

## Group sues to stop Medicaid citizenship-documentation rule

Contributed by Kelly McCormack  
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A left-leaning group is challenging the Bush administration's new citizenship-documentation requirements for Medicaid, saying that they put an undue burden on millions of the program's beneficiaries.

Seeking to eliminate the requirement, scheduled to go into effect this weekend, Families USA yesterday filed a lawsuit against Health and Human Services Secretary Mike Leavitt. The group says that the citizenship requirements—which were included in the Deficit Reduction Act—are onerous and jeopardize the health of Medicaid recipients.

In [the] process of pandering on the immigration issue, Congress will do enormous harm to American citizens who need care the most, Families USA Executive Director Ron Pollack said in a conference call with reporters.

The rule will require Medicaid beneficiaries to provide U.S. passports, birth certificates or other government documents before they receive coverage. Affidavits will only be accepted as a last resort and require two signatories to validate citizenship.

The suit, filed in U.S. District Court in Chicago on behalf of nine plaintiffs, asserts that once someone has established his or her citizenship it's unconstitutional to deny that person healthcare coverage. The plaintiffs also allege that the new law is too strict in which documents it allows and time periods it provides to show proof of citizenship.

Some estimates say that 3 [million] to 5 million people will be dropped from the program as a result of this requirement, Pollack said, referring to a report from the Center on Budget and Policy Priorities.

Another group, the National Association of Community Health Centers (NACHC), is seeking to delay implementation of the rule. The group says it could limit care for people living in long-term-care facilities, older Americans without birth certificates, homeless people, migrant farm workers, American Indians and hurricane evacuees who lost key documents.

It's not an immigration issue at all; it's a documentation issue, said Dan Hawkins, the NACHC's vice president for federal, state and public affairs. Let's do it in a common-sense, humanitarian way.

States need additional time to review the regulation, Hawkins said. The Centers for Medicare and Medicaid Services (CMS) should rethink the policy and allow beneficiaries more time to produce documents and states should be permitted to use other methods to determine citizenship, he added.

States that fail to adhere to the new requirements will lose their federal matching funds, according to guidance CMS sent to states June 9, three weeks before the rule is to go into effect. Families USA said that several states have already voiced concern about the new rule and may not impose the constraints.

CMS, however, was quick to say that the new requirement is merely a procedural step to ensure that only citizens and people eligible for Medicaid receive government-sponsored care.

The provision in no way changes the eligibility for Medicaid, said CMS spokeswoman Mary Kahn. She noted that a Congressional Budget Office score showed that 35,000 current beneficiaries will be affected by the law, mostly illegal immigrants.

Georgia, New York, Montana and New Hampshire already have laws that require beneficiaries to provide documentation to receive Medicaid coverage, according to recent news stories.

Rep. Nathan Deal (R-Ga.), chairman of the Energy and Commerce Committee's Health Subcommittee and a proponent of the regulation, said, "The system was wide open for fraud and abuse. Suppose the IRS worked that way. We are tightening up the existing law by way of evidence of eligibility."

"The new law provides many, many options for providing documentation of citizenship," Deal added. "You have to question whether these are legitimate points of concern because many states are doing it."

In February, Sen. Daniel Akaka (D-Hawaii) and 12 of his Democratic colleagues introduced legislation to repeal the provision. A spokeswoman said that the office is working to create bipartisan language to gain GOP support.

Akaka is also holding a press conference on the new rule today with Reps. Mike Honda (D-Calif.) and Hilda Solis (D-Calif.), Del. Donna Christensen (D-Virgin Islands), Pollack, Hawkins and the Child Welfare League of America.

"We must delay the implementation and make improvements in existing law to ensure that no one who is otherwise eligible loses their Medicaid coverage because they have problems producing the burdensome documentation required," Akaka said.

"Their hope is that Congress will step in and fix this mistake," said John Bouman, an attorney for the plaintiffs.