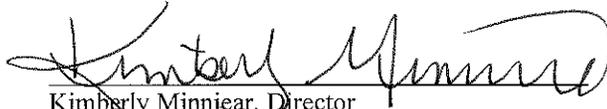


**Children's Special Health Care Services
Administrative Policy Manual**

Eligibility:

**Restrictions on Public Benefits to Illegal
Aliens- Policy # B-5p**


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12/3/12

Date

Effective Date: December 3, 2012

Revision reason: New Policy

Title: Restrictions on Public Benefits to Illegal Aliens

- 1) Ind. Code §12-32 was added by P.L. 171-2011 and went into effect on July 1, 2011.

Ind. Code §12-32-1-5 states:

(a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:

(1) is at least eighteen (18) years of age; and

(2) applies for state or local public benefits or federal public benefits that are provided by the agency or the political subdivision.

(b) A health care provider (as defined in IC 16-18-2-163(a)) is not required to verify the eligibility of an individual as required under subsection (a) if the health care provider is providing health care services for the treatment of an emergency medical condition (as defined in 42 U.S.C. 1396b(v)(3)).

(c) With regard to a state or local public benefit or a federal public benefit that covers health care services, a health care provider (as defined in IC 16-18-2-163) satisfies the requirements of this chapter if the health care

provider complies with the eligibility verification policies and procedures for providing the benefit that is established by the:

- (1) office of the secretary of family and social services; or
- (2) federal Department of Health and Human Services.

Thus, any individual who is at least eighteen (18) years of age and applies for state or local public benefits or federal public benefits that are provided by the ISDH must verify that they are a United States citizen or a qualified alien (8 U.S.C. §1641).¹

A “state or local public benefit” is defined by 8 U.S.C. §1621 as:

- (a) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and
- (b) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

A “federal public benefit” is defined by 8 U.S.C. §1611 as:

- (a) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
- (a) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

Pursuant to the above definitions, there are several programs at ISDH that provide state or local public benefits and/or federal public benefits to individuals. Consequently, if the programs that provide such services do not meet any of the exceptions outlined in 8 U.S.C. §1611 or §1621, those programs will be required to restrict public benefits to illegal aliens as long as the individuals are over 18 years of age.² The only pertinent exception in the federal code is for “public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.”³

¹ I.C. §12-32-1-6.

² I.C. §12-32-1-5(a) (1).

³ 8 U.S.C. §1611(b) (1) (C) and §1621(b) (3).

2) The programs at ISDH that provide state or local public benefits and/or federal public benefits are: CSHCS, WIC, Hemophilia, HIV Medical Services, and BCCP.

- a) CSHCS does not currently verify the alien status of program applicants. The program provides state or local public benefits to individuals who are mainly under the age of 18, however, so they may be accepted under Ind. Code §12-32-1-5(a) (1). For the group of applicants who are between the ages of 18-21, however, the program is required to verify eligibility.⁴
- b) Indiana WIC does not currently verify the alien status of program applicants. The program provides state or local public benefits to individuals who are mainly under the age of 18 and may be accepted.⁵ For the individuals who are over the age of 18, however, the program is required to verify eligibility.⁶
- c) The hemophilia program does not currently verify the alien status of program applicants. The program provides state or local public benefits to individuals of all ages. It does not appear that the program meets any of the exceptions listed in Ind. Code §12-32 or 8 U.S.C. §1611 and §1621 and would therefore be required to verify eligibility.⁷
- d) The HIV Medical Services program does not currently verify the alien status of program applicants. The program provides federal public benefits to individuals of all ages, but most are over the age of 18. The exception listed in both 8 U.S.C. §1611 and § 1621 regarding “testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease”, however, may apply to this program’s benefits.
- e) BCCP does not currently verify the alien status of program applicants. The program provides both state or local public benefits and federal public benefits to individuals of all ages. It does not appear that the program meets any of the exceptions listed in Ind. Code §12-32 or 8 U.S.C. §1611 and §1621 and would therefore be required to verify eligibility.⁸

⁴ *Id.* at 1.

⁵ *Id.* at 2.

⁶ *Id.* at 1.

⁷ *Id.*

⁸ *Id.*

CONCLUSION

In conclusion, Ind. Code §12-32 requires individuals over 18 years old that apply for state, local, or federal public benefits to meet certain citizenship standards. Consequently, because several ISDH programs provide state or local and/or federal public benefits to various individuals, the pertinent programs are required to verify the citizenship of their applicants if certain statutory exceptions are not met.⁹

⁹ If your program area would like assistance drafting language to insert into public benefit applications, please contact me.