

## Medicaid AVR & Vulnerable Populations

- **Medicaid AVR reduces inequity in both elections and health.** People of color<sup>1</sup>, new U.S. citizens,<sup>2</sup> young people,<sup>3</sup> people with disabilities,<sup>4</sup> and low-income people, and people have been disproportionately excluded from voting in the U.S. These populations are also overrepresented among Medicaid recipients. Increasing registration and voter turnout rates among these populations will reduce inequity in elections. Communities with higher voter turnout have better health outcomes,<sup>5</sup> in part due to increased ability to marshal the attention and resources of political decision makers.
- **AVR maximizes use of benefits.** Application complexity and confusion over eligibility are both barriers to enrollment in public benefits by eligible individuals.<sup>6</sup> Adding unnecessary questions regarding voter registration rather than using existing information increases complexity and risks confusion. Because Medicaid already asks about (and verifies) citizenship status, it is a better choice than other public assistance programs to implement AVR.<sup>7</sup>
- **Automated systems minimize risk of noncitizen user errors.** It is a federal crime to misrepresent U.S. citizenship status for voter registration purposes.<sup>8</sup> Unfortunately, some noncitizens have faced deportation or denial of a green card or U.S. citizenship due to

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<sup>1</sup> Kevin Morris, Large Racial Turnout Gap Persisted in 2020 Election, Brennan Center, August 6, 2021, available at:

<https://www.brennancenter.org/our-work/analysis-opinion/large-racial-turnout-gap-persisted-2020-election>.

<sup>2</sup> New American Economy, Election 2020: Unregistered Voters in Swing States, October 2020, available at:

<https://research.newamericaneconomy.org/report/election-2020-unregistered-voters/>.

<sup>3</sup> 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>

<sup>4</sup> Matt Visilogambros, How Voters with Disabilities Are Blocked From the Ballot Box, February 1, 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>.

<sup>5</sup> Healthy Democracy Healthy People, Health & Democracy Index, 2021, available at:

<https://democracyindex.hdhp.us/>.

<sup>6</sup> Suzanne Wikle, States Can Reduce Medicaid's Administrative Burdens to Advance Health and Racial Equity, July 19, 2022, available at:

<https://www.cbpp.org/research/health/states-can-reduce-medicaids-administrative-burdens-to-advance-health-and-racial>.

<sup>7</sup> 42 U.S.C. §§ 1396a(46)(B), 1396b(x) (describing documentation requirements), 1396a(ee) (describing verification through Commissioner of Social Security). See also Sarah Grusin and Catherine McKee, Medicaid Coverage for Immigrants: Eligibility and Verification, National Health Law Program, April 21, 2022, available at:

<https://healthlaw.org/wp-content/uploads/2021/05/Medicaid-Coverage-for-Immigrants-FINAL.pdf>.

<sup>8</sup> 18 U.S.C. §6111 and 18 U.S.C. §1015(f)2.

innocent mistakes when completing forms for voluntary voter registration systems.<sup>9</sup> These mistakes are often due to language barriers. Automated systems that verify U.S. citizenship minimize the opportunities for errors and shift the risk to the government, protecting noncitizens from criminal and immigration consequences.<sup>10</sup>

- **Data of noncitizens would not be shared.** The data of noncitizens – including undocumented individuals eligible for state-only funded programs operated by the Medicaid agency – would not be shared with the voter registration agency.<sup>11</sup> Only the data of verified U.S. citizens who are eligible to vote would be shared with the voter registration agency.<sup>12</sup>
- **Opt-in permission for data sharing is a dangerous standard.** As demonstrated by opt-in voter registration systems at DMV, opt-in systems can often be misunderstood by applicants and beneficiaries.<sup>13</sup> Establishing a precedent that state Medicaid agencies can share data with user permission opens the door to the use of beneficiary data to implement work requirements, immigration enforcement, and other state mandates not required under federal law or of any benefit for Medicaid recipients.
- **AVR helps justice-involved individuals.** Unfortunately, many individuals with past felony convictions forego registration due to confusion about their rights or fear of making an error. With Medicaid AVR, these eligible individuals can be automatically added to the rolls, removing the onus on justice-involved people to affirmatively register. Notably, all of the states that have passed Medicaid AVR allow individuals who are no longer

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<sup>9</sup> Mattes & Mahon, PC, Unless You Are a US Citizen, Do Not Vote in Upcoming Elections, September 30, 2022, available at: <https://www.immiglawus.com/blog/2022/09/unless-you-are-a-u-s-citizen-do-not-vote-in-upcoming-elections/>

<sup>10</sup> The Federal Data Services Hub is the U.S. government’s central data matching portal used to verify eligibility for Medicaid. It connects state agencies to databases managed by the Social Security Administration, Department of Homeland Security, the Internal Revenue Service, and others. In an audit of state health care marketplaces in Idaho, Maryland and Rhode Island that relied on data from SSA or DHS via the federal data services hub to verify US citizenship or lawful status, GAO did not find any cases where an individual was incorrectly determined to be a U.S. citizen. GAO, “State Health Insurance Marketplaces: Three States Used Varied Data Sources for Eligibility and Had Few Indications of Potentially Improper Enrollments,” GAO-17-694, September 2017, available at: <https://www.gao.gov/assets/gao-17-694.pdf>.

<sup>11</sup> *ibid.*

<sup>12</sup> *ibid.*

<sup>13</sup> For example, in *Olaifa v. Mayorkas*, No. 18 CV 6801 (N.D. Ill. Mar. 18, 2021), a noncitizen went to the DMV to update his state ID with a new address. The DMV staffer collected his state ID, and asked the noncitizen if he would like to register to vote. The noncitizen said yes and the DMV staff provided a one-page paper voter registration application with an “x marking” the signature line. The voter checked the registration box and signed the application. Although the application contained a clear notice: “You must be a US citizen to use this form,” the noncitizen signed anyway. The noncitizen did not inform the DMV he was not a U.S. citizen, but claimed that because he had provided his foreign passport at an earlier DMV visit, the DMV would have had access to government information about his voter eligibility.

incarcerated to register to vote, ensuring that adult citizen Medicaid enrollees can be automatically added to the rolls, including people with past felony convictions.

- **AVR protects the ability to refuse voter registration.** Under all implemented AVR systems, eligible individuals retain the opportunity to decline voter registration services.<sup>14</sup> Such declination opportunities often occur following the agency transaction, when the eligible voter is less likely to face time pressure.

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<sup>14</sup> Center for American Progress, The Case for Back End Opt Out Automatic Voter Registration, May 28, 2019, available at: <https://www.americanprogress.org/article/case-back-end-opt-avr/>.