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

Subject: Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Health Benefits Exchanges, Medicaid and CHIP Agencies
Document Identifier: CMS-10440
OMB Control Number: 0938-1191

Dear Centers for Medicare & Medicaid Services,

On behalf of the Southern Poverty Law Center (SPLC), the SPLC Action Fund, and the 38 undersigned organizations working day in and day out in the Deep South, we submit the following comment in response to the Federal Register Notice by the Centers for Medicare and Medicaid Services (CMS) regarding its intention to collect information from the public regarding data collection to support eligibility determinations for insurance affordability programs and enrollment through health benefits exchanges, Medicaid and CHIP agencies.¹

In particular, this comment focuses on the portion of CMS' request aimed at furthering the goals of Executive Order 14019 On Promoting Access to Voting and the agency's proposed action to expand an existing question in the application that provides consumers interested in voting resources with a link to Vote.gov and to move the question to another location within the application.² We write in support of this proposed action, to provide evidence for why it will both

¹ *Agency Information Collection Activities: Proposed Collection; Comment Request*, 89 Fed. Reg. 16580, 16581, March 7, 2024, <https://www.federalregister.gov/documents/2024/03/07/2024-04878/agency-information-collection-activities-proposed-collection-comment-request>.

² "Supporting Statement for Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Health Insurance Marketplaces, Medicaid and Children's Health Insurance Program Agencies," CMS-10440/OMB control number: 0938-1191, at 2, <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995/pra-listing/cms-10440>.

improve access to voting for people living in the Deep South and, in turn, lead to improved health outcomes for these communities, and to provide recommendations for how to most effectively implement this proposal.

I. Organizational Interest

Established in 1971, the Southern Poverty Law Center (SPLC) is a nonprofit organization founded in Montgomery, Alabama, to help ensure the promise of the Civil Rights Movement became a reality for all, particularly for Black communities in the South, who are all too often the victims of discriminatory policies and who experience targeted violence at the hands of white supremacists. The SPLC continues to safeguard civil rights gains and fight to secure a more equitable and just society to this day. In partnership with communities of color, we work to dismantle white supremacy, strengthen intersectional movements through transformative policies and initiatives, and advance the human rights of all people. The SPLC's work is focused in five Deep South states – Alabama, Florida, Georgia, Louisiana and Mississippi – and Washington, D.C. We are committed to changing the South to lead the way for the rest of the country. Our sister organization, the SPLC Action Fund advocates for the implementation of policies and laws to eliminate the structural racism and inequities that fuel the oppression of people of color, immigrants, young people, women, low-income people, and the LGBTQ+ community. Our goal is to ensure justice, equity, and opportunity for all.

The additional signatories to this comment are all organizations working to improve the well-being of people living in the Deep South. While the precise mission of each organization varies, we are united in our belief that improving access to voting will result in stronger, healthier communities that can thrive across several areas of life, from health and economic well-being to education, housing, and more. We know that when we advance policies that concretely improve the lives of Black residents and other residents of color, all people and communities living in our states, and, in turn, the nation, benefit. Like the adage, “As the South goes, so goes the nation,” we know we can create a better future for the entire country by building power for a multiracial, inclusive democracy in the South.

The content that follows reflects the collective expertise of our organizations, based on longstanding work supporting communities to thrive in Alabama, Florida, Georgia, Louisiana, and Mississippi.

II. Voting and Health

CMS and HHS have invited information related to the necessity and utility of the proposed information collection for the proper performance of the agency's functions. The updated information CMS is contemplating collecting related to interest in registration and voting is

useful to CMS, and to the Department of Health and Human Services more broadly, for advancing its mission “to enhance the health and well-being of all Americans.”³

Increased voting levels is a proven social determinant of health. Ample research shows that civic participation, including voting, has a relationship to health outcomes and disparities, and the link between voting and health is consistent across the research.⁴ Overall, the research demonstrates that voting and other forms of civic participation are related to physical and mental health and wellbeing,⁵ and that states and countries that boast higher levels of civic participation, often the result of more accessible voting policies, are healthier across multiple public health measures.⁶ Importantly to the consideration at hand, the research also indicates that interventions by healthcare organizations can increase voter participation.⁷ HHS itself acknowledged the connection between civic participation and healthy communities when it included the core objective of “increas[ing] the proportion of the voting-age citizens who vote” in its Healthy People 2030 framework.⁸

In the United States, to be able to vote one must first be registered, and voter turnout is considerably higher among the registered population than among the overall voting age population,⁹ meaning voter registration is a critical first step toward increasing voting levels. Including a question about voter registration in the application for health insurance on the federal exchange—and connecting interested users with opportunities to register to vote and learn more about the voting process—is an excellent opportunity to address a known social determinant of health. Doing so in the specific ways recommended in this comment can serve two critical purposes: 1) to meet the mandate of Executive Order 14019 and make HHS a leader in fulfilling the federal government’s “duty... to promote the exercise of the fundamental right to vote,”¹⁰ and 2) to further HHS’ and CMS’ efforts to enhance the health and well-being of all Americans and create a healthier, more equitable nation.

³ “About HHS,” U.S. Department of Health and Human Services, <https://www.hhs.gov/about/index.html#:~:text=The%20mission%20of%20the%20U.S.,public%20health%2C%20and%20social%20services>.

⁴ *Examining Civic Engagement Links to Health: Findings from the Literature and Implications for a Culture of Health*, RAND Corporation, 2019, www.rand.org/pubs/research_reports/RR3163.html. See also Chloe L. Brown, Danyaal Raza, and Andrew D. Pinto, *Voting, health, and interventions in healthcare settings: a scoping review*, *Public Health Rev.* 2020; 41:16, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7329475/>.

⁵ *Id.*, *Voting, health, and interventions*.

⁶ *Supra* note 5, *Examining Civic Engagement Links to Health*.

⁷ *Supra* note 5, *Voting, health, and interventions*.

⁸ “Social and Community Context,” Healthy People 2030, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/social-and-community-context>.

⁹ Drew Desilver, “Turnout in the U.S. has soared in recent elections but by some measures still trails that of many other countries,” Pew Research Center, November 1, 2022, <https://www.pewresearch.org/short-reads/2022/11/01/turnout-in-u-s-has-soared-in-recent-elections-but-by-some-measures-still-trails-that-of-many-other-countries/> (“In the U.S., there’s a huge gap between voting-age turnout (62.8% in 2020) and registered-voter turnout (94.1% that same year”).

¹⁰ 52 U.S.C. § 20501.

Nowhere is this impact more important than in the Deep South, where residents experience some of the poorest health outcomes of anywhere else in the nation. Mississippi has the lowest life expectancy of any state in the nation, followed closely by Louisiana and Alabama (third and fourth lowest, respectively).¹¹ These three states also rank among the top six in which adults self-report “poor” health status at the highest rates.¹² Mississippi, Alabama, Louisiana, and Georgia all rank in the top ten states for the highest maternal death and mortality rates.¹³ Louisiana and Mississippi have the highest and second highest rates of food insufficiency among children, with more households than any other state reporting they “could sometimes or often not afford food.”¹⁴ Georgia, Florida, and Mississippi rank in the bottom ten states for health insurance coverage.¹⁵ Exacerbating poor-performing health systems and some of the worst health outcomes in the country are deep racial and ethnic disparities in health outcomes among states in the Deep South. While racial and ethnic disparities in healthcare access and outcomes plague the entire United States, these inequities are particularly pronounced in Alabama, Florida, Georgia, Louisiana, and Mississippi.¹⁶

By adopting the proposed changes, especially with the recommendations contained in this comment in mind, CMS and HHS will be taking a step that has significant potential to improve health outcomes across the country, and especially in the Deep South, a region of the country that most needs this intervention.

III. Registration and Voting in the Deep South

There is also a specific need for expanded voter registration access in the Deep South, and offering voter registration opportunities through the federal exchange application process is well-targeted to meet that need. Between 2020-2022, all five Deep South states experienced poverty rates higher than the national rate (11.5%): 14.7% of Alabamians were living in poverty, along

¹¹ “Life Expectancy at Birth (in years),” Kaiser Family Foundation, 2020, [https://www.kff.org/other/state-indicator/life-expectancy/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Life%20Expectancy%20at%20Birth%20\(years\)%22,%22sort%22:%22asc%22%7D](https://www.kff.org/other/state-indicator/life-expectancy/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Life%20Expectancy%20at%20Birth%20(years)%22,%22sort%22:%22asc%22%7D).

¹² “Adult Self-Reported Health Status,” Kaiser Family Foundation, 2022, <https://www.kff.org/other/state-indicator/adult-self-reported-health-status/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Poor%22,%22sort%22:%22desc%22%7D>.

¹³ “Maternal deaths and mortality rates per 100,000 live births,” Kaiser Family Foundation, 2018-2021, <https://www.kff.org/other/state-indicator/maternal-deaths-and-mortality-rates-per-100000-live-births/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Maternal%20Mortality%20Rate%20per%20100,000%20live%20Births%22,%22sort%22:%22desc%22%7D>.

¹⁴ “Food Insufficiency among Children,” Kaiser Family Foundation, 2022, <https://www.kff.org/other/state-indicator/food-insufficiency-among-children/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Could%20Sometimes%20or%20Often%20Not%20Afford%20Food%22,%22sort%22:%22desc%22%7D>.

¹⁵ “Percentage of Population Without health Insurance Coverage by State: 2021 and 2022,” U.S. Census Bureau, September 14, 2023, <https://www.census.gov/library/visualizations/interactive/percentage-without-health-insurance-coverage-by-state-2021-2022.html>.

¹⁶ *Advancing Racial and Ethnic Equity in U.S. Health Care: A Scorecard of State Performance*, The Commonwealth Fund, November 2021, https://www.commonwealthfund.org/sites/default/files/2021-11/Radley_racial_ethnic_equity_state_scorecard_r.pdf.

with 13.1% of Floridians, 13% of Georgians, 16.9% of Louisianans, and 17.8% of Mississippians.¹⁷ Mississippi's poverty rate is the second highest of any state in the country. Two-thirds of the 16.4 million people who enrolled or re-enrolled in the federal exchange in the last enrollment period were lower income.¹⁸ Because lower-income people are registered to vote at rates well below those who are more affluent,¹⁹ and because they are a disproportionate number of the users of the federal exchange, inclusion of a voter registration question within the application process will deliver voter registration access to those people who most need it.

Moreover, communities in the Deep South face some of the highest barriers to voting in the country and are registered and turnout to vote at lower levels than in many states outside the region. In the November 2022 elections, 69.1% of citizens across the United States were registered to vote; three Deep South states experienced registration rates lower than that: Florida (63.2%), Alabama (67.3%), and Louisiana (67.9%).²⁰ This voter registration gap translates into a voter turnout gap: That same election, the voter turnout rate for four of the five Deep South states was lower than the national turnout rate (52.2%)—Alabama (45.5%), Mississippi (46.4%), Louisiana (48.2%), and Florida (49%)—and 20-25 percentage points lower than the state with the highest turnout rate (Oregon, 70%).²¹

These overall registration and turnout rates—already low—mask disparities, in some cases extreme, between racial and ethnic groups in the Deep South. While the gaps vary, the most notable gaps are the white-Hispanic registration gap in Alabama at more than 20 percentage points, the white-Asian registration gap in Louisiana at nearly 40 percentage points, and the white-Hispanic registration gap in Mississippi at a staggering 51 percentage points.²² In every single case across these five states, white eligible voters are registered to vote at higher rates than eligible voters of color. The voter registration gaps between racial and ethnic communities in each of the five states of the Deep South are listed below:

¹⁷ “Poverty in the United States: 2022,” Table B-5, Current Population Reports, U.S. Census Bureau, September 2023, <https://www.census.gov/content/dam/Census/library/publications/2023/demo/p60-280.pdf>.

¹⁸ “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>. See also “2024 Marketplace Open Enrollment Period Public Use Files” Centers for Medicare & Medicaid Services, <https://www.cms.gov/data-research/statistics-trends-reports/marketplace-products/2024-marketplace-open-enrollment-period-public-use-files> (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).

¹⁹ “New Census Data Reveal Voter Turnout Disparities in 2022 Midterm Elections,” National Low Income Housing Coalition, May 15, 2023, <https://nlihc.org/resource/new-census-data-reveal-voter-turnout-disparities-2022-midterm-elections> (“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.”).

²⁰ “Voting and Registration in the Election of November 2022,” Table 4a, U.S. Census Bureau, April 2023, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-586.html>.

²¹ *Id.*

²² “Voting and Registration in the Election of November 2022,” Table 4b, U.S. Census Bureau, April 2023, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-586.html>.

Registration by Race & Ethnicity – November 2022 Election				
	White	Black	Asian	Hispanic
Alabama	70.2%	63.6%	55.3%	49.7%
Florida	66.5%	59.9%	57%	57.7%
Georgia	72.2%	68.3%	60.9%	54.6%
Louisiana	71.4%	63.1%	33.3%	51.1%
Mississippi	74.3%	72.4%	36.6%	23.3%
U.S. Census Bureau, November 2022 Voting & Registration Supplement				

Similar racial disparities exist in turnout rates, as well, both in 2022 and preceding years.²³ Concerningly, the gaps seem to be getting worse. New research shows that the racial turnout gap has grown nationwide over the last 15 years, and that it is growing especially severely in states formerly covered by Section 5 of the Voting Rights Act of 1965.²⁴ Many of those states are in the Deep South, making an intervention aimed at improving voter registration, and in turn, voter turnout rates, all the more urgent.

These gaps are not coincidental; they are the result of state laws and policies that make it harder to get and stay registered to vote, many of them passed in Deep South legislatures in the decade since the Supreme Court gutted the Voting Rights Act of 1965.²⁵ In the ten years following the *Shelby County* decision, states have passed around 100 restrictive voting laws,²⁶ changes to the way we vote that have fallen hardest on voters of color, voters with disabilities, low-income voters, young and elderly voters, and other marginalized communities.²⁷ Several of those restrictive laws have passed in Alabama, Florida, Georgia, Louisiana, and Mississippi. Over the last decade, each of these Deep South states has passed at least one law making it harder for people of color to register and to vote—in some cases in the form of omnibus legislation that takes aim at several voting mechanisms enjoyed by voters of color—and each has considered several additional measures that have yet to become law but may well in the years to come.²⁸

There are several examples of how states in the Deep South have made voting harder, including making it harder to get and stay registered. In 2021 Georgia lawmakers passed SB202, an omnibus bill that makes voting harder in multiple ways, but which makes staying on the registration rolls more difficult by opening the floodgates to mass, indiscriminate challenges to

²³ *Id.* See also “Voting and Registration” reports from the U.S. Census Bureau for the elections of November 2020, 2018, 2016, 2014, etc.

²⁴ Kevin Morris & Coryn Grange, *Growing Racial Disparities in Voter Turnout, 2008-2022*, Brennan Center for Justice, March 2, 2024, <https://www.brennancenter.org/our-work/research-reports/growing-racial-disparities-voter-turnout-2008-2022>.

²⁵ A Decade-Long Erosion: *The Impact of the Shelby County Decision on the Political Participation and Representation of Black People and Other People of Color in the Deep South*, Southern Poverty Law Center, June 2023, <https://www.splcenter.org/shelby-county-decision-report>.

²⁶ Brennan Center for Justice, *States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago*, June 23, 2023. <https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights>

²⁷ Brennan Center for Justice, *The Impact of Voter Suppression on Communities of Color*, January 10, 2022. <https://www.brennancenter.org/our-work/research-reports/impact-voter-suppression-communities-color>.

²⁸ *Supra* note 25, Southern Poverty Law Center. See also *supra* note 26, Brennan Center.

voters' eligibility.²⁹ In the wake of that law, voter challenges have run rampant across the state, crippling election boards and unfairly targeting voters of color, young people, and unhoused people. In fact, since Governor Kemp signed SB 202 into law, anti-voter activists have challenged the eligibility of over 100,000 Georgia voters, disproportionately targeting counties with the most Black and brown voters.³⁰

In 2023, Florida lawmakers passed a sweeping law directly targeting third-party voter registration organizations (3PVROs), which historically have played a vital role in ensuring that all Floridians have access to the electoral process. Data from 2022 show that 3PVROs register one out of every ten Black and Hispanic voters, compared to one out of every 50 white voters.³¹ SB 7050 places severe burdens on these organizations' voter registration activities, effectively stopping organizations from doing their important work and risks disenfranchising the voters that the organizations are dedicated to assisting.³² The law imposes onerous requirements on 3PVROs, including requiring organizations to register for every single election cycle and shortening the amount of time organizations have to return applications from 14 days to 10 days while substantially increasing the fine for late delivery; the law increases the total aggregate fine an organization can face each year from \$50,000 to \$250,000.³³ Due to these inordinately burdensome regulations, many 3PVROs in Florida ceased voter registration when the law came into effect.

In 2023, Mississippi instituted a “use it or lose it” registration policy, which allows the state to remove voters from the registration rolls who have not voted frequently enough in the eyes of its election officials. With the passage of HB 1310, the process for removing voters from the registration rolls begins if a voter does not vote in an election in the state for four years.³⁴ The removal process is also triggered if the USPS reports a change-of-address, or if election officials receive “reliable information” a voter has moved from their registered address. Should the affected voters fail to reply to the confirmation notice, they will be forced to vote via affidavit until they provide proof of residency.³⁵ While there is not yet data on the racially disparate impact of improper purges in Mississippi following the implementation of this law, there is good reason to fear it will similarly fall hardest on the states with a high proportion of Black voters and other voters of color. Compounding the potentially disenfranchising effects of this policy is the reality that, at 30 days Mississippi has the strictest voter registration deadline in the country,

²⁹ Georgia Senate Bill 202 (2021) (“S.B. 202”), <https://www.legis.ga.gov/api/legislation/document/20212022/201498>.

³⁰ Doug Bock Clark, *Close to 100,000 Voter Registrations Were Challenged in Georgia – Almost All by Just Six Right-Wing Activists*, ProPublica, July 13, 2023, <https://www.propublica.org/article/right-wing-activists-georgia-voter-challenges>.

³¹ Smith, Daniel A., Expert Report Submitted on Behalf of *Florida State Conference of NAACP v. Lee*, 4:21-cv-187-MW-MAF, and *Florida Rising Together v. Lee*, 4:21-cv-201-MW-MJF, September 2021, <https://www.brennancenter.org/sites/default/files/2022-03/Dr.%20Daniel%20A.%20Smith%20-%20Expert%20Report.pdf>.

³² Florida Senate Bill 7050 (2023) (“S.B. 7050”), <https://www.flsenate.gov/Session/Bill/2023/7050>.

³³ *Id.*

³⁴ Mississippi House Bill 1310 (“H.B. 1310”), <https://billstatus.ls.state.ms.us/2023/pdf/history/HB/HB1310.xml>.

³⁵ *Id.*

and the state does not offer same-day voter registration, meaning voters who do not learn their registrations are cancelled until they show up at the polls have no recourse.³⁶

As just one measure of the difficulty of voting in the Deep South, a 2022 study estimating the cost of voting in all 50 states found that each of the five Deep South states ranks in the bottom 25, meaning it is relatively harder to vote.³⁷ Mississippi ranks 50th—it is harder to vote in the state of Mississippi than in any other state in the nation—and Alabama ranks 45th.³⁸ Many of the policies that cause the Deep South states to be low ranking are known to have a discriminatory effect; i.e., there is evidence showing the disparate impact of these policies on populations of color.³⁹

Effective integration of a voter registration question into the application flow for health insurance via the federal exchange, both the online application on HealthCare.gov and the paper application, will provide the nearly one third of users of HealthCare.gov who are based in the Deep South with a meaningful opportunity to register to vote at a time when it has become a complicated, often onerous process in the region. In turn, higher levels of civic participation among residents of the Deep South will lead to improved individual and community health across the region.

IV. Recommendations

The National Voter Registration Act (NVRA) of 1993 created a highly successful model for voter registration at public agencies.⁴⁰ While the vast majority of the voter registration that takes place thanks to the NVRA happens in the state agency context—including, importantly, state health insurance exchanges—the law always contemplated that federal agencies would engage in voter registration, as well,⁴¹ and multiple federal agencies have begun conducting such voter registration in recent years.⁴² The success of voter registration in the public agency context over

³⁶ Secretary of State Michael Watson, *Voter Registration Information*, 2024. https://www.sos.ms.gov/elections-voting/voter-registration-information?ref=voteusa_en

³⁷ University Press of Kansas, *The Cost of Voting in the American States*, as of November 8, 2022. <https://costofvotingindex.com/>.

³⁸ *Id.*

³⁹ *Supra* note 27, Brennan Center.

⁴⁰ Laura Williamson, Pamela Cataldo & Brenda Wright, *Toward a More Representative Electorate: The Progress and Potential of Voter Registration Through Public Assistance Agencies*, Demos, December 2018, <https://www.demos.org/research/toward-more-representative-electorate> (“Each election cycle, millions of U.S. citizens find elections more accessible thanks to the NVRA. The NVRA requires 44 states and the District of Columbia to actively offer voter registration through government agencies like motor vehicle bureaus and departments of health and human services; bans certain onerous state voter-registration policies; and mandates the development and acceptance of mail-in voter registration applications. The NVRA also increases the ability of citizens to remain registered and to update their voter registration records. When implemented properly, the NVRA benefits millions of voters each election cycle.”).

⁴¹ 52 U.S.C. § 20506 (a)(3)(B)(ii), “Federal and nongovernmental offices, with the agreement of such offices.”

⁴² For example, the Department of the Interior began offering NVRA-style voter registration service to students attending the two tribal institutions it administers in 2022. The Indian Health Services is offering such voter registration at multiple federally-run IHS facilities, beginning in 2023. The Department of Veterans Affairs is

the last three decades is instructive for CMS in thinking through the most effective way to integrate a voter registration question into the application flow on HealthCare.gov.

The current proposal for placement of a voter registration question within the application flow for health insurance on the federal exchange is a good one; it is more likely applicants will see and take advantage of the opportunity to register to vote when the question is integrated into the application flow. However, the modifications to the language and placement of the question described below can help ensure maximum impact of CMS' proposed change for those who need improved access to voter registration access.

- (1) Modify the language of the voter registration question, in both the online and paper applications, to more clearly communicate the opportunity to register to vote.

The current proposed language, “Would you like information on registering to vote?” does not alert applicants to the opportunity to *register* to vote, instead suggesting that a “yes” response will result in information about the process of voter registration. The language of the voter registration question should make clear that people can apply to register to vote, not just to obtain voter registration information. To accomplish this end, we recommend asking:

“If you are not registered to vote where you currently live, would you like to apply to register to vote?”

This alternative phrasing of the question is closely modeled on the language of the NVRA.⁴³ Using this language conveys to the applicant an ability to take action to get registered rather than just passively receive information.

- (2) Make the voter registration question in the online application a “hard stop,” i.e. a question that the applicant must select an answer to (including “yes,” “no,” and “prefer not to answer”).

Making a question a hard stop, which requires the applicant to choose one of the multiple answers provided, ensures that applicants and assisters engage with, rather than skip over, the question. The current proposal for the HealthCare.gov online application allows an individual to skip the voter registration question altogether. Unfortunately, many users will skip over or not see any question that they are not required to complete. Adding a hard stop so applicants must think about their answer to the voter registration question guarantees that people do not fail to see it. The current option “*prefer not to answer*” ensures the voter registration question is optional, and that applicants who do not wish to answer the question are not required to do so.

offering NVRA voter registration services at facilities in Michigan and has agreements to do so in Kentucky and Pennsylvania.

⁴³ 52 U.S.C. § 20506(a)(6)(B)(i), “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”

(3) Modify the informational language provided to users who respond “yes” to the voter registration question to more clearly describe the opportunity to register to vote.

As with the proposed voter registration question, the follow-up language to the question should be modified to more specifically describe the available access to voter registration opportunities at Vote.gov rather than suggest that the site contains only information. We recommend the following alternative language for the online application:

“You answered 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.”

We also recommend the following alternative language for paper applications:

“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.”

With these changes, applicants are more likely to understand that a voter registration opportunity, not just voter registration information, is available and to avail themselves of that opportunity to register to vote.

(4) Improve the language that appears only in the paper Application for Health Coverage.

On page 4 of the Application for Health Coverage, as shown in attachment D, there is language that does not appear in the other paper applications and that should be modified to ensure applicants see and engage with the voter registration question. Presently, Step 3 explicitly directs some applicants to skip over the voter registration question. Step 3 asks, “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.” Following that direction, most applicants would skip over the voter information question that appears at the end of Step 3 and proceed directly to Step 4 (“Your agreement & signature.”). The following alternative language could be used for the negative response to Question 1 under Step 3:

“NO. If no, review voter registration question below and then proceed to Step 4.”

(5) Track responses to the voter registration question for the online application.

Tracking responses to the voter registration question is key to ensuring its successful implementation. Here again, state agency voter registration provides helpful guidance for efficacy: under the NVRA, states are required to track extensive data about voter registration applications and responses, which they provide to the U.S. Election Assistance Commission (EAC) and is published in a biennial report.⁴⁴ Data compiled by states has proven invaluable not

⁴⁴ 11 C.F.R. § 9428.7, describing required content of reports; *see also* 52 U.S.C. § 20508(a)(1).

only in ensuring their compliance with federal law, but also in developing best practices and identifying more effective ways for states to administer voter registration generally and at public assistance agencies, specifically.

Tracking responses to the voter registration question on HealthCare.gov will prove similarly valuable. For one, it will provide a helpful metric for understanding the impact of adding the voter registration question. It will also allow for assessment of whether there is a need for further improvements or modifications in the future.

V. Conclusion

We strongly support CMS' proposal to adjust and improve the way it supports interested consumers to connect with voting resources and with a meaningful voter registration opportunity. Especially in the Deep South, such opportunities are too few. Following through on the proposed changes, especially with the adjustments laid out in this comment, would be a significant step toward meeting the federal government's duty to promote the fundamental right to vote, improving access to voting for people living in the Deep South, and improving health outcomes for communities in the South and across the nation. We urge you to swiftly follow through on these plans. If we can be a resource as you do, please reach out to Laura Williamson, Senior Policy Advisor for Voting Rights at the Southern Poverty Law Center, at laura.williamson@splcenter.org or 301.875.1631.

Sincerely,

Southern Poverty Law Center & Southern Poverty Law Center Action Fund

ACLU of Alabama
ACLU of Florida
ACLU of Georgia
ACLU of Mississippi
Alabama Arise
Alabama Black Women's Roundtable
Alabama Values
Alabama Values Progress
All Voting is Local
Aniz Inc.
Asian Americans Advancing Justice Atlanta
BARRED BUSINESS
Black Voters Matter Fund
Care in Action
Community Catalyst
CommunityScape Services, Inc.
Equal Ground Action Fund
Fair Fight Action
Faith in Public Life

Faith In Action Alabama
Georgia Advocacy Office, Inc.
The Georgia Coalition for the Peoples Agenda, Inc.
Georgia Equality
Georgia Muslim Voter Project
Georgia Values Action
Health Students Taking Action Together (H-STAT)
Indivisible Georgia Coalition
Indivisible GA 04
Latino Community Fund Georgia
NAACP Florida State Conference
National Domestic Workers Alliance
New Georgia Project
Poz Military and Veterans USA INTL
Rep GA Institute Inc.
SOWEGA Rising
United Women of Color
We Vote. We Win.
9to5 Georgia