IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RUBY BELL, et al., individually and on behalf of all similarly situated persons,	)	
Plaintiffs,	)	No. 06 C 3520
vs.	)	Judge Guzman
MICHAEL LEAVITT, Secretary of the United States Department of Health and Human Services,	)	
Defendant.	)	

MEMORANDUM OF STATE AMICI CURIAE IN SUPPORT OF PLAINTIFFS' AMENDED MOTION FOR PRELIMINARY INJUNCTION

I. INTRODUCTION

Illinois state agencies that administer Medicaid or process applications for Medicaid, or that rely upon Medicaid matching dollars for their programs, join as amici curiae with the State of Maryland, to address the unreasonable and unnecessary burdens that the new interim final regulations will create for the States. Medicaid Program; Citizenship Documentation Requirements, 71 Fed. Reg. 39,214 (Dept. Health and Human Services, July 12, 2006) ("Regulations"). The Regulations require States, already understaffed and laboring under severe financial constraints to meet the medical assistance needs of Medicaid applicants and recipients, to shoulder significant new administrative, personnel and data retrieval costs. In addition, States will face potential loss of Federal Financial Participation ("FFP") funding for providing Medicaid benefits to United States citizens unable to satisfy the unreasonably narrow and cumbersome documentation requirements set forth in the Regulations. The Regulations place

States on the horns of a dilemma – attempt compliance with costly, unwieldy and unnecessary citizenship documentation requirements that will leave many citizens without Medicaid coverage, or ensure that those citizens who cannot satisfy the documentation requirements, but are otherwise eligible, have access to health care coverage, even if it places federal matching funds at risk.

Amici support Plaintiffs' Amended Motion for Preliminary Injunction. As will be more fully explained below, the new burdens that the Regulations impose upon States are unreasonable. The new citizenship and identity documentation requirements not only will impair the functioning of those state agencies responsible for processing Medicaid applications and assisting Medicaid applicants and recipients with the application and redetermination process, but also will cut into the bone of strained state Medicaid budgets and interfere with the delivery of Medicaid benefits to citizens who need them for vital health care.

II. BACKGROUND

Section 6036 of the Deficit Reduction Act of 2005, Pub.L.No. 109-171, was signed into law by the President on February 8, 2006 ("Section 6036"). It amends the Medicaid Act, 42 U.S.C. §§1396 et seq. ("the Medicaid Act"), to mandate that States obtain documentation of citizenship and identity from Medicaid applicants and recipients in order to receive federal reimbursement for the Medicaid services provided to them. The statute outlines specific documents that can be used as satisfactory documentary evidence of citizenship and identity, but also authorizes the Secretary of the Department of Health and Human Services ("DHHS") to specify additional acceptable documents by regulation. 42 U.S.C. §§ 1396b(x)(3)(A) - (D).

On July 6, 2006, the Secretary of DHHS, Michael Leavitt, issued interim final

regulations, which were subsequently published in the Federal Register on July 12, and open to public comment for 30 days thereafter. Medicaid Program; Citizenship Documentation Requirements, 71 Fed. Reg. 39,214 (Dept. Health and Human Services, July 12, 2006). In several respects, these Regulations are substantially more restrictive than the Section 6036 requirements, establishing a rigid scheme of documents that Medicaid applicants and recipients may use to prove their citizenship and identity, and specifying that the documents must be original or certified copies. The Regulations specify that Medicaid applicants and recipients should be given a "reasonable opportunity" period to comply with the documentation requirements, but do not permit a finding of eligibility and subsequent enrollment of applicants for benefits until satisfactory documents have been produced. 71 Fed. Reg. at 39,225.

III. THE NEW DOCUMENTATION REQUIREMENTS IMPOSE UNREASONABLE AND UNNECESSARY BURDENS UPON THE STATES AND CITIZENS

A. The Interest of Amici

In Illinois, the Regulations will have the greatest administrative impact on the Illinois Department of Healthcare and Family Services ("HFS") and the Illinois Department of Human Services ("DHS"). HFS administers the Medicaid program in Illinois and serves as the intermediary with the federal government for all Medicaid-funded medical programs in Illinois. Through an inter-agency agreement between HFS and DHS, DHS processes approximately three-fourths of the new applications for Medicaid and also handles most redeterminations for existing Medicaid recipients, through its caseworker staff dispersed in regional offices throughout the State. HFS processes approximately one-fourth of new Medicaid applications.

At least two other Illinois state agencies will also be affected by the new Regulations: the Illinois Department of Children and Family Services ("DCFS") and the Illinois Department on

Aging. DCFS is the State's child protective agency. It has primary responsibility for all children who come into the custody of the State following findings that they have been abused or neglected by their parents or guardians. These children require Medicaid benefits not only for ongoing medical care, but also for immediate medical care when they come into the custody of DCFS. The prospects for ultimately satisfying the documentation requirements for some of these children will be difficult, if not impossible, jeopardizing their receipt of Medicaid benefits in the long term. Some of these children have been abandoned by their parents, or have nobody who can supply information about their birth. Many have never attended school, and therefore have no school records or other documentation of their identity.

A special unit of DHS eligibility staff, who are partially funded through federal Medicaid dollars, process Medicaid applications on behalf of HFS and DCFS for these children so that they can be promptly enrolled and begin receiving Medicaid benefits immediately.[1] Under the new Regulations, however, a child should not be enrolled until he or she can satisfy the documentation requirements. Should the State decide to enroll a child because he or she cannot promptly – or ever – produce satisfactory documentation of citizenship and identity, the State will risk loss of FFP dollars for those benefits.

The Illinois Department on Aging (DoA) provides services and advocacy for older citizens and their caregivers to promote independence and quality of life for seniors in Illinois. As part of this mission, it administers the Community Care Program, which provides a variety of

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[1] DCFS is required pursuant to the Consent Decree in B.H. v. McDonald, No. 88 C 5588 (N.D. Ill., Grady, J.), state and federal laws to provide initial health screenings and comprehensive health examinations within the first month a child comes into the custody of DCFS. Delaying such health screenings and examinations is not an option.

in-home and community-based services to approximately 50,000 senior citizens across the State, helping them avoid nursing home care and remain in their homes. Applications for Community Care are taken and processed at case coordination units, which are part of a network of community-based social services agencies that have agreed to assess the needs of prospective applicants under the programs administered by DoA and assist them with enrollment in those programs. Seniors who apply for Community Care are required to make a good faith attempt to also apply for federal benefits for which they may be entitled (89 Ill. Adm. Code 240.865), including Medicaid. Depending on the seniors' eligibility for a Medicaid waiver program, the cost of delivering Community Care benefits will be offset by the receipt of FFP dollars through a Medicaid Waiver program. The DoA depends on FFP dollars to pay a substantial portion of the benefits administered under the Community Care Program.

DoA also shares administrative responsibility with HFS for the Illinois Cares Rx Program. This program provides prescription drug benefits to qualifying seniors and persons with disabilities. Once a person has been found eligible, HFS determines whether some of the Illinois Cares Rx program benefits are reimbursable through a Medicaid waiver program. Currently, approximately 5,000 seniors receive some of their Illinois Cares Rx benefit through a Medicaid waiver program which provides FFP dollars to the State. Ultimately, the receipt of FFP dollars to cover some of the cost of participation in the Community Care Program or the Illinois Cares Rx Program allows the DoA to extend the benefits of these important programs to more Illinois seniors.

The population served by DoA is often fragile, both physically and mentally. For this reason alone, many of them will find the Regulations' documentation requirements daunting, if

not impossible, to satisfy. This may deter them from attempting to satisfy the documentation requirements, or from even pursuing an application for Medicaid in the first instance. Still others will know that they will never be able to satisfy the requirements because the documents simply do not exist. This, too, will have a chilling effect on their pursuit of Medicaid benefits. To the extent that seniors cannot access Medicaid benefits because they find the documentation requirements too onerous, or because satisfactory documents are not available, Medicaid waiver FFP will be unobtainable and the State will pay the full cost of those Community Care or Illinois Rx benefits, even that portion which should be federal responsibility. Ultimately, the loss of FFP dollars to cover some of the cost of participation in the Community Cares Program or the Illinois Cares Rx Program will put a greater strain on the State's budget for these programs. On the other hand, the more FFP dollars that are available to offset the cost of these programs, the greater the ability of DoA to extend these benefits to more Illinois seniors who need them.

B. The Regulations' New Documentation Requirements Dramatically Alter The Requirements Imposed Upon The States by The Medicaid Act

Since its enactment in 1965, the federal Medicaid Act has included a provision that prohibits the Secretary of Health and Human services from "approv[ing] any plan which imposes, as a condition of eligibility for medical assistance under the plan ... (3) any citizenship requirement which excludes any citizen of the United States." 42 U.S.C.A. § 1396a(b)(3). The Medicaid Act has also provided since its enactment that as a condition of a person's eligibility for Medicaid, a State must "require ... a declaration in writing, under penalty of perjury (1) by the individual ... stating whether the individual is a citizen or national of the United States...." 42 U.S.C. 1320b-7(d)(1)(A). Consistent with these provisions, 47 States, including Illinois, have accepted self-attestation as valid proof of citizenship for purposes of establishing Medicaid

eligibility prior to the effective date of the Regulations. See Department of Health and Human Services, Office of Inspector General, "Self-Declaration of U.S. Citizenship for Medicaid," OEI-02-03-00190 (July 2005) ("OIG Report"), p. 9.[2] This has been the practice in Illinois since approximately 1993 (prior to that time, if a person declared themselves to be a citizen, Illinois did not require written attestation). Consequently, unless there has been some reason to doubt the accuracy of the self-attestation provided, Illinois has not sought additional documentation of citizenship from Medicaid applicants or recipients and is unlikely to have collected such documentation.

The new Regulations will bring a dramatic change in this status quo. States will no longer be permitted to accept self-attestation of citizenship as the sole proof of citizenship, even in those cases where an individual is clearly a citizen but unable to provide the required documentation. For example, according to the preamble to the Regulations, a child who is clearly a citizen because he or she was born in a U.S. hospital and the birth was paid for by Medicaid will nevertheless be required by the regulations to provide citizenship and identity documentation at a later date: They will be required either to apply for Medicaid after their birth if they are born to a non-citizen, and provide documentation in support of that application, or to submit satisfactory documentation of both citizenship and identity at the next redetermination of

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[2] This Report, issued in July 2005, followed a comprehensive review of the extent to which States allow self-declaration for Medicaid, to identify potential vulnerabilities associated with the use of self-declaration. Based on its review of the evidence, OIG did not recommend a new requirement for documentation of citizenship, but instead recommended improved post-eligibility quality control. Id. at 18. In a subsequent Memo to the Office of Inspector General commenting on the Report, the Centers for Medicare and Medicaid Services, which oversees Medicaid, concurred and stated "The report does not find particular problems regarding false allegations of citizenship, nor are we aware of any." Id. at 27.

eligibility if the mother was categorically Medicaid eligible at the time of birth and remains so. 71 Fed. Reg. at 39,216.

Nor will States such as Illinois be permitted to rely upon web-based or mail-in application methods, since few applicants or recipients will want to mail to a Medicaid office those original documents which are required to prove their citizenship or identity. In recent years, many States, including Illinois, have streamlined and simplified the Medicaid application process by minimizing documentation requirements; allowing web-based and mail-in applications; reducing the need for face-to-face interviews for applicants or recipients upon re-determination; and automating their data systems.[3] This has resulted in improved efficiency for the States, and has also facilitated the enrollment of hard-to-reach populations -- persons, for example, who are elderly or infirm, who live in remote rural areas, who have less flexibility in their job schedules, or who lack transportation. Requiring the submission of original documents in support of Medicaid applications and redeterminations will require the States to return to a predominantly face-to-face application process.[4] This will dramatically reverse the States' progress in streamlining operations.

C. The Demands Imposed Upon the States Have Been, and Continue to Be, a Moving Target

Compounding the problems the States face in meeting the new demands imposed by the

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[3] In Illinois, for example, DHS and HFS estimate that at least 40% of the Medicaid applications currently received by the two agencies are mailed or sent on-line.

[4] Individuals should not be expected to mail sensitive documents like passports, certificates of naturalization, drivers' licenses, state identification cards and birth certificates to a state Medicaid office. Nor are these offices ordinarily equipped to ensure that such documents will not be lost or misplaced, or that they will be safely returned.

Regulations is the fact that they became effective the day they were issued, July 6, 2006, but were not published in the Federal Register until July 12, 2006. Quite literally, States were given no time to come into compliance with the Regulations. Moreover, because the Regulations will not be fully final until after the close of a public comment period ending August 11, 2006, there is a strong possibility that the Regulations are a moving target that could get more or less stringent when they are finalized. Indeed, public commentary from federal Centers for Medicare and Medicaid Services ("CMS") officials have acknowledged the strong likelihood that the Regulations will change. This makes it especially difficult for state agencies that are already understaffed and underfunded to reorder their processes, hire new personnel and make other necessary staffing, administrative and technological changes that the documentary requirements necessitate.

D. The Regulations Will Impose Enormous Costs And Administrative Burdens Upon The States

The Congressional Budget Office ("CBO") estimated that Section 6036's requirement that enrollees document their citizenship would reduce Medicaid spending by $220 million over five years and by $735 million over ten years. Congressional Budget Office, 109th Cong., Cost Estimate S. 1932 Deficit Reduction Act of 2005 (2006). The CBO also estimated that Section 6036's documentation requirements would result in an estimated 35,000 Medicaid enrollees losing coverage by 2015, among them "citizens who were unable to produce documentary evidence of their citizenship." Letter from Donald B. Marron, Acting Director, Congressional Budget Office, to Honorable John M. Spratt Jr., Ranking Member, Committee on the Budget (Jan. 27, 2006) (accessible at http://www.cbo.gov/ftpdocs/70xx/doc7030/s1932updat.pdf). But these estimates, which preceded issuance of the Regulations' stricter documentation

requirements, do not factor in the countervailing costs to the States, or to those citizens who are terminated or denied Medicaid benefits. Indeed, when CMS performed its own cost estimates for the Regulatory Impact Statement which accompanied the Regulations, it projected the cost savings to be less, and gave no account at all to the cost burdens the Regulations would create for the States. The Regulatory Impact Statement states:

> It is assumed that Medicaid enrollees who are citizens would eventually provide proof of that fact, and that the savings would come from those who are truly in the country illegally. Consequently, the level of Federal savings from this provision is expected to be under $70 million, and State savings under $50 million, per year over the next 5 years.

71 Fed. Reg. 39221. The Regulatory Impact Statement goes on to dismiss entirely the possibility of a financial impact on the States by concluding "[t]his rule will have no consequential effect on State, local, or tribal governments or on the private sector." Id.

Whatever the Regulations will yield in "savings" to the federal government, it will come at the expense of the States, and ultimately, the needy population that Medicaid is intended to serve. Indeed, the countervailing costs to the States will be enormous. In order to implement the new documentation requirements, States will be required to hire and train new staff, implement new systems and make technological improvements where deficiencies exist, pay overtime to existing staff, and perform education and outreach to Medicaid applicants and recipients.[5]

In Illinois, DHS and HFS conservatively estimate that each caseworker will average an additional 11 minutes per applicant or recipient in implementing the new documentation

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[5] Neither the Deficit Reduction Act nor the Regulations allocate any additional federal funds to cover additional state costs associated with administering the new documentation requirements. FFP will be available to the States only at the 50% match rate which is generally available for Medicaid administrative costs.

requirements.[6] This estimate takes into account that data matches can be performed for some applicants and recipients. Taken together, DHS and HFS estimate that the extra time required to implement the regulatory requirements will amount to a total of 368,000 additional staff hours for the first year of implementation: 306,000 additional staff hours for redeterminations plus 62,000 additional staff hours for new applications in the first year and in each subsequent year. These additional personnel costs translate into a significant expense: in the first year of implementation, the State conservatively estimates between $16 million (if new hires perform only new applications and existing staff work overtime to perform all redeterminations) and $19 million (if new hires handle both new applications and redeterminations) in additional staffing costs in order to fulfill the new documentation requirements. These estimates do not include other anticipated costs, such as costs associated with staff training, community outreach, technological improvements, records management, and data matching. If these dollars were spent on health care delivery to Medicaid beneficiaries rather than administrative costs, they would pay for the cost of providing Medicaid benefits to 15,116 or 18,507 children in the same year (based on the estimated gross personnel costs of $16 and $19 million, respectively).[7]

Other States have made their own estimates of administrative burden. The State of Washington estimates that it will need to hire 68 full time equivalents (FTEs) in FY07 and 34

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[6] In Illinois, there are approximately 1,800,000 current Medicaid recipients who are not exempt from the Regulation's documentation requirements. In State Fiscal Year 2007, Illinois anticipates receiving approximately 231,000 new applications for Medicaid. These applications are expected to cover approximately 363,500 new applicants, since some applications are for multiple beneficiaries, each of whom will be expected to present satisfactory documentation of citizenship and identity.

[7] In Illinois, the Medicaid Program currently spends an average of $1,032 per child enrolled in the program, half of which ($516) is the State's contribution.

FTEs in FY08; it estimates the total administrative costs for Washington State to be $4.55 million in FY07 and $2.22 million in each year thereafter. Medicaid officials in the States of Connecticut and Vermont have described the burden on their respective States to be "enormous" or "significant." Center on Budget and Policy Priorities, The New Medicaid Citizenship Documentation Requirement: A Brief Overview (visited Aug. 8, 2006), p. 5 <http://www.cbpp.org/4-20-06health.htm>; Louis Porter, Medicaid Rule Causes Citizenship Scramble, Times Argus, July 12, 2006. Even the tiny State of Hawaii estimates that the documentation requirements will result in increased State administrative costs of $640,000. Floor Statement on Medicaid Documentation Repeal by U.S. Senator Daniel K. Akaka, February 16, 2006. Indeed, out of 28 Medicaid directors surveyed by the Health and Human Services Inspector General, 25 indicated they believe that providing additional documentary evidence would result in increased eligibility personnel costs. OIG Report, p. 11. As reported by OIG:

> We asked the 47 State Medicaid directors in States allowing self-declaration of citizenship what costs, if any, Medicaid applicants would incur if all were required to provide documentary evidence of U.S. citizenship. Twenty-eight of forty-seven directors report that it would delay eligibility determination. In addition, 25 directors comment that it would result in increased eligibility personnel costs. Twenty-one directors also report that it would be burdensome and/or expensive for applicants to obtain copies of birth certificates or other documentation.

Id. at 11.

Many States not only will shoulder significant new administrative costs, but also will run the risk of bearing the expense of providing benefits, without FFP, to those Medicaid applicants and recipients who cannot satisfy the documentation requirements promptly or at all. Over time, these expenses will dwarf the direct administrative costs to States of administering the Regulations.

E. The Regulations Impose Extraordinary Burdens Upon those Medicaid Applicants And Recipients Who are Citizens But Are Nonetheless Unable to Satisfy the Documentation Requirements

The Regulations place many citizens at risk of losing or being denied Medicaid benefits simply because they do not have the necessary documents or cannot obtain them, or that due to incapacity, infirmity or poverty are unable to provide them. Delaying access to Medicaid benefits while citizenship or identity documents are procured may have a profoundly negative effect on the sickest citizens applying for Medicaid. For example, seniors who are not already on Medicare, who are hospitalized and are unable to return home due to infirmity, may be in need of Medicaid coverage in order to access nursing home care. This person may not be able to be discharged from the hospital until Medicaid coverage is available. Other citizens will suffer delays in the receipt of Medicaid because of the Regulations' onerous documentation requirements, potentially losing the benefit of medical care when it is most needed.[8] Still other

[8] Numerous studies have shown that delay in accessing medical care, which causes delay in diagnosis and treatment, results in negative health consequences, including death. Studies show delays lead to poorer prognoses and outcomes across a wide variety of conditions including, but not limited to rheumatoid arthritis, V. P. K. Nell et al., Benefit of very early referral and very early therapy with disease-modifying antirheumatic drugs in patients with early rheumatoid arthritis, 43 Rheumatology 906 (2004); gynecologic cancer, Kristine M. Zanotti & Alexander W. Kennedy, Screening for Gynecologic Cancer, 83 The Medical Clinics of North America 1467 (1999); bladder cancer, Gulnaz Begum etal., Socio-economic deprivation and survival in bladder cancer, 94 BJU International 539 (2004); lung cancer, Anni R. Jensen et al., Impact of Delay on Diagnosis and Treatment of Primary Lung Cancer, 41 Acta Oncologica 147 (2002); breast cancer, A. Langlands, Delay in the clinical diagnosis of breast cancer: estimating its effect on prognosis, with particular reference to medical litigation, 11 The Breast 386 (2002); sleep apnea in children, Warren Richards & Ronald M. Ferdman, Prolonged Morbidity Due to Delays in the Diagnosis and Treatment of Obstructive Sleep Apnea in Children, 39 Clinical Pediatrics 103 (2000); nosocomial bacteremia and pneumonia, Thierry Mathevon et al., ICU-acquired Nosocomial Infection: Impact of Delay of Adequate AntibioticTreatment, 34 Scandinavian Journal of Infectious Diseases 831 (2002); cancer of the digestive tract, Esteve Fernandez, Symptom-to-Diagnosis Interval and Survival in Cancers of the Digestive Tract, 47 Digestive Diseases and Sciences 2434 (2002); paediatric inflammatory bowel disease, Spray et

citizens may not even apply for Medicaid, or may forego the redetermination effort, because they believe it will be futile to do so or because the cost of obtaining the documents is prohibitively expensive. The costs to these citizens, and to society, are enormous, though unquantifiable.

Medicaid covers the poorest of each State's children, parents, seniors and persons with disabilities. In Illinois, over one million children receiving Medicaid live in households with incomes below the poverty level; and over 350,000 parents in the State's Medicaid-funded Family Care program have household incomes below 38 percent of the federal poverty level. These populations are especially vulnerable to not having either a passport or birth certificate in their possession. According to a telephone survey conducted by the Center on Budget and Policy Priorities ("CBPP"), approximately one in twelve US-born adults (18 or older) with incomes below $25,000 do not have either a passport or birth certificate in their possession. More than one-tenth of US-born adults with children who report incomes below $25,000 reported they do not have a passport or birth certificate for at least one of their children. 5.7% of all adults report they lack these documents, and the percentage was higher for certain groups – for example, 9% of African American adults, 7% of senior citizens, 9% of adults without a high-school diploma, and 9% of adults living in rural areas reported that they lack both a passport or birth certificate.[9]

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al., Current diagnosis, management and morbidity in paediatric inflammatory bowel disease, 90 Acta Paediatrica 400 (2001); head and neck cancers, Z. Amir et al., Diagnostic delays in head and neck cancers, 8 European Journal of Cancer Care 198 (1999); oral cancer, Michele D. Mignogna & Stefano Fedele, Oral cancer screening: 5 minutes to save a life, 365 Lancet 1905 (2005); ovarian cancer, John M. J. Kirwan et al., Effect of delays in primary care referral on survival of women with epithelial ovarian cancer: Retrospective audit, 324 British Medical Journal 148 (2002); and schizophrenia, Joan Stephenson, Delay in treating schizophrenia may narrow therapeutic window of opportunity, 283 JAMA 2091 (2000).

[9] CBPP suggests that these numbers are conservative, due to the fact that certain groups are not represented in the survey (nursing-home residents, Katrina survivors living in temporary

Ku Leighton et al., Survey Indicates Deficit Reduction Act Jeopardizes Medicaid Coverage For 3 To 5 Million U.S. Citizens (last modified February 17, 2006) <http://www.cbpp.org/1-26-06health.htm>. These populations are also least able to afford the fees associated with obtaining documentary proof of citizenship and identity, and they are least able to successfully negotiate documentary barriers to enrollment.[10] Indeed, the documentation requirements are especially likely to be impediments for the most vulnerable citizens in each State. Citizens with disabilities (except for some SSI recipients and all Medicare beneficiaries who are exempt from the documentation requirements), for example, particularly those with mental health problems or cognitive impairments, will often be unable to provide the State, or individuals assisting them, with information or documents regarding their identity or citizenship. Aged citizens (except for some SSI recipients and all Medicare beneficiaries) who were born at home and have no relatives or other individuals familiar with their birth, may have no means to prove their citizenship. Young children who are not yet enrolled in school and who live with

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facilities, and homeless people).

[10] As noted in a CBPP report, in many states, merely obtaining a birth certificate will be the first hurdle. Counties and states will predictably be inundated with birth certificate requests and may not be able to meet the demand on a timely basis. In California, for example, it generally takes 10 to 12 weeks to get a birth certificate from the county office in the county where the birth occurred, and it can take six to eight months if the information submitted is not complete. In some areas, it may be particularly difficult to obtain a birth certificates on a timely basis for step-children, foster children, or individuals whose names have changed (e.g., because of marriage). Center on Budget and Policy Priorities, The New Medicaid Citizenship Documentation Requirement: A Brief Overview (visited Aug. 8, 2006) <http://www.cbpp.org/4-20-06health.htm>.

relatives who are not legal guardians, or who live with individuals who are not relatives, may not be able to satisfy the Regulations' requirement that either school records or the affidavit of a parent or legal guardian be provided to prove their identity. These citizens, and others, will find it difficult, if not impossible, to access the Medicaid benefits they need, either on a timely basis or at all.

IV. CONCLUSION

Medicaid is a lifeline to health, and sometimes survival, for fifty-five million people in this country, predominantly children, pregnant women and families. As a result of the new Regulations, in order to deliver these vital benefits, States must take on enormous costs and administrative burdens. Not only will the Regulations directly place new financial strain on the States, but they will ultimately siphon money out of already-strained state budgets, and make the delivery of Medicaid benefits to the neediest citizens in this country even more difficult to achieve. As a Washington State legislator, Brendan Williams, aptly put it: "We're going to have to go through this empty exercise of ensuring Medicaid recipients are citizens when those monies could be better spent elsewhere." In the meantime, there will be many citizens, who have no way to satisfy the Regulations' rigid documentation requirements on a timely basis or ever, but are otherwise eligible for Medicaid, whose access to health care will hang in the balance.

DATED: August 11, 2006

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that, on August 11, 2006, she caused to be filed through the Court's CM/ECF system a copy of Memorandum of State Amici Curiae in Support of Plaintiffs' Amended Motion for a Temporary Restraining Order and Preliminary Injunction. Parties of record may obtain a copy of this filing through the Court's CM/ECF system.

/s/ Joan Matlack

Joan Matlack