

4.3 CITIZENSHIP AND IDENTITY REQUIREMENTS

Section 6036 of the Deficit Reduction Act of 2005 (DRA) enacted on February 8, 2006, requires individuals who claim United States citizenship to provide documentary evidence of citizenship or nationality when initially applying for Medicaid or upon a recipient's first Medicaid redetermination on or after July 1, 2006. This provision does not affect individuals who have declared they are aliens in a satisfactory immigration status.

Section 6036 requires evidence of both citizenship and identity and specifies forms of acceptable evidence of citizenship or nationality and identity.

A. ESTABLISHING UNITED STATES (U.S.) CITIZENSHIP AND IDENTITY

To establish U.S. citizenship the document must show:

- A U.S. place of birth, or
- That the person is a U.S. citizen.

To establish identity a document must show:

- Evidence that provides identifying information that relates to the person named on the document.

All documents must be either an original or a copy certified by the issuing agency. A copy or notarized copy is not acceptable. A copy of the verification must be filed in the case record. Verification of citizenship is required only once, unless later evidence makes it questionable. There is no requirement that the verification be submitted in person.

NOTE: Children born in the U.S. to foreign sovereigns or diplomatic officers are not U.S. citizens.

B. DOCUMENTS WHICH ESTABLISH U.S. CITIZENSHIP AND IDENTITY

The following items list acceptable evidence of U.S. citizenship and/or identity. Items 1 through 4 address citizenship and items 1 and 5 address identity. If an individual presents documents from item 1 no other information is required. If an individual presents documents from items 2 through 4, an identity document from item 5 must also be presented. Items 1 through 4 establish a hierarchy of citizenship documents and the following instructions specify when a document of lesser reliability may be acceptable.

NOTE: See item 5 below for additional identity documents which may be used when a child is age 16 or younger.

1. Primary Documents to Establish U.S. Citizenship

Primary documents to establish both citizenship and identity are outlined in item 1. Primary evidence conclusively establishes that the person is a U.S. citizen. The Worker should obtain primary evidence of citizenship and identity before using secondary evidence.

NOTE: Persons born in American Samoa, including Swain's Island, are generally U.S. non-citizen nationals. There is no difference in terms of Medicaid eligibility.

NOTE: References to documents issued by the Department of Homeland Security (DHS) include documents issued by Immigration and Naturalization Services (INS).

Applicants or recipients born outside the U.S., who were not citizens at birth, must submit a document listed under primary evidence of U.S. citizenship.

Primary Documents	Explanation
U. S. Passport	<p>The Department of State issues this. A U.S. passport does not have to be currently valid to be accepted as evidence of U.S. citizenship, as long as it was originally issued without limitation.</p> <p>NOTE: Spouses and children were sometimes included on one passport through 1980 and the citizenship and identity of the included person can be established when one of these passports is presented.</p> <p><u>EXCEPTION:</u> Do not accept any passport as evidence of U.S. citizenship when it was issued with a limitation. However, such a passport may be used as proof of identity.</p>
Certificate of Naturalization (N-550 or N-570)	The Department of Homeland Security issues for naturalization.
Certificate of Citizenship (N-560 or N-561)	The Department of Homeland Security issues certificates of citizenship to individuals who derive citizenship through a parent.

2. Secondary Documents to Establish U.S. Citizenship

Secondary evidence of citizenship is used when primary evidence of citizenship is not available. In addition, a second document which establishes identity must also be presented as described in item 5.

Accept any of the documents listed in the chart below as secondary evidence of U.S. citizenship, if the document meets the criteria and there is no indication that the person is not a U.S. citizen.

Applicants or recipients born outside the U.S. must submit a document listed under primary evidence of U.S. citizenship.

Secondary Documents	Explanation
<p>A U.S. public birth record showing birth in:</p> <ul style="list-style-type: none"> - One of the 50 U.S. States; - District of Columbia; - American Samoa - Swain's Island - Puerto Rico, if born on or after January 13, 1941; - Virgin Islands of the U.S. on or after January 17, 1917; - Northern Mariana Islands after November 4, 1986, (NMI local time; or - Guam, one or after April 10, 1899 	<p>The birth record document may be issued by the State, Commonwealth, territory or local jurisdiction. It must have been issued before the person was 5 years of age.</p> <p>An amended birth record document that is amended after 5 years of age is considered fourth level evidence of citizenship. See item 4 below.</p> <p>NOTE: If the document shows the individual was born in Puerto Rico, the Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. Collective naturalization occurred on certain dates listed for each of the territories. Please note the additional requirements for Collective Naturalization.</p>
<p>Certification of Report of Birth (DS-1350)</p>	<p>The Department of State issues a DS-1350 to U.S. citizens who were born outside the U.S. and acquired U.S. citizenship at birth, based on the information shown on the FS-240. When the birth was recorded as a Consular Report of Birth (FS-240), certified copies of the Certification of Report of Birth Abroad (OS-1350) can be issued by the Department of State in Washington, D.C. The DS-1350 contains the same information as that on the current version of Consular Report of Birth FS-240. The DS-1350 is not issued outside the U.S.</p>
<p>Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240)</p>	<p>The Department of State consular office prepares and issues this and can be prepared only at an American consular office overseas while the child is under the age of 18. Children born outside the U.S. to U.S. military personnel usually have one of these.</p>
<p>Certification of Birth Abroad (FS-545)</p>	<p>Before November 1, 1990, Department of State consulates also issued Form FS-545, along with the prior version of the FS-240. In 1990, U.S. consulates ceased to issue From FS-545. Treat an FS-545 the same as the DS-1350.</p>

United States Citizen Identification Card, I-197, or the prior version I-179	INS issued the I-179 from 1960 until 1973, revised and renumbered it as Form I-197. INS issued the I-197 from 1973 until April 7, 1983. INS issued Form I-179 to naturalized U.S. citizens living near the Canadian or Mexican for frequent border crossings. Neither form is currently issued, but is still valid.
American Indian Card, I-872	DRS issued this card to identify a member of the Texas Band of Kickapoos living near the U.S./Mexican border. A classification' code "KIC" and a statement on the back denote U.S. citizenship.
Northern Mariana Card, I-873	Immigration and Naturalization Service (INS) issued the I-873 to a collectively naturalized citizen who was born in the NMI before November 4, 1986. The card is no longer issued but is still valid.
Final adoption decree	The adoption decree must show the child's name and U.S. place of birth. If the adoption is not finalized and the State in which the child was born will not release a birth certificate prior to final adoption, a statement from a State approved adoption agency showing the child's name and U.S. place of birth is acceptable. The adoption agency must state that the place of birth information is an original birth certificate.
Evidence of civil service employment by the U.S. government	The document must show employment by the U.S. government before June 1, 1976.
Official Military record of service	The document must show a U.S. place of birth.

3. Third Level Documents to Establish U.S. Citizenship

Third level evidence is used when neither primary nor secondary evidence of citizenship is available. Third level evidence may be used only when primary evidence cannot be obtained and secondary evidence does not exist or cannot be obtained, and the applicant or recipient alleges being born in the U.S. In addition, a second document establishing identity must be presented as described in item 5.

Accept any of the documents listed in the chart below as third level if the document meets the listed criteria, the applicant alleges birth in the U.S., and there is no indicator that the person is not a U.S. citizen.

Third level evidence is generally a non-government document established for a reason other than to establish U.S. citizenship and showing a U.S. place of birth.

The place of birth on the non-government document and the application must agree.

Third Level Documents	Explanation
Extract of hospital record on hospital letterhead established at the time of the person's birth and was created at least 5 years before the initial application date and indicates a U.S. place of birth	Do not accept a souvenir birth certificate issued by the hospital. NOTE: For children under 16, the document must have been created near the time of birth or 5 years before the date of application.
Life or health or other insurance record showing a U.S. place of birth and was created at least 5 years before the initial application date	Life or health insurance records may show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.

4. Fourth Level Documents to Establish U.S. Citizenship

Fourth level evidence of U.S. citizenship is of the lowest reliability. This level of evidence is only used when primary evidence is not available, both secondary and third level evidence do not exist or cannot be obtained and the applicant alleges a U.S. place of birth. In addition, a second document establishing identity must be presented as described in item 5.

Accept any of the documents listed in this Chart as fourth level evidence, if the document meets the listed criteria, the applicant alleges U.S. citizenship, and there is no indication that the person is not a U.S. citizen. In addition, a second document establishing identity must be presented.

Fourth level evidence consists of documents established for a reason other than to establish U.S. citizenship and which show a U.S. place of birth. The U.S. place of birth on the document and the application must agree. The written affidavit is used only when unable to secure evidence of citizenship listed in any other chart.

Fourth Level Documents	Explanation
Federal or state census record showing U.S. citizenship or a U.S. place of birth. This is usually for persons born 1900 through 1950.	<p>The census record must also show the applicant's age.</p> <p>NOTE: Census records from 1900 through 1950 contain certain citizenship information. To secure this information, the applicant, recipient or state should complete a form BC-600, Application for Search of Census Records for Proof of Age. Add in the remarks portion "U.S. citizenship data requested." Also add that the purpose is for Medicaid eligibility. This form requires a fee.</p>
Other document as listed in the explanation that was created at least 5 years before the application for Medicaid	<p>This document must be one of the following and show a U.S. place of birth:</p> <ul style="list-style-type: none"> • Seneca Indian tribal census record • Bureau of Indian Affairs tribal census records of the Navaho Indians • U.S. State Vital Statistics official notification of birth registration • An amended U.S. public birth record that is amended more than 5 years after the person's birth • Statement signed by the physician or midwife who was in attendance at the time of birth
Institutional admission papers from a nursing home, skilled nursing care facility or other institution and was created at least 5 years before the initial application date and indicates a U.S. place of birth	<p>Admission papers generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.</p>
Medical clinic, doctor or hospital record that was created at least 5 years before the initial application date and indicates a U.S. place of birth	<p>Medical records generally show biographical information for the person including place of birth; record can be used to establish U.S. citizenship when it shows a U.S. place of birth.</p> <p>NOTE: An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.</p> <p>NOTE: For children under 16, the document must have been created near the time of birth or 5 years before the date of application.</p>

Written Affidavit	Affidavits may only be used in rare circumstances. An affidavit by at least two individuals, one of whom is not related to the applicant/recipient and who have personal knowledge of the event(s), would establish the applicant's or recipient's claim of citizenship. The person(s) making the affidavit must be able to provide proof of his own citizenship and identity for the affidavit to be accepted. If the affiant has information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit should contain this information as well. It must also be signed under penalty of perjury by the person making the affidavit. A second affidavit from the applicant/recipient or other knowledgeable individual explaining why documentary evidence does not exist or cannot be readily obtained must also be requested.
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5. Evidence of Identity

When primary evidence of citizenship described in item 1 above is not available, a document from the lists in items 2 through 4 may be presented, if accompanied by an identity document from the following list.

NOTE: To establish identity, a document must show evidence that provides identifying information that relates to the person named on the document.

Documents to Establish Identity	Explanation
Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native tribal document.	Acceptable if the document carries a photograph of the applicant or recipient, or has other personal identifying information relating to the individual.

<p>Any identity document described in section 274A(b) (1) (D) of the Immigration and Nationality Act</p>	<p>The following are acceptable documents for Medicaid:</p> <ul style="list-style-type: none"> • Driver's license issued by a state or territory, either with a photograph or other identifying information of the individual such as name, age, sex, race, height, weight or eye color. • School identification card with a photograph of the individual • U.S. military card or draft record • Identification card issued by the federal, state, or local government with the same information included on driver's licenses • Military dependent's identification card • Native American Tribal document • U.S. Coast Guard Merchant Mariner card <p>NOTE: For children under age 16, school records may include nursery or daycare records. If none of the above documents in the preceding charts are available, an affidavit may be used. An affidavit is only acceptable if it is signed under penalty of perjury by a parent or guardian stating the date and place of the birth of the child and cannot be used if an affidavit for citizenship was provided.</p> <p><u>EXCEPTION:</u> A voter's registration card or Canadian driver's license cannot be used.</p>
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C. COLLECTIVE NATURALIZATION

The following establish U.S. citizenship for collectively naturalized individuals:

Puerto Rico:

- Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or
- Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he did not take an oath of allegiance to Spain.

U.S. Virgin Islands:

- Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927

- The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he she did not make a declaration to maintain Danish citizenship; or
- Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932

Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI):

- Evidence of birth in the NMI, TIPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);
- Evidence of TIP I citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

NOTE: If a person entered the NMI as a non-immigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. CHILDREN IN TITLE IV-E FORSTER CARE AND ADOPTION

Title IV-E children who receive Medicaid must have a declaration of citizenship or satisfactory immigration status and documentary evidence of the citizenship or satisfactory immigration status claimed on the declaration filed in the case record.

E. DRIVER'S LICENSE DOCUMENTATION TO ESTABLISH BOTH CITIZENSHIP AND IDENTITY

Section 6036(a)(3)(B)(iv) of the DRA permits the use of a valid state-issued driver's license or other identity document described in Section 274A(b)(1)(O) of the Immigration and Nationality Act, only if the state issuing the license or such document requires proof of United States citizenship before issuance of such license or obtains a Social Security Number from the applicant and verifies, before certification, that such number is valid and assigned to the applicant who is a citizen. West Virginia does not have these processes in place at this time. The West Virginia driver's license is valid for identity verification only.

F. REASONABLE OPPORTUNITY

All applicants and recipients must be given a reasonable opportunity to provide documents to establish U. S. citizenship or nationality and identity. Current recipients continue to receive benefits until determined ineligible. Medicaid is closed only after the recipient is given a reasonable opportunity to present evidence or fails to make a good faith effort to provide it. Applicants are not approved until the required verification is supplied.

For applicants, the verification must be supplied within the appropriate application processing time frame(s). The Worker may make an exception to the time limit when an applicant or recipient is making a good faith effort to provide the verification, but is unable to do so. Any exception must be recorded thoroughly in RAPIDS. The Worker must assist the client to secure verification if necessary.

G. APPLICANTS OR RECIPIENTS WHO REQUIRE ASSISTANCE

If the applicant or recipient is homeless, an amnesia victim, mentally impaired, or physically incapacitated and lacks someone who can act for the individual, and cannot provide evidence of U.S. citizenship or identity, the Worker should assist the applicant or recipient to document U.S. citizenship and identity.

H. NOTIFICATION AND FAIR HEARINGS

An applicant or recipient who fails to cooperate with presenting documentary evidence of citizenship may be denied or terminated. Current notification procedures and appeal rights must be given if the individual has failed to cooperate with the requirement to provide documentary evidence of citizenship. Current recipients require advanced notification.