



Am. H.B. 358

126th General Assembly
(As Passed by the House)

Reps. Wagoner, Martin, Aslanides, Bubb, Buehrer, Combs, Core, Dolan, Domenick, C. Evans, D. Evans, Faber, Fessler, Harwood, Hughes, Law, R. McGregor, Oelslager, T. Patton, Reidelbach, Schaffer, Schneider, Seitz, Setzer, Trakas, Webster, White, Coley

BILL SUMMARY

- Requires that each application for the Medicaid program be accompanied by documentation of the citizenship or alien status of each individual included in the application.

CONTENT AND OPERATION

Background

Medicaid eligibility of aliens

The Medicaid program is a federal-, state-, and county-funded program that pays for certain medical services provided by qualifying providers to individuals eligible for the program. To be eligible for Medicaid, an individual must meet a number of requirements. Among the eligibility requirements are requirements concerning citizenship and alien status.

Federal law limits non-emergency Medicaid¹ to U.S. citizens and certain legal immigrants, referred to as "qualifying aliens."² A qualified alien is an alien

¹ *The Medicaid program may pay for care and services that are necessary for the treatment of an emergency medical condition not related to an organ transplant procedure for a non-qualified alien who otherwise meets Medicaid eligibility requirements. A condition, including emergency labor and delivery, is an emergency medical condition if it manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in (1) placing the patient's health in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunctions of any bodily organ or part. (8 United States Code Annotated 1611(b)(1)(A) and 42 U.S.C.A. 1396b(v)(3).)*

who, at the time of applying for, receiving, or attempting to receive Medicaid is (1) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act, (2) an alien granted asylum under the Act, (3) a refugee admitted to the United States under the Act, (4) an alien paroled into the United States under the Act, (5) an alien whose deportation is being withheld under the Act, (6) an alien granted conditional entry pursuant to the Act as in effect before April 1, 1980, or (7) a Cuban or Haitian entrant under the Refugee Education Assistance Act of 1980. An alien meeting certain immigration criteria who has been, or whose parent or child has been, battered or subjected to extreme cruelty in the United States by a family member also is a qualified alien if the need for Medicaid is substantially connected to the battery or cruelty and the family member responsible for the battery or cruelty no longer resides in the same household as the alien.³ However, a qualified alien who enters the United States on or after August 22, 1996, is ineligible for non-emergency Medicaid for a period of five years beginning on the date of entry unless certain exceptions to the five-year disqualification apply to the alien.⁴

² 8 U.S.C.A. 1611.

³ 8 U.S.C.A. 1641. *The family member responsible for the battery or cruelty must be the parent or spouse of the alien or a member of the spouse or parent's family who resides in the same household as the alien. If the family member is a member of the spouse or family member's family, the spouse or parent must have consented to or acquiesced in the battery or cruelty. If the alien is the parent of the victim of the battery or cruelty, the alien may not have actively participated in the battery or cruelty.*

⁴ 8 U.S.C.A. 1613. *The five-year disqualification does not apply to a qualified alien who is (1) admitted to the United States as a refugee under the Immigration and Nationality Act, (2) granted asylum under the Act, (3) an alien whose deportation is being withheld under the Act, (4) a Cuban or Haitian entrant under the Refugee Education Assistance Act of 1980, or (5) admitted to the United States as an Amerasian immigrant under the Foreign Operations, Export Financing, and Related Programs Appropriations Act. The five-year disqualification also does not apply to an alien who is lawfully residing in a state and is (1) a veteran honorably discharged other than for alienage who fulfills the minimum active-duty service requirements of federal law governing veterans' benefits, (2) on active duty, other than for training, in the United States armed forces, (3) the spouse or unmarried dependent child of an alien described in (1) or (2), or (4) the surviving spouse of an alien described in (1) or (2) if the spouse has not remarried and meets the requirements for dependency and indemnity compensation available to the surviving spouse of a veteran who dies after December 31, 1956. Neither an individual born in Canada to at least one parent who is an American Indian nor a member of an Indian tribe is subject to the five-year disqualification.*

Determination of citizenship or alien status

Federal law requires states to establish the citizenship or alien status of Medicaid applicants. Verification of U.S. citizenship for purposes of Medicaid eligibility is governed by section 1137(d) of the Social Security Act (42 U.S.C.A. 1320b-7(d)), which requires "a declaration in writing, under penalty of perjury. . .stating whether the individual is a citizen or national of the United States." The Centers for Medicare & Medicaid Services (CMS),⁵ the agency responsible for administering Medicaid, has therefore allowed, but not required, states to accept self-declaration of citizenship without the submission of documentary evidence. If a state accepts self-declaration of citizenship and it is later determined that an applicant is not a citizen, the state is responsible for any erroneous payments made on the individual's behalf.

The Social Security Act requires individuals who are not citizens or nationals to provide documentary evidence of alien status (42 U.S.C.A. 1320b-7(2)). CMS therefore requires "all non-citizen applicants for Medicaid who declare they are qualified aliens [to] provide Immigration and Naturalization Service (INS) documentation to establish immigration status" (State Medicaid Manual, section 3212.2(B)).

The bill

Medicaid application

(R.C. 5111.0119)

The Ohio Department of Job and Family Services (ODJFS) has adopted a rule providing that self-declaration of citizenship is acceptable verification for purposes of determining an individual's eligibility for the Medicaid program unless the self-declaration is confusing or contradictory to other available information. The rule requires that citizenship be verified if the applicant states that he or she is an alien or the entity making the eligibility determination has reason to believe that the applicant was born outside of the United States.⁶

The bill provides that self-declaration of citizenship or alien status is not sufficient for the purpose of determining an individual's eligibility for the Medicaid program. Instead, each Medicaid application must be accompanied by

⁵ CMS is part of the United States Department of Health and Human Services.

⁶ Ohio Administrative Code §5101:1-38-02(B)(3)(d); "verification" is defined as "a document or statement from a third party or collateral contact which confirms" the statement (OAC 5101:1-38-02(B)(1)).

documentation of the citizenship or alien status of each individual included in the application. The Director of ODJFS is required to adopt rules specifying the documentation that will be accepted as evidence of citizenship or alien status.⁷

Healthy Start

(R.C. 5111.013)

The component of the Medicaid program available to certain pregnant women and young children is known in state law as the Healthy Start Program. Current law requires that ODJFS establish a short application form for the Healthy Start Program that requires an applicant to provide no more information than is necessary for making eligibility determinations. The form may require applicants to provide their Social Security numbers. The bill provides that the form must be accompanied by documentation of the citizenship or alien status of each individual included in the application.

COMMENT

Congress recently enacted the "Deficit Reduction Act of 2005," P.L. No. 109-171. One of the act's provisions (Sec. 6036) prohibits states from receiving federal reimbursement under the Medicaid program for an individual who has not presented satisfactory documentary evidence of citizenship or nationality. Satisfactory evidence includes the following:

- (1) A United States passport;
- (2) A Certificate of Naturalization (Form N-550 or 570);
- (3) Certificate of U.S. citizenship (Form N-560 or 561);
- (4) A state-issued driver's license or other identification document if the state requires proof of citizenship before issuing the license or obtains a Social Security number from the applicant and verifies that the number is valid and assigned to the applicant who is a citizen;
- (5) Any other document specified by the U.S. Secretary of Health and Human Services in regulations.

These provisions do not apply to the following:

⁷ *The rules must be adopted in accordance with the Administrative Procedure Act (Chapter 119. of the Revised Code).*

(1) An applicant who is eligible for Medicaid and entitled to enroll or is enrolled in Medicare;

(2) An applicant who is eligible for Medicaid on the basis of receiving Supplemental Security Income benefits;

(3) An applicant who is eligible for Medicaid under circumstances specified by the Secretary.

These provisions apply to any determination or redetermination of eligibility on or after July 1, 2006.⁸

HISTORY

ACTION	DATE
Introduced	09-27-05
Reported, H. Health	05-18-06
Passed House (86-8)	05-24-06

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⁸ *National Conference of State Legislatures, "Deficit Reduction Act of 2005, Summary of Medicaid/Medicare/Health Provisions," available at: <http://www.ncsl.org/statefed/health/ReconDocs0206.htm>, last visited May 22, 2006.*