

SENIOR BULLETIN: Medicaid

Medicaid clients and the new law requiring verification of citizenship

The Deficit Reduction Act of 2005 (“DRA”) requires states to verify U.S. citizenship for Medicaid applicants and recipients who are citizens. The requirement is effective July 1, 2006. The federal agency administering Medicaid (CMS) issued an interpretation of the new requirement, in draft form, earlier this year. Advocates anticipated that implementation in Washington State would not result generally in delays or terminations of Medicaid. Due to the lack of final CMS guidance and the desire to avoid generating unwarranted concerns, neither DSHS nor advocates have circulated much information publicly about this issue.

Then on June 9 CMS issued the final guidance. It is *not* what people expected.

States are very concerned about the huge administrative costs of implementing the citizenship-verification requirement as interpreted by CMS. It appears that Medicaid *recipients* will be given a “reasonable opportunity” to provide verification before any terminations of benefits occur, and that DSHS will assist in paying for and obtaining the documents required. However, unless something changes, the CMS guidance means at least some citizens *applying* for Medicaid are at risk for delay in obtaining benefits, if required documents are not readily available.

Analyses of the CMS June 9 guidance letter can be found on websites for the Center on Budget and Policy Priorities² and the Kaiser Family Foundation.³ The CMS letter itself can be viewed on line at this address: www.cms.hhs.gov/smdl/downloads/SMD06012.pdf

National advocacy organizations are working on “technical fix” legislation in Congress to amend the DRA to avoid some of the problems. The proposals, among other things, would allow applicants to get benefits without delay while they are given a “reasonable opportunity” to produce

documents. Other advocates are exploring litigation. The states are also asking CMS to alter the guidance.

It appears unlikely that effective implementation in Washington State can occur on July 1. The state has not had adequate time to implement the changes. At this time we have seen no implementation plan, no instructions to staff, no changes in state regulations, and no new forms. The governor's office reportedly is convening a small group meeting on June 28 to discuss the implications of the DRA citizenship verification requirements.

What should advocates and clients do?

1. Don't panic; most clients need to do nothing now.

Medicaid *recipients* in Washington are almost certainly not going to lose benefits in July. The guidance allows recipients a reasonable opportunity to obtain verification. By early July we may know whether legislation has changed any of the requirements. Some people may be exempted from the requirement (examples: SSI and Medicare recipients and foster care children receiving federal funding, all of whom have already verified citizenship). More leeway may be allowed to verify birth certificates electronically, reducing the burden significantly. (Note: Even if allowed, however, electronic verification may not work for births outside the state or for people born in Washington before approximately 1935.)

It would be prudent for recipients and other clients who do have passports, birth certificates, and driver license or state ID cards to confirm the location of these documents and keep them safe. People who spend money to obtain birth records are NOT likely to be reimbursed. If documents eventually must be requested, DSHS will pay for documents that DSHS obtains directly.

2. Some people may want to take steps now.

Applicants whose eligibility has not yet been determined and people who plan to apply during July (including Medically Needy clients whose reviews are due) should consider whether to take action now.

Applicants with an application in process may wish to contact DSHS to learn whether they need to do anything further to allow DSHS to process their applications before July 1 (the earliest date the new verification requirement could be imposed). People whose applications will be processed after June 30, and who do NOT have a passport or a certified

copy (or original) birth certificate, may want to consider whether to order their birth certificates now. They must weigh the unreimbursed expense against the possibility that delay in getting documents may cause delay in processing Medicaid benefits.

Finally, social service and health providers can begin to identify their Medicaid clients who were not issued birth certificates or who cannot give information needed to establish citizenship. These clients may eventually need your help to determine how to comply with any new requirements the state imposes. Depending on what happens in the next two weeks, some of these clients ultimately may need referrals for legal assistance. (Remember: CLEAR*Sr serves clients age 60 and older: 1-888-387-7111; CLEAR serves low income clients under age 60 through 1-888-201-1014, and King County clients through 206-464-1519, ext. 295.)

3. Stay tuned. We should know more before the end of June, and more still the first week of July.

Endnotes:

¹ Ann Vining is a lawyer in the Northwest Justice Project's Everett Office.

² Here is the address for the Center on Budget and Policy Priorities material:

www.cbpp.org/6-16-06health.htm.

³ Here is the address for the Kaiser Family Foundation analysis:

www.kff.org/medicaid/7533.cfm.