

Medicaid AVR with Data Consent

Automatic voter registration (AVR) at Medicaid is the most powerful way to ensure that millions of low-income Medicaid enrollees are added to the voter rolls. By using a streamlined model that relies on applicant consent to the sharing of information, Medicaid AVR can bring the overwhelming majority of low-income Americans into the political process while maximizing privacy protections for Medicaid beneficiaries.

1. Streamlined AVR

Based on substantial evidence from motor vehicle offices, AVR works most efficiently and registers the maximum number of eligible voters when the system is fully streamlined. Under the best AVR systems at DMVs, demonstrably eligible U.S. citizens who interact with a state agency are automatically registered to vote, and then provided a post-transaction mailer with an opportunity to decline voter registration. These systems register 99% of eligible individuals.

These AVR systems build on the requirements of the National Voter Registration Act (NVRA), which was passed with the purpose of “increas[ing] the number of eligible citizens who register to vote in elections for Federal office.” 52 U.S.C. 20501(b)(1). Streamlined AVR upgrades the motor voter procedures required by Section 5 of the NVRA, maximizing the number of eligible citizens registered to vote through an interaction with the DMV. In the same way, AVR at Medicaid can carry forward the mission of Section 7 of the NVRA, ensuring that eligible individuals are registered to vote when they interact with Medicaid.

For Medicaid, a similar maximally effective AVR system would register any enrollee of voter registration age whose U.S. citizenship is verified as part of their application. Crucially, all Medicaid enrollees have their citizenship status verified against a federal database known as the Federal Data Services Hub. Eligible Medicaid enrollees would have registration data securely and electronically shared with election officials. Election officials would then use this information to register enrollees or update existing registrations. New or updated registrations would receive a mailer providing an opportunity to decline or correct the registration information.

2. Data Consent

However, to protect Medicaid enrollee data, federal privacy regulations limit the sharing of Medicaid enrollee information with other state agencies. One exception, applicable in the context of AVR, permits the sharing of information with applicant consent. If a Medicaid applicant affirmatively provides consent to share information on their application with another state agency, the information can be disclosed and used by the other agency.

Utilizing a Medicaid application to seek consent for data sharing for voter registration is appropriate as it furthers the purpose of the NVRA by registering all interested and eligible individuals, significantly increasing the rates of voter registration through Medicaid. *See* 52 U.S.C. 20501(b)(1). In this specific context, a consent-based model strikes the appropriate balance between information sharing to maximize efficacy and data privacy. Notably, the presence of the NVRA only permits such a model for the purposes of voter registration and does not create blanket authorization for consent-based data-sharing by states, which could have harmful ramifications for applicants.

Accordingly, a Medicaid AVR system could automatically share enrollee information with election officials if the applicant consents to this data transfer during the Medicaid enrollment application process. If an applicant consents, information from the application would be electronically shared with election officials for registration purposes. Anyone with a new or updated voter registration would then receive a mailer from election officials providing an opportunity to decline or correct the change.

3. Framing Consent to Information Sharing

The request for applicant consent within the Medicaid transaction would be framed explicitly, directly explaining to applicants that information for any clearly eligible enrollees would be shared with election officials for the purpose of registering new voters or updating existing registration records. The consent question would also clearly indicate exactly which information (name, address, date of birth, etc.) would be shared with election officials.

Notably, consent to the sharing of information with election officials would not be framed as a voter registration question, i.e. “Do you want to register to vote or update your voter registration?” Data and experience indicates that an explicit voter registration question in the

middle of an agency transaction leads to significantly higher declination rates. Indeed, data indicates that less than 5% of eligible Medicaid applicants select “yes” when asked during the transaction if they want to register to vote. Ultimately, a substantial share of applicants incorrectly believe they are already registered to vote or that their registration is current. Others are unsure of their eligibility to register to vote, and decline despite being eligible. Many more decline because they believe registration will slow down an already lengthy transaction.

A data consent model will avoid these pitfalls. Applicants are simply asked if their information can be shared with election officials. They do not need to know if they are already registered or if their registration is current, nor do they need to know if they are eligible to register. Similarly, a consent-based question does not prolong the question and applicants do not need to answer questions about party affiliation until contacted post-transaction by election officials. Thus, there is reason to believe a data consent model will significantly increase Medicaid voter registration and turnout rates.

4. Conclusion

By incorporating applicant consent into a streamlined AVR system, Medicaid AVR can register a substantial share of eligible enrollees and update registration information for any existing registrants, all while maximizing privacy protections of beneficiaries. CMS should grant states clear discretion to adopt this approach and ensure millions of low-income Americans can easily participate in the political process, if they wish.