

CMS Guidance on Protecting the Meaning and Value of American Citizenship (Executive Order 14160) for Medicaid and Children’s Health Insurance Program (CHIP) Verification Requirements under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and other federal statutes

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On January 20, 2025, President Donald J. Trump signed an Executive Order (EO) to protect the meaning and value of American citizenship. EO 14160 specifies that no department or agency of the United States government shall issue documents recognizing United States citizenship, or accept documents issued by State, local, or other governments recognizing United States citizenship for children born within the United States 30 days after the EO was issued (1) when the child’s mother was unlawfully present in the United States and the child’s father was not a United States citizen or lawful permanent resident (**LPR**) at the time of said child’s birth or (2) when that child’s mother’s presence in the United States was lawful but temporary (e.g., visiting the U.S. on a student, work, or tourist visa) and said child’s father was not a United States citizen or LPR at the time of said child’s birth. EO 14160, Sec. 1-2.

Currently, the federal government is enjoined from enforcing the EO. But section 3(b) of the President’s order directs the heads of agencies to issue guidance to implement it, and the Supreme Court has now allowed that part of the order to take effect. This document, consistent with the President’s direction, provides guidance about how to implement the balance of the President’s order when it takes effect for those children.

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (**PRWORA**) provides that, with certain exceptions, only United States citizens, United States noncitizen nationals and qualified aliens (and sometimes only particular categories of qualified aliens) are eligible for federally funded benefits. 8 U.S.C. § 1611. According to Section 401 of PRWORA, 8 U.S.C. 1611(a), aliens who are not “qualified aliens” are not eligible for any “Federal public benefit” as defined in 8 U.S.C. 1611(c), including Medicaid and CHIP. The prohibition set forth in § 1611(a) is subject to certain narrow exceptions explicitly set forth in § 1611(b).

Eligibility for Medicaid and CHIP benefits can be verified through either at least one **Category A Qualifying Beneficiary Document** or through a **Category B Qualifying Beneficiary Document** and at least one **Qualifying Parent Document**, as attested to in an Eligibility Attestation.

An Eligibility Attestation shall be deemed sufficient if it provides information to attest:

(i) that the child is a citizen of the United States and such citizenship can be confirmed through a Qualifying Beneficiary Document listed in Category A, or

(ii) that the child

(I) was born in one of the 50 States, the District of Columbia, or any Territory of the United States and said birth can be confirmed through a Qualifying Beneficiary Document listed in Category B, and

(II) that when the child was born in the United States,

(a) the child's Mother was (i) a United States citizen, or (ii) a Lawful Permanent Resident, or (iii) lawfully and permanently present within the United States, and any of those statuses can be confirmed through a Qualifying Parent Document; or

(b) the child's Father was (i) a United States citizen, or (ii) a Lawful Permanent Resident, and said United States citizenship or Lawful Permanent Resident status can be confirmed through a Qualifying Parent Document.

Any term used in the Eligibility Attestation that is defined in EO 14160 shall have the same definition as in EO 14160.

A Qualifying Beneficiary Document as defined in the Eligibility Attestation may include:

Qualifying Beneficiary Document: Category A

(i) For children born before the EO takes effect, a United States passport. For children born after the EO takes effect, a United States passport issued after implementation of section 3(a) of EO by the Department of State;

(ii) Form N-550 or N-570 (Certificate of Naturalization);

(iii) Form N-560 or N-561 (Certificate of United States Citizenship);

(iv) For children born before the EO takes effect, a valid social security number. For children born after the EO takes effect, a valid social security number issued after implementation of section 3(a) of EO by the Social Security Administration; or

(v) Such other document as the Secretary of Health and Human Services may specify that provides proof of United States citizenship.

Qualifying Beneficiary Document: Category B

A birth certificate documenting the birth of the child in one of the 50 States, the District of Columbia, or any Territory of the United States.

A Qualifying Parent Document as defined in the Eligibility Attestation may include:

At least one document in Category 1, Category 2, or Category 3.

Qualifying Parent Document: Category 1

With respect to the child's Mother or Father, documentary evidence of United States Citizenship:

- (i) For a Mother or Father born before the EO takes effect, a United States passport. For a Mother or Father born after the EO takes effect, a United States passport issued after implementation of section 3(a) of EO 14160 by the Department of State;
- (ii) Form N-550 or N-570 (Certificate of Naturalization);
- (iii) Form N-560 or N-561 (Certificate of United States Citizenship);
- (iv) For a Mother or Father born before the EO takes effect, a valid social security number. For a Mother or Father born after the EO takes effect, a valid social security number issued after implementation of section 3(a) of EO 14160 by the Social Security Administration;
- (v) For a Mother or Father born before the effective date of EO 14160, a birth certificate documenting the birth of the Mother or Father in one of the 50 States, the District of Columbia, or any Territory of the United States; or
- (vi) Such other document as the Secretary of Health and Human Services may specify that provides proof of United States citizenship.

Qualifying Parent Document: Category 2

With respect to the child's Mother or Father, documentary evidence of Lawful Permanent Residency:

- (i) INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card");
- (ii) An Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94; or
- (iii) Such other document as the Secretary of Health and Human Services may specify that provides proof of Lawful Permanent Residence.

Qualifying Parent Document: Category 3

With respect to the child's Mother, documentary evidence of lawful and permanent presence:

- (i) INS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
- (ii) INS Form I-94 annotated with stamp showing grant of refugee status under section 208 of the INA; or

(iii) Such other document as the Secretary of Health and Human Services may specify that provides proof of lawful and permanent presence.

This Guidance shall be implemented consistent with applicable law. EO 14160, Sec. 5(b).