

111TH CONGRESS  
1ST SESSION

# S. 228

To amend title XIX of the Social Security Act to permit States, at their option, to require certain individuals to present satisfactory documentary evidence of proof of citizenship or nationality for purposes of eligibility for Medicaid, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 13, 2009

Mr. BINGAMAN (for himself and Mr. AKAKA) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to permit States, at their option, to require certain individuals to present satisfactory documentary evidence of proof of citizenship or nationality for purposes of eligibility for Medicaid, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. STATE OPTION TO REQUIRE CERTAIN INDIVID-**  
2 **UALS TO PRESENT SATISFACTORY DOCUMEN-**  
3 **TARY EVIDENCE OF PROOF OF CITIZENSHIP**  
4 **OR NATIONALITY FOR PURPOSES OF ELIGI-**  
5 **BILITY FOR MEDICAID.**

6 (a) IN GENERAL.—Section 1902(a)(46) of the Social  
7 Security Act (42 U.S.C. 1396a(a)(46)) is amended—

8 (1) by inserting “(A)” after “(46)”;

9 (2) by adding “and” after the semicolon; and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(B) at the option of the State and subject to  
13 section 1903(x), require that, with respect to an in-  
14 dividual (other than an individual described in sec-  
15 tion 1903(x)(1)) who declares to be a citizen or na-  
16 tional of the United States for purposes of estab-  
17 lishing initial eligibility for medical assistance under  
18 this title (or, at State option, for purposes of renew-  
19 ing or redetermining such eligibility to the extent  
20 that such satisfactory documentary evidence of citi-  
21 zenship or nationality has not yet been presented),  
22 there is presented satisfactory documentary evidence  
23 of citizenship or nationality of the individual (using  
24 criteria determined by the State, which shall be no  
25 more restrictive than the criteria used by the Social  
26 Security Administration to determine citizenship,

1 and which shall accept as such evidence a document  
2 issued by a federally recognized Indian tribe evidenc-  
3 ing membership or enrollment in, or affiliation with,  
4 such tribe (such as a tribal enrollment card or cer-  
5 tificate of degree of Indian blood, and, with respect  
6 to those federally recognized Indian tribes located  
7 within States having an international border whose  
8 membership includes individuals who are not citizens  
9 of the United States, such other forms of docu-  
10 mentation (including tribal documentation, if appro-  
11 priate) that the Secretary, after consulting with such  
12 tribes, determines to be satisfactory documentary  
13 evidence of citizenship or nationality for purposes of  
14 satisfying the requirement of this subparagraph));”.

15 (b) LIMITATION ON WAIVER AUTHORITY.—Notwith-  
16 standing any provision of section 1115 of the Social Secu-  
17 rity Act (42 U.S.C. 1315), or any other provision of law,  
18 the Secretary of Health and Human Services may not  
19 waive the requirements of section 1902(a)(46)(B) of such  
20 Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

21 (c) CONFORMING AMENDMENTS.—Section 1903 of  
22 such Act (42 U.S.C. 1396b) is amended—

23 (1) in subsection (i)—

24 (A) in paragraph (20), by adding “or”  
25 after the semicolon;

1 (B) in paragraph (21), by striking “; or”  
2 and inserting a period; and

3 (C) by striking paragraph (22); and  
4 (2) in subsection (x)—

5 (A) by striking paragraphs (1) and (3);

6 (B) by redesignating paragraph (2) as  
7 paragraph (1);

8 (C) in paragraph (1), as so redesignated,  
9 by striking “paragraph (1)” and inserting “sec-  
10 tion 1902(a)(46)(B)”;

11 (D) by adding at the end the following new  
12 paragraph:

13 “(2) In the case of an individual declaring to be a  
14 citizen or national of the United States with respect to  
15 whom a State requires the presentation of satisfactory  
16 documentary evidence of citizenship or nationality under  
17 section 1902(a)(46)(B), the individual shall be provided  
18 at least the reasonable opportunity to present satisfactory  
19 documentary evidence of citizenship or nationality under  
20 this subsection as is provided under clauses (i) and (ii)  
21 of section 1137(d)(4)(A) to an individual for the submittal  
22 to the State of evidence indicating a satisfactory immigra-  
23 tion status.”.

1 **SEC. 2. CLARIFICATION OF RULES FOR CHILDREN BORN IN**  
2 **THE UNITED STATES TO MOTHERS ELIGIBLE**  
3 **FOR MEDICAID.**

4 Section 1903(x) of such Act (42 U.S.C. 1396b(x)),  
5 as amended by section 1(c)(2), is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (C), by striking “or”  
8 at the end;

9 (B) by redesignating subparagraph (D) as  
10 subparagraph (E); and

11 (C) by inserting after subparagraph (C)  
12 the following new subparagraph:

13 “(D) pursuant to the application of section  
14 1902(e)(4) (and, in the case of an individual who is  
15 eligible for medical assistance on such basis, the in-  
16 dividual shall be deemed to have provided satisfac-  
17 tory documentary evidence of citizenship or nation-  
18 ality and shall not be required to provide further  
19 documentary evidence on any date that occurs dur-  
20 ing or after the period in which the individual is eli-  
21 gible for medical assistance on such basis); or”; and

22 (2) by adding at the end the following new  
23 paragraph:

24 “(3) Nothing in subparagraph (A) or (B) of section  
25 1902(a)(46), the preceding paragraphs of this subsection,  
26 or the Deficit Reduction Act of 2005, including section

1 6036 of such Act, shall be construed as changing the re-  
2 quirement of section 1902(e)(4) that a child born in the  
3 United States to an alien mother for whom medical assist-  
4 ance for the delivery of such child is available as treatment  
5 of an emergency medical condition pursuant to subsection  
6 (v) shall be deemed eligible for medical assistance during  
7 the first year of such child's life.”.

8 **SEC. 3. EFFECTIVE DATE.**

9 (a) **RETROACTIVE APPLICATION.**—The amendments  
10 made by this Act shall take effect as if included in the  
11 enactment of the Deficit Reduction Act of 2005 (Public  
12 Law 109–171; 120 Stat. 4).

13 (b) **RESTORATION OF ELIGIBILITY.**—In the case of  
14 an individual who, during the period that began on July  
15 1, 2006, and ends on the date of enactment of this Act,  
16 was determined to be ineligible for medical assistance  
17 under a State Medicaid program solely as a result of the  
18 application of subsections (i)(22) and (x) of section 1903  
19 of the Social Security Act (as in effect during such pe-  
20 riod), but who would have been determined eligible for  
21 such assistance if such subsections, as amended by sec-  
22 tions 1 and 2, had applied to the individual, a State may  
23 deem the individual to be eligible for such assistance as

- 1 of the date that the individual was determined to be ineli-
- 2 gible for such medical assistance on such basis.

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