committee on Oversight and Government Reform report, for every \$100 spent by federal taxpayers to administer the citizenship documentation requirement, the federal government saved only 14 cents.²

It is important to consider several areas of possible improvement to reduce the burden faced by states in implementing the documentation requirement and to limit the barriers faced by U.S. citizens in receiving Medicaid benefits.

Legislative Opportunity

Although the citizenship documentation requirement does not apply to the State Children's Health Insurance Program (SCHIP), many states have created a single application and/or enrollment process for both their Medicaid and SCHIP programs. As a result of the Medicaid documentation requirement, many SCHIP applicants are asked to submit proof of citizenship and identity as well. The compromise SCHIP reauthorization bill passed by the Senate and House in late September 2007 (H.R. 976) maintained the documentation requirement and extended it to SCHIP. However, the bill would have

given states a new way to comply with the requirement in that it would have allowed states to submit the names and Social Security numbers of individuals who apply for Medicaid or SCHIP to the Social Security Administration to check applicants' citizenship status. In the meantime, states could enroll individuals in Medicaid or SCHIP as long as they met other eligibility requirements. If SSA found that the individual's name and Social Security number did not match their records, individuals would have an opportunity to correct any mistakes or provide alternate documentation of citizenship before being disenrolled from the program. The bill also included a requirement that states track the number of people who are disenrolled because their records did not match SSA records and they could not otherwise satisfy the citizenship documentation requirement. If that number exceeded 3 percent of the total number of applications sent to SSA, the state would be required to take corrective action to reduce the error rate, and it may be required to refund a portion of its federal Medicaid or SCHIP funds. Finally, the bill also allowed the federal government to pay 90 percent of the cost of developing and installing new technology to implement this provision, as well as 75 percent of the operating costs of such a system. Consideration should be given to extending the documentation requirement to SCHIP while concomitantly altering the citizenship documentation for Medicaid.

Presumptive Eligibility

All states have the option to "presume" certain populations to be eligible for Medicaid before they receive supporting documentation. Although this option is available only for children and pregnant women, the implementation of the documentation requirement presents a unique opportunity for advocates to encourage their states to adopt presumptive eligibility policies for pregnant women and children so that they can be

enrolled in Medicaid while they obtain the appropriate citizenship documentation. This will prevent a needless delay in services for many of the citizens who depend on Medicaid most.

Cross-Matching

States can substantially reduce the documentation burdens on many Medicaid beneficiaries and reduce their own administrative burdens by adopting an option made available in CMS' Final Rule. This option allows states to document individuals' citizenship and identity by conducting electronic cross-matches with existing databases, such as vital records, Social Security, and the state motor vehicles department. According to the Center for Budget and Policy Priorities, 86 percent of low-income U.S. born children and 67 percent of low-income U.S. born adults live in the state where they were born and therefore could be identified through a match with state vital records.³ Further, while percentages vary widely across the states, the great majority of native-born children and a significant portion of U.S.-born adults in every state could be identified through a vital records match.

Potential Rule Revisions

Exceptions are needed for U.S. citizens lacking documentation due to natural disasters. Further revision of the rule needs to allow states the flexibility to pursue alternative methods to verify citizenship or identity in special circumstances when the state finds that compliance with the regulations would be a hardship. A key example would pertain to victims of hurricanes and natural disasters. Many of these individuals' records have been destroyed, making it almost impossible to meet the requirements of the documentation rule. According to the Center for Public Policy Priorities, community organizations providing assistance to displaced families after Hurricane Rita and Katrina

have discovered that many Louisiana parishes were often unable to provide their displaced residents with birth certificates, even as long as nine months after the event.⁴

Original documents or certified copies should not be required. The regulation should give states flexibility to accept copies of documents instead of original documents or copies certified by the issuing state agency. States do not want to take on the responsibility and cost of receiving and safeguarding birth certificates and passports, nor do clients wish to entrust them to either the U.S. mail or the state Medicaid agency. To deny states the ability to accept photocopies of these documents will hamstring states' attempts to modernize their eligibility systems by reducing in-person requirements and shifting to electronic and mail transactions, and undermine the investments states have made in transitioning to contemporary technology. Texas is planning to close 100 eligibility offices and convert to a largely paperless system that relies heavily on mail, FAX, internet, and telephone, so this flexibility is critical. Texas and other states have historically accepted legible photocopies of valuable documents. While the potential for fraud exists, research has not provided overwhelming evidence that immigrants were illegally receiving Medicaid *prior* to the documentation requirement. More importantly, our continued progress in streamlining eligibility systems will be hampered by a requirement that only original documents and certified copies be allowed for eligibility certification.

Beneficiaries who have verified citizenship in one state should not have to duplicate verification in another state. The rule, at 42 C.F.R. § 435.407(h)(5), states that documentation of citizenship and identity should be a one time event. However, no mechanism for eliminating duplication of burden on clients who move to a new state (or of eliminating duplicative administrative cost for state Medicaid agencies) is indicated.

The rule should be amended to clarify that CMS will create a framework for such verifications across state lines.

Time is needed to gauge the full impact of Section 6036 of the Deficit Reduction Act of 2005. Opponents of the citizen documentation requirement will continue to ask the question, “Will savings be achieved by depriving eligible Americans of the health care services to which they are entitled?” while supporters of the provision will inquire, “Have we prevented undocumented immigrants from enrolling in Medicaid and are states realizing savings by not covering those individuals not entitled to services?”. While the intent of the legislation was to answer ‘yes’ to the later question; however, research is showing that the first question is being answered in a manner that shows that citizens and not illegal immigrants are being adversely impacted by the documentation requirement.

¹ House of Representatives Committee on Oversight and Government Reform, *Medicaid Citizenship Documentation Requirements Deny Coverage to Citizens and Cost Taxpayers Millions*, Online. Available: <http://oversight.house.gov/documents/20070724110341.pdf>. Accessed on November 15, 2007.

² Ibid.

³ Center for Budget and Policy Priorities, *Documenting Citizenship and Identity Using Data Matches: A Promising Strategy for State Medicaid Programs*, Online. Available: <http://www.cbpp.org/9-1-06health.htm>. Accessed on November 15, 2007.

⁴ Center for Public Policy Priorities, *Important Update on New Medicaid Citizenship Document Requirements and Texas*, Online. Available: <http://www.cppp.org/files/3/POP%20274%20cit%20doc%2011%2029%2006.pdf>. Accessed : January 21, 2008.

BIBLIOGRAPHY

- Center for American Progress. *Immigrants in the U.S. Health System-Five Myths That Misinform the American Public*. Online. Available: http://www.americanprogress.org/issues/2007/06/pdf/immigrant_health_report.pdf. Accessed : April 10, 2008.
- Center for Public Policy Priorities. *Important Update on New Medicaid Citizenship Document Requirements and Texas*. Online. Available: <http://www.cppp.org/files/3/POP%20274%20cit%20doc%2011%2029%2006.pdf>. Accessed: January 21, 2008.
- Center on Budget and Policy Priorities. *Documenting Citizenship and Identity Using Data Matches: A Promising Strategy for State Medicaid Programs*. Online. Available: <http://www.cbpp.org/9-1-06health.htm>. Accessed on November 15, 2007.
- . *Medicaid Documentation Requirement Disproportionately Harms Non-Hispanics, New State Data Show*. Online. Available: <http://www.cbpp.org/7-10-07health.htm>. Accessed: January 23, 2008
- . *New Citizenship Documentation Requirement is Taking a Toll*. Online. Available: <http://www.cbpp.org/2-2-07health.htm>. Accessed: February 20, 2008.
- . *The New Medicaid Citizenship Documentation Requirement: A Brief Overview*. Online. Available: <http://www.cbpp.org/4-20-06health.htm>. Accessed: November 1, 2007.
- . *Survey Indicates Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens*. Online. Available: <http://www.cbpp.org/1-26-06health.htm>. Accessed: November 1, 2007.
- Centers for Medicare and Medicaid Services. *Letter to State Medicaid Directors*. Online. Available: http://www.nasmd.org/SMD_letters/docs/SMD-Letter-on-Citizenship-Requirements-2-22-2007.pdf. Accessed : March 1, 2008.
- . *Medicaid Fact Sheet*. Online. Available: <http://www.cms.hhs.gov/MedicaidEligibility/downloads/Medicaid%20Fact%20Sheet.pdf>. Accessed: October 4, 2007.
- . *Medicaid Technical Summary*. Online. Available: http://www.cms.hhs.gov/MedicaidGenInfo/03_TechnicalSummary.asp#TopOfPage. Accessed: February 15, 2008.

- Commonwealth Fund. *New Medicaid Citizenship Documentation Requirement Begins*. Online. Available: http://www.cmwf.org/statesinaction/statesinaction_list.htm?issue_id=2710#doc380087. Accessed: November 25, 2007.
- Congressional Budget Office. *Cost Estimate: S. 1932-Deficit Reduction Act of 2005*. Online. Available: <http://www.cbo.gov/ftpdocs/70xx/doc7028/s1932conf.pdf#search=%22CBO%2C%20Deficit%20reduction%20act%22>. Accessed: November 25, 2007.
- Families USA. *Analysis of the Medicaid Citizenship Documentation Regulations*. Online. Available: <http://www.familiesusa.org/assets/pdfs/DRA-Citizenship-Regulations.pdf>. Accessed: November 22, 2007.
- . *Best Practices: How States Can Reduce the Burden of the Citizenship Documentation Requirement*. Online. Available: <http://www.familiesusa.org/assets/pdfs/dra-citizenship-best.pdf>. Accessed January 3, 2008.
- . *The Medicaid Citizenship Requirement One Year Later*. Online. Available: <http://www.familiesusa.org/assets/pdfs/dra-cit-doc-update-2007.pdf>. Accessed : March 15, 2008.
- The Heritage Foundation. *More Medicaid Means Less Quality Health Care*. Online. Available: <http://www.heritage.org/Research/HealthCare/wm1402.cfm>. Accessed: February 20, 2008.
- Kaiser Commission on Medicaid Facts. *New Requirements for Citizenship Documentation in Medicaid*. Online. Available: <http://www.kff.org/medicaid/7533.cfm>. Accessed: October 21, 2007.
- Kaiser Commission on Medicaid and the Uninsured. *Citizenship Documentation in Medicaid*. Online. Available: http://www.kff.org/medicaid/upload/7533_03.pdf. Accessed: March 1, 2008.
- LBJ School of Public Affairs, University of Texas at Austin. *Medicaid and the State Children's Health Insurance Program in Texas: History, Current Arrangements and Options*. Online. Available: http://www.utexas.edu/lbj/research/chasp/medicaid_schip.pdf. Accessed: April 10, 2008.
- Muth, Stephanie. Director, Government Relations, Texas Health and Human Services Commission. Email, December 20, 2007.
- National Conference of State Legislatures. *SCHIP and Access for Children in Immigrant Families*. Online. Available:

- <http://www.ncsl.org/programs/health/forum/pub6682.htm>. Accessed : April 7, 2008.
- National Health Law Program. *The Deficit Reduction Act of 2005: Congress Targets Beneficiaries for Cuts*. Online. Available: www.healthlaw.org. Accessed: November 20, 2007.
- Office of Inspector General. *Self-Declaration of U.S. Citizenship for Medicaid*. Online. Available: <http://oig.hhs.gov/oei/reports/oei-02-03-00190.pdf>. Accessed: November 1, 2007.
- Oregon Department of Human Services. *Implementation of the U.S. Deficit Reduction Act of 2005 in Oregon and its Impacts on Oregon Health Plan Clients*. Online. Available: <http://www.oregon.gov/DHS/citizenship/report0705.pdf>. Accessed: December 15, 2007.
- United States Congress, House Committee on Energy and Commerce. "Medicaid and Immigration." Testimony by Jean Sheil, August 15, 2007.
- United States Government Accountability Office. *Medicaid-States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*. Online. Available: <http://www.gao.gov/new.items/d07889.pdf>. Accessed: January 12, 2008.
- United States House of Representatives Committee on Oversight and Government Reform. *Medicaid Citizenship Documentation Requirements Deny Coverage to Citizens and Cost Taxpayers Millions*. Online. Available: <http://oversight.house.gov/documents/20070724110341.pdf>. Accessed on November 15, 2007.
- Virginia Health Care Foundation. *Unintended Consequences: The Impact of New Medicaid Citizenship Documentation Requirements on Virginia's Children*. Online. Available: <http://www.vhcf.org/uploads/resource/DRAStudyUnintendedConsequencesFINA L52407.pdf>. Accessed: December 4, 2007.
- Wisconsin Council on Children and Families. *Unintended Consequences: The Effects on Medicaid Documentation Requirements in Wisconsin*. Online. Available: http://www.wccf.org/pdf/medicaid_documentationreq_effects20070515.pdf. Accessed: January 15, 2008.

VITA

Jennifer D. Moore was born in Beaumont, Texas, on August 9, 1977, the daughter of Michael DeRouen and Rose DeRouen. After completing her work at Monsignor Kelly Catholic High School in Beaumont, Texas, she entered Texas A&M University in College Station, Texas in 1995. She received a Bachelor of Business Administration in Information and Operations Management from Texas A&M University in August 1999. During the following years Jennifer worked for Texas State Senator Todd Staples and entered the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin in August 2004.

Permanent address: 105 Huntsmoor Lane
Cary, North Carolina 27513

This report was typed by the author.