

BUILDING A HEALTHY DEMOCRACY

REGISTERING 68 MILLION PEOPLE TO VOTE
THROUGH HEALTH BENEFIT EXCHANGES

Lisa J. Danetz

DĒMOS IS A PUBLIC POLICY ORGANIZATION

working for an America where we all have an equal say in our democracy and an equal chance in our economy.

OUR NAME MEANS “THE PEOPLE.”

It is the root word of democracy, and it reminds us that in America, the true source of our greatness is the diversity of our people. Our nation’s highest challenge is to create a democracy that truly empowers people of all backgrounds, so that we all have a say in setting the policies that shape opportunity and provide for our common future. To help America meet that challenge, Dēmos is working to reduce both political and economic inequality, deploying original research, advocacy, litigation, and strategic communications to create the America the people deserve.

ACKNOWLEDGEMENTS

This brief was a collaborative effort and included input from J. Mijin Cha, Senior Policy Analyst; Brenda Wright, VP of Legal Strategies; and David Rubino, Counsel.

WWW.DEMOS.ORG

220 Fifth Avenue, 2nd Floor
New York, New York 10001

p: 212.633.1405

f: 212.633.2015

MEDIA CONTACT

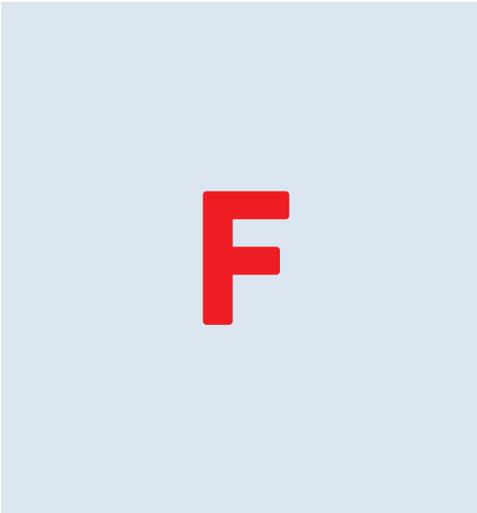
Elektra Gray
Director of Communications
egray@demo s.org

p: 212.485.6014

TABLE OF CONTENTS

Introduction	4
The ACA Will Enroll 68 Million Individuals	6
Federal Law Requires the ACA's Health Benefit	
Exchanges to Provide Voter Registration Services	7
Incorporating Voter Registration Services into Exchanges	10
A. Distribution of voter registration forms	10
B. Assistance with filling out voter registration forms	12
C. Transmittal of filled-out voter registration applications to appropriate state elections officials	13
Conclusion	14
Appendix	15

INTRODUCTION



F

or our democracy to thrive, the freedom to vote must be fiercely protected for all citizens, regardless of class or privilege. Our representative form of democracy only works as intended when all citizens, across the social and economic spectrum, are able to participate and have a say in the policies that affect their lives.

Much work remains to be done to bring under-represented voices into the political system to ensure a government that reflects America.

Today, in the 21st century, too many bureaucratic barriers still block the ability of eligible persons to register, which in most states remains a prerequisite to voting. Our antiquated system puts the burden of registration on each individual, with unnecessarily restrictive registration deadlines.

The numbers tell the tale of how far we have to go in making sure all eligible persons can register:

- Leading up to the 2012 elections, approximately 51 million eligible Americans were still not registered to vote. This represents almost one in four eligible persons, disproportionately low-income voters, people of color, and younger Americans.¹
- In the 2008 elections, the voting rate for all eligible persons of voting age was only 64 percent, while the voting rate for people who were registered to vote was 90 percent—showing that registration is key to turnout.²
- In the 2008 election, 2 to 3 million registered voters were prevented from voting because of various administrative problems, and 9 million

eligible Americans were not registered because of residency rules or registration deadlines.³

- The number of people barred from voting in 2008 because of such problems exceeded the popular vote margin of the 2000 and 2004 presidential elections.⁴

The National Voter Registration Act of 1993 aimed to reduce the barriers to voter registration by making voter registration available through government agencies that serve the public. Work by Demos and its partners shows that the NVRA can bring millions of Americans into the political process by providing the opportunity to register to vote through state offices that interact with the public on a daily basis.⁵

The new health care law, the Patient Protection and Affordable Care Act (ACA),⁶ now provides an additional opportunity to register millions of new voters. Because the Health Benefit Exchanges established under the ACA provide access to subsidized health benefits,⁷ the NVRA's requirement for providing voter registration services at public agencies applies.

Successfully integrating the NVRA voter registration requirements into the ACA enrollment process will mean millions of additional Americans people will get the opportunity to register to vote and thus to participate in our political process.⁸ This Policy Brief provides guidance on why and how Health Benefit Exchanges should incorporate the NVRA's requirements for providing voter registration opportunities.

THE ACA WILL ENROLL 68 MILLION INDIVIDUALS



The ACA requires subsidized health insurance to be made available to eligible Americans, through a single application process administered and operated in each state by an entity called a “Health Benefit Exchange.” Governments were required to establish this application process by October 2013.

Approximately 68 million individuals,⁹ will eventually enroll in subsidized health care through “Insurance Affordability Programs” (listed in Appendix) under the law. The Congressional Budget Office estimates that approximately 16 million people will apply for health insurance through various subsidized programs in 2014, an additional seven million will apply in 2015, and an additional ten million will apply in 2016.¹⁰ By 2022, Medicaid and CHIP enrollment is expected to reach 43 million individuals, a number that includes those enrolled before the ACA plus those that become eligible as a result of the ACA. Affordable Insurance Exchanges are expected to enroll an additional 25 million individuals.¹¹

Over time, more than a quarter of the entire U.S. population will be reached through ACA programs. Because the requirement to register to vote is a barrier to political participation for many eligible citizens, facilitating voter registration as part of the ACA enrollment process can help to ease these barriers and increase the level of political participation across the country.

FEDERAL LAW REQUIRES THE ACA'S HEALTH BENEFIT EXCHANGES TO PROVIDE VOTER REGISTRATION SERVICES

In 1993, Congress passed the National Voter Registration Act (NVRA) to increase the number of registered voters.¹² Section 7 of the NVRA requires “all offices in the state that provide public assistance” to provide voter registration services.¹³ Specifically, with each application, recertification, renewal, or change of address related to public assistance or benefits (“Covered Transactions”), all such offices must:

- Provide a voter registration application unless the application is specifically declined in writing;
- Provide a form with the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?” along with several other statements specified by the statute;
- Provide the same degree of assistance in completing the voter registration application forms as would be provided in completing the agency’s own forms; and
- Transmit each completed voter registration application to the appropriate election official within a prescribed amount of time.¹⁴

In each state, a Health Benefit Exchange will handle the majority of Covered Transactions for Insurance Affordability Programs. The ACA requires a single streamlined application process for all programs, administered in each state by the Health Benefit Exchange. The Health Benefit Exchange will also handle renewals and changes of address for a certain subset of individuals who obtain health insurance through programs under the ACA.

States can operate their own Health Benefit Exchange, partner with the federal government, or have the federal government solely operate the Exchange. As shown in Figure 1, 17 states plus the District of Columbia have chosen to operate their own Exchanges, seven states have opted for a partnership Exchange, and 26 states are having the federal government fully operate their Exchanges. In states with Partnership Exchanges, the federal government will operate and administer the application process.

Under the NVRA, Health Benefit Exchanges are entities that administer public assistance, and, as such, are required to incorporate voter registration services into operation of Insurance Affordability Programs.

Figure 1 | *Type of Exchange and Medicaid Expansion Plans By State.*¹⁵

STATE	TYPE OF EXCHANGE	PLANS FOR MEDICAID EXPANSION
Alabama	Federally-Facilitated	Not Participating
Alaska	Federally-Facilitated	Not Participating
Arizona	Federally-Facilitated	Participating
Arkansas	Partnership	Participating
California	State-based	Participating
Colorado	State-based	Participating
Connecticut	State-based	Participating
Delaware	Partnership	Participating
District of Columbia	State-based	Participating
Florida	Federally-Facilitated	Not Participating
Georgia	Federally-Facilitated	Not Participating
Hawaii	State-based	Participating
Idaho	*State-based	Not Participating
Illinois	Partnership	Participating
Indiana	Federally-Facilitated	Not Participating
Iowa	Partnership	Participating
Kansas	Federally-Facilitated	Not Participating
Kentucky	State-based	Participating
Louisiana	Federally-Facilitated	Not Participating
Maine	Federally-Facilitated	Not Participating
Maryland	State-based	Participating
Massachusetts	State-based	Participating
Michigan	Partnership	Participating
Minnesota	State-based	Participating
Mississippi	Federally-Facilitated	Not Participating
Missouri	Federally-Facilitated	Considering Participating
Montana	Federally-Facilitated	Not Participating
Nebraska	Federally-Facilitated	Leaning Towards Not Participating
Nevada	State-based	Participating
New Hampshire	Partnership	Considering Participating
New Jersey	Federally-Facilitated	Participating
New Mexico	*State-based	Participating
New York	State-based	Participating
North Carolina	Federally-Facilitated	Not Participating
North Dakota	Federally-Facilitated	Participating
Ohio	Federally-Facilitated	Participating

STATE	TYPE OF EXCHANGE	PLANS FOR MEDICAID EXPANSION
Oklahoma	Federally-Facilitated	Not Participating
Oregon	State-based	Participating
Pennsylvania	Federally-Facilitated	Considering Participating
Rhode Island	State-based	Participating
South Carolina	Federally-Facilitated	Not Participating
South Dakota	Federally-Facilitated	Not Participating
Tennessee	Federally-Facilitated	Not Participating
Texas	Federally-Facilitated	Not Participating
Utah	Federally-Facilitated	Considering Participating
Vermont	State-based	Participating
Virginia	Federally-Facilitated	Not Participating
Washington	State-based	Participating
West Virginia	Partnership	Participating
Wisconsin	Federally-Facilitated	Not Participating
Wyoming	Federally-Facilitated	Not Participating

**Idaho and New Mexico will ultimately run their own state-based exchanges, but as of October 2013 are using the federal IT system*

INCORPORATING VOTER REGISTRATION SERVICES INTO EXCHANGES

Health Benefit Exchanges must provide the specific NVRA-defined voter registration services during Covered Transactions.¹⁶

A Covered Transaction between an individual and a Health Benefit Exchange occurs:

- Each time an individual applies for health insurance with consideration for subsidized health benefits, regardless of the ultimate determination of eligibility;¹⁷
- At the time an enrollee who is insured by a Qualified Health Plan and is receiving public assistance towards costs of the plan receives an annual redetermination notice to sign and return;¹⁸ and
- At the time an enrollee who is insured by a Qualified Health Plan and is receiving public assistance towards costs of the plan submits a change of address (which the enrollee must do because it potentially affects eligibility).¹⁹

Voter registration services that must be provided include distribution of voter registration forms, assistance in completing voter registration applications, and transmittal of filled-out voter registration applications.

A

DISTRIBUTION OF VOTER REGISTRATION FORMS

As the first step in providing voter registration services, an Exchange will need to provide two different forms relating to voter registration: a voter preference form and a voter registration application. These forms must be provided during each Covered Transaction.

Voter Preference Form

The voter preference form provided must include:

- (1) A question with specific language asking whether the individual wants to register to vote; and
- (2) Additional specific language explaining that:
 - (a) Registering will not affect eligibility for assistance;
 - (b) Not answering will be considered a decision not to register;
 - (c) The Exchange will provide assistance in filling out the registration form; and
 - (d) The applicant can file a complaint if she or he believes that someone has interfered with his or her decision regarding voter registration.²⁰

To ensure that a voter preference form is provided, a Health Benefit Exchange should ensure that its online health insurance application and online forms for redetermination or change of address incorporate the language required by the NVRA.

For in-person transactions, the Health Benefit Exchange should design paper health insurance forms to include the required language or, alternatively, adopt procedures to ensure a separate voter preference form is distributed simultaneously with health insurance forms. For Covered Transactions by telephone, the voter preference form will need to be sent via U.S. mail.

Voter Registration Application

Health Benefit Exchanges must also distribute a voter registration application unless it is declined in writing.²¹ An individual can decline a voter registration application by checking “no” in response to the voter registration question on the voter preference form. If there is no response provided to the voter registration question, a voter registration application still must be distributed to the individual.²²

Voter registration applications need to be distributed in different ways, depending on how individuals complete their Covered Transactions. For mail or in-person Covered Transactions, physical copies of the voter registration application along with the voter preference form and health insurance application can be given to individuals. For online Covered Transactions, states may either mail a hard copy of the voter registration application to all individuals or may use a combination of mailing and online voter registration opportunities as described below. Eight of the states operating their own Health Benefit Exchanges were offering online voter registration as of October 2013, when the Exchanges began enrolling applicants.²³ In those states, the Exchanges should allow an applicant the option of using the online system for voter registration. However, because the existing online voter registration systems currently require an applicant to have a drivers' license on file, the online voter registration systems will not accommodate the voter registration needs of every individual. As a result, the applicant also must be given the option to have a hard copy voter registration application mailed to him or her to be fully compliant with the NVRA.

For states without online voter registration, a link to an online printable voter registration application should be provided, as well as an option to have a voter registration application mailed to individuals without a printer to print out the form.

B

ASSISTANCE WITH FILLING OUT VOTER REGISTRATION FORMS

An Exchange must provide the same degree of assistance with the voter registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.²⁴ To avoid duplication of requests for information from applicants and duplication of information already in the Exchange's possession, Exchanges should prefill online or downloadable voter registration forms.²⁵

Under the ACA, Exchanges must provide several types of assistance in filling out applications for health insurance, including:

- 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.²⁶

In order to provide the “same degree of assistance” with voter registration forms, an Exchange should provide the same level of foreign language translation for voter registration, must ensure that call center representatives and Navigators are trained to offer the same assistance that they offer with the Exchange’s own forms, and must ensure that any online help or guidance it offers as to its own forms is offered as to the voter registration application.

C

TRANSMITTAL OF FILLED-OUT VOTER REGISTRATION APPLICATIONS TO APPROPRIATE STATE ELECTIONS OFFICIALS

Finally, an Exchange must accept completed voter registration application forms and transmit them to the appropriate State election official.²⁷ This provision applies to all paper voter registration applications received in person or by mail by the Exchange and also to forms submitted online in states with online voter registration. Health Benefit Exchanges should transmit all filled-out voter registration applications they receive to elections officials. In most states, it is the responsibility of the elections officials to obtain any missing information. The transmittal of filled-out voter registration applications must occur within ten days of receipt, or within five days if the voter registration application is received within five days of a registration deadline in an election.²⁸

CONCLUSION

The ACA will provide access to health insurance for millions of people and, because of the applicability of the NVRA, has the potential to greatly expand voter registration. The ACA provides a unique opportunity to increase voter registration among eligible individuals and thereby increase political participation. Health Benefit Exchanges will play a central role in this process by distributing voter registration forms, providing assistance with filling out such forms, and transmitting completed voter registration forms to state elections officials. In this way, the ACA can help protect the freedom to vote—by ensuring that all eligible persons have the opportunity for a voice in our democracy.

APPENDIX

THE INSURANCE AFFORDABILITY PROGRAMS UNDER THE ACA INCLUDE THE FOLLOWING:

MEDICAID, created by federal legislation in 1965,²⁹ “provides health insurance coverage for people with lower incomes, older people, people with disabilities, and some families and children.”³⁰ While each state establishes its own eligibility rules and administers its own program, the federal government provides funding and establishes certain key requirements.³¹ In order to ensure health insurance for all lower-income individuals, the Affordable Care Act required Medicaid eligibility to be expanded to cover individuals and families with incomes up to 138% of the federal poverty level starting in 2014,³² or \$32,499 per year for a family of four.³³ Prior to the Affordable Care Act, the income cutoff for Medicaid eligibility varied by state. The Supreme Court has ruled that the federal government cannot compel states to expand Medicaid eligibility and, therefore, each state is deciding whether or not to do so.³⁴ The impact of the Supreme Court ruling, when combined with state decisions not to expand access, is that 3 million fewer people will be insured.³⁵

CHILDREN’S HEALTH INSURANCE PROGRAM (CHIP) provides health insurance coverage for children whose families earn too much to be eligible for Medicaid but who cannot afford private health insurance without assistance.³⁶

AFFORDABLE INSURANCE EXCHANGES are “State-based, competitive marketplaces” that, starting in 2014, will allow individuals to purchase affordable private health insurance through “Qualified Health Plans.”³⁷ Individuals and families with incomes between 138% and 400% of the federal poverty level will qualify for tax credits and cost-sharing reductions to subsidize the purchase of private health insurance available through the Affordable Insurance Exchanges in each state.³⁸

THE BASIC HEALTH PROGRAM is an optional program states may elect to administer alongside the other three programs. In particular, it is designed to provide health insurance coverage for individuals whose income would fluctuate above and below 138% of the federal poverty level such that the individual’s eligibility for Medicaid (under the expansion) would be inconsistent. So far, only three states have decided to operate a Basic Health Program, which would provide coverage for those who do not qualify for Medicaid but whose incomes fall below 200% of the federal poverty level.³⁹

ENDNOTES

1. The Pew Center on the States, *Inaccurate, Costly and Inefficient: Evidence That America's Voter Registration System Needs an Upgrade* (February 14, 2012), available at <http://www.pewstates.org/research/reports/inaccurate-costly-and-inefficient-85899378437>.
2. *Id.*, Table 1.
3. Stephen Ansolabehere, *Testimony before the Senate Rules Committee at 19* (March 11, 2009), available at http://vote.caltech.edu/drupal/files/news/03112009Ansolabehere_Testimony.pdf.
4. Ian Urbina, *Hurdles to Voting Persisted in 2008*, *The New York Times* (March 10, 2009), available at http://www.nytimes.com/2009/03/11/us/politics/11vote.html?_r=2&scp=3&sq=voting&st=Search.
5. Youjin B. Kim and Lisa Danetz, *1 Million New Voters Among the 99%: How Agency-Based Voter Registration Gives Low-Income Americans a Voice in Democracy*, *Demos* (Nov.2011), available at http://www.demos.org/sites/default/files/publications/Million_Mark_Demos.pdf
6. The Patient Protection and Affordable Care Act, Pub. L. 111-148, 124 Stat. 119 (Mar. 23, 2010).
7. Subsidized health benefits are generally called “Insurance Affordability Programs” in the ACA. Each of the Insurance Affordability Programs – Medicaid; CHIP; the Basic Health Plan; and the insurance premium tax credits refunded to the insured, advance payment of the premium tax credit, and cost-sharing reductions in connection with the Qualified Health Plans – is “public assistance.” Beyond the Medicaid and CHIP programs, which are well-established as public assistance, the cost-sharing reductions and advance payment of tax credits are conceptually similar to SNAP and TANF, two other well-established “public assistance” programs, in that private vendors are reimbursed by the government for providing goods and services to low income individuals. See NVRA House Conference Report, H.R.Conf.Rep. No. 103-66, at 19 (1993); *Valdez v. Squier* 676 F.3d 935, 938 (10th Cir. 2012) (recognizing Food Stamp Program, Temporary Assistance to Needy Families, and Medicaid constitute “public assistance” under the NVRA). And, though courts have not specifically considered the ACA’s premium tax credit, 26 U.S.C. §35B, similar tax credits under the ACA have been deemed to constitute public assistance because they –like the premium tax credit-- are: (1) intended to serve as financial assistance to moderate or low-income individuals; (2) available only to filers below a certain income; and (3) refundable, i.e. could result in a credit being paid to the filer. *In re Johnson*, 480 B.R. 305, 312-316 (Bankr. N.D. Ill. 2012) (federal adoption tax credit as modified by the ACA constitutes “public assistance”); see also *In re James*, 406 F.3d 1340, 1344-1345 (11th Cir. 2005) (earned income tax credit constitutes “public assistance” under ordinary meaning doctrine, because enacted “to provide relief for low-income families”).
8. Implementation of the NVRA reduces the income-based gap for both voter registration and turnout in the electorate. David Hill, *A two-step approach to assessing composition effects of the National Voter Registration Act* *Electoral Studies* 22, no. 4, 703-720 (2003).
9. This number represents individuals projected to be enrolled in Medicaid, CHIP, or subsidized private insurance through the Affordable Insurance Exchange. See Table 3, Congressional Budget Office, *Estimates for the Insurance Coverage Provisions of the Affordable Care Act Updated for the Recent Supreme Court Decision* (July 24, 2012) (number calculated by determining the sum of the 2022 projections for Medicaid and CHIP prior-law coverage, Medicaid and CHIP Change in Coverage Under the ACA, and Exchanges Change in Coverage Under the ACA), available at <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43472-07-24-2012-CoverageEstimates.pdf>
10. See *id.*
11. *Id.*

12. 42 U.S.C. § 1973gg-5(a)(2)(A).
13. See generally 42 U.S.C. § 1973gg-5.
14. 42 U.S.C. § 1973gg-5(a)(4); 42 U.S.C. § 1973gg-5(a)(6).
15. The Advisory Board Company, *Where the states stand on ACA's Medicaid expansion*, available at <http://www.advisory.com/Daily-Briefing/Resources/Primers/MedicaidMap> (last visited December 13, 2013); The Henry J. Kaiser Family Foundation, *State Decisions For Creating Health Insurance ExchangeMarketplaces*, available at kff.org/health-reform/state-indicator/health-insurance-exchanges/ (Accessed November 13, 2013).
16. Because Idaho, Minnesota, Wyoming, New Hampshire, and Wisconsin have continuously allowed Election Day voter registration at polling places since August 1, 1994, and because North Dakota has no voter registration requirement, these states are exempt from the NVRA. See 42 U.S.C. § 1973gg-2(b)(2).
17. An individual applies for health insurance with consideration to determine eligibility for insurance affordability programs when the applicant answers the “triggering question”. Establishment of Exchanges and Qualified Health Plans, 77 Fed. Reg. 18,309, 18,352 (Mar. 27, 2012) (describing likely “triggering question” implementing 45 C.F.R. § 155.310(b), which requires applicants to apply for all insurance affordability programs or none).
18. 45 C.F.R. § 155.335(b), (c), (g).
19. 45 C.F.R. § 155.330(b)(4) (requiring reporting of changes that might impact eligibility); 45 C.F.R. § 155.305(a)(3) (including residency within eligibility standards).
20. 42 U.S.C. § 1973gg-5(a)(6)(B).
21. 42 U.S.C. § 1973gg-5(a)(6)(A).
22. *Valdez v. Squier*, 676 F.3d 935, 945 (10th Cir. 2012).
23. States operating their own Health Benefit Exchanges that offer online voter registration include the following: California (<http://registertovote.ca.gov>); Colorado (<https://www.sos.state.co.us/Voter/secuVerifyExist.do>); Maryland (<https://voterservices.elections.state.md.us/OnlineVoterRegistration>); New York (<http://www.dmv.ny.gov/mydmv/motv-pop.htm>); Nevada (<http://nvsos.gov/index.aspx?page=703>); Oregon (<https://secure.sos.state.or.us/orestar/vr/register.do?lang=eng&source=SOS>); Utah (<https://secure.utah.gov/voterreg/index.html?jsessionid=a142a0d90b8ba15218199019b55d>) ; and Washington (<https://wei.sos.wa.gov/agency/osos/en/Pages/myvote1.aspx>). In addition, the Connecticut and Hawaii legislatures have enacted legislation allowing online voter registration but the systems will not be live by October 2013.
24. 42 U.S.C. § 1973gg-5(a)(6)(C).
25. 45 C.F.R. § 155.345(g)(4) (Exchange must not request duplicate information as that already provided for other benefit programs).
26. 45 C.F.R. § 155.205 (Consumer assistance tools and programs of an Exchange); 45 C.F.R. § 155.210 (Navigator program standards).
27. 42 U.S.C. § 1973gg-5(a)(4)(A)(iii).
28. 42 U.S.C. § 1973gg-5(d).
29. See Wikipedia, *Medicaid (History)* <http://en.wikipedia.org/wiki/Medicaid#History> (last visited April 16, 2013).
30. U.S. Department of Health and Human Services, *Health Insurance Basics, Free or Low-Cost Care: Medicaid* available at <http://www.healthcare.gov/using-insurance/low-cost-care/medicaid/index.html> (last visited April 16, 2013).
31. Wikipedia, *Medicaid (History)*, supra note 31.
32. Reginald M. Hislop, III, *Health Reform and Medicaid Expansion, HealthCare Reform*

Magazine (July 13, 2010) (“Under the PPACA, Medicaid is set to expand its eligibility for coverage to include persons with income levels at or below 133 percent of the federal poverty level. In 2014, a standard 5 percent income disregard will apply to most individuals, effectively increasing the eligibility level to 138 percent of the poverty level.”), available at <http://www.healthcarereformmagazine.com/article/health-reform-and-medicaid-expansion.html>.

33. Families USA, 2013 Federal Poverty Guidelines (calculated by using federal poverty level for family of four in chart concerning 48 contiguous states and DC, and multiplying by 1.38), available at <http://www.familiesusa.org/resources/tools-for-advocates/guides/federal-poverty-guidelines.html> (last visited Apr. 23, 2013).
34. *National Federation of Independent Business v. Sebelius*, 132 S.Ct. 2566, 2607 (2012). When a state opts out of the Medicaid expansion, individuals and families with income levels between that state’s current Medicaid eligibility level and 138% of the federal poverty level can apply for health insurance but will not be able to obtain subsidized health insurance.
35. See Congressional Budget Office, Estimates for the Insurance Coverage Provisions of the Affordable Care Act Updated for the Recent Supreme Court Decision, *supra* note 10, at 4.
36. U.S. Department of Health and Human Services, Health Insurance Basics, Free or Low-Cost Care: Children’s Health Insurance Program (CHIP), *supra* note 32.
37. Centers for Medicare & Medicaid Services: The Center for Consumer Information & Insurance Oversight, Affordable Insurance Exchanges, available at <http://cciio.cms.gov/programs/exchanges/index.html> (last visited April 16, 2013).
38. 42 U.S.C. § 18083(e). Those without need of any subsidies to afford health insurance may also obtain private health insurance through the Exchanges and, indeed, members of Congress will obtain their health insurance through the Exchanges.
39. Jennifer Lubell, Few states take up ACA basic health coverage option, *American Medical News* (Nov. 30, 2012), available at <http://www.ama-assn.org/amednews/2012/11/26/gvdsd1130.htm>. Washington, California, and Massachusetts are the only states that have passed legislation that would put such a program in place.

WWW.DEMOS.ORG
220 Fifth Avenue, 2nd Floor
New York, New York 10001
212.633.1405

MEDIA CONTACT
Elektra Gray
Director of Communications
EGRAY@DEMOS.ORG
212.633.1405 EXT. 551