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May 6, 2024

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Health Benefits Exchanges, Medicaid, and CHIP Agencies (Document Identifier: 0938-1191)

Dear Administrator Brooks-LaSure,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, and the 33 undersigned organizations, we submit the following comments in response to the Federal Register Notice by the Centers for Medicare & Medicaid Services (CMS) on its intention to collect information from the public to support eligibility determinations for insurance affordability programs and enrollment through health benefits exchanges, Medicaid, and CHIP agencies.

In March 2021, President Biden issued Executive Order 14019 on Promoting Access to Voting (the Voting Access EO or EO). With this EO, President Biden adopted a visionary, whole-of-government approach to expanding access to voter registration and voting information. The Voting Access EO directs all federal agencies to expand citizens' opportunities for civic engagement by providing voting information and resources to the people they serve. With effective implementation, the EO can expand voting access for millions of Americans, particularly those in communities that historically have had less access to participation in the political process.

We believe that promoting voting access in the health care context is an extremely valuable way to pursue the objectives of the EO. During its Summit for Democracy in December 2021, the administration announced that CMS would "make it easier for consumers using HealthCare.gov to connect to voter registration services and receive assistance."¹ We

¹ "Fact Sheet: The Biden-Harris Administration is Taking Action to Restore and Strengthen American Democracy." *The White House*. December 08, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-the-biden-harris-administration-is-taking-action-to-restore-and-strengthen-american-democracy/>

appreciate the efforts made by CMS since that time to provide voter registration information on the HealthCare.gov website.

We very much welcome this request for comment regarding the data collection to integrate an offer of voter registration and voting information into the application process itself. The HealthCare.gov application process is particularly well-suited for reaching individuals who are less likely to be registered to vote. The application process is used by millions of Americans every single year, many of whom have moderate to low incomes and reside in states that have enacted barriers to the ballot. Indeed, in the last enrollment period, a record 16.4 million people enrolled or re-enrolled in the federal exchange — two-thirds of whom are lower income.² Because lower income people are registered to vote at rates well below those who are more affluent,³ inclusion of a voter registration question within the application process will help ensure that countless individuals who have been excluded from our democracy have an entry point to participate and have their voices heard. Additionally, inclusion of the voter registration question is especially important for communities who have been disenfranchised historically, as there is a large overlap between states with restrictive voting policies and use of HealthCare.gov and the federal exchange.⁴

We are well aware of the strong correlation between civic engagement and improved health and well-being. For example, states that have policies that make elections more accessible — such as same day registration and mail voting options — not only have higher levels of voter participation, but also stronger public health outcomes.⁵ Similarly, after the implementation of the Voting Rights Act of 1965, there was a significant reduction in the Black infant mortality rate in southern counties that were subject to federal oversight due to severe voter suppression practices in those regions.⁶ Meanwhile, states that have more restrictive voting laws and barriers to the ballot have lower rates of voter participation and worse public health outcomes.⁷ CMS has the unique opportunity to address this correlation through effective implementation of the Voting Access EO by incorporating a voter registration question into the HealthCare.gov application process.

² “In Celebration of 10 Years of ACA Marketplaces, the Biden Harris Administration Releases Historic Enrollment Data.” *HHS Press Office*. Mar. 22, 2024. <https://www.hhs.gov/about/news/2024/03/22/celebration-10-years-aca-marketplaces-biden-harris-administration-releases-historic-enrollment-data.html>; [2024 Marketplace Open Enrollment Period Public Use Files | CMS](#) (showing that 11.3 million of the 16.3 million consumers have income between the Federal poverty line and 200% over the Federal poverty line).

³ See, e.g., “New Census Data Reveal Voter Turnout Disparities in 2022 Midterm Elections | National Low Income Housing Coalition.” *National Low Income Housing Coalition*. May 15, 2023. <https://nlihc.org/resource/new-census-data-reveal-voter-turnout-disparities-2022-midterm-elections> (“While 73% of eligible homeowners were registered to vote in November 2022, only 58% of eligible renters were registered. Eighty-two percent of eligible voters with household incomes above \$100,000 were registered, compared to just 57% of eligible voters with household incomes below \$20,000.”)

⁴ Compare “Snapshot: Democracy Ratings by State.” *Movement Advancement Project*. April 11, 2024. https://www.mapresearch.org/democracy-maps/ratings_by_state with “State Health Insurance Marketplace Types, 2023” *KFF*. 2024. <https://www.kff.org/health-reform/state-indicator/state-health-insurance-marketplace-types/>

⁵ “Health & Democracy Index.” *Healthy Democracy Healthy People*. <https://democracyindex.hdhp.us/>

⁶ Krieger, Nancy. Nethery, Rachel C. Rushovich, Tamara. White, Ariel. “1965 US Voting Rights Act Impact on Black and Black Versus White Infant Death Rates in Jim Crow States, 1959–1980 and 2017–2021.” *American Journal of Public Health*. pgs.114, 300-308. <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2023.307518>

⁷ *Id.*

To incorporate an offer of voter registration most effectively into the HealthCare.gov application process, we recommend the following modifications to the proposal in the Federal Register Notice:

For the online application and all paper applications, we believe that CMS should ask applicants “If you are not registered to vote where you currently live, would you like to apply to register to vote?” This question should replace the current language: “Would you like information on registering to vote?” This recommended change emphasizes the applicant’s ability to take action and not just receive information. In addition, in the online application, this question should be a “hard stop,” requiring the applicant to provide an answer before proceeding to the next set of questions to ensure that the applicant sees and acknowledges the voter registration question. It should also make sure to offer “prefer not to answer” as an option in the event the applicant wishes not to answer “yes” or “no,” thus ensuring it is an optional question.

We further recommend that, in both online and paper applications, the text following the voter registration should be updated as outlined in the following ways: For the online application, the text should read: “You clicked that you would like to register to vote. You can access a voter registration application, voter registration information including deadlines, and other voting resources at vote.gov.” For the paper application, the text should read: “If you would like to register to vote, you can access a voter registration application, voter registration information including deadlines, and other voting resources at vote.gov.” As with our first recommended modification, this provides another opportunity to emphasize the applicant’s ability to take action and actually apply to register through this process.

Finally, for the online application, we recommend that the text and direction to Vote.gov following the voter registration question outlined above should be reconfigured in one of two ways listed below:

- 1) Option one: After answering “yes” to the revised voter registration question, the applicant should be presented with follow-up information that should include: “Vote.gov will pop up in a separate window. If you have a pop-up blocker, you will need to enable pop-ups from this website. Alternatively, you can visit vote.gov at a later time.” Simultaneously, vote.gov should open in a separate tab or window.
- 2) Option two: Whether an applicant is determined (potentially) eligible for Medicaid or will proceed to enroll through the marketplace will determine the placement of the language directing applicants who respond “yes” to the voter registration question to vote.gov.
 - a) If the applicant is determined (potentially) eligible for Medicaid, the applicant should see on the confirmation page: “You clicked that you would like to register to vote. In one minute, you will be redirected to vote.gov where you can access a voter registration application, voter registration information including deadlines, and other voting resources at vote.gov. If you wish to opt out of the redirection, [click here](#)” — and automatically be redirected to vote.gov after a certain period of time.
 - b) If the applicant will enroll through the marketplace (with or without cost sharing), the following should appear at the top of the confirmation page: “You clicked that you would like to register to vote. After you complete your enrollment, you will be redirected to vote.gov where you can

access a voter registration application, voter registration information including deadlines, and other voting resources.” The applicant should also be redirected at the end of the selection of an insurance plan.

We also recommend a modification of the language that appears only in the paper Application for Health Coverage. Currently, Step 3 of attachment D directs some applicants to skip the voter registration question. Specifically, Step 3 asks applicants: “Are you or is anyone in your household American Indian or Alaska Native?” One of the two responses is “NO. If no, skip to Step 4.” This would lead most applicants to skip over the voter information question that appears at the end of Step 3 and to proceed directly to Step 4 (“Your agreement & signature”). To avoid this, Step 3 should be modified to read, “NO. If no, review the voter registration question below and then proceed to Step 4.” (Page 4 of attachment D).

By incorporating these recommendations into the proposed HealthCare.gov application process, HHS has the potential to expand access to our democracy for millions of Americans and implement one of the most impactful executive branch actions in furtherance of the Voting Access EO. HealthCare.gov reaches citizens who have limited access to voter registration and who live in states with more restricted voter registration access.

We appreciate the opportunity to comment on this critical matter. If you have any questions about these comments, please contact Leslie Proll, senior director of the voting rights program at The Leadership Conference on Civil and Human Rights, at proll@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
Advancement Project
AFT
Asian & Pacific Islander American Health Forum (APIAHF)
Asian Americans Advancing Justice | AAJC
Asian and Pacific Islander American Vote (APIAVote)
Association of Asian Pacific Community Health Organizations (AAPCHO)
Brennan Center for Justice
Campaign Legal Center
Demos
Fair Elections Center
Georgia Advocacy Office, Inc.
Hip Hop Caucus
Jewish Council for Public Affairs
League of Conservation Voters
Mi Familia Vota
NAACP Legal Defense & Educational Fund, Inc.
National Asian American Pacific Islander Mental Health Association (NAAPIMHA)
National Association of Councils on Developmental Disabilities



National Association of Social Workers
National Coalition on Black Civic Participation
National Community Action Partnership
National Council of Negro Women (NCNW)
National Disability Rights Network (NDRN)
National Partnership for Women & Families
National Urban League
NETWORK Lobby for Catholic Social Justice
OCA - Asian Pacific American Advocates
Pride at Work
Protect Our Care
Sojourners-SojoAction
The Workers Circle
Transformative Justice Coalition
YWCA USA