

September 1, 2018

The Honorable Alex Azar, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Azar:

We appreciate the opportunity to comment on New Hampshire's requests to extend its New Hampshire Health Protection Program demonstration project under the authority of Section 1115 of the Social Security Act. The undersigned organizations represent a coalition united to protect and defend access to health care for immigrants and their families. While our organizations have many concerns about the proposal, these comments are specifically in response to the unprecedented proposal that adults eligible for the Medicaid expansion verify that they are United States citizens by providing two forms of identification and verify that they are residents of New Hampshire by providing a New Hampshire driver's license or a non-driver's picture identification card. We oppose this proposal as it would result in eligible people missing out on coverage, would be costly to the state and federal government, and does not further the objectives of the Medicaid program.

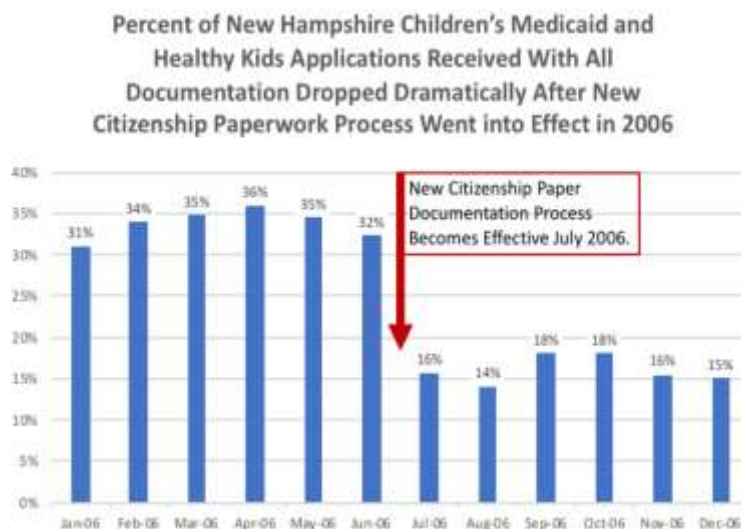
The citizenship documentation requirement New Hampshire is seeking to impose is not allowable under federal rules and adds red tape that will result in eligible people being delayed or deterred from obtaining benefits. The New Hampshire proposal would require expansion adults to verify that they are United States citizens by providing two forms of identification and verify that they are residents of New Hampshire by providing a New Hampshire driver's license or a non-driver's picture identification card. By implication, qualified immigrants who are eligible for Medicaid could not enroll, because they couldn't prove they are citizens. It isn't clear that the state actually intends to bar otherwise eligible legal immigrants from the program but that would be the consequence of requiring documentation of *citizenship* from all applicants and such a limitation on eligibility is not allowable under the law.

The requirements that New Hampshire is attempting to impose are not only unnecessary and would create a significant barrier to keeping people insured — they would also violate the Medicaid statute. The key provisions governing proof of immigration status and citizenship are in parts of the Social Security Act that cannot be waived. Section 1137 governs verification of immigration status and section 1903(x) is the core provision governing verification of citizenship. Neither of these provisions can be waived under section 1115 which only allows waivers of provisions in section 1902.

Moreover, the state hasn't provided any justification for this proposal, which is not surprising given there isn't any evidence that current procedures aren't sufficient to guarantee that only eligible citizens and qualified immigrants are participating in New Hampshire's Medicaid program. The requirements New Hampshire is proposing would be unnecessarily burdensome for consumers and for the state. Many eligible people would likely be unable to provide the documents because they aren't readily available and obtaining them would

take time and money, which in turn would result in delays or outright denials of coverage as New Hampshire experienced in 2006 after implementing the burdensome paper-based citizenship documentation requirement under the Deficit Reduction Act of 2005.

During this time, New Hampshire Healthy Kids (NHHK), processed child applications for the state's Children's Health Insurance Program (CHIP) and Medicaid. Prior to implementing the burdensome paper-based citizenship documentation requirement, 34 percent of applications received monthly by NHHK included all of the documents needed to verify eligibility. During the first six-months of implementing the new burdensome citizenship documentation requirement, only 16 percent of applications received by NHHK had all documents needed to verify eligibility.¹



Adding the requirements New Hampshire proposes is unnecessary. Existing Medicaid regulations require verification of citizenship and noncitizen status for Medicaid enrollees. In fact, state and federal governments have spent millions of dollars establishing systems that electronically verify citizenship or eligible immigration status accurately and efficiently through the Social Security Administration (SSA) which verifies U.S. citizenship and the Department of Homeland Security (DHS) which verifies immigration status and U.S. citizenship for certain individuals. Applicants must provide their names, dates of birth, and Social Security or relevant immigration numbers, which are then matched against information held by these agencies. The majority of people have their status verified quickly, accurately, and securely using these processes. Some people can't instantly be verified and they must provide additional information or documents to prove their status. In cases where individuals must provide documentation to prove their citizenship many do not have to provide two forms of proof—as would be the requirement under this policy—several forms of proof are sufficient by themselves to prove citizenship under law including U.S. issued passports, certificates of U.S. citizenship and certificates of naturalization.²

¹ Tricia Brooks, Why is NH Proposing to Replace Proven Electronic Citizenship Verification with Burdensome Medicaid Paperwork Requirements?, Georgetown University Health Policy Institute Center for Children and Families, June 28, 2018. <https://ccf.georgetown.edu/2018/06/28/why-is-nh-proposing-to-replace-proven-electronic-citizenship-verification-with-burdensome-medicaid-paperwork-requirements/>

² Sec. 1903(x)(1) of the Social Security Act.

The new documentation requirements included in New Hampshire’s proposal would cause massive delays in coverage for many Medicaid beneficiaries. The current process that verifies citizenship or immigration status through data matches allows most people to have their circumstances verified quickly and accurately. The quick decision helps ensure that the state sends people who aren’t eligible for Medicaid to the Marketplace without significant delay.

Moreover, New Hampshire’s proposal seeks to impose a restrictive and burdensome residency requirement that would only accept New Hampshire driver’s license or a non-driver’s picture identification card as evidence of state residency. Similar to the experience with burdensome and restrictive citizenship documentation, this requirement will result in eligible consumers unable to meet the requirement and as result will get delayed coverage or miss out in coverage altogether. Similar to the citizenship proposal, the state provides no evidence that suggests that the current procedure is resulting in ineligible people being enrolled.

We thank you for consideration of our comments. If you have any questions or would like additional information, please contact Shelby Gonzales (gonzales@cbpp.org) or Madison Hardee (mhardee@clasp.org).

Signed,

Asian & Pacific Islander American Health Forum
Asian Americans Advancing Justice (AAJC)
Autistic Self Advocacy Network
California Immigrant Policy Center
California Primary Care Association
Center for Health Progress
Center for Law and Social Policy (CLASP)
Center for Public Policy Priorities
Center for the Study of Social Policy
Center on Budget and Policy Priorities
Coalition on Human Needs
Colorado Center on Law and Policy
Community Catalyst
Congregation of Our Lady of the Good Shepherd, US Provinces
Consumers for Affordable Health Care
Families Belong Together
First 5 Marin Children and Families Commission
First Focus
First Parish Portland
Florida Health Justice Project, Inc.
Friends Committee on National Legislation
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)
Immigrant Legal Advocacy Project
Justice in Aging

Kingdom Mission Society
Leadership Conference of Women Religious
Maine Immigrants' Rights Coalition
Massachusetts Immigrant and Refugee Advocacy Coalition
Michigan Immigrant Rights Center
National Advocacy Center of the Sisters of the Good Shepherd
National Center for Law and Economic Justice
National Council of Jewish Women
National Immigrant Justice Center
National Immigration Law Center
National LGBTQ Task Force
National WIC Association
NETWORK Lobby for Catholic Social Justice
New York Immigration Coalition
Northwest Health Law Advocates (NoHLA)
Positive Women's Network-USA
Prevention Institute
ProsperityME
Sargent Shriver National Center on Poverty Law
SC Appleseed
Service Employees International Union (SEIU)
Sisters of Mercy NH
Sisters of Mercy Northeast
Sisters of Mercy-individual
Sisters of St. Francis of Philadelphia
Tennessee Justice Center
The Children's Partnership
UnidosUS

CC: Seema Verma, Tim Hill, Judith Cash