8.110.5.1 GROUPS ASSISTED UNDER THE PROGRAM (Continued)

8.100.53 To be eligible to receive medical assistance, an eligible person shall:

A. Prior to the implementation of SB 03-176, fall into one of the following categories:

1. Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or

2. Be an alien who entered the United States prior to August 22, 1996, who falls into one of the following categories:

a. lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA"); or

b. paroled into the United States for at least one year under Section 212(d)(5) of the INA; or

c. granted conditional entry under Section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or

d. determined by the county department, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. sec. 1641, has been battered or subjected to extreme cruelty which necessitates the provision of medical assistance (Medicaid); or

3. Be an alien who arrived in the United States on any date, who falls into one of the following categories:

a. lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or

b. lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or

c. granted asylum under Section 208 of the INA; or

d. refugee under Section 207 of the INA; or

e. deportation withheld under Section 243(h) (as in effect prior to September 30, 1996) or Section 241(b)(3) (as amended by P.L. 104-208) of the INA; or

f. Cuban or Haitian entrant, as defined in Section 501(e)(2) of the Refugee Education Assistance Act of 1980; or

g. an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. sec. 450b(e); or

h. admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461); or

i. lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict.

4. Be an alien who entered the United States on or after August 22, 1996, who falls into one of the four categories described in paragraphs a-d under Section 8.100.53,A,2, and who is applying for Medicaid benefits to begin no earlier than five years after the alien's date of entry into the U.S.**;**

A1. Upon implementation of SB 03-176, fall into one of the following categories:

1. A citizen or national of the United States, the District of Columbia, Puerto Rico Guam, the Virgin Islands, the Nothern Mariana Islands, American Samoa or Swain's Island.

2. An alien who is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse, and unmarried dependent children).

3. An alien who is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried dependent children).

4. An individual who was born in Canada and possesses at least 50 percent American Indian blood or is a member of an Indian tribe as defined in 25 U.S.C. Section 450b(e).

5. An alien who, after five years from the date of entry into the U.S., is a legal permanent resident and has 40 qualifying quarters as defined in the Social Security Act.

6. An asylee granted asylum under Section 208 of the INA, for seven years after the granting of asylum status.

7. A refugee under Section 207 of the INA, for seven years following the date of entry into the United States.

8. An alien granted withholding of deportation under Section 243(h) or Section 241(b)(3) of the INA for seven years after receiving such status.

9. A Cuban or Haitian entrant, as defined in Section 501(e)(2) of the Refugee Education Assistance Act of 1980, for seven years after the date of entry into the United States.

10. An Amerasian admitted to the U.S. pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988(as amended by P.L. 100-461) for five years after date of entry into the United States.

11. A victim of a severe form of trafficking in persons, as defined in Section 103 of the Trafficking Victims Act of 2000, 22 U.S.C. 7102, for seven years after the date of entry into the United States.

A2. For determinations of initial eligibility and redeterminations of eligibility for medical assistance made on or after July 1, 2006, provide satisfactory documentary evidence of citizenship or nationality and identity. This requirement applies to an individual who declares or who has previously declared that he or she is a citizen of the United States.

1. This requirement does not apply to the following groups:

   a. Individuals who receive Medicare.

   b. Individuals who receive Supplemental Security Income (SSI).

2. Satisfactory documentary evidence of citizenship or nationality includes the following:

a. Primary Evidence of Citizenship and Identity. The following evidence shall be accepted as satisfactory documentary evidence of both identity and citizenship:

1) A U.S. passport issued by the U.S. Department of State that:

a) includes the applicant or recipient, and

b) was issued without limitation. A passport issued with a limitation may be used as proof of identity, as outlined in 8.100.53.A2.3.

2) A Certificate of Naturalization (DHS Forms N-550 or N-570) issued by the Department of Homeland Security (DHS) for naturalized citizens.

3) A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561) issued by the Department of Homeland Security for individuals who derive citizenship through a parent.

b. Secondary Evidence of Citizenship. If primary evidence from the list in 8.100.53.A2.2.a. is unavailable, an applicant or recipient shall provide satisfactory documentary evidence of citizenship from the list specified in this section to establish citizenship AND satisfactory documentary evidence from 8.100.53.A2.3. to establish identity. Secondary evidence of citizenship includes:

1) A U.S. public birth certificate.

a) The birth certificate shall show birth in any one of the following:

1) One of the 50 States,

2) The District of Columbia,

3) Puerto Rico (if born on or after January 13, 1941),

4) Guam (if born on or after April 10, 1899),

5) The Virgin Islands of the U.S. (if born on or after January 17, 1917),

6) American Samoa,

7) Swain's Island, or

8) The Northern Mariana Islands (NMI) (if born after November 4, 1986 (NMI local time)).

b) The birth record document shall have been issued by the State, Commonwealth, Territory or local jurisdiction.

c) The birth record document shall have been issued before the person was 5 years of age.

2) A Certification of Report of Birth (DS-1350) issued by the U.S. Department of State to U.S. citizens who were born outside the U.S. and acquired U.S. citizenship at birth.

3) A Report of Birth Abroad of a U.S. Citizen (Form FS-240) issued by the U.S. Department of State consular office overseas for children under age 18 at the time of issuance. Children born outside the U.S. to U.S. military personnel usually have one of these.

4) A Certification of birth issued by the U.S. Department of State (Form FS-545 or DS-1350) before November 1, 1990.

5) A U.S. Citizen I.D. card issued by the U.S. Immigration and Naturalization Services (INS):

a) Form I-179 issued from 1960 until 1973, or

b) Form I-197 issued from 1973 until April 7, 1983.

6) A Northern Mariana Identification Card (I-873) issued by INS to a collectively naturalized citizen of the U.S. who was born in the NMI before November 4, 1986.

7) An American Indian Card (I-872) issued by the Department of Homeland Security with the classification code "KIC."

8) A final adoption decree that:

a) shows the child's name and U.S. place of birth, or

b) a statement from a State approved adoption agency that shows the child's name and U.S. place of birth. The adoption agency must state in the certification that the source of the place of birth information is an original birth certificate.

9) Evidence of U.S. Civil Service employment before June 1, 1976. The document shall show employment by the U.S. government before June 1, 1976.

10) U.S. Military Record that shows a U.S. place of birth, including a DD-214.

c. Third Level Evidence of U.S. Citizenship. Third level evidence of U.S. citizenship is documentary evidence of satisfactory reliability that is used when neither primary nor secondary evidence is available. Third level evidence shall be used only when primary evidence cannot be obtained within 10 business days, secondary evidence does not exist or cannot be obtained, and the applicant or recipient alleges being born in the U.S. A second document from 8.100.53.A2.3. to establish identity shall also be presented.

1) Extract of a hospital record on hospital letterhead.

a) The record shall have been established at the time of the person's birth;

b) The record shall have been created at least 5 years before the initial application date; and

c) The record shall indicate a U.S. place of birth;

d) For children under 16 the document shall have been created near the time of birth or 5 years before the date of application.

e) Souvenir "birth certificates" issued by a hospital are not acceptable.

2) Life, health, or other insurance record that contains biographical information for the person including place of birth.

a) The record shall show a U.S. place of birth; and

b) The record shall have been created at least 5 years before the initial application date.

d. Fourth Level Evidence of Citizenship. Fourth level evidence of citizenship is documentary evidence of the lowest reliability. Fourth level evidence shall only be used in the rarest of circumstances. This level of evidence is used only when primary evidence is unavailable, both secondary and third level evidence do not exist or cannot be obtained within 10 business days, and the applicant alleges a U.S. place of birth. In addition, a second document establishing identity shall be presented as described in 8.100.53.A2.3.

1) Federal or State census record showing U.S. citizenship or a U.S. place of birth and the applicant's age.

2) One of the following documents that show a U.S. place of birth and was created at least 5 years before the application for Medicaid.

a) Seneca Indian tribal census record;

b) Bureau of Indian Affairs tribal census records of the Navajo Indians;

c) U.S. State Vital Statistics official notification of birth registration;

d) An amended U.S. public birth record that is amended more than 5 years after the person's birth; or

e) Statement signed by the physician or midwife who was in attendance at the time of birth.

3) Institutional admission papers from a nursing facility, skilled care facility or other institution that contain 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) Medical (clinic, doctor, or hospital) record that contains biographical information for the person including place of birth.

a) The record shall have been created at least 5 years before the initial application date; and

b) The record shall indicate a U.S. place of birth;

c) An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.

d) For children under 16 the document shall have been created near the time of birth or 5 years before the date of application.

5) Written affidavit. Affidavits shall only be used in rare circumstances. If the documentation requirement needs to be met through affidavits, the following rules apply:

a) There shall be at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship (the two affidavits could be combined in a joint affidavit);

b) At least one of the individuals making the affidavit cannot be related to the applicant or recipient. Neither of the two individuals can be the applicant or recipient;

c) In order for the affidavit to be acceptable the persons making them shall provide proof of their own U.S. citizenship and identity;

d) If the individual(s) making the affidavit has (have) information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit shall contain this information as well;

e) The applicant/recipient or other knowledgeable individual (guardian or representative) shall provide a separate affidavit explaining why the evidence does not exist or cannot be obtained; and

f) The affidavits shall be signed under penalty of perjury.

e. Evidence of Citizenship for Collectively Naturalized Individuals. If a document shows the individual was born in Puerto Rico, Guam, the Virgin Islands of the U.S., or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. A second document from 8.100.53.A2.3. to establish identity shall also be presented.

1) Puerto Rico:

a) Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; OR

b) 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 or she did not take an oath of allegiance to Spain.

2) U.S. Virgin Islands:

a) 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; OR

b) The applicant's statement indicating residence 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 or she did not make a declaration to maintain Danish citizenship; OR

c) 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.

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

a) Evidence of birth in the NMI, TTPI 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 or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); OR

b) Evidence of TTPI 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 or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); OR

c) Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

d) If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile, and the individual is not a U.S. citizen.

3. Evidence of Identity. The following documents shall be accepted as proof of identity and shall accompany a document establishing citizenship from the groups of documentary evidence outlined in 8.100.53.A2.2.b. through e.

a. A driver's license issued by a State or Territory either with a photograph of the individual or other identifying information such as name, age, sex, race, height, weight, or eye color;

b. School identification card with a photograph of the individual;

c. U.S. military card or draft record;

d. Identification card issued by the Federal, State, or local government with the same information included on driver's licenses;

e. Military dependent's identification card;

f. Native American Tribal document;

g. U.S. Coast Guard Merchant Mariner card;

h. Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual; or

i. For children under 16, school records, including nursery or daycare records;

j. For children under 16, if none of the above documents are available, an affidavit may be used if it meets the following requirements:

1) It shall be signed under penalty of perjury by a parent or guardian;

2) It shall state the date and place of birth of the child; and

3) It cannot be used if an affidavit for citizenship was provided.

4. If a Medicaid applicant or recipient does not have the required documentation, he or she must be given a reasonable opportunity period of up to ten (10) business days to provide the required documentation. If the applicant or recipient does not provide the required documentation within those ten (10) business days, then:

a) the applicant's Medicaid application shall be denied, or

b) the recipient's Medicaid benefits shall be terminated.

5. If a Medicaid applicant or recipient whose benefits are terminated on the basis of not having the documents required by 8.110.53.A2.4. provides such documentation within ten (10) weeks of the date of denial, the denial shall be rescinded, and the client made eligible back to the date of application (new applicants) or to the date of denial (current recipients), provided he or she meets all other eligibility requirements.

B. Be a resident of Colorado;

C. Not be an inmate of a public institution, except as a patient in a public medical institution or as a resident of an intermediate care facility or as a resident of a publicly operated community residence which serves no more than 16 residents;