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August 11, 2006

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Mark B. McClellan, M.D., Ph.D.
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2257-IFC
P.O. Box 8017
Baltimore, MD 21244-8017

RE: CMS-2257-IFC

Dear Dr. McClellan:

On behalf of the National Association of the State Mental Health Program Directors (NASMHPD), thank you for the opportunity to comment on the Interim Final Rule regarding Citizenship Documentation Requirements.

NASMHPD represents the \$26 billion public mental health systems that serve 6.1 million people in 50 states, four territories, and the District of Columbia. As the directors of the state mental health systems, our members administer and manage a full range of inpatient and community-based systems of care for the millions of individuals with mental illness.

Medicaid is one the most importance financing streams for mental health services. It provides more than half of the resources for state and local community mental health services, making it the primary funding source of public mental health system services for low-income people with mental disorders. Medicaid is also an important source of coverage for mental health services for adults and children who turn to the public mental health system for their care, for children in care of child welfare systems and for low-income individuals who require treatment of mild and moderate mental disorders. Without Medicaid, the most vulnerable individuals with mental illness would not have access to the vital care on which they rely.

NASMHPD applauds the Centers for Medicare and Medicaid Services (CMS) for the many positive changes made in the Interim Final Rule that benefit individuals with mental illnesses. While these are very helpful provisions, NASMHPD would like to offer the following comments and

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suggestions to ensure that individuals with mental illness have uninterrupted access to the services and medications that significantly improve their health and their lives.

Exemptions for Specific Populations

NASMHPD commends CMS for ameliorating the impact of the new documentation requirement by recognizing the “scrivener’s error” in the statute and exempting individuals on Supplemental Security Income (SSI) or Medicare from the new rule. However, exemptions should also be provided for other individuals who have already proven their citizenship, such as foster children who are eligible for Title IV-E funds and individuals on Social Security Disability Insurance (SSDI) who are in the waiting period for Medicare or disability payments.

Special Populations Needing Assistance

NASMHPD appreciates CMS’ acknowledgement of the challenges faced by individuals with a cognitive, mental, physical, or sensory disability in locating documentary evidence in a timely manner. However, we recommend clarifying the term referring to those with “incapacity of mind or body” as individuals who, “due to a physical or mental condition” are unable to comply with the requirements to present satisfactory documentary evidence. Assistance should also be extended to individuals who are homeless and those who have lost their identifying documents in a disaster.

Determining Eligibility

NASMHPD is concerned that CMS has prohibited states from granting coverage to eligible citizens until they can obtain documents such as birth certificates. Under the Deficit Reduction Act of 2005 (DRA), the new citizenship documentation requirement applies to *all* individuals (other than Medicare beneficiaries and, in most states, SSI beneficiaries) who apply for Medicaid. The preamble to the rule states that applicants “should not be made eligible until they have presented the required evidence” (71 Fed. Reg. at 39216). The rule itself states that states “must give an applicant or recipient a reasonable opportunity to submit satisfactory documentary evidence of citizenship before taking action affecting the individual’s eligibility for Medicaid.” Therefore, NASMHPD recommends that once an applicant for Medicaid declares she or he is a citizen and meets all eligibility requirements, eligibility should be granted.

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Data Matching

NASMHPD appreciates CMS' recognition of the valuable role that the Social Security Administration's State Data Exchange database (SDX) and state vital records databases may play as states cross-match citizenship records. We are pleased that states may now also use some additional state and federal databases to conduct identity cross-matches. However, NASMHPD recommends that data systems maintained by the state mental health agencies also be among the state data systems with which a match may be made. We also suggest that CMS provide additional information on acceptable data sources.

Interstate Transfer of Information

Individuals with serious mental illnesses are often transient and change providers frequently. For this reason, NASMHPD requests that CMS clarify that once applicants or recipients have met the documentation requirement in one state, they will not be required to demonstrate citizenship again for Medicaid enrollment if they move to another state.

Native Americans

Although the Interim Final Rule recognizes Native American tribal documents as proof of identity, it does not permit tribal enrollment cards to be used as evidence of citizenship. NASMHPD urges CMS to recognize that a significant number of Native American children and adults are in great need of health care and mental health services. We strongly recommend that CMS revise the regulation at 42 CFR 435.407(a) to specify that a tribal enrollment card issued by a federally-recognized tribe be treated like a passport and deemed primary evidence of citizenship and identity.

Again, please accept our appreciation for your time and attention to these important issues. Should you wish to discuss our comments further, please do not hesitate to contact me at (703) 739-9333.

Sincerely,



Robert W. Glover, Ph.D.
Executive Director

cc: Eric Broderick, D.D.S.
A. Kathryn Power, M.Ed.