

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

February 24, 2020

Ms. Kate Massey  
Senior Deputy Director  
Department of Health and Human Services, Medical Services Administration  
State of Michigan  
333 S. Grand Avenue  
P.O. Box 30195  
Lansing, Michigan 48909

Dear Senior Deputy Director Massey:

The Subcommittee is seeking information about the compliance of the State of Michigan's annual Medicaid renewal process with the requirements of the National Voter Registration Act (NVRA).

Under the 2012 regulations implementing the Affordable Care Act, a state government must renew recipients' eligibility determinations for its Medicaid program each year, using the state's available administrative data when possible.<sup>1</sup> States can automatically renew recipients' Medicaid enrollment without directly seeking additional information from the recipients themselves.<sup>2</sup> When their enrollment is automatically renewed, recipients receive notices of the action and an opportunity to correct any inaccuracies in their automatically collected information.<sup>3</sup>

The Subcommittee seeks to ensure that Medicaid recipients going through the automatic renewal process are offered the opportunity to register to vote as required by the NVRA. State Medicaid offices, such as the one housed in the Michigan Department of Health and Human Services (MDHHS), are voter registration agencies under the NVRA and must "distribute" a

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<sup>1</sup> 42 C.F.R. § 435.916(a).

<sup>2</sup> *Table A: Trends in State Medicaid and CHIP Eligibility, Enrollment, and Renewal Policies, July 2000-January 2019*, Kaiser Family Foundation (Mar. 27, 2019) (online at [files.kff.org/attachment/Report-Medicaid-and-CHIP-Eligibility-as-of-Jan-2019-Table-A](https://files.kff.org/attachment/Report-Medicaid-and-CHIP-Eligibility-as-of-Jan-2019-Table-A)).

<sup>3</sup> 42 C.F.R. § 435.916(a)(2).

voter registration form “with each recertification, renewal, or change of address form relating to such service or assistance.”<sup>4</sup>

More than 2.2 million Michiganders are enrolled in Medicaid.<sup>5</sup> According to the Kaiser Family Foundation, Michigan conducts a portion of its Medicaid renewals through an automated process.<sup>6</sup> It is essential for MDHHS to have a reliable process for offering voter registration to Medicaid recipients whose benefits are automatically renewed.

For these reasons, the Subcommittee is seeking to determine Michigan’s process for NVRA compliance in automated Medicaid renewals. Please produce the following documents and information by March 9, 2020:

1. A description of how Michigan Medicaid recipients of voting age are provided with an opportunity to register to vote during the annual renewal process;
2. For each voter registration process described in your response to item (1) above, when MDHHS first implemented that process;
3. For each year from 2012 through 2019, the number of Michigan Medicaid renewals completed in total and using the automated process permitted under the Affordable Care Act;
4. For each year from 2012 through 2019, the number of voter registration forms distributed by MDHHS to Medicaid recipients whose benefits were renewed using the automated process described above;
5. For each year from 2012 through 2019, the number of voter registration forms submitted to MDHHS by Medicaid recipients whose benefits were renewed using the automated process described above;
6. For each year from 2012 through 2019, the number of voter registration forms submitted to the Michigan Secretary of State by MDHHS;
7. The most recent training provided to employees of MDHHS to carry out the duties required of voter registration agencies under the NVRA in the context of automated renewals of Medicaid coverage; and

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<sup>4</sup> 52 U.S.C. § 20506(a)(2)(A), (a)(6).

<sup>5</sup> Centers for Medicare and Medicaid Services, *State Medicaid and CHIP Applications, Eligibility Determinations, and Enrollment Data* (accessed Nov. 12, 2019) (online at [data.medicare.gov/Enrollment/State-Medicaid-and-CHIP-Applications-Eligibility-D/n5ce-jxme/data](http://data.medicare.gov/Enrollment/State-Medicaid-and-CHIP-Applications-Eligibility-D/n5ce-jxme/data)).

<sup>6</sup> *Table 13: Medicaid Renewal Processes for Children, Pregnant Women, Parents, and Expansion Adults, January 2019*, Kaiser Family Foundation (Mar. 27, 2019) (online at [files.kff.org/attachment/Report-Medicaid-and-CHIP-Eligibility-as-of-Jan-2019-Table-13](http://files.kff.org/attachment/Report-Medicaid-and-CHIP-Eligibility-as-of-Jan-2019-Table-13)).

8. All documents reflecting communications within MDHHS, or between the Department and others, since 2012 about how the Department would implement the requirements of the NVRA in its Medicaid renewal process.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The Subcommittee on Civil Rights and Civil Liberties has oversight jurisdiction over voting rights issues under Committee Rules.

An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Jamie Raskin  
Chairman  
Subcommittee on Civil Rights and Civil Liberties

Enclosure

cc: The Honorable Chip Roy, Ranking Member

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.