



## Background

Undocumented immigrants have never been eligible for Medicaid (other than for some emergency medical care) or SCHIP. Eligible legal immigrants have always been required to provide various documents to prove that they have legal status and that their particular legal status allows them to qualify for Medicaid under federal law. In addition, any citizens whose citizenship is in question have always been required to prove it. In 2005, Dr. Mark McClellan, then-Administrator of the Centers for Medicare and Medicaid Services (CMS), wrote that this policy “allows states to enroll eligible individuals while preserving program integrity.”<sup>2</sup>

In 2006, however, Congress changed the law. A proposal authored by Rep. Nathan Deal and the late Rep. Charles Norwood requires every citizen child and parent receiving or applying for Medicaid to provide an original birth certificate, passport, or similar document to prove his or her citizenship. Congress enacted the provision even though Dr. McClellan had indicated there was no evidence it was needed and the Bush administration did not request it.

Supporters said the provision was necessary to keep undocumented immigrants out of Medicaid and that it would have no impact on citizens. Studying the issue in 2005, however, the Department of Health and Human Services’ (HHS) Inspector General did not find evidence of a problem.<sup>3</sup> As Dr. McClellan, who was CMS Administrator at the time, noted concerning the Inspector General’s report, “The report does not find particular problems regarding false allegations of citizenship, nor are we aware of any.”<sup>4</sup>

Furthermore, the results of the provision have proved just the opposite of what Rep. Deal anticipated: Tens of thousands of children who are U.S. citizens have been shut out of the program because their parents lacked ready access to a birth certificate or passport, while virtually no undocumented immigrants have been identified.

- Numerous states have reported that, due to the new requirement, thousands of U.S. citizen children have been removed from, or denied entry into, Medicaid. Many of them apparently became or remained uninsured. The Government Accountability Office (GAO), the House Oversight and Government Reform Committee, and the Center on Budget and Policy Priorities have reported these results based on data that the states collected.<sup>5</sup>

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<sup>2</sup> Memorandum from Mark B. McClellan to Daniel R. Levinson, Acting Inspector General, April 8, 2005, printed as Appendix D in Office of Inspector General, U.S. Department of Health and Human Services, “Self-declaration of U.S. Citizenship for Medicaid,” June 2005.

<sup>3</sup> Office of Inspector General, U.S. Department of Health and Human Services, “Self-declaration of U.S. Citizenship for Medicaid,” June 2005.

<sup>4</sup> McClellan, op. cit.

<sup>5</sup> Government Accountability Office, *States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens*, June 2007; “Medicaid Citizenship Documentation Requirements Deny Coverage to Citizens And Cost Taxpayers Millions,” Majority Staff, Committee on Oversight and Government Reform, July 24, 2007; Donna Cohen Ross, “[Medicaid Requirement Disproportionately Harms Non-Hispanics, State Data Show](#),” Center On Budget and Policy Priorities, July 10, 2007, and “[New Medicaid Citizenship Documentation Requirement Is Taking A Toll](#),” Center on Budget and Policy Priorities, March 13, 2007.

- The six states that have examined this issue in greatest detail found they have spent \$17 million so far to administer the burdensome requirement, have denied health insurance to tens of thousands of needy children and parents as a result, and have identified a grand total of *eight* undocumented individuals, whom they may have caught under the previous procedures anyway.<sup>6</sup> For example, the number of low-income children insured through Medicaid has dropped 11,000 in Virginia and 14,000 in Kansas due to the new requirements; each state identified one applicant who incorrectly claimed to be a citizen.<sup>7</sup>
- The three states that collected data by racial/ethnic group have found that the children losing coverage due to the requirement are overwhelmingly non-Hispanic white and non-Hispanic black children. Hispanic children are far less affected. In Virginia, for example, enrollment has fallen significantly among white and black children since the requirement took effect, while it actually has climbed among Hispanic children. This would not be occurring if the provision were affecting undocumented immigrants; an estimated 78 percent of undocumented immigrants are from Mexico, Central America, or South America, according to the respected Pew Hispanic Center.<sup>8</sup>

Governors have sharply criticized the provision. In a letter this summer to leaders of both parties on the House Energy and Commerce Committee, California Gov. Arnold Schwarzenegger wrote that the provision has increased state administrative costs, put barriers in the way of eligible applicants, and “created a situation where U.S. citizens actually have fewer rights than non-citizens when applying for Medicaid benefits”<sup>9</sup> (in that the documentation requirements now imposed on citizens have proved more difficult for many of them to comply with than the substantial documentation requirements placed on eligible legal immigrants).

## **The Compromise Provision**

A provision of the SCHIP compromise legislation is designed to give states increased flexibility to address the unintended problems that the provision enacted in 2006 has created, *without* allowing undocumented immigrants into Medicaid. The provision also tightens SCHIP — by extending these requirements into SCHIP for the first time. The compromise language is similar to language originally included in the Senate bill.

### **What the Compromise Provision on Citizenship Documentation Does**

The SCHIP compromise retains the citizenship documentation requirement added to Medicaid in 2006 and extends it to SCHIP, while giving states a new way to ensure that all individuals applying for benefits are who they say they are.

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<sup>6</sup> Committee on Oversight and Government Reform, op. cit.

<sup>7</sup> Donna Cohen Ross, “[Medicaid Requirement Disproportionately Harms Non-Hispanics, State Data Show](#),” op. cit.

<sup>8</sup> An estimated 13 percent are from Asia, and 9 percent are from Europe, Africa, and other areas. Jeff Passel, “The Size and Characteristics of the Unauthorized Migrant Population in the United States,” Pew Hispanic Center, March 2006.

<sup>9</sup> Governor Arnold Schwarzenegger, Letter to Reps. John Dingell, Joe Barton, Frank Pallone, and Nathan Deal, June 5, 2007.

### **Why the Social Security Matching Requirement Should Keep Out Undocumented Immigrants**

Social Security numbers are not issued to undocumented immigrants. Thus, a cross-match between Medicaid records and Social Security numbers can help to identify any undocumented immigrants who may have fraudulently applied for Medicaid benefits.

Some opponents of the SCHIP legislation are citing a Congressional Research Service observation that having a Social Security card does not itself denote citizenship. That is true, and is part of the reason why the SCHIP compromise requires states to verify information received from applicants against the Social Security database. Rather than rely on a card, states choosing the new option will have to verify that applicants' claims match official United States records of name, SSN and citizenship status.

It is also true that having a valid Social Security number does not prove you are citizen because some *legal* immigrants are granted Social Security numbers if they are authorized to work here. Federal Medicaid and SCHIP has long required, however, that legal immigrants who apply for Medicaid or SCHIP must submit immigration documents proving their legal immigration status and demonstrating that they are in a particular legal immigrant category that enables them to qualify for Medicaid. Immigrants who are lawful permanent residents will still be required to submit their immigration documents; having a valid Social Security number will not be sufficient for them to qualify.

A cross-match between Medicaid and Social Security number data thus should provide an efficient and effective mechanism to screen out undocumented immigrants, which was the goal of the provision enacted in 2006.

- Parents in all states would be required to sign, under penalty of perjury, that their children are U.S. citizens and to provide the children's Social Security numbers. States would then have the option of either continuing to apply the documentation requirement enacted in 2006 or of verifying each applicant's and recipient's name and Social Security number with the Social Security Administration (SSA). States electing the latter approach would provide to SSA the Social Security numbers of individuals applying for Medicaid and SCHIP. If the information provided by the applicant did not match SSA records, the applicant would have up to 90 days to straighten out the problem with SSA or to provide documentation of citizenship in accordance with the requirements enacted last year. Those not doing so would be denied coverage.
- This approach protects program integrity, because Social Security numbers are not issued to undocumented immigrants. Individuals who report false Social Security numbers should be readily identified by this cross-match. (Claims that this approach would be ineffective because some *legal* immigrants can legitimately obtain Social Security numbers are off the mark; legal immigrants who apply for Medicaid or SCHIP must do far more than prove they have a valid Social Security number. They must prove, with immigration documents, that they have a specific legal immigrant status that allows them to qualify for Medicaid or SCHIP. For further discussion of the efficacy of this approach, see the box above.)
- States that elect this option also would be required to provide information to HHS on the percentage of invalid names and numbers — and states would be *penalized financially* if the percentage of invalid cases exceeded 3 percent.

This provision of the new legislation would be substantially *more stringent* than the provisions that governed Medicaid prior to 2006 — and that did so evidently without causing problems or allowing undocumented immigrants to participate.

- Estimates that CBO developed for the Senate SCHIP bill indicate that about 100,000 eligible low-income children who would not receive Medicaid coverage under current law — because of the unintended side-effects of last year’s legislation — *would* be covered due to the new provision. Contrary to the charge by Rep. Nathan Deal that this provision is a “multi-billion dollar giveaway to illegal aliens,” CBO indicated that nearly all of those who would receive Medicaid coverage as a result of this provision would be U.S. citizens.
- The compromise provision also would reduce federal and state administrative costs, by allowing states to use more cost-efficient procedures to assure that undocumented immigrants do not receive Medicaid.
- This approach thus contains strong safeguards against undocumented immigrants obtaining benefits, and does so without perpetuating the needless and improper denial of coverage to tens of thousands of low-income citizen children who have lost or been denied health care coverage due to the unintended effects of the provision enacted in 2006.

#### **What the Compromise Provision Does Not Do**

- It makes no undocumented immigrants eligible.
- The new legislation also makes clear that nothing in it allows federal funding to be spent on undocumented immigrants.

The new provision responds to requests from governors in a number of states – including Oklahoma, Washington, New Mexico, Wisconsin, Michigan, Oregon, Virginia, Maryland, Pennsylvania, New Jersey, New York, Massachusetts, and California, among others – for greater flexibility in this area. The National Association of State Medicaid Directors also has called for such a change.