



COLORADO CENTER on LAW & POLICY

Deficit Reduction Act of 2005 Citizen Documentation Requirements are Administratively and Fiscally Burdensome August 2007

Background

Section 6036 of the Deficit Reduction Act of 2005 (DRA) imposed new citizenship and identity documentation requirements for U.S. citizens applying for or renewing Medicaid coverage. With certain exceptions, individuals applying for or renewing Medicaid benefits must present original documents verifying citizenship and identity that are approved under the DRA and the Centers for Medicare and Medicaid Services (CMS) implementing regulations. The DRA exempts individuals who receive Medicare and/or Social Security Disability Income, Social Security Income, and child welfare, adoption and foster care assistance recipients under Titles IV-B and IV-E of the Social Security Act.

Medicaid eligibility has been restricted to “U.S. citizens, nationals or the United States or qualified aliens”¹ since welfare reform legislation was passed in 1996. Prior to the DRA, most states allowed applicants to use self-declaration of their citizenship under penalty of perjury, pursuant to Title XI of the Social Security Act,² and provide additional documentary evidence as necessary. According to CMS, “This flexible policy allows states to enroll eligible individuals while preserving program integrity. It is in line with a larger effort promoted by CMS to help states simplify the Medicaid application process.”³ According to former CMS Administrator Mark McClellan, “[W]hile there are vulnerabilities in states’ accepting self-declaration of citizenship, states have little evidence that many non-eligible, non-citizens are receiving

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Medicaid....”*

-Mark McClellan,
Former CMS
Administrator

¹ Office of the Inspector General, Department of Health and Human Services, “Self-Declaration of U.S. Citizenship for Medicaid,” July 2005, OEI-02-03-00190, p. I; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), PL 104-193.

² 42 U.S.C. §1320b-7(d). “The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.”

³ Letter from Mark. McClellan, M.D., PhD, Administrator of Centers for Medicare & Medicaid Services to Daniel R. Levinson, Acting Inspector General, Office of Inspector General, April 8, 2005, included as appendix D in OIG “Self-Declaration of U.S. Citizenship for Medicaid,” supra.

Medicaid as a result.”⁴ The DRA’s rigid new documentation requirements have increased administrative and fiscal burdens to state Medicaid programs, and added significant barriers to the application and recertification process for U.S. citizens.

Impact of the DRA Nationally

Both the Government Accountability Office and the U.S. House Committee on Oversight and Government Reform have reported that states are spending far more to implement the DRA than they are realizing in savings. The Oversight Committee reported that of the six states the Committee surveyed that were collecting the necessary data, 8 total undocumented immigrants had been identified at a cost of \$16.6 million in state money for a savings of \$11,048.⁵

States spend far more in administrative costs to implement the DRA citizenship documentation requirements than they realize in savings.

The GAO reported that 22 of 44 responding states experienced enrollment declines as a result of the DRA citizen documentation requirements. The states reporting enrollment declines reported that “the delays in or losses of coverage [were] for individuals who appeared to be eligible citizens, and that ...children were affected by the requirement.”⁶ In one state over 18,000 individuals, who the state believed to be eligible citizens, were terminated or denied coverage.⁷ Further, GAO reported that 10 states appropriated \$28 million for implementation. States described the greatest burden to both state agencies and applicants as being the requirement that all documents be originals (thus necessitating either application in person, or mailing and return mailing of originals), and the complexity of the list of acceptable documents.⁸

Impact of the DRA in Colorado

Results from two Colorado Health Institute Surveys of county eligibility technicians (ETs) and outreach and enrollment (O&E) workers show the DRA Citizenship Documentation requirements have significantly increased county workload and State administrative costs:

- ◇ The average county worker surveyed by the Colorado Health Institute spends **23** additional minutes per Medicaid application because of the DRA — more than four times the CMS estimate of **five** additional minutes per Medicaid application to process the new DRA proof of citizenship and identity documents.
- ◇ On average, county workers reported spending 15 hours per week on DRA related activities such as: explaining DRA rules to families, sending letters about the new

⁴ Id.

⁵ Committee on Oversight and Government Reform, “Summary of GAO and Staff Findings: Medicaid Citizen Documentation Requirements Deny Coverage to Citizens and Cost Taxpayers Millions,” July 24, 2007.

⁶ Government Accountability Office, “Medicaid: States Reported that Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens,” June 2007, GAO-07-889, p. 13.

⁷ Id. at 15.

⁸ Id. at 5.

document requirements, reactivating closed cases, checking files for DRA documents, helping people get DRA documents, and making follow-up calls.

- ◇ 100 percent of county workers say that have much more work or more work as a result of the new requirements. 64 percent of workers report that the amount of time they have to process cases has decreased somewhat or a lot.

Results from the Colorado Health Institute Surveys also show eligible people are experiencing difficulty enrolling in Medicaid because of the DRA.

- ◇ 86 percent of Medicaid and CHP+ Community Outreach and Enrollment (O&E) workers said that it is harder or much harder for low income people to get healthcare since the citizen documentation requirements took effect.
- ◇ 48 percent of O&E workers report that immigrants with **citizen** children are less likely or much less likely to apply for Medicaid.
- ◇ 48 percent of county workers surveyed reported that eligible people are less likely to begin and complete a Medicaid application.
- ◇ 74 percent of county workers surveyed reported that the number of Medicaid clients who successfully complete redetermination applications has decreased either “somewhat” (47%) or “a lot” (27%).

Since implementation of the citizen documentation requirements of the DRA in July 2006, enrollment of eligible children in Medicaid has declined by nearly 17,000 (214,085 to 197,166).⁹ This decline occurred during a period when Colorado expected an increase in Medicaid enrollment because of the removal of the asset test from the Medicaid program. Colorado currently has an estimated total of 180,000 uninsured children, with 122,000 likely eligible for Medicaid or CHP+.¹⁰

Fiscal Impact in Colorado

According to the Colorado Department of Health Care Policy and Financing (HCPF), Colorado will need approximately \$2.8 million in additional county administrative dollars to keep an estimated 200 people (170 of them children) off of the Medicaid rolls and to realize a savings of \$170,000.¹¹ This expenditure reflects an estimated additional 5 minutes per application spent by county eligibility workers to process DRA documentation requirements, not the 23 additional minutes that county workers are actually spending on processing the documentation requirements or the 15 hours per week on DRA related activities. It is

⁹ HCPF *June Expenditure Report, SFY06-07*.

¹⁰ *Fulfilling the Promise: Opportunities and Strategies for Insuring Colorado's Kids*, pp 3-4, Trujillo, Tara, Colorado Children's Campaign, December 20, 2006.

¹¹ See FY07-08 JBC Hearing, Department of Health Care Policy and Financing, Agenda and Responses, #7; FY 2007-2008, Staff Budget Briefing Department of Health Care Policy and Financing, Staff Recommendation, December 13, 2006, p. 124. and HCPF, FY2006-2007 Supplemental Budget Request, S-4 Schedule 6, Change Request, Table 6, line 16a, p. S.4-24. FY 2007-2008, Staff Budget Briefing, Department of Health Care Policy and Financing, Staff Recommendation, December 13, 2006, p. 124

important to note that HCPF reported to the Joint Budget Committee that, to their knowledge, they provide no services to undocumented people.¹²

Solutions to the DRA through Legislative Change

Congress is currently working to renew the State Children's Health Insurance Program (SCHIP) which is set to expire September 30, 2007. SCHIP Reauthorization presents a significant opportunity to mitigate the negative effects of the citizenship documentation requirements of the DRA on U.S. Citizens.

Both houses of Congress have passed reauthorization packages that make changes to the DRA citizen documentation requirements. In the Senate, the State Children's Health Insurance Program Reauthorization Act (S. 1893) would give states the option to either use the current DRA citizen documentation requirements, or adopt new requirements that utilize a system of verifying social security numbers against the Social Security Administration's records. People for whom no record or inconsistent records are found will have 90 days to provide additional documentation before being removed from the program. The Senate bill will make citizen documentation requirements apply to both Medicaid and SCHIP. Currently, citizen documentation only applies to Medicaid.

In the House, the Children's Health and Medicare Protection Act (CHAMP Act; H.R. 3162) would make the DRA citizen documentation requirements optional for states. States would, therefore, have the option of reverting back to the citizenship verification requirements they had in place prior to the DRA. However, under the House bill, an annual audit would be required and a zero percent error rate must be shown for the state to continue to opt out of the DRA requirements.

States have always been required to verify citizenship of applicants, with the exception of mandatory emergency care, *undocumented immigrants were not, and are not eligible for SCHIP or Medicaid.*

Position

Because the DRA citizen documentation requirements are administratively and fiscally burdensome and are resulting in the loss or denial of coverage to U.S. citizens, Congress should make the citizenship documentation requirements of the DRA optional for states and no more restrictive than documentation requirements of the Social Security Administration. The Social Security Administration already has in place a well considered list of valid documents for verifying citizenship that is already being used for other governmental purposes and would be more efficient and consistent with other government programs.

More information:

Adela Flores-Brennan

Tel: 303.573.5669 x313

afbrennan@cclponline.org

¹² FY07-08 JBC Hearing, HCPF, Q&A, #9.