

## MEMORANDUM

**TO:** State Executives  
NCAL Leadership

**FROM:** Janice Zalen

**SUBJECT:** **HHS Issues Citizenship Guidelines for Medicaid Eligibility**

**DATE:** June 12, 2006

As you know, AHCA/NCAL have been in constant communication with the U.S. Department of Health and Human Services (HHS), in addressing provider concerns with Section 6036 of the Deficit Reduction Act (DRA), and the very real possibility that many patients and residents in nursing homes, assisted living and MR/DD facilities will be unable to produce the required citizenship documentation to receive Federal Financial Participation (FFP).

Late Friday, June 9, 2006, CMS released a *Medicaid Fact Sheet: HHS Issues Citizenship Guidelines For Medicaid Eligibility*, and a *Dear State Medicaid Director* letter that provides a list of additional documents that CMS is “considering utilizing in its upcoming rulemaking,” under the authority given the agency, to specify by regulation, other documents that provide proof and a reliable means of documentation of U.S. citizenship or nationality and personal identity. (See Attachments).

In the guidance issued last Friday, CMS outlined a four-level approach that they are considering implementing. The first level of this approach would require evidence of citizenship and identity from a “primary” document list. If an applicant or recipient presents evidence from the primary document list, then no other documentation is required. If an applicant or recipient cannot present evidence from the primary document list, then they must look at the “secondary” document list. If the applicant or recipient cannot present evidence from the secondary document list, then they must look respectively, to the “third” and “fourth” level of documentation lists. In addition, if an applicant or recipient proves citizenship from the documents listed on the second, third or fourth lists, they also must prove identity.

The primary document list includes:

- A U.S. passport;

- A Certificate of Naturalization (Form N-550 or N-570); and
- A Certificate of U.S. Citizenship (Form N-560 or N-561).

The secondary document list includes:

- A U.S. birth certificate;
- A certification of birth issued by the Department of State (Form DS-1350);
- A Report of Birth Abroad of a U.S. citizen (Form FS-240);
- A Certification of Birth Abroad (FS-545);
- A U.S. Citizen I.D. card (DHS Form I-197);
- An American Indian Card issued by the U.S. Department of Homeland Security with the classification code “KIC;”
- Final adoption decree;
- Evidence of civil service employment by the U.S. Government before June 1976;
- An official military record of services showing a U.S. birth place; and
- A Northern Mariana Identification Card (Issued by INS to a collectively naturalized citizen of the U.S., who was born in the Northern Mariana Islands before November 4, 1986.).

The third level document list includes:

- Extract of U.S. hospital record of birth established at the time of the person’s birth, and was created at least 5-years before the initial application date, and indicated U.S. birth place.
- Life or health or other insurance record showing a U.S. birth place and it was created at least 5-years before the initial application date.

The fourth level document list includes:

- Federal or state census record showing U.S. citizenship or a U.S. birth place;
- Institutional admission papers from a nursing home, skilled nursing care facility or other institution, and was created at least 5 years before the initial application date, and indicates a U.S. birth place.

- Medical (clinic, doctor or hospital) record, and it was created at least 5 years before the initial application date, and indicates a U.S. birth place unless the application is for a child under 5;
- Other document that was created at least 5 years before the application for Medicaid; and
- Written affidavit. (NOTE: Written affidavits may be used only in rare circumstances when the state is unable to secure evidence of citizenship through any other documentation.) The affidavits must be supplied by at least 2 individuals, one of whom is not related to the applicant or recipient. Each must attest to having personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship.

If an applicant or recipient proves citizenship using the second, third or fourth level document lists, they also are required to prove identity, and can use the following documentation:

- A current state driver's license bearing the individual's picture or state identity document, also with the individual's picture;
- Certificate of Indian Blood, or other U.S. American Indian/Alaska Native tribal document; or
- Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

AHCA/NCAL will analyze carefully the significance of this guidance, and its impact on LTC providers, and continue to communicate with the federal government on this important matter. AHCA/NCAL believes that CMS will act quickly on this matter given the July 1, 2006, implementation date. If you have any questions or concerns, please contact Janice Zalen at [jzalen@ahca.org](mailto:jzalen@ahca.org).