



POLICY BRIEF

Benefits of the Affordable Care Act for Voter Registration **By Ryan Patrick** **July 26, 2013**

Executive Summary

Under the Patient Protection and Affordable Care Act (ACA) open enrollment in Health Benefit Exchanges begins in October 2013 and approximately 68 million people are expected to enroll, with 16 million applying in 2014. These Exchanges are considered a public assistance program under the National Voter Registration Act (NVRA) and are required, under Section 7 of the NVRA, to include assistance with voter registration for applicants.

This voter registration requirement in applications for Health Exchanges could bring an additional 180,000 newly-registered voters to Nebraska rolls, assisting potential voters who may otherwise have had difficulty registering or were otherwise less likely to do so through traditional means.

Introduction

Section 7 of the NVRA requires that all offices in the State that provides public assistance and those that provide State-funded programs primarily engaged in providing services to persons with disabilities are considered “agencies” that must provide voter assistance to applicants.¹ An exchange set up under the ACA would be considered an agency under the NVRA and would be required to provide this assistance.

There may be some consternation regarding the term “State-run.” Nebraska Governor Heineman has stated that Nebraska will not have a state-run exchange and will default to the federally-run option. However, this would not exempt Nebraska from applying NVRA requirements to the ACA. If a state defaults to having a federally-run

¹ 42 U.S.C. § 1973gg-5(a)(2)

exchange program, “other entities of the Executive Branch [will] cooperate with the States in carrying out the Act’s requirements.”²

ACA Requirements Under the NVRA

The NVRA requires public assistance programs to participate in voter registration as an agency. The agency must provide voter registration assistance to anyone applying for or renewing services with that agency. In addition, they must provide an equal degree of assistance with completion of voter registration as they would provide with their own forms and materials. Under the ACA, any exchange would then be required to offer the same level of support for voter registration as they do for applying for insurance.

The application used in the exchanges is the same Medicaid application, whether in a local Medicaid office or Federal. Because Nebraska will be using these same forms, any time there is an application for assistance, the person is applying for Medicaid. Under NVRA requirements, voter registration materials must be offered, even if the applicant is ultimately denied Medicaid. Additionally, if the exchange places the applicant in another program, that program must offer voter registration services as well.

Because the ACA also requires that applicants be given the following level of support, this voter registration assistance would include “foreign-language translation; toll-free phone support; a website that contains online help and guidance; and the establishment of a Navigator program in which applicants are assisted by eligible public or private entities who meet training standards set by the Exchange.”³

Similarly, options to provide voter registration should follow the same mode of application as the insurance exchange itself offers. For example, if there is a paper application for insurance, a paper application to register should be offered. If the insurance application is offered online, a form must be mailed to the applicant, and online option to register should be offered, or a link must be provided to a printable registration form.⁴

Benefits of ACA Implementation

² Ex. Ord. No. 12926. Implementation of National Voter Registration Act of 1993.

³ LISA J DANETZ, BUILDING A HEALTHY DEMOCRACY; REGISTERING 68 MILLION PEOPLE TO VOTE THROUGH THE HEALTH BENEFIT EXCHANGES 13 (April 2013) (citing 45 C.F.R. § 155.205; 45 C.F.R. § 155.210).

⁴ *Id.* at 12-13.

A large number of additional voters could be registered to vote under NVRA requirements for ACA Health Exchange applications. Nebraska alone could benefit from the possible registration of 180,000 new non-elderly voters as they apply for Medicaid.⁵ This method of registration will reach a population that is not only less likely to visit a DMV, but also less likely to register through traditional means.

Detriments of ACA Implementation

One of the present issues with the Federal government running Nebraska's exchange is that it is currently unknown if the government will offer state-specific voter registration materials, or more complex and confusing federal materials. The Federal registration application includes requirements and materials for all 50 states and it would be up to the registrant or assistant to find the applicable sections for completion. It is possible that the Federal government will supply state-specific registration applications for each state that has defaulted to a Federally-run Health Exchange, but until implementation begins in October, no one knows.

Recommendations

1. The State should employ and train new employees to both meet the need of increased application and also of helping those applicants register to vote. Applicants for Medicaid and other state assistance programs are already required by the NVRA to provide voter registration assistance and offices should be presently set up to aid in this process. However, the ACA will bring in thousands more applicants into government agencies. New employees will need to be trained and these employees must be educated in assisting these new applicants.
2. The Federal government should overhaul the federal materials for voter registration if a 50-state compilation of materials is given to each applicant. Not only would it be more costly to print an application for every state rather than just the one necessary, but it would be a waste of materials and more confusing to

⁵ How the Health Care Law is Making a Difference for the People of Nebraska, HEALTHCARE.GOV, <http://www.healthcare.gov/law/information-for-you/ne.html>.

applicants. In addition, there is also a greater possibility of mistakes being made on a larger, more complicated form. A state-specific form would be easily sent to or printed at each individual state that has defaulted to a Federally-run Exchange.