

Providing Citizenship Status under the Deficit Reduction Act (DRA)

Several provisions of the guidance issued to state Medicaid directors make it more difficult for applicants and recipients to prove citizenship than what was considered in previous draft guidance letters. The following list explains the main requirements outlined in the guidance letter and also highlights some of the major changes made since the latest draft of guidance was issued from CMS. The following page compares the main types of documentation allowed by the DRA, the previous guidance draft, and the final letter released on June 9, 2006.

Summary of Final Guidance Letter

- New applicants CANNOT be enrolled until they have provided satisfactory documentation of citizenship. An earlier draft of guidance, however, made FFP available for applicants who had shown a good faith effort to obtain documentation during the “reasonable opportunity period.”
- The guidance allows states to “use matches with other agencies to assist applicants or recipients to meet the requirements of the law” after applicants or recipients prove that they have made a good faith effort to obtain documentation. The guidance provides the example of doing a match of Medicaid applicants and recipients with the State Data Exchange (SDX) to show that an individual has proven citizenship for purposes of SSI.
- The guidance creates four “tiers” of documentation. Applicants and recipients are expected to show evidence from the first two tiers (which include government forms of documentation); if they are unable to obtain documents from the first two tiers, they may then use evidence from tier 3 to prove citizenship, and finally from tier 4. It is unclear what applicants and recipients will have to do, however, to “prove” that they cannot obtain evidence from Tiers 1 and 2.
- Tier 1 documentation proves both citizenship and identity. It includes a U.S. Passport, Certificate of Naturalization, or Certificate of Citizenship.
- Tier 2 documentation only proves citizenship. The most common document in this category is a U.S. birth certificate; other possibilities are listed in the attached table.
- Tier 3 documentation only proves citizenship and can only be used when primary or secondary evidence does not exist or cannot be obtained. Documents in this category include an official hospital record extract stating place and date of birth, or a life or health insurance record showing a U.S. place of birth.
- Tier 4 documents can only be used after showing that documents from previous tiers cannot be obtained within the State’s reasonable opportunity period. See the attached chart for a list of possible types of documentation that be used.
- Affidavits can be used only in “rare” circumstances when no other documentation is available. The affidavit must be by at least TWO individuals (one of whom cannot be related to the applicant or recipient) and the individuals making the affidavit must be able to provide proof of their citizenship and identity as well. In addition, the applicant, recipient, or “other knowledgeable individual” must also make an affidavit explaining why documentary evidence does not exist or cannot be obtained. This is a major shift from the policy explained in the previous draft guidance. According to the most recent draft, an applicant or recipient could prove citizenship with ONE individual submitting an affidavit that explains the circumstances of the applicant’s or recipient’s birth and why documentation is not obtainable.
- According to the final guidance, all applicants and recipients must prove their identity using photo identification. The only exception is for children under 16, who may use school records, including nursery or daycare records. An affidavit may be used, but only if signed “by a parent or guardian stating the date and place of birth of the child and cannot be used if an affidavit for citizenship was provided.”

Documentation Mentioned in the DRA (§6036)	Documentation Listed in Draft Guidance	FINAL Dear State Medicaid Director Letter 6/10/06
<p>Any one of these:</p> <ul style="list-style-type: none"> • U.S. Passport • Certificate of Naturalization • Certificate of U.S. Citizenship <p style="text-align: center;">OR</p> <p>Any one of these:</p> <ul style="list-style-type: none"> • Birth Certificate in the U.S. • Certificate of Birth Abroad • U.S. Citizen ID Card • Report of Birth Abroad <p style="text-align: center;"><i>plus</i></p> <ul style="list-style-type: none"> • Additional Personal ID, including one of the following: <ul style="list-style-type: none"> • US driver’s license either with a photo of the individual or other identifying information (e.g., name, age, sex, race, height, weight, or eye color). • School ID card with photo • US military card or draft record • Government-issued ID with the same information included on driver’s license • Native American Tribal document • U.S. Coast Guard Merchant Mariner card 	<p>Any documents listed in Column A</p> <p style="text-align: center;">OR</p> <p>Any one of these plus ID:</p> <ul style="list-style-type: none"> • U.S. Hospital Record of Birth • Religious Record of Birth (must be within three months of birth; indicate a U.S. place of birth; and record either the individual’s date of birth or age when the record was made) • Northern Mariana ID Card • American Indian Card with code “KIC”¹ • Affidavit made under penalty of perjury by one or more individuals who have personal knowledge of the event(s) establishing the applicant’s claim to citizenship (such as date and place of applicant’s birth).² • An applicant who cannot provide any of the above information may: <ul style="list-style-type: none"> o Explain in writing why he or she cannot obtain documentation; o Give the state any information he or she has which shows or results in proof that the individual is a citizen or national of the U.S. 	<p style="text-align: center;">Note: The applicant or beneficiary renewing eligibility must go through the following 4-tier hierarchy until he or she is able to successfully document citizenship.</p> <p>Tier 1 (proves both citizenship and identity)</p> <ul style="list-style-type: none"> • U.S. Passport • Certificate of Naturalization • Certificate of U.S. Citizenship <p>Tier 2 (proves citizenship only)</p> <ul style="list-style-type: none"> • A U.S. Public birth record • Certification of Report of Birth • Certification of Birth Abroad • U.S. Citizen ID Card • Consular Report of Birth Abroad of a U.S. Citizen • American Indian Card with code KIC (see note 1, below) • Northern Mariana Card • Final adoption decree • Evidence of US civil service employment before June 1, 1976. • Official Military service record that shows US place of birth. <p>Tier 3 (proves citizenship only)</p> <ul style="list-style-type: none"> • Extract of hospital record on hospital letterhead.³ • Life or health insurance record showing U.S. place of birth. <p>Tier 4 (proves citizenship only)</p> <ul style="list-style-type: none"> • Federal or State census record showing U.S. place of birth. • Seneca Indian tribal census record • BIA tribal census records of the Navajo Indians • U.S. State Vital Statistics official notification of birth • Amended U.S. public birth record • Statement signed by physician/midwife in attendance at birth • Institutional admission papers indicating place of birth • Medical record indicating U.S. place of birth • Written Affidavit by at least TWO individuals.⁴

1 Issued by DHS to identify U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border.

2 The person making the affidavit also must be able to provide proof of the signer’s citizenship and identity. The affidavit must also state a reasonable basis of personal knowledge that the applicant or recipient is a citizen and describe why documentary evidence does not exist or cannot be readily obtained.

3 Must be established at time of person’s birth and have been created at least 5 years before the initial application date.

4 One individual must be unrelated to applicant/recipient and both must have personal knowledge of the events establishing the applicant’s or recipient’s claim of citizenship. The individuals making the affidavit must be able to provide proof of their citizenship and identity. The applicant or recipient or other knowledgeable individual must provide a second affidavit explaining why documentary evidence does not exist or cannot be readily obtained.