

## **CMS ISSUES FINAL MEDICAID CITIZENSHIP DOCUMENTATION RULE**

On July 13, 2007, the Centers for Medicare and Medicaid Services (CMS) published a final rule on citizenship documentation requirements for Medicaid eligibility. Many patient advocates and provider organizations, including Powell Goldstein client, the National Association of Public Hospitals and Health Systems, have expressed concerns about the detrimental impact of the provisions of the interim final rule published last July on Medicaid-eligible U.S. citizens. While CMS states that it has modified the rule to incorporate public comments, changes in response to comments did not fundamentally alter the regulations. Of the changes made in the final rule, several were mandated by the Tax Relief and Health Care Act of 2006 (TRHCA) (P.L. 109-432) or announced in previous CMS press releases.

- The final rule incorporates exemptions mandated by the Tax Relief and Health Care Act of 2006. These include exemptions for individuals receiving Social Security Income (SSI), Social Security Disability Insurance (SSDI) benefits based on disability, and children in foster care receiving assistance under Title IV-B or children receiving foster care or adoption assistance payments under Title IV-E of the Social Security Act.
- The final rule incorporates the newborn policy announced in a CMS March 20 press release. Under this policy, any newborn whose mother has applied for and is eligible for Medicaid for the child's delivery is deemed eligible for Medicaid for their first year of life. This includes children whose births are covered by emergency Medicaid, regardless of the mother's immigration status. However, the regulation would still require documentation of citizenship and identity when Medicaid eligibility is re-determined at the end of the first year. Several members of Congress have introduced bills that would include provisions to permanently exempt such newborns from documentation requirements.



Importantly, the final rule continues to require that states withhold Medicaid coverage while applicants await verification of their citizenship and identity.

Recent data suggests that CMS's documentation requirements, while developed with the goal of prohibiting undocumented immigrants from acquiring Medicaid coverage, may instead be creating barriers for U.S. citizens

who are eligible for Medicaid. A recent [study](#) by the Center for Budget and Policy Priorities (CBPP) describes state reports of declines in Medicaid enrollment and increases in Medicaid administrative costs since the requirements were implemented. The Center concludes that a substantial number of these affected individuals, in particular low-income children, are actually U.S. citizens who are encountering difficulty in promptly securing the necessary documentation. Some patient and provider advocacy groups are continuing to push for a legislative alternative to this final rule that would give states flexibility in determining which documentation requirements are sufficient to verify eligibility for their individual Medicaid programs. Sponsors of the original requirements continue to believe that this form of verification is necessary to ensure that Medicaid benefits are extended only to eligible U.S. citizens.

The final rule is available [online](#). CMS also has published an outreach toolkit for state and local government officials, which is available [here](#).

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