

# Deficit Reduction Act (DRA) Fact Sheet

## Background

The Deficit Reduction Act of 2005 (DRA) requires nationals and U.S. citizens who are applying for Medicaid to prove their citizenship and identity. The law was first implemented in Colorado on July 1, 2006. In order to comply with final regulations issued by the Center for Medicare and Medicaid Services (CMS) in July of 2007, Colorado's Medical Services Board adopted final rules regarding citizenship and identity verification for Medicaid applicants in Colorado. The new rules were effective January 1, 2008.

In February 2009, the Children's Health Insurance Reauthorization Act (CHIPRA) made the DRA citizenship documentation requirements apply to existing Children's Health Insurance Plan (CHIP) enrollees and new CHIP applicants, effective January 1, 2010. This requirement was implemented for Colorado's CHIP program, Child Health Plan Plus (CHP+), March 2010.

## Exemptions

The following groups are exempt from the DRA and do NOT need to provide verification of their citizenship and identity.

- People who are not US Citizens (such as legal permanent residents, non-qualified/non-citizens, or non-citizen refugees),
- People who receive SSI (including 1634, 1619(b), Disabled Adult Children, and Disabled Widow(er) cases),
- People who receive Social Security Disability Insurance,
- People who are entitled to or who are enrolled in any part of Medicare,
- Newborn children of mothers enrolled in Medicaid and CHP+ Pre-Natal at the time of the child's birth (Eligible Needy Newborn) including emergency Medicaid and retroactive Medicaid,
- Children in foster care who receive child welfare services under Title IV-B of the Social Security Act,
- People who receive adoption or foster care assistance under Title IV-E of the Social Security Act, and
- Individuals receiving Medicaid during a period of presumptive eligibility.

## How Much Time Do Applicants Have to Supply Documents?

Medicaid and CHP+ applicants have a "reasonable opportunity period" to submit their documents. The amount of time depends on which Medicaid program they apply.

Applicants for CHP+ and Family and Children Medicaid categories, including pregnant women and parents with dependent children on Medicaid, have 14 calendar days to provide the required documentation. If the documentation is not provided within 14 calendar days and the applicant is not making a good faith effort to provide documentation, the application will be denied.

Applicants for Medical Assistance Programs have 90 calendar days to provide the required documentation. If the documentation is not provided within 90 calendar days and the applicant is not making a good faith effort to comply, the application will be denied.

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## Acceptable Documents

Under CHIPRA, states have the option to verify citizenship status by conducting a data match with the Social Security Administration (SSA). The SSA interface (SCHIP) is available to verify U.S. citizenship and identity information

- Positive match verifies both U.S. citizenship and identity
- Interface will be used before requiring documents from applicants
- Applicants who do not match with interface will be given the opportunity to provide original documents
- Reduces administrative burden on clients, application sites and eligibility sites

The four documents that can be used to verify both citizenship and identity are:

- A US Passport
- A Certificate of Naturalization,
- A Certificate of Citizenship, or
- A document issued by a federally recognized Indian tribe, such as a tribal enrollment card or certificate of degree of Indian blood.

If an applicant does not have one of these documents, then they must provide:

- One document that proves US citizenship, AND
- One document that proves their identity.

The simplest way for an adult to prove their citizenship and identity is to provide a birth certificate and a driver's license. The simplest way for a child under age 16 to prove their citizenship and identity is to submit a birth certificate and an affidavit. An affidavit is a document signed under penalty of perjury by the parent or guardian that states the place and date of the child's birth.

## Affidavits

Any applicant may submit written affidavits to establish citizenship if they are unable to present a document from the list of documents. The affidavit option requires that two individuals with personal knowledge of the applicant's citizenship sign a sworn statement. The individuals must provide proof of their own US citizenship and identity. The applicant must also provide an affidavit that explains why they are unable to document their citizenship. These affidavits do NOT need to be notarized.

Affidavits to establish identity may be submitted by any child under age 16 and in some cases by children under age 18. The rules concerning affidavits for children are covered in the next section.

Note that only one affidavit is acceptable. If an applicant has submitted an affidavit to establish identity, then they may not submit an affidavit to establish citizenship. If an applicant has submitted an affidavit to establish citizenship, then they may not submit an affidavit to establish identity.

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## Special Identity Rules for Children

Children are treated differently than adults when it comes to proving identity. Children under age 16 may provide clinic, doctor, hospital, or school records. If none of those records are available, an affidavit may be submitted on the child's behalf. The affidavit is a sworn, signed statement that includes the child's name, and date and place of birth. Parents/guardians are not required to provide proof of their own citizenship when completing an affidavit for their children.

An affidavit to establish identity may also be submitted on behalf of a child under age 18 if a school ID or driver's license is not available to the child until they reach 18 years of age.

If an affidavit is used to establish identity then an affidavit to establish citizenship may NOT be used.

## Special Identity Rules for Disabled Individuals in Institutional Care Facilities

People who are disabled and live in an institutional care facility may also satisfy the identity verification requirement with an affidavit. The affidavit is an option if no other evidence of identity is available. The affidavit must be signed by a residential care facility director or administrator under penalty of perjury. The affidavit does NOT need to be notarized.

## How Often Must Applicants Prove Their Citizenship and Identity?

Once citizenship and identity verification has occurred it does not need to be repeated unless later evidence raises a question about the individual's citizenship or identity, or there is a gap of more than 5 years since the applicant was last enrolled in Medicaid and CHP+, and the county has not retained evidence of the applicant's citizenship and identity.

## Name Changes

Applicants who have changed their last name for any reason, (for example, marriage, divorce, or court order) are NOT required to supply additional documentation regarding the name change. Additional documentation may be required if:

- There is reasonable basis for doubt that the identity documents belong to the applicant.
- If the applicant changes their first and/or middle name in addition to their last name
- With the exception of the last name, if the information contained in the citizenship and identity documents does not match.

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## Are Copies Acceptable?

Documents must be originals or copies certified by the issuing agency. Photocopies are only acceptable if they are verified by a document verification site. Document verification sites include:

- Medical Assistance (MA) sites,
- Presumptive Eligibility (PE) sites, and
- Certified Application Assistance (CAA) sites.

Photocopies must be:

- Attached to a Citizenship and Identity Documentation Received Form,

OR

- Stamped by the viewing agency,

OR

- Verified in some way that the documents viewed were originals. Verification must include the organization name, telephone number, and address, date the documents are viewed, and name and signature of the person that viewed the documents and the words “verified original” written or stamped on the document.

Notarized copies of documents that verify citizenship and identify are no longer acceptable as of January 1, 2008. If a Medicaid or CHP+ applicant or recipient submitted notarized document copies before January 1, 2008, they are NOT required to submit original or certified copies at their redetermination or at any subsequent reapplication.

## Good Faith Effort

Medicaid and CHP+ applicants who are unable to get required documentation within the reasonable opportunity periods may be allowed more time to comply if they are making a good faith effort. The amount of time allowed will be determined on a case-by-case basis and depends upon the amount of time the applicant needs to obtain the documents. Examples of making a good faith effort to secure documentation include but are not limited to:

- Providing a verbal or written statement describing the effort to secure documentation
- Providing copies of letters, emails, applications, checks, receipts or other materials sent or received in connection with a request for a citizenship or identity document
- Providing a verbal or written statement of an effort to identify people that can attest to their citizenship or identity.

Unless there is a reasonable basis for doubt, an applicant’s verbal statement describing their effort should be accepted without additional verification.