

Medicaid Automatic Voter Registration Background and Overview

Medicaid's Voter Registration Requirements

- The National Voter Registration Act of 1993 (NVRA), popularly known as the “Motor Voter Act,” mandates that Medicaid offices and other public assistance agencies in most states must already offer voter registration forms and assistance to eligible beneficiaries.¹
- Despite this requirement being in place for nearly thirty years,² Medicaid offices and other public assistance agencies do not register many of their eligible beneficiaries to vote. In 2019 - 2020, for example, a total of 1.7 million voter registration forms were collected by all public assistance agencies out of a total of 104 million forms collected nationally.³
- In fact, despite the NVRA, research by Jamila Michener at Cornell University has found that the simple act of enrolling in Medicaid is correlated with lower rates of registration and turnout, even after controlling for age, race, income, and education status.⁴
- This failure is not surprising given that traditional compliance with the NVRA has relied on distribution and collection of paper forms from beneficiaries that

¹ Pub. L. 103-31 (1993), as codified at 52 U.S.C. §§ 20501–11.

² *Ibid.*

³ Between the close of registration for the 2018 general election and the close of registration for the 2020 general election, states and territories reported receiving a record 103,701,513 registration applications. Only 1.6% of applications, or 1.659 million applications received during this time period were from public assistance offices. U.S. Election Assistance Commission to the 117th Congress, “Election Administration and Voting Survey 2020 Comprehensive Report,” August 2021, available at https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf

⁴ Michener, Jamila, *Fragmented Democracy: Medicaid, Federalism, and Unequal Politics*, Cambridge University Press, 2018, p. 77. available at <https://www.cambridge.org/core/books/fragmented-democracy/9A69DF1567190EF38883D4766EBC0AAC>

need to be transmitted to election offices. Such systems require ongoing training and oversight to be effective,⁵ a challenge for busy Medicaid offices.

- Section 7 litigation can temporarily enforce these requirements, but effective lawsuits rely on “strong monitoring, reporting, training, and oversight provisions,”⁶ that impose additional costs and training requirements on Medicaid offices and do not fully streamline the registration process.

Voter Registration Overview

- Despite record voter turnout in the 2020 election, approximately one-third of eligible Americans still did not cast a ballot.⁷
- Voter records are often incomplete and out-of-date, with tens of millions of eligible voters either unregistered to vote or registered under an old address or name.⁸ The eligible voters most likely to be left out of the voter rolls historically in the U.S. are the youngest eligible voters⁹, people with

⁵ U.S. Commission on Civil Rights, “Increasing Compliance with Section 7 of the National Voter Registration Act,” 2016, p. 29. available at <https://www.usccr.gov/files/pubs/docs/NVRA-09-07-16.pdf>

⁶ Ibid. at p. 25-26.

⁷ U.S. Census Bureau, “2020 Presidential Election Voting and Registration Tables Now Available,” April 29, 2021, available at: <https://www.census.gov/newsroom/press-releases/2021/2020-presidential-election-voting-and-registration-tables-now-available.html>

⁸ See Pew Center on the States, *Inaccurate, Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade*, February 2012, available at https://www.pewtrusts.org/-/media/legacy/uploadedfiles/pew_assets/2012/pewupgradingvoterregistrationpdf.pdf; “Election Administration and Voting Survey 2020 Comprehensive Report,” August 2021, p. 114 available at https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf.

⁹ Census Bureau, Table 3, Reported Voting and Registration by Age, for the United States, Regions, and Divisions: November 2020, available at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>

disabilities¹⁰, people who have been incarcerated¹¹, naturalized U.S citizens¹², and people with low-incomes¹³.

- The NVRA was passed in 1993 to address these historic inequities in voter registration, but the impact has been limited due to state agencies unwillingness or inability to maintain compliance for voluntary interactions, as well as the overall clunkiness of using paper registration forms or other systems where applicants must re-enter information.¹⁴
- In March 2021, President Biden responded to these historic challenges by issuing an executive order directing federal agencies to take additional action to improve voter registration and voter participation rates, including by assisting state agencies to better implement the NVRA.¹⁵
- In line with academic research on the topic, Healthy People 2030 named voter participation as a “high-priority” social determinant of health since communities with higher voter turnout have improved health outcomes.¹⁶

Automatic Voter Registration at Medicaid

¹⁰ Matt Visilogambros, How Voters with Disabilities Are Blocked From the Ballot Box, February 2018, available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/02/01/how-voters-with-disabilities-are-blocked-from-the-ballot-box>

¹¹ The Marshall Project, Checking The Success of Your States’ Efforts To Restore Voting Rights To The Formerly Incarcerated, July 1, 2021, available at <https://www.themarshallproject.org/2021/07/01/how-many-people-convicted-of-felonies-are-registered-to-vote-in-your-state>

¹² New American Economy, Election 2020: Unregistered Voters in Swing States, October 2020, available at <https://research.newamericaneconomy.org/report/election-2020-unregistered-voters/>

¹³ Mitchell, Clemens, and Lake, “The consequences of political inequality and voter suppression for U.S. economic inequality and growth,” Feb 2021, p. 8, accessed 9/25/22.

¹⁴ U.S. Department of Justice, About the National Voter Registration Act, Updated May 21, 2019 <https://www.justice.gov/crt/about-national-voter-registration-act>.

¹⁵ President Biden, Executive Order # 14019, Promoting Access to Voting, March 7, 2021, Federal Register, vol 86, no. 45, pp. 13623-13627, available at <https://www.govinfo.gov/content/pkg/FR-2021-03-10/pdf/2021-05087.pdf>.

¹⁶ U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030, “Increase the proportion of the voting-age citizens who vote – SDOH RO2, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/social-and-community-context/increase-proportion-voting-age-citizens-who-vote-sdoh-r02>.

- In recent years states, including Colorado¹⁷ and Nevada¹⁸, have passed legislation to implement automatic voter registration (AVR) at their state Medicaid offices as a way of increasing voter registration rates while reducing long-term burdens on agencies and beneficiaries.
- Automatic Voter Registration is a process that replaces outdated paper-based registration with secure, modern, electronic systems. 21 states and Washington DC currently use AVR at their motor vehicle agencies (i.e. the DMV), the primary agency where AVR systems have been created.¹⁹
- AVR systems use information already collected by the agency (name, address, date of birth, and citizenship status as validated by presented documentation) to automatically register eligible voters or update voter registration information when people apply for or renew their driver's license or change their address. These voters are given an opportunity to opt-out of the voter registration service at their request.²⁰
- AVR significantly increases the accuracy and completeness of voter registration rolls while decreasing workloads for agency employees, lowering costs for agencies, shortening transaction times, and avoiding confusion among the public.²¹

Medicaid Is an Ideal Agency for Automatic Voter Registration

¹⁷ Colorado General Assembly, Automatic Voter Registration, SB19-235, 73rd Assembly, 2019, available at: <https://leg.colorado.gov/bills/sb19-235>.

¹⁸ Nevada Legislature, Committee on Legislative Operations and Elections, 81st Session, May 30, 2021, AB 432, available at <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/8087/Overview>.

¹⁹ U.S. Election Assistance Commission to the 117th Congress, "Election Administration and Voting Survey 2020 Comprehensive Report," August 2021, available at https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf

²⁰ National Conference of State Legislators, Automatic Voter Registration, June 30, 2022, available at <https://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>

²¹ Secure Elections Project "How AVR Improves the Accuracy of Registration Lists," August 2019, <https://www.secureelectionsproject.org/report/how-avr-improves-the-accuracy-of-registration-lists/>.

- Medicaid offices must already offer voter registration forms and assistance under Section 7 of the National Voter Registration Act (NVRA).²²
- Under federal law, Medicaid must already ask about and then verify applicants' citizenship status.²³ Unlike Medicaid, other public benefit programs would need to impose new citizenship questions or verification to implement AVR, creating new application barriers and the risk that individuals would not access benefits.²⁴
- Medicaid AVR would reach people that the DMV misses, such as people who are elderly²⁵, low-income²⁶, or who have recently turned 18²⁷.
- Medicaid offices already have practical experience securely sharing data with other agencies to determine access to additional benefits and with outside organizations that provide health care and other services.²⁸

The Next Step for Expanding Automatic Voter Registration to Medicaid

- States that have laws on the books permitting the implementation of Medicaid AVR are (appropriately) waiting on a clear green light from Centers for

²² 52 U.S.C. § 20506.

²³ 42 U.S.C. § 18083(c)(3); 42 C.F.R. § 435.956.

²⁴ For example, applications for federal housing assistance programs, veterans program, or federal student aid may not provide all the components for automatic voter registration.

²⁵ Centers for Medicare & Medicaid Services, "Seniors & Medicaid, Medicare Enrollees," <https://www.medicaid.gov/medicaid/eligibility/seniors-medicare-and-medicaid-enrollees/index.html>.

²⁶ Centers for Medicare & Medicaid Services, "Who Enrolls in Medicaid," <https://www.medicaid.gov/state-overviews/scorecard/who-enrolls-medicaid-chip/index.html>.

²⁷ Medicaid covers nearly 34 million children 18 and under in the US. In the majority of states, these individuals are still eligible for Medicaid after their 18th Birthday unless their circumstances change. Centers for Medicare & Medicaid Services, "May 2022 Medicaid and CHIP Enrollment Trends Snapshot," <https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/may-2022-medicaid-chip-enrollment-trend-snapshot.pdf>.

²⁸ Centers for Medicare & Medicaid Services, "CMS Information Security and Privacy Overview," <https://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/InformationSecurity>.

Medicare and Medicaid Services (CMS) that Medicaid data can be used for voter registration, before implementing these systems.

- CMS should allow states to implement AVR systems with oversight because:
 - Federal law explicitly requires that Medicaid offices provide voter registration services;
 - Automatic voter registration is a way of implementing voter registration services with reduced burden on Medicaid agencies and beneficiaries, and nutrition programs like SNAP and WIC;
 - AVR provides maximum protections for vulnerable populations.²⁹

²⁹ Medicaid Automatic Voter Registration and Vulnerable Populations, October 2022, available at: <https://responsivegoverning.org/research/medicaid-avr-vulnerable-populations-2/>