

Congress of the United States
Washington, DC 20515

September 13, 2006

The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

On July 1, 2006, new documentation requirements for determining the citizenship of Medicaid beneficiaries went into effect. Under section 6036 of the Deficit Reduction Act (DRA) of 2005, persons applying for Medicaid coverage must now provide “satisfactory documentary evidence of citizenship or nationality.”¹ We are writing to ask the Government Accountability Office (GAO) to investigate the impact of these restrictions on access to health care for low-income children, pregnant women, individuals with disabilities, and other U.S. citizens. We also request that GAO examine the costs of the new requirements for U.S. taxpayers.

The new DRA documentation provisions are time-consuming and burdensome to implement. The Department of Health and Human Services (HHS) issued interim final guidelines for the documentation requirements on July 6, 2006, requiring that U.S. citizens applying for Medicaid must supply original documentation of citizenship or copies certified by the issuing agency.² Since millions of low-income citizens do not possess original documents, this will create significant new costs and delays.³ For example, the cost of a new passport is about \$87 to \$97 and typically requires about six weeks; new birth certificates may entail fees ranging from \$5 to \$23, waits of several weeks, and may even require a notarized application.⁴ In addition, presenting these valuable documents will be risky via mail, so it is likely that more citizens must now travel in person to overburdened Medicaid offices, or if unable to travel, may lose their benefits.

Of the 55 million people on Medicaid, only about 8 million Supplemental Security Income (SSI) and Medicare beneficiaries are exempted from these requirements.⁵ States are allowed little flexibility for millions of children, adults, and disabled persons, regardless of degree of illness or circumstances. For instance, survivors of natural disasters who have lost everything will not qualify for even temporary benefits while searching for original documentation. Children in foster care will still be forced to produce original documentation,

¹ S. 1932, 109th Cong. (2005)

² 42 C.F.R. § 435.

³ Center on Budget and Policy Priorities, *New Medicaid Requirement is Unnecessary and Could Impede Citizens' Coverage* (Jan. 6, 2006).

⁴ *Id.*

⁵ *White House to Ease Rule on Medicaid Documents*, New York Times (July 7, 2006).

though their citizenship status has already been verified by states in order to be eligible for foster care.

The need for these onerous new requirements is unclear. A 2005 report from the Office of Inspector General of HHS found little evidence that illegal immigrants were improperly receiving full Medicaid coverage.⁶ In an official response to the report, the Administrator of the Centers for Medicare and Medicaid Services (CMS) concurred by stating “the report does not find particular problems regarding false allegations of citizenship, nor are we aware of any.”⁷ A Congressional Research Service immigration specialist at a recent hearing on immigration also echoed this opinion, stating that “there are not studies that have shown rampant abuse.”⁸

In fact, prior to passage of the DRA, CMS had been encouraging states to simplify — not complicate — the Medicaid application process by using procedures such as self-declaration, with further documentation required if there were any questions.

We have two primary concerns about the new requirements. First, state and local officials and independent experts have warned that the new requirements will cause many eligible beneficiaries — including children and the disabled — to lose their Medicaid health coverage. The Congressional Budget Office estimated that 35,000 people would lose coverage nationwide under the new provisions by the year 2015.⁹ Yet the State of Georgia is already reporting that 40,000 of its residents — more than CBO’s nationwide estimate at 10 years — have been dropped from coverage in just the first few months of implementation.¹⁰ Based on survey data of 2,026 adults in January of this year, the Center on Budget and Policy Priorities

⁶ Office of Inspector General, Department of Health and Human Services, *Self-Declaration of U.S. Citizenship for Medicaid* (July 2005).

⁷ Letter from Mark B. McClellan, Administrator, Centers for Medicare and Medicaid Services, to Daniel R. Levinson, Acting Inspector General, Office of Inspector General (Apr. 8, 2005) (included in Appendix D of July 2005 OIG report, at 26).

⁸ *Health Care Focus of Congressional Immigration Hearing*, Associated Press (Aug. 15, 2006) (available online at <http://www.macon.com/mld/macon/news/politics/15279581.htm>).

⁹ Letter from Donald Marron, Acting Director, Congressional Budget Office, to John M. Spratt, Ranking Member, Committee on Budget, U.S. House of Representatives (Jan. 27, 2006).

¹⁰ *Ills of Immigrant Health Debated*, Atlanta Journal Constitution (Aug. 16, 2006) (available online at http://www.ajc.com/search/content/metro/stories/0816methealth_.html). See also, Georgia Department of Community Health, *Amended FY 2007 & FY 2008 Program Budgets, Presentation to the Board of Community Health* (Aug. 10, 2006) (online at http://dch.georgia.gov/vgn/images/portal/cit_1210/31/55/61698934Med_PCK_SHBP_2008_Budget_Presentation_8-10-06.pdf) (accessed Aug. 20, 2006).

estimates that between 3.2 and 4.6 million U.S. born citizens could inappropriately lose coverage.¹¹

Second, we are also concerned about the costs of the new requirements. State Medicaid administrators responsible for implementing these provisions have significantly higher estimates for the additional time needed to comply than the CMS interim final regulations,¹² which estimate approximately 10 minutes for each individual and approximately five minutes by the state.¹³ The State of Illinois estimates approximately 368,000 additional staff hours with personnel costs of \$16 to \$19 million for the first year of implementation; the State of Washington estimates 68 additional full-time equivalents and \$4.55 million in administrative costs in fiscal year 2007.¹⁴ The National Health Law Program estimates a national increase in work hours totaling about 5,150 years of beneficiary and agency time, just to recertify those currently on Medicaid.¹⁵

These figures raise serious questions about whether the new requirements can meet a basic cost-benefit test. We could better understand the rationale for imposing costly new documentation requirements on Medicaid if fraudulent enrollment by illegal immigrants were a recurring problem. But it appears from the IG report and the conclusions of CMS that fraudulent enrollment by illegal immigrants rarely, if ever, occurs. This raises serious questions that we may be wasting hundreds of millions of dollars and denying health coverage to large numbers of eligible beneficiaries in order to chase a nonexistent problem.

We believe an analysis by the Government Accountability Office will help illuminate these important issues. We therefore request that GAO evaluate the following matters:

1. The impact of the new requirements on access to health care, including an assessment of:
 - a. The total number of eligibility denials as a result of the new provisions;
 - b. Of the total denials, the number of denials that are due to illegal immigrants applying for benefits;
 - c. Of the total denials, the number of denials to U.S citizens and other immigrants that are merely having difficulty providing the required documentation;

¹¹ Center on Budget and Policy Priorities, *Survey Indicates Deficit Reduction Act Jeopardizes Medicaid Coverage for 3 to 5 Million U.S. citizens*, (Revised February 17, 2006).

¹² Center on Budget and Policy Priorities, *supra* note 3.

¹³ Federal Register, 42 CFR Part 435, Volume 71, No. 133 (July 12, 2006).

¹⁴ State of Illinois, *Memorandum of State Amici Curiae in Support of Plaintiff's Amended Motion for Preliminary Injunction, Bell v. Leavitt* (Aug. 11, 2006).

¹⁵ National Health Law Program, *Comments on Interim Final Rule* (Aug. 3, 2006).

- d. The demographics of the population losing coverage, by age, race, gender, income, disability status, and geographic residence;
 - e. The impact of the new requirements on foster children, include Title IV foster children's ability to access care.
2. The paperwork burden created by the new requirements, including an assessment of:
 - a. The time needed to comply with the new requirements by states, local governments, and individuals;
 - b. Whether the new requirements comply with the requirements and goals of the Paperwork Reduction Act of 1995 and the Unfunded Mandates Reform Act of 1995.
 3. The costs of the new requirements, including an assessment of:
 - a. The increased administrative costs, including costs to the states, local governments, and individuals. This budgetary impact analysis should include detail on the types of administrative costs and the responsible party for these costs;
 - b. The increased health care costs incurred by states, local governments, hospitals and other institutions, and individuals due to the loss of Medicaid coverage for eligible individuals.
 4. The budgetary savings likely to be realized by state and federal governments under the new requirements from denying coverage to illegal immigrants.

Thank you for your assistance with this request. If you have any questions, please contact Stephen Cha with the Committee on Government Reform Minority staff at (202) 225-5420, or Bridgett Taylor with the Committee on Energy and Commerce Minority staff at (202) 226-3400.

Sincerely,



Henry A. Waxman
Ranking Member
Committee on Government Reform



John D. Dingell
Ranking Member
Committee on Energy and Commerce