

Citizenship Documentation Rules Raise Costs, Foster Disparate Treatment, CRS Report Says

The citizenship documentation rules for Medicaid are raising state administrative costs, subjecting citizens to disparate treatment, and may affect some children attempting to enroll in the State Children's Health Insurance Program (SCHIP), according to a Congressional Research Service report.

In addition, the majority of individuals denied Medicaid for failure to meet citizenship documentation requirements imposed as part of the Deficit Reduction Act of 2005 may be U.S. citizens, according to CRS's report, "Medicaid Citizenship Documentation," issued March 22.

Furthermore, some advocacy groups maintain that the new rules should not apply to infants born in U.S. hospitals, who are U.S. citizens, the report said.

In the 110th Congress, six bills have been introduced that deal with the DRA's citizenship documentation requirement for Medicaid, CRS noted. One would allow additional documentation options for Indian tribes, three would exempt newborns and/or children from the requirements, and two would make Medicaid citizenship documentation a state option.

In the absence of legislation on the subject, some issues may be addressed through administrative or legal action, the report said. In fact, the Centers for Medicare & Medicaid Services changed its policy March 20 to allow that any newborn whose mother is determined eligible for and receiving emergency Medicaid, is deemed eligible for the first year of life, CRS wrote.

Prior to this policy reversal, a Medicaid application, including proof of citizenship documentation, for the newborn was required under DRA.

"Although deemed eligibility may no longer be an issue, some still assert that a child whose birth occurs in a U.S. hospital and is paid by the Medicaid program should be entirely exempt from the citizenship documentation requirement," according to the report. "For these children, the argument is that a state's own Medicaid records should be evidence enough to prove that they are U.S. citizens."

The New Rules

Under the new documentation rules that took effect in July 2006, individuals applying for Medicaid who declare they are citizens must present documentation

that proves citizenship and their personal identity, for states to receive federal Medicaid reimbursement. Prior to the DRA, states could accept self-declaration of citizenship for Medicaid, although some chose to require additional supporting evidence, CRS wrote. CMS published an interim final rule in July 2006 implementing the rule.

Although the citizenship documentation requirement does not apply to SCHIP, states that opt to cover SCHIP enrollees under Medicaid may use the same eligibility form for all applicants, so some SCHIP applicants may be asked to present the same evidence, CRS wrote.

To bridge the coverage gap between application and approval, states can opt under federal law to use "presumptive eligibility," which provides temporary coverage while an application is being processed. However, states that choose this option must do so for all children under age 19, and cannot single out one group, such as newborns. This makes this federal statute "potentially unattractive to those that would prefer to target a specific age group, such as newborns," CRS wrote.

Under another provision of federal law, states must provide retroactive coverage for individuals who would have been eligible in the three months prior to their application for Medicaid. "This allows health care providers to receive reimbursement--albeit on a delayed schedule--for services provided before a Medicaid application is approved," the report said.

Disparate Treatment for Citizens

Citizens applying for Medicaid appear to face "disparate treatment" before evidence of citizenship has been presented, CRS asserted in its report. Under language in the CMS preamble to the interim final rule, U.S. citizen applicants should not be made eligible until they have presented the required citizenship documentation.

However, also under federal law, states may not delay, deny, reduce, or terminate Medicaid benefits for noncitizens on the basis of immigration status until a reasonable opportunity to provide the documentation is provided.

The report is available from BNA PLUS; call 800-372-1033 or (202) 452-4994, or e-mail bnaplus@bna.com. 