



NEW MEDICAID DOCUMENTATION REQUIREMENT COULD CREATE A BARRIER TO HEALTH CARE

The federal Deficit Reduction Act (DRA) of 2005 requires states to document the citizenship status of US citizens who receive health coverage through the Medicaid Program in order to receive federal matching funds. The Department of Health Services (DHS) seeks to change state law through the budget process in order to implement the federal requirement. This *Brief* describes the new requirement, which will affect more than 8 million Californians in the first year after it is implemented, and outlines options to reduce the potential negative impacts of the requirement on Medi-Cal applicants and beneficiaries.

What Is the New Requirement?

Beginning July 1, 2006, US citizens who receive health coverage through the Medicaid Program – Medi-Cal in California – must provide proof that they are citizens. Congress enacted this change despite a recent federal report that found no substantial evidence that undocumented immigrants claim to be citizens in order to qualify for Medicaid.¹ States risk the loss of federal Medicaid matching funds if they do not collect the required documentation. However, federal law does not make the new requirement a condition of Medicaid eligibility.

Under the new law, individuals must provide proof of citizenship when they apply for Medi-Cal or when their eligibility is renewed. Native-born citizens can satisfy the requirement by providing a passport or a birth certificate, while naturalized citizens can use their citizenship papers.² The new federal law also gives the US Department of Health and Human Services (DHHS) authority to specify additional documents applicants and beneficiaries could use to satisfy the requirement, but the DHHS has not yet issued this list. The new requirement does not apply to non-citizens who receive Medicaid, because these individuals are already subject to separate, substantial documentation requirements.

Who Might Have Problems Documenting They Are Citizens?

Many low-income individuals do not have birth certificates in their possession and may have never owned a passport. A recent survey found that 8.1 percent of US-born adults with incomes of less than \$25,000 do not have a birth certificate or a passport.³ In addition, 10.3 percent of low-income, US-born adults with children do not have a birth certificate or passport for at least one of their children. Thus, many Medi-Cal recipients may not have the documents necessary to demonstrate their citizenship.

Certain groups of citizens are more likely than others to lack a birth certificate or passport. For example, many individuals were not born in hospitals and may have never been issued birth certificates. In addition, black adults, many of whom were not born in a hospital; adults in rural areas; and individuals age 65 or older are more likely to lack these documents.⁴ Other groups of vulnerable individuals may either lack the required documents or have difficulty accessing these documents in a timely manner, including people in nursing homes, persons with physical or mental disabilities, and individuals whose personal documents were lost in natural disasters.

How Does the State Propose to Implement the New Requirement?

The state has proposed both trailer bill and budget bill language to implement the documentation requirement. Both trailer bill and budget bill language are considered as part of the budget process, and observers indicate that the Legislature may meet the June 15 deadline for passing the budget this year.⁵ The trailer bill language proposed by the DHS would give the state flexibility to use alternative means to satisfy the documentation requirement to the extent allowed by the federal government, thus increasing the number of individuals who would meet the requirement. These alternatives include allowing the use of additional documents to prove citizenship, relying on the state's vital records data to confirm birthplace of applicants and beneficiaries, and drawing on information from other programs used by Medi-Cal applicants and beneficiaries to confirm citizenship. However, contrary to the federal law, the state's proposed language appears to make citizenship documentation a condition of eligibility. That is, individuals who are not able to produce the required documentation, even if they attempt to meet the requirement in good faith or are mentally incapable of meeting the requirement, could be denied Medi-Cal eligibility. In addition, the language does not create or provide specific funding for an outreach program to inform applicants and beneficiaries about the new requirement.

Documentation Requirement Should Not Be a Condition of Eligibility

Congressional drafters crafted the new requirement to be a *condition for states to receive federal matching funds, not a condition of eligibility*. Draft guidance from the DHHS Center for Medicare & Medicaid Services, while not officially released, also acknowledged that citizenship documentation "is not a condition of eligibility." The draft guidance indicated that states may deny eligibility for applicants and terminate eligibility for recipients who are uncooperative. However, the draft guidance did not direct states to deny or terminate eligibility for individuals who attempt to comply with the new requirement, but who nevertheless are unable to provide documentation. As indicated above, many citizen beneficiaries may either lack or be unable to attain such documentation. The denial or termination of Medi-Cal eligibility for applicants and beneficiaries who declare to be citizens but are unable to provide the required documentation could result in loss of health care services for vulnerable Californians. Denial or termination of Medi-Cal eligibility for such persons is inconsistent with federal law.

The State Should Make Full Use of Data Matches

The DHS intends to use other information to meet the federal requirement as an alternative to seeking documentation from applicants or beneficiaries. In particular, the DHS proposes to allow the state to use vital records data to determine citizenship for applicants and beneficiaries born in California, thus substantially reducing the number of individuals that would have to produce documentation. The state could also perform matches with other data files, including the Social Security Administration's Numident file. The Numident file contains data for all individuals who applied for Social Security numbers, including relatively complete birthplace information. While state vital records data would allow for citizenship documentation of Medi-Cal applicants and beneficiaries born in California, the Numident file could allow the DHS to document citizenship for beneficiaries born in the US but outside California. In addition, DHS staff has raised the possibility of entering into agreements with other states to use vital records data to confirm births of individuals born in one state but enrolled in Medicaid in another state. Greater use of data matches would decrease the burden of the new requirement on applicants and beneficiaries.

The State Should Use Other Methods to Minimize Burden on Beneficiaries

The state should use as many additional methods as possible to minimize the burden of the new requirement on applicants and beneficiaries. For example, Medi-Cal pays for 42 percent of all deliveries in the state.⁶ Since the DHS already has evidence that individuals were born in California if Medi-Cal paid for their births, no other proof should be necessary to document their citizenship. In addition, counties could review information in their beneficiary files for all programs they administer to determine if they already possess documentation that satisfies the new requirement, prior to seeking documentation from applicants and beneficiaries. Counties are currently required to undertake a similar review of their files to determine whether beneficiaries are eligible under other Medi-Cal categories when they lose eligibility under their original category.

The State Should Provide Sufficient Funding to Implement the New Requirement

Sufficient funding will be needed to implement the new requirement. Specifically, funds will be needed for:

Fees to acquire documents. Although data matching and reviews of county files could satisfy the documentation requirement for many individuals, millions of other applicants and beneficiaries will potentially have to provide the documents themselves. Of these, tens of thousands of individuals may not have in their possession the documents necessary to meet the requirement. The state should pay any reasonable fees for these individuals to obtain birth certificates, passports, or other needed documents in a timely manner. State payment of application and processing fees would prevent applicants and beneficiaries from having to pay what would amount to an application fee for Medi-Cal that they likely could not afford. Payment of fees would also be a wise investment of state resources, since the state could lose federal funding if beneficiaries are unable to obtain documentation.

Estimates suggest that 8.2 million citizens will be subject to the new requirement in California over the next year.⁷ If 8 percent of these individuals do not have a birth certificate or passport, approximately 650,000 individuals could lack such documentation. Even if two-thirds of these individuals are found to meet the new requirement through data matches, reviews of county files, or use of alternative documents, over 200,000 could need assistance in obtaining a birth certificate or passport. While it is uncertain how many individuals will need such assistance, the number of such individuals will likely be large.

County implementation. Counties need sufficient funding to implement the documentation requirement. Counties will need to perform a variety of new activities, including possible reviews of beneficiary files for programs they administer; processing of documentation that satisfies the new requirement; and working with individuals to obtain birth certificates, passports, or other documents.

The State Should Ensure That Applicants and Beneficiaries Are Fully Informed About the New Requirement

An aggressive outreach campaign could help ensure that Medi-Cal applicants and beneficiaries are fully informed about the new requirement. Support for counties and community-based organizations, in cooperation with health care providers, could help inform applicants and beneficiaries about who is affected by the new requirement, if and when individuals will need to provide certain documents, and whom to contact if they have any questions. Outreach materials should be developed for applicants and beneficiaries whose primary language is not English, as well as for individuals who may need additional assistance meeting the requirement, such as persons with physical or mental disabilities, including visual impairments, and nursing home residents. In addition, language-appropriate outreach materials will be needed to inform immigrant beneficiaries that only citizens are subject to the new requirement.

Conclusion

The state must take prompt action in order to comply with the July 1 implementation date of the new requirement. The options mentioned in this *Brief* could substantially reduce the burden the new requirement will impose on millions of Californians. These options would also help ensure that the state does not lose federal funds for health care services provided to low-income and vulnerable citizens. The state should also work with the federal government to ensure that the guidance for state implementation of the requirement minimizes negative impacts for Medi-Cal applicants and beneficiaries.

In addition, Congress is considering technical corrections to the new requirement. These corrections would exempt certain categories of Medicaid applicants and beneficiaries that Congress clearly intended to exclude from the requirement, including recipients of Supplemental Security Income and individuals enrolled in both Medicaid and Medicare. Federal lawmakers should act quickly to ensure that states do not impose this requirement on individuals whom Congress intended to exclude.

David Carroll prepared this Budget Brief. Support for this Brief was provided by The California Endowment. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, individual donations, and subscriptions. Please visit the CBP's website at www.cbp.org.

ENDNOTES

- ¹ US Department of Health and Human Services, Office of Inspector General, *Self-Declaration of U.S. Citizenship for Medicaid* (July 2005).
- ² Individuals using a birth certificate to document citizenship must also provide proof of identity, such as a driver's license.
- ³ Leighton Ku, Donna Cohen Ross, and Matt Broaddus, *Survey Indicates the Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens* (Center on Budget and Policy Priorities: Revised February 17, 2006).
- ⁴ Leighton Ku, Donna Cohen Ross, and Matt Broaddus, *Survey Indicates the Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. Citizens* (Center on Budget and Policy Priorities: Revised February 17, 2006).
- ⁵ Legislation implementing the budget, known as "trailer bills" because they "trail" the budget, is no different from any other legislation; it simply implements the policy changes made in the budget. In contrast, budget bill language is language included in the budget act that specifies how an appropriation should be used.
- ⁶ California HealthCare Foundation, *Medi-Cal Facts and Figures A Look at California's Medicaid Program* (January 2006).
- ⁷ This estimate includes the total number of citizens who are enrolled in Medi-Cal at any point during the year. This number is higher than the average number of individuals enrolled in any one month because many individuals are enrolled in Medi-Cal for less than the entire year. Leighton Ku and Matt Broaddus, *New Requirement for Birth Certificates or Passports Could Threaten Medicaid Coverage for Vulnerable Beneficiaries: A State-by-state Analysis* (Center on Budget and Policy Priorities: Revised February 17, 2006).