

Access to Medicaid for Newborns of Immigrant Mothers

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Recent news reports implied that the federal government has a new policy that affects the newborn U.S. citizen babies of immigrant women who receive Emergency Medicaid.¹ The articles on Medicaid coverage for these U.S. citizen infants were confusing and in some cases misleading.

All citizen infants remain eligible for Medicaid, regardless of the immigration status of their mother. The question raised is whether some newborns whose mothers are receiving Medicaid can get coverage automatically, or whether they need to file their own Medicaid application and proof of citizenship. This issue brief clarifies the facts concerning coverage of newborns of immigrant mothers on Medicaid.

- Federal Medicaid law provides that newborns whose mothers are receiving Medicaid at the time of birth are automatically eligible for Medicaid and receive immediate and continuous coverage during their first year of life. Title 42 United States Code, Section 1396a(e)(4). This law was passed in 1984 with bipartisan support and remains in effect.
- The only *recent* change to federal Medicaid came as part of the Deficit Reduction Act of 2005 (DRA). The DRA did not change immigrants' eligibility for Medicaid but required that states must obtain proof of citizenship from most U.S. citizens who apply for or receive Medicaid. There is no language in the DRA addressing whether infants born to mothers on Medicaid can get coverage automatically.
- In July of this year, the federal government issued interim regulations on the DRA. In the *preamble* to these regulations, the administration, through the Centers for Medicare & Medicaid Services (CMS), stated its opinion that the U.S. citizen babies of immigrant women with Emergency Medicaid coverage should not be granted

¹ Robert Pear, "Medicaid Wants Citizenship Proof for Infant Care," *New York Times*, Nov. 3, 2006; Kevin Freking, "Advocates: Medicaid Rules Imperil Babies," *Associated Press*, Nov. 3, 2006; Susan Carroll, Melanie Markley, "Controversial New Medicaid Rules Already Policy in Texas," *Houston Chronicle*, Nov. 3, 2006.

automatic Medicaid eligibility, but instead must submit an application. As such, CMS believes that these infants are subject to the citizenship verification requirements of the DRA and would need to apply for Medicaid and provide proof of citizenship in order to be covered by the program.

- Most states apply the longstanding federal law correctly, by providing automatic or “deemed” Medicaid eligibility to newborn citizens whose mothers are receiving Medicaid, regardless of whether the mother is receiving Emergency Medicaid or full Medicaid coverage.
- However, some states took the administration’s statements in the preamble to mean that they should deny automatic eligibility to the U.S. citizen babies of immigrant women on Emergency Medicaid. Such a practice not only is inconsistent with longstanding federal law but also has been found to be unconstitutional. Imposing barriers on access to health coverage for newborns endangers the health and well being of these citizen children and increases the risk that simple problems will become more costly health emergencies.
- Requiring a new Medicaid application for a newborn based on the mother’s scope of Medicaid coverage creates an unnecessary barrier to that baby’s ability to receive the care he or she needs. Application processing delays, the time it takes to receive a birth certificate, and other factors could prevent that citizen child from receiving well-baby care and even more urgent care.
- It is unfortunate that the politics of immigration are being used to interfere with vital health care coverage for U.S. citizen newborns. CMS’s preamble language, if implemented, would threaten the health and safety of vulnerable U.S. citizen newborns. The preamble’s language was not required by and has nothing to do with the DRA’s Medicaid citizenship rule. It is a shameless attack on immigrants’ children that risks individual and public health.

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