

Poverty Action Report



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Perspective by John Bouman

New Citizenship Requirements Hurt U.S. Citizens, Not Immigrants

The national debate on immigration policy is revealing some nasty unintended consequences. Congress has taken action with the intent of keeping undocumented immigrants off Medicaid rolls, but the ironic result is that U.S. citizens across the country are losing their health care. Last week, the Centers for Medicare and Medicaid Services published final citizenship documentation rules for the Medicaid program. Under these rules, individuals now must show a passport, original birth certificate or similar difficult-to-obtain form of identification to secure health care. The final rules do not repair, but perpetuate, the perverse outcome of the documentation requirement – eligible people losing health care coverage.

According to a recent GAO report, “Medicaid Citizenship Documentation Requirements Deny Coverage to Citizens and Cost Taxpayers Millions” (July 2007), the citizenship documentation requirement has led to widespread declines in Medicaid enrollment and increased administrative costs for states. What is it particularly troubling is that a Center on Budget and Policy Priorities (CBPP) study suggests that the decrease almost entirely reflects difficulties that American citizens are encountering in obtaining birth certificates or passports. In New Mexico, a woman with diabetes was terminated from her Medicaid when she couldn’t produce her original birth certificate. Her abusive former boyfriend had ripped up the certificate and thrown it away. Lacking financial resources to travel to her hometown of El Paso, Texas to search for her records, she went without needed care. By all accounts, this is a typical consequence of the citizenship documentation requirement on low-income Americans in need of health care.

Even when Congress enacted the provision last year, there was no evidence that undocumented immigrants were enrolling in Medicaid as citizens. It comes as no

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surprise, then, that states have since uncovered only a handful of cases where someone receiving Medicaid had incorrectly claimed to be a U.S. citizen. In ferreting out these isolated cases, states were forced to deny or delay coverage to thousands of citizens who did not have easy access to original birth certificates or passports. They have also wasted significant government resources.

The U.S. House of Representatives Committee on Oversight and Government Reform recently found that for every \$100 spent by the federal government to implement the citizenship documentation requirement, only 14 cents in Medicaid savings were realized.

As a consensus builds in America that we fix the health coverage crisis, here is a policy that sends us reeling backwards, terminating and denying coverage to eligible people who need the coverage the most.

The Social Security Administration for years has had a reasonable approach that protects against incorrect citizenship claims while also achieving the main goal of delivering benefits to those who are eligible. It is possible to achieve both goals. The new Medicaid documentation rules are unreasonable and expensive, disrespect state processes, and fail to accomplish the goal of providing needed health care to people Congress made eligible.

Shriver Center Board Member Cohen Is One of *National Law Journal's* Top 10 Litigators of the Year

Frederick H. Cohen, member of the Sargent Shriver National Center on Poverty Law's board of directors since 2005, is named one of the *National Law Journal's* top ten litigators of the year, in its June 18, 2007, issue. The journal's choice recognizes the health care litigation accomplishments of Cohen and his colleague David J. Chizewer of Goldberg Kohn.

Cohen and Chizewer were pro bono co-counsel on the 2004 class action lawsuit, *Memisovski v. Maram*, which found that Illinois was violating the Medicaid

Act by failing to establish a system to deliver health care to all covered children. This decision led to a negotiated settlement offering comprehensive new policies ensuring preventive care to all Illinois children with Medicaid. Cohen and Chizewer brought this case with John Bouman of the Shriver Center, and Stephanie Altman and Thomas Yates of Health & Disability Advocates.

In 2005 Cohen and Chizewer represented a whistleblower in *Tyson v. Americorp Group Illinois Inc.*, a case exposing an Illinois health maintenance organization (HMO) program scam. The HMO defrauded the state Medicaid program by training its employees "to avoid people who were ill and women in their third trimester of pregnancy," despite the company's contract "to enroll anyone eligible for Medicaid without regard to medical condition in exchange for a set amount based on the recipient's age and gender." After a four-week trial, Cohen and Chizewer won for the United States and the State of Illinois \$334 million, "the largest jury award in the history of these statutes." See www.law.com/nlj.

The journal's "basic criteria," among others, for its choices are "nominees having at least one significant win—either a bench or jury verdict—within the last 18 months, and a track record of significant wins over the last several years. 'Significant wins' is an expansive and subjective term... [I]t includes large monetary awards, or, from the other side of the aisle, winning a defense verdict when there is the risk of substantial damages."

New Illinois Health Insurance Rules Protect Sick People from Drastic Premium Increases

Springfield, IL – State Gov. Rod Blagojevich ordered the Division of Insurance of the state Department of Financial and Professional Regulation to issue two new administrative rules that will deal with impediments to quality health care faced by Illinois residents who purchase health insurance on the "individual market." One rule prohibits insurance companies from increasing the health insurance premiums for covered people when they become ill, and the other rule requires health insurance companies to disclose information on premiums and expenses. The announcement was made on July 12, 2007.

The rule regarding premium increases for covered people prevents insurance companies from considering health status when they set premiums on a renewed individual health insurance policy. Instead insurance companies are permitted to consider only demographics and medical cost inflation when they set premiums for renewing individual policies. According to the governor's office, the new rule protects consumers from being priced out of coverage when they have an illness or injury.

The rule regarding information disclosure requires health insurance companies to report quarterly to the state regulators how much they collect in premiums and how much they spend on health care claims. According to the governor's office, the new reporting requirements enable the state to gather the information needed to regulate rates more stringently.

The new rules were issued as the Illinois General Assembly continued to consider Senate Bill 5, the "Illinois Covered" plan, which would make comprehensive, affordable health coverage available to all Illinois residents through the expansion of public health coverage programs and subsidies and reforms of private insurance programs.

New Resource for Nutrition Advocates

By Stephani Becker, Health & Disability Advocates, Chicago, Illinois

Health & Disability Advocates collaborated with several other Illinois advocacy partners, the Chicago Region of the Social Security Administration, and the Illinois Department of Human Services to develop a fact sheet to improve food security and enhance nutrition for low-income people with chronic health conditions.

Traditionally, seniors and people with disabilities have had low food stamp participation. Despite categorical eligibility, the Supplemental Security Income (SSI) population (i.e., the aged, blind or disabled) has not utilized the Food Stamp Program to the fullest extent possible. We believe that the contact point at which a client applies for SSI offers a critical opportunity to increase participation in the Food Stamp Program and enhance nutrition among this population.

Since January, food and nutrition advocates in Illinois have been working with the Chicago Region of the Social Security Administration to improve the joint

processing of SSI and food stamps at its local offices. The Social Security Administration notified all local offices in the region (including Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin) of their responsibility to invite SSI-only households to apply for food stamps. The agency also met with advocates and the Illinois Department of Human Services to work on tracking food stamp applications taken at Illinois Social Security Administration offices and to ensure that such offices are well equipped to handle these applications. Advocates will continue to work with the Social Security Administration and the Illinois Department of Human Services in order to provide food stamp assistance to low-income disabled and elderly people.

The fact sheet describes what consumers and caseworkers need to know before going to a local Social Security Administration office to apply for SSI and food stamps. If you have any questions, contact Stephani Becker at Health & Disability Advocates, sbecker@hdadvocates.org (312.223.9600), or Jessica Terlikowski at the AIDS Foundation of Chicago, JTterlikowski@aidschicago.org (312.334.0931).

To see this fact sheet, visit

<http://www.povertylaw.org/news-and-events/poverty-action-report/july-2007>

Minority Women and Subprime Lending

The rate of homeownership within a community is more than just a monetary asset. Homeownership also represents a stable, growing community, where residents intend to raise their families and build their lives. "For the African American and Latino communities, women are a key driver in achieving homeownership," says Patrick Woodall, a senior researcher at the Consumer Federation of America. Data show that African American women make up half of the African American purchase-mortgage borrowers and Latin women make up nearly a third of Latino home purchase borrowers. Ultimately, lending rates charged to minority women have a lasting impact on individual families and their neighborhoods.

Minority women are disproportionately more likely to receive a subprime loan than any other demographic, according to recent research. Due to the rising foreclosure rate in the United States, the subprime home mortgage industry is under higher scrutiny than ever. Aggressive brokers and mortgage companies that

continue to support the subprime market are receiving greater attention as more people are unable to pay off their mortgages.

In a December 2006 study published by the Consumer Federation of America, analysts suggest that, regardless of income bracket, women are overwhelmingly more susceptible to predatory lending. Black and Latino women are hit the hardest by the predatory lending industry; they endure the highest mortgage rates regardless of income or credit rating. The study reveals that across all income levels white men are least likely to receive subprime loans, while women of color, whatever their income, are most likely to receive subprime loans.

Upper-income black women are almost five times more likely to receive subprime mortgages than upper-income white men. For Latino women of the same income level, the likelihood goes up by almost four times that.

Women making more than double their area median income are 50 percent more likely to receive subprime loans than men with similar income. On the larger mortgage borrowing scale, women make up 30 percent of borrowers for all types of mortgages, but they make up 38.8 percent of subprime borrowers. While the monetary consequences of agreeing to an unreasonable subprime loan or going into foreclosure are obvious, there are greater underlying problems concerning homeownership.

Historically, the paying of mortgages is a central means of accruing equity—one that has allowed many working-class families to cross income brackets and establish a strong financial foundation for their families. Subprime lending is proving to be a major barrier to asset building for women of color and thus a critical problem within such women's communities. Many mortgage brokers label women as "high risk" borrowers, but research is now exposing how this stereotype is actually perpetuated by financial institutions themselves. Unlawful discrimination, prevalence of predatory lending, differences in borrower knowledge, broad pricing discretion by loan officers, and lack of consumer-friendly support systems contribute to the lending disparities that are typically blamed on the consumers.

Illinois' TANF Grant: Inadequate for Too Long

Despite strong support from the Illinois House, a long overdue and much needed increase in the cash grants Illinois pays to families in its Temporary Assistance for Needy Families (TANF) program remains uncertain.

The Illinois House passed HB 949, the Supporting and Caring for Children through Economic Self Sufficiency Act, otherwise known as the Success Act, during a regular General Assembly hearing this April. As it stands, the legislation mandates a 15% increase in grants to be effective immediately. Despite early bipartisan support, evinced by a vote in favor of 96-to-17 in the House, the bill did not progress in the Senate. Why? The stalled budget. According to Illinois Department of Human Services estimates, the grant increase would cost the state \$19 million and new monies have yet to be allocated. While the cost is not insignificant, the price of not increasing TANF is ever more substantial.

CONSIDER THE FOLLOWING FACTS:

- Illinois cash grants for families with minor children have fallen from 79.0% of the Federal Poverty Level (FPL) in 1973 to 27.6% FPL in 2007.
- In dollar terms, a family of three received a maximum cash grant of \$237 per month in 1973. In 2007, a three-person family receives only \$396 per month.
- While the cash grants were increased every few years between 1973 and 1994, they have been increased only once since 1994—a 5% increase in 2002.
- Although housing is considered "affordable" if rent and utilities cost no more than 30% of income, rents exceed the *entire* TANF grant in almost all areas of Illinois, while fewer than half of TANF families even receive rent subsidies.
- Unable to obtain and maintain stable housing because they cannot afford the rent, TANF families move frequently, double-up with other families in overcrowded conditions, live in substandard housing, or end up in homeless shelters. These

disruptions threaten children’s progress in school and parents’ progress toward self-sufficiency through training or work.

- Illinois TANF grants are substantially lower than six of the seven neighboring Midwestern states and lower, often by hundreds of dollars per month, than the TANF grants in states with similar median incomes.
- In August 2006, the IDHS Social Services Advisory Committee recommended a staggered increase in TANF grants to the fifteen percent goal over three fiscal years. Such increases would come close to recapturing the loss in TANF grant value due to inflation since 1990. The grants would rise to approximately 32% of the federal poverty level in FY 2008, 36% of the federal poverty level in FY 2009, and 40% of the federal poverty level in FY 2010.

Illinois TANF grant amounts are not based on the Federal Poverty Level (FPL). The chart below compares the state TANF or, for years before 1997, the AFDC grant for a family of three in the Chicago metropolitan area, with the Federal Poverty Level for a three-person household. The years shown indicate when the TANF (or AFDC) grant was increased and the FPL for that year.

YEAR	FPL PER YEAR	AFDC/TANF GRANT, PER YEAR/PER MONTH	GRANT AS A PERCENTAGE OF FPL
1973	\$3600	\$2844/ \$237	79.0%
1974	\$3810	\$2988/ \$249	78.4%
1975	\$4230	\$3132/ \$261	74.0%
1978	\$5180	\$3288/ \$274	63.4%
1979	\$5600	\$3456/ \$288	61.7%
1981	\$7070	\$3624/ \$302	51.2%
1985	\$8850	\$4092/ \$341	46.2%
1987	\$9300	\$4104/ \$342	44.1%
1990	\$10,560	\$4404/ \$367	41.7%
1994	\$12,320	\$4524/ \$377	36.7%
2002	\$15,020	\$4752/ \$396	31.6%

Since the last grant increase in 2002, Illinois TANF grants have further declined as compared to the Federal Poverty Guidelines. See the following chart.

YEAR	FPL	TANF GRANT PER YEAR/PER MONTH	GRANT AS A PERCENTAGE OF FPL
2003	\$15,260	\$4,752/ \$396	31.1%
2004	\$15,670	\$4,752/ \$396	30.3%
2005	\$16,090	\$4,752/ \$396	29.5%
2006	\$16,600	\$4,752/ \$396	28.6%
2007	\$17,170	\$4,752/ \$396	27.6%

Budget talks have slowed the progress of this bill, but now there is a greater opportunity to strengthen our commitment to TANF reform in Illinois. Please contact your Illinois state Senator, Representative, and Governor Blagojevich and urge a continued commitment to a 15% increase in the TANF grants in the state’s Fiscal Year 2008 Budget.

For more information, please contact Margaret Stapleton at the Shriver Center, 312.368.3327, mstapleton@povertylaw.org.

Asset Limits in Public Benefit Programs Cost More than They Are Worth

In Illinois, conducting this asset test costs the state more money in operating costs than the state would lose by allowing participants to exceed the asset limit. If an applicant has more than the allowable amount, caseworkers often encourage applicants to spend those assets, resulting in a decrease of their financial stability, to qualify for the programs—a message completely contradictory to the goals of these caseworkers’ agencies.

States consider income and assets in determining participant eligibility in public benefit programs to ensure that only those who truly need help get the assistance. The rationale is to guarantee that people use their assets as cash reserves in times of need rather than tap into public assistance programs. After factoring in assets and debt, participants in these programs are more likely to have no net worth or a negative net worth, even though caseworkers are required to administer and validate asset amounts.

Instead of focusing on maintaining a process that guard against those who may cheat the system, public benefit programs should consider the message that they would like to communicate to public benefit recipients. “As Americans, we value self-sufficiency and policies that encourage savings,” says Dory Rand,

supervising attorney of the Community Investment Unit of the Sargent Shriver National Center on Poverty Law. “Asset limits imposed on a population that discourages them to save are absurd.”

The Shriver Center supports legislation or administrative rule changes that eliminate asset limits for public benefit programs. The Shriver Center supports the *Freedom to Save Act of 2007*, introduced July 25, 2007 by Representative John Conyers, Jr. (D - MI), that seeks to eliminate the asset test for the Temporary Assistance for Needy Families, the State Children’s Health Insurance Program, the Food Stamp Program, and the Social Security Income program for disabled individuals. Read Rand’s article, “Reforming State Rules on Asset Limits: How to Remove Barriers to Saving and Asset Accumulation in Public Benefit

Programs,” in the March–April 2007 *Clearinghouse Review: Journal of Poverty Law and Policy*; the article covers states’ options for reforming asset limits. In Illinois the Shriver Center continues to work with state policymakers to eliminate asset barriers for public benefit recipients.

For more information and a copy of Rand’s article, visit us at <http://www.povertylaw.org/advocacy/community-investment> or call Rand at 312.368.2007.

DIRECT COMMENTS AND QUESTIONS ABOUT THE
POVERTY ACTION REPORT
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2007 National Aging and Law Conference

Arlington, VA – the National Aging and Law Conference is to hold its seventh annual conference this October. This year’s theme is, “Safety Net for Older Americans: What Can Be Done to Protect It?” will be examined through a “nuts and bolts” pre-conference on October 10 and a main conference on October 11–13.

The AARP Foundation, the ABA Commission on Law and Aging, the National Senior Citizens Law Center, the Center for Social Gerontology, the Center for Medicare Advocacy, the National Academy of Elder Law Attorneys, the National Consumer Law Center, and the National Association of State Units on Aging are sponsoring the conference. The Sargent Shriver National Center on Poverty Law is a cooperating agency for this event.

For more information and to register, go to <http://givenow.ga4.org/aarpltp/events/nalc07/details.tcl>.

CLEARINGHOUSE REVIEW, the Shriver Center’s bimonthly journal of poverty law and policy, recently chose “elder law” as the subject of a 2008 special issue.