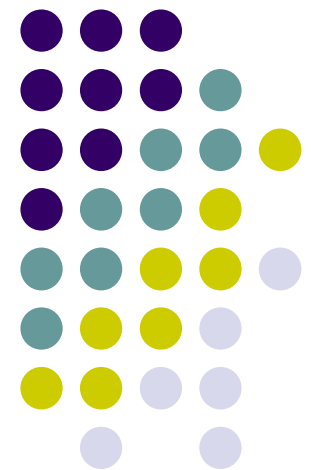


Hot Topics

Jill Moore & Aimee Wall
UNC Institute of Government
Health Directors' Legal Conference
April 2006

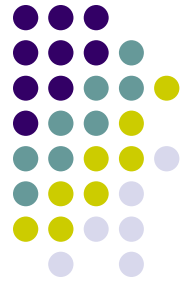




Topics

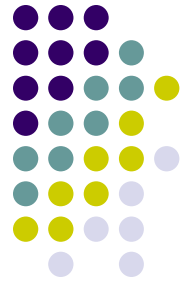
- Medicaid law on proof of citizenship
- HIV+ immigrants: Form I-690 and the role of the local health director
- Smoking regulation

Medicaid and Proof of Citizenship: The Headlines



- **US Rule Demands Proof of Citizenship for Healthcare – Boston Globe**
- **Need Medicaid? Show Your Passport – NY Times columnist Bob Herbert**
- **A new federal law would require anyone trying to sign up for Medicaid to show a passport, birth certificate, or other proof of US citizenship. – National Public Radio**

Misleading reports → misconceptions about law



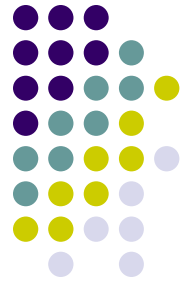
- Misconception: Won't be able to get Medicaid unless you're a US citizen.
 - Truth: "Qualified aliens" still eligible.
- Misconception: Have to have a birth certificate or passport to get Medicaid.
 - Truth: If you claim to be a US citizen, will have to prove it by showing a birth certificate, passport, or other acceptable ID.

Medicaid and Proof of Citizenship: The Law



- Welfare Reform Act (1996): To be eligible for regular Medicaid, must be citizen or qualified alien
- Applicants permitted to self-attest to citizenship under penalty of perjury
- NC policy requires asking for documentary proof of citizenship if applicant's truthfulness in doubt

Medicaid and Proof of Citizenship: The Law



- Deficit Reduction Act (2006)
 - No more self-attesting to citizenship – must prove it by showing birth certificate, passport, or other acceptable ID (HHS guidance forthcoming)
 - No changes for qualified aliens – still have to provide documentation of immigration status in accordance with 1998 guidance

Medicaid and Proof of Citizenship: Concerns



- Citizens who can't produce required documents (e.g., elderly, homeless, incapacitated)
- Potential increase in uncompensated care load if citizens who are eligible for Medicaid don't get it
- Increase in administrative burden for agencies that determine Medicaid eligibility

Medicaid and Proof of Citizenship: The Unknowns



- What will constitute acceptable proof of citizenship under HHS guidance (in addition to birth certificate, passports, etc.)?
- How will DMA implement in NC?
- Will this affect presumptive eligibility determinations?
- Stay tuned!



Form I-690: What is it?

- “Application for Waiver of Grounds of Inadmissibility”
- Used when an immigrant applying for lawful permanent residency has a medical condition that ordinarily would make him or her ineligible for admission to the US
- Medical conditions that make persons inadmissible include active infectious tuberculosis and HIV

What does Form I-690 mean for local health directors?



- An applicant with HIV or TB must:
 - Make arrangements for medical care in the US
 - Sign a statement promising to submit to necessary examinations and treatment
 - Get physician to sign statement agreeing to provide treatment, attesting that financial arrangements for treatment are satisfactory, and promising to submit evaluations to CDC and the state or local health officer
 - **Obtain the endorsement of the state or local health officer**



Part D. Endorsement of State or Local Health Officer:

Endorsement signifies recognition of the physician or facility for the purpose of providing care for HIV infection or tuberculosis. If the facility or physician who signed in Part C is not in your health jurisdiction or is not familiar to you, you may wish to contact the health officer responsible for the jurisdiction, and/or the physician, before you sign this endorsement.

What does it mean to “signify recognition”?

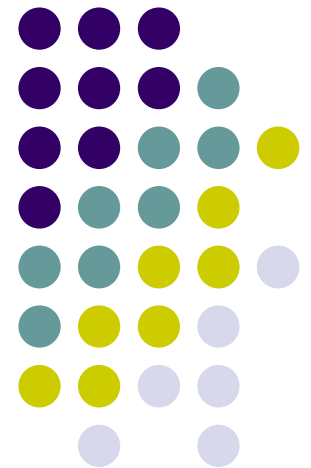


- No legal definition of term
- No case law interpreting term
- No written guidance from CDC
- Telephone guidance from CDC (2/23/06)
 - Endorsement means only that, as far as health director knows, physician/facility can provide HIV or TB care
 - Other purpose of form is to let health director know a person with HIV or TB is in their jurisdiction

While I Was Out...

Smoking Issues

Aimee Wall
Institute of Government



Questions



- Who has the authority to regulate smoking in a health department building?
- What does the accreditation standard related to smoking mean?



Who has the authority?

- Legal answer
 - The commissioners may adopt an ordinance
 - The board of health may adopt a rule
 - A straightforward prohibition would be best
 - A rule that includes any exceptions that are not based on health reasons could be called into question
 - *Peedin*: BOH rules must not make distinctions based upon policy concerns traditionally reserved for legislative bodies
 - The board of health and/or health director may adopt a policy



Who has the authority?

- Practical answer
 - It depends on the politics and relationships in your jurisdiction
 - Commissioners may want the BOH to adopt a rule
 - Health-related issue
 - Potential political fallout
 - Commissioners may want to adopt an ordinance
 - Controversial issue
 - May want to make exceptions; tailor the prohibition

Accreditation Standard



- (9) The local health department shall prohibit the use of tobacco in its facility.
- (10) The local health department shall make efforts to prohibit the use of tobacco in all areas and grounds within fifty (50) feet of the health department facility.



Accreditation Standard

- (9) The local health department shall prohibit the use of tobacco in its facility.
 - For spaces occupied exclusively by the health department
 - Already had the authority under state law
 - Already required to be smoke free in order to receive federal funds
 - If a health dept receives federal funding to support provision of health care services to children, the portion of the indoor facility used to provide the services must be smoke-free (see handout)



Accreditation Standard

- (9) The local health department shall prohibit the use of tobacco in its facility.
 - For spaces shared with other departments
 - Now have the authority under state law to prohibit smoking in any building housing a health department



Accreditation Standard

- (10) The local health department shall make efforts to prohibit the use of tobacco in all areas and grounds within fifty (50) feet of the health department facility.
 - Assuming the county or department owns the property, the board of health or board of county commissioners now has the authority to prohibit smoking on the grounds within 50 linear feet of the building



Accreditation Standard

- (10) The local health department shall make efforts ...
 - The health department's duty under the standard is "to make efforts." If, after advocating for the greatest nonsmoking area possible under the law, the department fails, it should still have satisfied the "make efforts" requirement.
 - Departments should document their efforts (and failures)

Questions?

