



**American Hospital  
Association**

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Mark McClellan, M.D., Ph.D.  
Administrator  
Centers for Medicare & Medicaid Services  
Hubert H. Humphrey Building, Room 445-G  
200 Independence Avenue, S.W.  
Washington, DC 20201

***Re: Medicaid Program; Citizenship Documentation Requirements (CMS-2257-IFC)***

Dear Dr. McClellan:

On behalf of the American Hospital Association (AHA) and our 4,800 member hospitals, health care systems and other health care organizations, and our 35,000 individual members, we submit the following comments to the Centers for Medicare & Medicaid Services (CMS) on the interim final rule implementing section 6036 of the Deficit Reduction Act of 2005 (DRA, P.L. 109-171) regarding new citizenship verification requirements. These requirements will have a significant impact on both the ability of Medicaid-eligible individuals to qualify for the program and of states to enroll them in the program. We appreciate the improved flexibility this guidance gives to states, but we are still concerned that these new requirements could deny eligible United States citizens and nationals Medicaid coverage and urge you to ensure that this does not occur.

**IMPLEMENTATION CONDITIONS/CONSIDERATIONS**

We are pleased that the rule expands the list of vulnerable populations that are exempt from the new documentation requirements, particularly Medicare beneficiaries and disabled people who receive supplemental security income (SSI). We encourage CMS to consider expanding the exemptions further to include the non-elderly disabled who have severe physical and mental disabilities but do not receive SSI. In addition, CMS should consider an exemption for Title IV-E children in foster care whose families or caregivers already are trying to manage a disruptive living situation. These children should not be at risk of losing their Medicaid coverage. We also are pleased that the verification requirement does not apply to pregnant women and children, who are presumptively eligible for Medicaid. However, we believe further consideration should be given to eligibility for citizen children born to non-eligible immigrant mothers.



### **FEDERAL FINANCIAL PARTICIPATION FOR ADMINISTRATIVE EXPENDITURES**

The rule indicates that CMS will increase auditing and agency monitoring of states, and that non-compliance with citizenship verification requirements will result in withholding of federal financial participation. CMS, in particular, will monitor the extent to which states use documentation from the primary evidence category to establish citizenship. This emphasis on primary evidentiary documentation appears to go beyond the statutory requirements. The AHA is concerned that, as a result, states will be overly cautious in interpreting the guidance and err on the side of not enrolling eligible individuals. CMS should make every effort to ensure that states understand that agency oversight is not intended to prevent entitled citizens from receiving Medicaid benefits.

### **PROVISIONS OF THE INTERIM FINAL RULE WITH COMMENT PERIOD**

We are concerned that both applicants and current Medicaid recipients subject to eligibility redeterminations will have insufficient time to produce the necessary documentation. We also are concerned that the uses of certain documents are too restrictive, specifically that:

- Medicaid applicants or beneficiaries born outside the United States who are naturalized citizens are restricted to using the documentation listed under the category of primary evidence of citizenship – a United States passport, certificate of naturalization or certificate of citizenship. They should be permitted to use the same forms of documentation as citizens born in the United States;
- states are prohibited from accepting many documents unless they were created more than five years before an individual applied for Medicaid; however, CMS does not provide a sufficient explanation for the time restriction. Such restrictions should be eliminated; and
- the rule states that original documents must be presented to satisfy the requirements, but the original statute makes no such stipulation. States should be allowed to use copies of documents to satisfy the requirements.

The AHA is pleased that the rule allows states to use electronic data matches, such as those made through the Vital Statistics Records, as acceptable documentation, and we urge CMS to encourage states to do so.

We appreciate the need to protect Medicaid's integrity; however, we believe the Medicaid safety net for America's neediest population must be equally protected. We look forward to working with you to achieve both purposes. If you have any questions, please contact me or Molly Collins Offner, AHA senior associate director for policy, at (202) 626-2326 or [mcollins@aha.org](mailto:mcollins@aha.org).

Sincerely,

Rick Pollack  
Executive Vice President