



CALIFORNIA  
STATE  
ASSOCIATION OF  
COUNTIES

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CALIFORNIA  
MENTAL HEALTH  
DIRECTORS  
ASSOCIATION

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COUNTY HEALTH  
EXECUTIVES  
ASSOCIATION OF  
CALIFORNIA

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CWDA  
COUNTY WELFARE  
DIRECTORS  
ASSOCIATION

August 9, 2006

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
P.O. Box 8017  
Baltimore, Maryland 21244-8017  
**Attention: CMS-2257-IFC**

Dear Sir/Madame:

The California State Association of Counties, County Welfare Directors Association of California, California Mental Health Directors Association and the County Health Executives Association of California are writing to comment on the interim final rule published in the Federal Register on July 12 to implement the Medicaid citizenship documentation requirements under Section 6036 of the Deficit Reduction Act of 2005 (DRA). While there are improvements in the interim final rule's provisions compared to the June 9, 2006 guidance, there continue to be a number of proposed requirements that are unnecessarily burdensome for Medicaid applicants, recipients and public agencies.

The Centers for Medicare and Medicaid Services (CMS) has failed to avail itself of administrative flexibility given to it in some portions of the statute, while being overly proscriptive in other areas. As currently drafted, the interim final rule will delay or deny Medicaid coverage to many U.S. citizens, leaving the entire fiscal responsibility of serving these patients to county hospitals and other providers of health care to low-income families. Many who are sick will delay seeking treatment until their health care needs become emergencies. Our suggested changes will minimize the likelihood that Medicaid-eligible citizens are determined ineligible due to administrative provisions created by CMS in the rule.

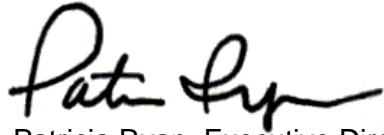
In California, counties act on behalf of the state to determine initial and ongoing eligibility for Medicaid benefits. Counties also provide health, mental health, substance abuse and in-home support services paid for in part by the federal government as Medicaid-reimbursable services. For these reasons, California counties have a substantial stake in the content of the final rule.

We have organized our comments by category in the attachment. Please do not hesitate to contact any of us if you have questions.

Sincerely,

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California State Association of Counties

Frank J. Mecca, Executive Director  
County Welfare Directors Association of California



Patricia Ryan, Executive Director  
California Mental Health Directors Association



Judith Reigel, Executive Director  
County Health Executives Association of California

**California County Comments on Interim Final Rule**  
**Deficit Reduction Act Citizenship Provisions**

August 2006

**Requiring Documentation Prior to Eligibility**

**Comment:** In California, more than 8 million individuals were made eligible for Medicaid in 2003. Under the Interim Final Rule, all but those who receive SSI and/or Medicare will face the citizenship/identity documentation requirements, placing a huge administrative burden on state and county agencies and the recipients themselves.

The Interim Final Rule proposes that Medicaid applicants should not be made eligible for Medicaid until they have produced citizenship documentation and identification. Nothing in the DRA could be or should be construed as requiring this denial of benefits. CMS is interpreting Section 6036 of the Deficit Reduction Act as affecting eligibility for Medicaid, when the section states that the impact of failing to document citizenship is on the receipt of federal financial participation for that individual.

Section 6036 of the Deficit Reduction Act amended neither Section 1902 of the Social Security Act (“the Act”), which sets forth Medicaid eligibility requirements, nor Section 1137 of the Act, which sets forth requirements for the income and eligibility verification system used to determine Medicaid eligibility, including its citizenship and satisfactory immigration status requirements. In particular, Section 1902(b)(3) of the Act, which prohibits states from imposing any condition of eligibility for Medicaid benefits “which excludes any citizen of the United States,” was not impacted by the new law.

**Recommendation:** Revise the interim final rule to allow applicants who meet all other Medicaid eligibility requirements and sign a sworn declaration under penalty of perjury that they are U.S. citizens to receive the Medicaid benefits for which they are otherwise eligible while they are making good faith efforts to meet the citizenship documentation requirements during the reasonable opportunity period. Providing coverage while applicants are given a reasonable period of time to provide the necessary documentation is consistent with Federal law and regulations that currently provide coverage for non-citizens who declare that they have a satisfactory immigration status.

This interpretation would be consistent with provisions elsewhere in the interim final rule stating that Medicaid benefits to recipients should not be terminated until after these individuals have been given a reasonable opportunity to present documentary evidence. Allowing Medicaid applicants who are otherwise eligible to receive benefits during the period of time that they are obtaining the required documentation is especially important because of the time it can take to obtain documents – for example, the normal processing time for U.S. passports is six weeks. It would be especially unfair to delay benefits to children who can clearly establish U.S. citizenship using birth certificates, but who lack the required identification documents, and for persons with physical and cognitive disabilities.

Additionally, there is no justification for treating citizens more restrictively than non-citizens in this situation. It is especially inappropriate to treat citizens worse than non-citizens when it is far simpler for non-citizens to demonstrate their satisfactory immigration status than for citizens to demonstrate their citizenship under the interim

final rule. The unnecessary delays in coverage will be exacerbated in the short term due to the lack of a federal outreach program to educate citizens about the requirements.

### **Information Collection Requirements: Original and Certified Copies**

**Comment:** The interim final rule requires that only originals and certified copies of documents be accepted as satisfactory proof of citizenship. Additionally, it is estimated that it will only take an applicant or recipient ten minutes and county or state agencies five minutes to satisfy this requirement.

Nothing in the DRA requires original or certified copies of documents. While the interim final rule allows applicants and recipients to mail the originals or certified copies of passports or birth certificates, it is highly questionable that most will be willing to do so.

The process will also delay receipt of Medicaid benefits, and reverses the progress made to simplify the eligibility process throughout the country. As in many states, applicants in California are not required to go to their local human services department for a face-to-face interview; the application process can be completed via mail and over the phone. Imposing a requirement that originals or certified copies must be viewed by the county will create substantial new administrative demands on the eligibility system, as well as on the federal, state and local agencies that produce original documents. We are also concerned that some Medicaid-eligible individuals will choose not to apply for benefits due to the time that they will need to take from work to go to an appointment and/or their coverage will be delayed while waiting for their appointment. We also find that the estimated time of five or ten minutes to find or otherwise acquire the necessary documents is completely unrealistic. The estimate serves to artificially minimize what we foresee as a large administrative burden.

**Recommendation:** Revise this requirement to allow state and county agencies to accept copies or notarized copies of documents. Our caseworkers should be given the flexibility to accept copies when the agency has no reason to believe that the documents provided were altered, counterfeit or otherwise questionable.

Additionally, we recommend revising the requirement to allow for a confirmation from a source agency that a document exists to suffice for the purposes of documenting citizenship and identity. For example, if a California county receives confirmation from another county's vital records agency or a vital records agency in another state that a birth certificate is available for a particular individual, that should meet the requirement for an original document without requiring the California county or the individual to order a certified copy.

### **Requiring Documentation for Children Receiving Title IV-E Benefits**

**Comment:** While CMS officials have spoken publicly that they intend to define children in foster care as "recipients," enabling them to qualify for Medicaid, there is no language in the regulation to that effect. More than 80,000 children in California alone would have to comply with this provision. Abused and neglected children (especially young children) who are removed from their parents' custody cannot be expected to sign declarations of U.S. citizenship under penalty of perjury. Moreover, the parents who have abused, neglected or abandoned these children are unlikely to sign such a declaration or otherwise cooperate by obtaining and submitting documents for children who are removed from their custody. Unlike parents of other children who receive Medicaid

benefits, these parents do not apply on their children's behalf to receive Title IV-E or Medicaid assistance; rather, the state makes this application when it becomes involved with the family via the child welfare system. The purpose of the Deficit Reduction Act's (DRA) Medicaid citizenship documentation requirements is to prevent potential fraud by individuals seeking to qualify for Medicaid benefits. There is no evidence that any parent has abused or neglected their children for the purpose of securing Medicaid benefits for their children through the foster care system.

While we welcome the possible change in the final rule to consider foster care children who receive Medicaid due to their Title IV-E link as recipients, these children would still be required to provide the necessary citizenship documentation and identification during a reasonable opportunity period. The declaration of citizenship and satisfactory immigration status requirements in Section 1137(d) of the Social Security Act ("Act") do not apply to the Title IV-E program. Moreover, under section 1903(a)(10)(A)(i)(1) of the Act, all children receiving Title IV-E assistance are entitled to Medicaid benefits, and do not separately apply for Medicaid.

It is noteworthy that, because Medicaid eligibility for Title IV-E children is not determined on a household or family basis, an adult member of the child's family or household is not allowed to sign a declaration of citizenship or satisfactory immigration status, pursuant to section 1137(d)(1)(A). Even if it were allowed, Medicaid eligibility and federal financial participation (FFP) for foster children should not be contingent on the cooperation of their absent parents to make such a declaration.

State and local agencies that administer Title IV-E already establish whether the citizenship or immigration status of children make them eligible for FFP. They should not be required to apply two sets of standards – one for Title IV-E and another for Medicaid. Nothing in the DRA's legislative history suggests that Congress intended that be done. Doing so would impose unnecessary increased administrative costs and burdens on Title IV-E agencies in California because the interim rule's citizenship documentation procedures vary from those currently used.

In California, if a foster child's derivative citizenship through the naturalization of his/her parents can be established with the assistance of U.S Citizenship and Immigration Services (CIS) of the Department of Homeland Security (DHS), an otherwise eligible child appropriately will be determined to be eligible as a citizen for purposes of Title IV-E (and indirectly Medicaid) even if the child lacks a U.S. passport or certificate of citizenship. In contrast, under the interim rule a passport or certificate of citizenship must be obtained for such a child, and it would be costly, complicated, and take time to obtain such documents, especially without the cooperation of the child's parents. Verification of a Medicaid recipient's citizenship status by DHS should be acceptable, just as DHS verification of satisfactory immigration status currently is acceptable for purposes of Medicaid eligibility and federal financial participation. The lack of a particular citizenship document should not preclude an individual whose citizenship has been verified from receiving Medicaid benefits.

**Recommendation:** CMS should avail itself of the administrative flexibility granted to it under the Deficit Reduction Act (DRA) and exempt Title IV-E recipients from the DRA's citizenship documentation requirements. CMS should not require that a declaration of U.S. citizenship or satisfactory immigration status be in the Medicaid file of each Title IV-E child. Title IV-E and other foster care children who are eligible for other programs requiring citizenship documentation should be exempt from this duplicative requirement.

Under section 1137(d) of the Act, such a declaration is not required for purposes of Title IV-E eligibility or FFP, and it does not make any sense to require children who qualify for Medicaid by virtue of their receipt of Title IV-E to make such a declaration. Foster children, especially very young children, cannot be expected to know their citizenship or immigration status.

Alternatively, the rule should allow a juvenile court finding regarding the identity of the child to be used to establish identity and citizenship. All Title IV-E children go through court proceedings through which their identity is established, so there is not any reason to, in effect, require child welfare agencies to obtain an identification card for each child receiving Title IV-E. This revision also would be consistent with how the interim final rule in 42 CFR Part 403.407(e)(10) provides States with the option to use a cross match with the data system of State public assistance agencies, including child protective services agencies (Title IV-E agencies), to establish an individual's identity if the agencies established and certified the identity of individuals.

To the extent that CMS requires the original document or copies certified by the issuing agency, we urge that a copy of the computer match be considered sufficient evidence for purposes of the case record and potential compliance audits.

### **Children Born in U.S. Hospitals**

**Comment:** The interim final rule allows a hospital record of birth as a 'third level' form of evidence documenting citizenship. Obviously, newborns will not have a birth certificate on file with the state or county nor a passport, but it is not logical to question an infant's citizenship when the baby was born in a U.S. hospital and Medicaid has paid for the birth. Current law also deems infants born to U.S. citizens as eligible for Medicaid. The child's citizenship status will not change after the initial period of eligibility expires.

**Recommendation:** CMS should accept documentation of a state's Medicaid agency payment for the birth of a child as satisfactory evidence of citizenship.

### **Procedures for U.S. Citizens Unable to Document Citizenship**

**Comment:** County agencies interact with some of the most vulnerable individuals in their communities, including the homeless, persons with severe mental illness and those who have lost all of their possessions in a disaster. Even with the assistance of state or county agencies, some individuals will never be able to provide documents proving citizenship. Rules for the Supplemental Security Income (SSI) provides flexibility in allowing individuals who cannot provide documents to explain why that is the case and to provide information that they do have in their possession.

**Recommendation:** CMS should give a state the option to certify that it has determined that an individual meets the requirements of the statute if it can demonstrate that it has exhausted its search of allowable documents and finds it is reasonable to conclude that the individual is a U.S. citizen or is otherwise in the U.S. legally.

### **Allowable Documentation**

**Comment:** We welcome CMS's decision to take advantage of the flexibility given to it under the DRA to adopt additional means of verifying citizenship and identity beyond the limited options listed in statute.

**Recommendations:** As we recommended in our comments on the June 9, 2006 guidance, we urge that the rule allow states to accept copies of otherwise acceptable documents if a state accepts copies of that document for any other federal means-tested public benefit program. This will promote consistency across existing programs. Additionally, we recommend that acceptable documentation of citizenship for other federal means-tested public benefit programs be considered acceptable documentation for purposes of Medicaid.

Additionally, we recommend that any citizenship document or verification method that is acceptable to the Social Security Administration be accepted by CMS for purposes of Medicaid verification. The interim final rule already allows SSA verifications to be used for SSI recipients; it is a logical next step to allow for the documents and methods used by SSA to also be allowed for states and counties verifying eligibility for Medicaid applicants and recipients who are not receiving SSI.

Finally, we recommend that the CMS clarify that costs incurred by a county or state agency in assisting applicants and recipients, including, but not limited to, costs incurred to purchase copies of birth certificates or other documents identified by CMS as among those that may be used to establish U.S. citizenship, are allowable administrative costs for federal financial participation.

Below, we suggest a few additional, specific documents that should be included in the list of acceptable documentation for citizenship or identity.

**Recommended Additional Citizenship Documents:**

- a. Marriage certificate showing place of birth of the individual.
- b. Tribal enrollment card, Bureau of Indian Affairs identification card, and certificate of degree of Indian blood. These cards are allowed in the interim final rule purposes of identification but not for citizenship. We recommend they be allowed for documentation of both.
- c. Religious record recorded in the U.S. within three months of birth, which is acceptable secondary evidence of citizenship for purposes of obtaining a Social Security number.
- d. Entries in a family bible documenting birth in the United States.
- e. For a parent, a U.S. birth certificate of a child showing the parent's place of birth.
- f. Acceptable evidence of derivative U.S. citizenship, which is accepted by the Department of Homeland Security for purposes of issuing a Certificate of Citizenship or by the Department of State for purposes of issuing a passport. This will avoid the high cost and delay of obtaining the necessary evidence of citizenship that immigrant and adopted children derive through their parents. The application fee for a passport is \$97 (\$82 if under age 16) and \$255 (\$215 if an adopted child) for a Certificate of Citizenship. The normal processing time is six weeks for a passport and much longer for a Certificate of Citizenship.

### Recommended Additional Identity Documents:

- a. ID card with photo issued by a current employer. Employers are required to document that the prospective employee is legally in the U.S. before hiring the individual.
- b. ID card with photo issued by a private agency, such as the Salvation Army, providing social services.
- c. Government-issued papers not related to public assistance, such as a tax return, property tax statement, Social Security Award letter.
- d. A combination of two of the following documents:
  - Rent receipt with landlord/manager signature and telephone number.
  - Bill for medical/dental treatment.
  - Bill for utilities.
  - Bank statement.
  - Bills/statements for credit cards.
  - Envelope addressed to the individual with a postmark date prior to the date of application.

### **Naturalized Citizens**

**Comment:** For naturalized citizens, the acceptable documentation for Medicaid purposes is far more limited than currently allowed by the Social Security Administration for purposes of obtaining a Social Security number (SSN) card.<sup>1</sup> Under the interim final rule, the acceptable citizenship documents for virtually all naturalized United States citizens are limited to a U.S. passport, certificate of naturalization, or certificate of citizenship.<sup>2</sup> Unlike U.S.-born citizens, the interim final rule does not allow naturalized citizens to use affidavits. Moreover, the interim final rule does not allow state Medicaid agencies to verify citizenship with U.S. Citizenship and Immigration Services (CIS) in the Department of Homeland Security (DHS), which has the capacity to verify naturalized citizenship status. The CIS currently verifies the immigration status of all Medicaid applicants and recipients who declare that they have satisfactory immigration status pursuant to Section 1137(d) of the Social Security Act (“Act”).

This limitation on acceptable citizenship documents will be extremely problematic for the numerous naturalized citizens who will likely lack these documents. The number of naturalized citizens has been growing far more rapidly than the number of native-born U.S. citizens. Between 1990 and 2004, the number of naturalized citizens increased from 8 million in 1990 to more than 13.1 million, according to U.S. Census Bureau estimates. Moreover, in 2004, 1.328 million naturalized citizens had incomes below the poverty level and 17.2 percent lacked health insurance.<sup>3</sup>

A significant number of naturalized citizens are likely to lack a U.S. passport or certificate of citizenship/naturalization, because children under age 18 who derive their citizenship

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<sup>1</sup> See Social Security Administration’s (SSA) Program Operations Manual (POMS) Section RM 00203.310 Evidence of U.S. Citizenship for an SSN Card.

<sup>2</sup> The only other possible citizenship documents are a U.S. Citizen Identification Card issued from 1960 to April 1983 to naturalized citizens living near the Canadian or Mexican borders or evidence of U.S. Civil Service employment before June 1, 1976, both of which will not be possessed by the vast majority of naturalized citizens.

<sup>3</sup> Source: U.S. Census Bureau, “Income, Poverty, and Health Insurance Coverage in the United States: 2004”

through the naturalization and/or citizenship status of their parent(s) do not receive any of these documents when they become citizens. The interim final rule fails to take into account that lawful permanent resident children under age 18 and foreign-born adopted children typically do not file a separate naturalization application to become U.S. citizens. Instead, they derive their citizenship through the naturalization/citizenship of their parents. Unlike their parents who receive a certificate of naturalization, a child who receives derivative citizenship must apply to CIS for a certificate of citizenship as documentary evidence of citizenship. Most children who receive derivative citizenship do not immediately apply for a certificate of citizenship, and many, if not most, never have done so. In all likelihood, Medicaid-eligible individuals are less likely to have obtained a certificate of citizenship, given the relatively high cost of obtaining one.

As explained in greater detail below, a U.S. passport, certificate of naturalization or certificate of citizenship will be difficult, time-consuming and costly for Medicaid eligible individuals who are naturalized citizens to obtain, which means that limiting acceptable citizenship documentation to these three documents will be a major barrier to the receipt of Medicaid benefits for numerous naturalized citizens. The relatively high cost of obtaining such documents is likely to prevent many of them for receiving needed Medicaid benefits. For applicants who ultimately obtain and present such documents, the interim rule will significantly delay their receipt of benefits.

Below is a detailed explanation of the difficulty and cost of obtaining a certificate of citizenship, certificate of naturalization, and U.S. passport. It will take naturalized citizens who must obtain these documents far more than the five minutes estimated by CMS to acquire and provide acceptable documentation (see 71 Federal Register 39220). Moreover, it will be even more complicated for child protective agencies to obtain such acceptable documents for Title IV-E foster children because their natural parents often times are not cooperative or impossible to locate in cases where parents abandon their children and then move out-of-state.

Certificate of Citizenship: The current application fee for a certificate of citizenship, which is the only permanent record of citizenship for persons who derived/acquired U.S. citizenship through their parent or parents, is \$255 (\$215 for an adopted child). Additional costs associated with obtaining such a certificate include the cost of passport photos, a certified foreign birth certificate, if necessary, and travel to and from the CIS office for a required in-person interview by CIS officer. An applicant may have to travel hundreds of miles to the nearest CIS office because there only are 79 CIS offices, excluding those located in Puerto Rico and U.S. territories. The vast majority of states have a single CIS office, and there are not any CIS states located in Alabama, Mississippi, North Dakota or South Dakota. Including travel costs, the total cost of obtaining a certificate of citizenship easily can exceed \$500.

The high cost of obtaining a certificate of citizenship can prevent very-low-income individuals from obtaining one, thereby also preventing them from receiving Medicaid benefits. It will be especially costly for low-income families with children. While there is no cost for a legal immigrant family, headed by two parents, with three children to document their satisfactory immigration status for Medicaid eligibility purposes, it would cost them \$765 alone in application fees to obtain a certificate of citizenship for each child after having paid a combined total of \$800 in naturalization application fees for the parents. It is noteworthy that, if the children had become naturalized citizens, they still would have qualified for

Medicaid as qualified aliens, provided that they met the five-year residency requirement.

Besides the high cost of obtaining a certificate of citizenship, Medicaid applicants also will be penalized by the long time that it takes to obtain such documentation. It can take nearly two years to obtain a certificate of citizenship, depending upon the CIS office. As of July 17, 2006, the Phoenix office was interviewing persons who submitted applications on September 30, 2004. In California, the backlog extends back to March 1, 2005 for the Fresno office and January 5, 2006 for the Los Angeles office. Under the interim final rule, an otherwise eligible Medicaid applicant will not be provided Medicaid benefits until they have submitted satisfactory documents.

Certificate of Naturalization: The current application fee for a replacement certificate of naturalization (or citizenship) is \$220, and there is an additional cost for the passport photos that must be submitted with an application. It can take longer than one year to obtain a replacement certificate of naturalization. In fact, given the long delay, CIS' A Guide to Naturalization recommends that naturalized citizens apply for a U.S. passport to more quickly obtain documentation of citizenship.

U.S. Passport: In lieu of obtaining a certificate of citizenship/naturalization, naturalized citizens, including those who received derivative citizenship, may obtain a U.S. passport as proof of U.S. citizenship. However, the U.S. Passport Agency in the Department of State verifies citizenship independent of DHS, and its passport records are not linked to automated DHS data bases, including the System for Alien Verification for Entitlements (SAVE) database used to verify eligibility for public assistance entitlements and employment. Moreover, U.S. passports expire. Therefore, many naturalized citizens do not apply for passports unless needed for foreign travel. Low-income Medicaid-eligible individuals, especially those with major health problems, are far less likely to travel outside of the country, and, therefore, also are far less likely to have U.S. passports.

The application fee for a passport, which has a normal processing time of six weeks, is \$97 (\$82 if under age 16). The cost of an expedited passport, which is processed within two weeks, is an additional \$60 plus overnight delivery fees. There is an additional cost of passport photos that must be submitted with an application. In addition for children under age 18, parents will incur additional costs associated with travel to a passport-issuing office because children must appear in person. For child protective agencies, obtaining a passport will be even more complicated as they will have to show legal guardianship and make arrangements for foster children to appear in person.

In practice, it will be difficult and also take time for Medicaid applicants and recipients to prepare and submit passport applications. In fact, it may not be possible for most naturalized citizens who lost their certificates of naturalization (or citizenship) to obtain a U.S. passport. According to passport application instructions, a certificate of naturalization or certificate of citizenship must be submitted with a passport application. Although it is not explained in the application instructions, the U.S. Passport Agency will provide a passport with an expiration date of approximately one year to a naturalized citizen who submits a

“letter of verification” issued by DHS or a U.S. District Court indicating that he/she is a naturalized citizen. Many naturalized citizens, however, will not be able to obtain such letters. This is because DHS no longer issues letters of verification except on a very limited emergency case-by-case basis due to concerns that such letters are vulnerable to document fraud, and because the U.S. District Court only issues letters for persons who naturalized before October 1994. Moreover, a receipt for a replacement certificate of naturalization application is required to obtain a letter of verification as well as a U.S. passport, adding \$220 to the cost of obtaining a passport. In practice, it is highly unlikely that Medicaid applicants and recipients will know how to obtain a passport without a certificate of naturalization. This is because the U.S. Passport Agency does not publicize how to do so, and DHS and U.S. District Courts do not publicize how to obtain a letter of verification that is needed to obtain a passport without a certificate of naturalization.

In sum, limiting acceptable citizenship documents for naturalized citizens to a U.S. passport, certificate of naturalization, or certificate of citizenship inappropriately will greatly delay or prevent the receipt of Medicaid benefits to a large number of naturalized citizens. In turn, this would result in higher uncompensated health costs for health providers, especially for public hospitals and other safety net providers. Obtaining such documents will be especially burdensome for child protective agencies responsible for IV-E foster children.

**Recommendations:** Revise the interim final rule to provide Medicaid applicants and recipients, as well as state and local Medicaid agencies, with more options for documenting satisfactory citizenship status. Specifically, the interim final rule should be revised to allow states to use and accept the following methods of verification:

1. Any method for verifying citizenship that is acceptable for proving citizenship for purposes of obtaining a Social Security number (SSN) card under the Social Security Administration’s (SSA) Program Operations Manual System (POMS) guidelines. States then would be allowed to verify citizenship status against DHS’ SAVE data base – the same verification system currently used by states to verify satisfactory immigration status, as required under Section 1137(d) of the Social Security Act, and the same data base used by many employers to verify work authorization for new job hires.

SSA allows staff to query SAVE in recognition of the fact that DHS has citizenship data for all naturalizations from 1906 to present and that what matters is whether an individual actually is a U.S. citizen, not whether someone has possession of a particular document. In order to ensure integrity of the information provided, POMS guidelines require that DHS be requested to manually verify citizenship when an automated SAVE records match does not verify satisfactory citizenship or immigration status.

The interim final rule should provide citizens with the same protections afforded to legal immigrants. Low-income naturalized citizens who lack a passport, certificate of naturalization, or certificate of citizenship, therefore, should not be required to undergo the major cost and time of obtaining such documents when their citizenship can be verified by DHS. Enabling states to use any method for documenting citizenship that is acceptable for SSN purposes also would greatly simplify implementation of the new citizenship requirements for states. Instead of

developing new internal instructions, states would be able to take advantage of the detailed POMS instructions already developed by SSA. This is especially justified because, under the interim final rule, SSA guidelines already, in effect, are being used to verify citizenship in states in which Supplemental Security Income (SSI) recipients receive Medicaid by virtue of receipt of SSI.

2. The SAVE database, including through secondary verifications with DHS, as explained in the previous recommendation on allowing any documentation that is accepted by SSA.
3. Copies of a U.S. passport, certificate of naturalization or certificate of citizenship. The validity of copies can be verified with the U.S. Passport Agency or DHS, if necessary. This would ease the burdens on low-income Medicaid applicants and recipients of having to obtain replacement documents as well the administrative burdens on state and local Medicaid agencies. It is highly unlikely that applicants and recipients will mail important original documents, which means that they, instead, will be required to present documents in person, greatly increasing traffic at offices. There will be an especially huge workload increase in states such as California that use a mail-in process for Medicaid eligibility and redeterminations.
4. Signed affidavits submitted by naturalized citizens accompanied by copies of any supportive documents and/or information, such as the date of naturalization, alien registration number, and, in the case of persons who received derivative citizenship, information on their parent's naturalization. Unlike affidavits submitted by persons born in the U.S. who lack birth records, all naturalization cases can be verified by DHS. Yet, the interim final rule inappropriately precludes the use of affidavits by persons born outside the U.S.
5. A letter of verification or any other official document from the Department of Homeland Security (DHS) or a U.S. District Court indicating that a person is a naturalized citizen. The rule should allow an individual to use any official government document indicating citizenship status. Such documents should be considered secondary evidence of citizenship.

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