

## **EXHIBIT C**

## **SETTLEMENT AGREEMENT**

### **I. Introduction**

Plaintiffs New England Area Conference of the National Association for the Advancement of Colored People (“NAACP-NEAC”) and New England United for Justice (“NEU4J”) (collectively “Plaintiffs”)<sup>1</sup> brought this Action alleging violations of Section 7 of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20506 (formerly 42 U.S.C. § 1973gg-5), by William F. Galvin, in his official capacity as Secretary of the Commonwealth of Massachusetts (“SOC”); Marylou Sudders (as successor to JudyAnn Bigby), in her official capacity as Secretary of the Executive Office of Health and Human Services (“EOHHS”); Jeff McCue (as successor to Stacey Monahan), in his official capacity as Commissioner of the Department of Transitional Assistance (“DTA”); and Daniel Tsai (as successor to Kristen Thorn), in his official capacity as Director of the Office of Medicaid (“MassHealth”) (collectively “Defendants”).

The Complaint was filed on May 15, 2012 against the SOC, DTA, and EOHHS. An Amended Complaint, adding MassHealth as a Defendant, was filed with the Court’s approval on March 17, 2014 (Doc. Nos. 138 and 143). Plaintiffs allege widespread past and ongoing violations of Section 7 of the NVRA by Defendants and are seeking declaratory and injunctive relief. Defendants, for their part, deny the allegations and any violation of law.

On March 18, 2015, Plaintiffs and DTA entered into a settlement agreement (“DTA Settlement Agreement”) and jointly moved that the Court enter an order of final judgment dismissing Plaintiffs’ claims as to DTA only. The Court entered an order of dismissal as to DTA only on March 20, 2015 (Doc. No. 215).

Plaintiffs and Defendants MassHealth and EOHHS now desire to resolve and settle this Action without further litigation and expense. Plaintiffs and Defendant MassHealth agree to the following terms in full and final resolution and settlement, and dismissal with prejudice, of Plaintiffs’ claims against Defendant MassHealth in this Action. Plaintiffs and Defendant EOHHS agree to the following terms in full and final resolution and settlement, and dismissal with prejudice, of Plaintiffs’ claims against Defendant EOHHS in this Action, as defined in Section V.

By entering into this settlement agreement (“Agreement”), Defendants MassHealth and EOHHS do not admit any liability or any violation of the NVRA or any other law, and this Agreement shall not constitute evidence of any wrongdoing or violation of law. This Agreement does not resolve or settle Plaintiffs’ claims under Section 7 of the NVRA brought against Defendant SOC.

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<sup>1</sup> Bethzaida Delgado, originally a plaintiff in this Action, was voluntarily dismissed on March 14, 2014 (Doc. No. 138).

## II. Definitions

- A. “Action” means this action, *New England Area Conference of the National Association for the Advancement of Colored People, et al. v. Galvin, et al.*, Civil Action No. 1:12-cv-10872-DJC (D. Mass.).
- B. “Agency Code” means a code on a Voter Registration Application that identifies the Voter Registration Agency that distributed the Voter Registration Application.
- C. “Agency Voter Registration Application” means a Voter Registration Application prepared by the SOC and intended for use during in-office transactions at Voter Registration Agencies. Such Voter Registration Application contains a space to insert an Agency Code. “Client” means any individual who is applying for Public Assistance Benefits, including an individual who has one or more authorized representatives acting on his or her behalf, or any individual who is receiving Public Assistance Benefits.
- D. “Covered Transaction” means a transaction in which a Client applies for Public Assistance Benefits, renews or recertifies his or her eligibility for Public Assistance Benefits, or submits a change of address in connection with the receipt of Public Assistance Benefits, whether in person at a Local MassHealth Office or through remote methods, including without limitation, by telephone, facsimile, mail, electronic means, or the Internet.
- E. “Customer Service Representative” or “CSR” means an employee of a contractor that serves as MassHealth’s customer service vendor who interacts with Clients during Covered Transactions.
- F. “Effective Date” means the date on which this Agreement shall become effective, that is, the date on which the [Proposed] Order of Final Judgment, in the form attached hereto as **Exhibit E**, is entered by the Court.
- G. “Eligibility Worker” means an employee of MassHealth who interacts with Clients during Covered Transactions.
- H. “EOHHS” means the Executive Office of Health and Human Services and includes, without limitation, its agents and employees. This definition shall not include the agencies and entities specified in the second paragraph of G.L. c. 6A, § 16.
- I. “Execution Date” means the last date on which this Agreement is signed by all Plaintiffs and Defendants MassHealth and EOHHS.
- J. “In-office” transaction means a Covered Transaction that is performed by a Client who is physically present at a Local MassHealth Office.

- K. “Local Election Official” (or “LEO”) means any “registrar[]” or “registrar[] of voters,” as defined in G.L. c. 50, § 1.
- L. “Local MassHealth Office” means any MassHealth Enrollment Center (“MEC”) (including the Central Processing Unit) or call center through which a Client may engage in a Covered Transaction, whether such Office is operated by MassHealth or a contractor that serves as MassHealth’s customer service vendor.
- M. “Mail-In Voter Registration Application” means a Voter Registration Application prepared by the SOC and intended for use by any person to register to vote by mail. The Mail-In Voter Registration Application for MassHealth is “pre-coded” with MassHealth’s Agency Code.
- N. “MassHealth” means the Office of Medicaid within EOHHS and includes, without limitation, its offices, agents and employees.
- O. “Mass IT” (formerly ITD) means the entity utilized by MassHealth to print and mail materials to Clients regarding Public Assistance Benefits.
- P. “NVRA” means the National Voter Registration Act of 1993, 52 U.S.C. § 20501 *et seq.* (formerly 42 U.S.C. § 1973gg *et seq.*).
- Q. “Online application portal” means the Internet-based program through which Clients, by themselves or with the assistance of Eligibility Workers or CSRs, conduct Covered Transactions.
- R. “Public Assistance Benefits” means benefits available under programs administered by MassHealth.
- S. “Remote Transaction” means a Covered Transaction that is carried out by methods other than in person at a Local MassHealth Office, including without limitation, those carried out by telephone, facsimile, mail, electronic means, or the Internet.
- T. “Self-service” means a Client’s use of the online application portal on his or her own, without assistance from an Eligibility Worker or CSR.
- U. “SOC” means the Office of the Secretary of the Commonwealth of Massachusetts and includes, without limitation, the Secretary of the Commonwealth, and his offices, agents, and employees.
- V. “Voter Preference Form” means the current document referred to by the SOC as the “declination form” or any document or portion of such document containing the language required by Section 7 of the NVRA, 52 U.S.C. § 20506(a)(6)(B).

- W. “Voter Registration Agency” means an agency designated as such pursuant to Section 7(a)(2) of the NVRA, 52 U.S.C. § 20506(a)(2), and defined in 950 C.M.R. 57.02(1)(b) and (c) (definition of “Registration Agency”).
- X. “Voter Registration Application” means either a Mail-In Voter Registration Application or Agency Voter Registration Application.

### **III. Substantive Provisions as to MassHealth**

#### **A. Staffing**

1. MassHealth shall designate a Statewide NVRA Coordinator who shall generally oversee MassHealth’s performance of NVRA responsibilities and the requirements of this Agreement, including training, oversight, reporting, monitoring, and other aspects of the implementation of the NVRA. Among other things, the Statewide NVRA Coordinator shall cooperate with the SOC regarding voter registration issues as detailed in this Agreement or upon request by the SOC. MassHealth shall incorporate NVRA responsibilities into the job performance evaluation for the Statewide NVRA Coordinator.
2. MassHealth shall designate an NVRA Coordinator for each Local MassHealth Office (“Local NVRA Coordinator”) to help ensure compliance with the NVRA and this Agreement by such Office.
3. MassHealth shall incorporate NVRA responsibilities into the job performance evaluation for each Local NVRA Coordinator, Director, and Assistant Director of each Local MassHealth Office.
4. MassHealth shall add voter registration responsibilities as a subcategory in the list of required activities in MassHealth’s Employee Performance Review System (“EPRS”) form for non-managerial employees. This provision is contingent upon union approval if it is determined to require “impact bargaining.” MassHealth will use its best efforts to obtain any required union approval, if such becomes necessary.

#### **B. Voter Registration Procedures**

1. *In General*
  - a. As detailed below, MassHealth shall provide voter registration services during all Covered Transactions.

- b. MassHealth shall provide Plaintiffs' counsel with at least seven (7) business days advance notice and opportunities to offer comments before finalizing any changes to the substance of voter registration procedures under this Agreement.<sup>2</sup>
- c. MassHealth shall require that any vendor that has a contract to conduct Covered Transactions on its behalf shall implement and maintain voter registration procedures that comply with the NVRA and this Agreement for all Covered Transactions conducted by such vendor.

## *2. Distribution of Voter Registration Materials – In General*

- a. For each Covered Transaction, MassHealth shall distribute to each Client a Voter Registration Application and a Voter Preference Form as set forth in this Agreement.
- b. During each in-office Covered Transaction conducted at a Local MassHealth Office and involving interaction between a Client and an Eligibility Worker or CSR, such Eligibility Worker or CSR shall distribute to each Client who chooses to register to vote at such Office an Agency Voter Registration Application and shall offer assistance in completing the Voter Registration Application, in accordance with the procedures set forth in this Agreement and the Eligibility Operations Memorandum (attached as **Exhibit B**) and Job Aid and Script (attached as **Exhibit C**)
- c. Each Covered Transaction form used by MassHealth that is available as of July 31, 2015, or becomes available thereafter, on the Internet as a downloadable PDF (or other electronic format) shall contain within it a Mail-In Voter Registration Application pre-coded with MassHealth's Agency Code and the language contained in the Voter Preference Form.
- d. For Remote Transactions, MassHealth shall distribute to each Client a Voter Registration Application and a Voter Preference Form as detailed in Section III.B.3. of this Agreement and in accordance with the procedures set forth in the Eligibility Operations Memorandum (**Exhibit B**) and Job Aid and Script (**Exhibit C**).

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<sup>2</sup> Such changes include, without limitation, modifications to the voter registration language contained in the MassHealth member booklet and renewal cover letters.

- e. No later than May 1, 2016, MassHealth shall incorporate a link to the Massachusetts online voter registration system into each location on its website where it makes voter registration materials available and within its online application portal for self-service applications. If the SOC creates a MassHealth-specific URL for online voter registration, MassHealth shall, no later than May 1, 2016, include such URL as the link to the online voter registration system that will be incorporated into each of the website and online locations described in this subsection.<sup>3</sup>

### 3. *Distribution of Voter Registration Materials – Specific Transactions*

- a. Unless otherwise specified, the procedures described in this Section III.B.3. shall be implemented no later than July 31, 2015.
- b. Each MassHealth member booklet that contains an application for Public Assistance Benefits and the downloadable version of the application available on MassHealth's website shall include a Mail-In Voter Registration Application pre-coded with MassHealth's Agency Code and the language contained in the Voter Preference Form. For the downloadable application, MassHealth may either incorporate these voter registration materials into such application, or include them in the same PDF or downloadable file containing such application.
- c. For each Client who drops off a change of address document (such as a utility bill) at a Local MassHealth Office without interacting with an Eligibility Worker or CSR, the Office receptionist shall:
  - i. explain that if the Client wishes to register to vote, the Client can do so at the Local MassHealth Office and receive assistance in doing so, and that MassHealth will send the Client's filled-out Voter Registration Application to the appropriate Local Election Officials, or, alternatively, that the Client can take home a Voter Registration Application.

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<sup>3</sup> In the event of unexpected delay in the operation of the Massachusetts online voter registration system or the creation of the MassHealth-specific URL, MassHealth and Plaintiffs will negotiate in good faith to agree upon a reasonable extension of the deadlines in Section III.B.2.e.. If MassHealth enables other Covered Transactions through its online application portal, MassHealth shall incorporate a link to the online voter registration system as part of the programming for such Covered Transactions. If such incorporation is not technologically feasible before May 1, 2016, MassHealth shall provide notice of such infeasibility to Plaintiffs' counsel, and thereafter the parties shall negotiate in good faith a deadline for incorporation of such link.

- ii. if the Client wishes to register to vote at the Local MassHealth Office, provide an Agency Voter Registration Application; and
  - iii. if the Client does not wish to register to vote at the Local MassHealth Office and wants to take a Mail-In Voter Registration Application home, provide a Mail-In Voter Registration Application pre-coded with MassHealth's Agency Code.
- d. For each change of address received by MassHealth by office drop-off, telephone, mail or facsimile, MassHealth or its customer service vendor shall send to the Client a Mail-in Voter Registration Application pre-coded with MassHealth's Agency Code and a Voter Preference Form, together with an explanatory letter, attached hereto as **Exhibit A**.<sup>4</sup> This procedure will be discontinued upon MassHealth's implementation of the procedure described in Section III.B.3.e.iv..
- e. For each Remote Transaction described below, MassHealth shall send an "automatic" computer-generated mailing of a Mail-in Voter Registration Application pre-coded with MassHealth's Agency Code and a Voter Preference Form. An explanatory letter (**Exhibit A**) shall accompany each such mailing and, among other things, shall state prominently that voter registration materials are included in such mailing. Such a mailing shall occur for all of the following:
  - i. telephone applications;
  - ii. self-service applications through the online application portal in which a Client clicks "Yes" to the voter registration question online (as further explained in Section III.B.3.f.);
  - iii. together with notices that it is time to renew eligibility, or with notices that a Client's eligibility has been renewed without the need for a further response from the Client (*i.e.*, "automatic" renewals); and
  - iv. during the anticipated March 2016 modifications to the online application portal, but no later than May 1, 2016, each time a field in the portal corresponding to a Client's address is changed without

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<sup>4</sup> MassHealth may modify the text of the explanatory letter (**Exhibit A**) for any distribution of voter registration materials required by this Agreement, but only after obtaining prior written consent of Plaintiffs' counsel. Moreover, if the SOC makes available a Voter Preference Form adapted for use with Remote Transactions, to which Plaintiffs' counsel have given written approval, MassHealth may utilize such Voter Preference Form in any distribution of voter registration materials under this Agreement *in lieu* of the explanatory letter (**Exhibit A**) and the Voter Preference Form.



corresponding changes on the same date relating to an application or renewal of Public Assistance Benefits. Once MassHealth implements this procedure, it will replace the procedure described in Section III.B.3.d..

- f. Except as otherwise specified, no later than July 31, 2015, MassHealth shall incorporate the following voter registration procedures and language into the online application portal for self-service applications for Public Assistance Benefits:

- i. The online voter registration language shall:

- (1) appear in the application after a Client has entered his or her eligibility information but before the application is submitted;
    - (2) include the following “voter preference question” and corresponding boxes for each Client to check:

“If you are not registered to vote where you live now and you are eligible to register to vote, would you like to apply to register to vote today?

“Yes”

“No (Please check “No” if you do not want to register to vote today for any reason, including that you are already registered to vote at your current address.)”

- (3) contain a “hard stop” for the voter preference question immediately above, meaning that a Client must click “Yes” or “No” to continue filling out or submitting the application;
    - (4) include a downloadable PDF of a Mail-In Voter Registration Application pre-coded with MassHealth’s Agency Code. Once the modifications in Section III.B.3.f.iii.(2) are made, the downloadable .pdf shall be located next to such additional language; and
    - (5) During the anticipated March 2016 modifications to the online application portal, but no later than May 1, 2016, the language contained in the Voter Preference Form shall be incorporated into the portal with the voter preference question described in III.B.3.f.i(2).

- ii. MassHealth shall store each Client’s response to the voter registration question electronically for no less than twenty-two (22) months after

the first federal election that occurs after the Client submits his or her response.

iii. A Voter Registration Application shall be provided to each Client who clicks “Yes” to the voter preference question as follows:

- (1) a Mail-in Voter Registration Application pre-coded with MassHealth’s Agency Code, Voter Preference Form, and the explanatory letter (**Exhibit A**), shall be mailed to the Client;
- (2) during the anticipated March 2016 modifications to the online application portal, but no later than May 1, 2016, MassHealth shall incorporate the following language into the online application portal:

“You have indicated that you would like to register to vote and you will receive a voter registration application through the mail.”

“If you have a Massachusetts drivers’ license, you may register to vote without waiting for the mailing by clicking the following link and filling out the online registration form.” [This language shall be followed by a link to the Massachusetts online voter registration system or, if one exists, a unique URL created by the SOC for MassHealth voter registrations.]

“Alternatively, if you have access to a printer, you may register to vote without waiting for the mailing by downloading a Mail-In Voter Registration Application, filling it out, and sending it to your local election official.” [This language shall be followed by a link to a downloadable Mail-In Voter Registration Application pre-coded with MassHealth’s Agency Code.]

“If you need assistance in completing the voter registration application or technical support, you may contact 800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled).”<sup>5</sup>

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<sup>5</sup> If deemed technologically feasible by MassHealth, this language shall be displayed immediately after a Client submits an application for Public Assistance Benefits. Additionally, this language shall be incorporated into the online screens for any other Covered Transaction as soon as such Covered Transaction can be performed through the online application portal, subject to the timeframe described in footnote 3. MassHealth may modify this language and

- g. By no later than August 31, 2015, on the “Apply for MassHealth” page of the “Official Website of the Executive Office of Health and Human Services”, MassHealth shall add the following language in a paragraph immediately below the heading for the Online Application for Health and Dental Coverage and Help Paying Costs:

“The online application will ask if you would like to register to vote. If you click “Yes,” MassHealth will automatically mail you a voter registration application. A printable voter registration form and more information about voter registration appear below.”<sup>6</sup>

Once the modifications described in Section III.B.3.f.iii.(2) are made, MassHealth may remove this language from the website.

- h. As indicated in the Job Aid and Script (**Exhibit C**), by no later than July 31, 2015, CSRs shall, during telephone Covered Transactions, state as follows:

“Please be aware that MassHealth will be sending you a mailing with a voter registration application and instruction on how to fill it out. This is a federal requirement.”

- 4. If the Statewide NVRA Coordinator, Local NVRA Coordinator, Director or Assistant Director of a Local MassHealth Office, supervisor, Eligibility Worker, or CSR becomes aware that a specific Client did not receive a Voter Registration Application as required by this Agreement, a mailing shall be promptly sent to such Client. This mailing shall include a Mail-in Voter Registration Application pre-coded with MassHealth’s Agency Code, a Voter Preference Form, and the explanatory letter (**Exhibit A**).

5. *Assistance*

- a. For all Covered Transactions in which an Eligibility Worker or CSR interacts with a Client, either in connection with an in-office Covered Transaction or a Remote Transaction, the Eligibility Worker or CSR shall offer voter registration assistance to each Client to the same extent as assistance is offered by MassHealth in the completion of its own forms, and shall provide such voter registration assistance to each Client who does not decline such offer of assistance.

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format with prior written consent of Plaintiffs’ counsel, which consent will not be unreasonably withheld.

<sup>6</sup> MassHealth may modify this language and format with prior written consent of Plaintiffs’ counsel, which consent will not be unreasonably withheld.

- i. For in-office Covered Transactions, Eligibility Workers and CSRs shall review filled-out Voter Registration Applications for completeness of all mandatory fields necessary to register to vote, including name, date, date of birth, address(es), identification number, age and citizenship checkboxes, and Client signature. Eligibility Workers and CSRs shall not be required to check for completeness of the entry of party affiliation, or to determine a Client's eligibility to register to vote. If an Eligibility Worker or CSR has knowledge that a Client is not a United States citizen, the Eligibility Worker or CSR shall inform the Client that only U.S. citizens may register to vote and shall not be required to provide voter registration assistance to such Client.
- ii. Assistance in filling out and submitting Voter Registration Applications shall be available to Clients through MassHealth's main customer service telephone number, Eligibility Workers, and CSRs.
- iii. Language and translation assistance for voter registration shall be available through the AT&T Interpreter line (or similar service) used by MassHealth for non-voter registration activities, including, at a minimum, in Spanish and Chinese.
- iv. As shown in the explanatory letter (**Exhibit A**), Clients shall be informed in any mailing by MassHealth that includes voter registration materials that, in addition to obtaining voter registration assistance from Eligibility Workers and CSRs to fill out Voter Registration Applications, they can submit filled-out Voter Registration Applications at any Local MassHealth Office. If a Client submits a filled-out Mail-In Voter Registration Application at a Local MassHealth Office, MassHealth shall submit such Application to the Client's LEO pursuant to Section III.B.6.b. and c.

- b. In accordance with the Affordable Care Act of 2010 and applicable regulations (42 CFR 435.908(c) and 45 CFR § 155.225), MassHealth and the Massachusetts Health Connector have jointly designated certain entities as “certified application counselor organizations” (“CAC Organizations”), whose staff, contractors and volunteers provide assistance with health insurance applications as “certified application counselors” (“CACs”). MassHealth shall instruct each CAC Organization to require all of its CACs to provide assistance with voter registration to the same extent as assistance is provided in filling out MassHealth’s own forms. MassHealth shall provide training to CAC Organizations regarding their obligations to offer and provide voter registration assistance as part of its comprehensive annual training regarding other CAC responsibilities.

6. *Transmittal*

- a. For in-office Covered Transactions, Eligibility Workers and CSRs shall collect filled-out Voter Registration Applications from Clients and deliver them to the designated employee at that Eligibility Worker’s or CSR’s Local MassHealth Office for transmitting to each Client’s LEO.
- b. Prior to transmittal, a designated Local MassHealth Office employee shall insert the appropriate Agency Code on the filled-out Voter Registration Applications.
- c. MassHealth shall transmit each filled out Voter Registration Application it receives to the appropriate LEO within five (5) calendar days of receipt, as required by 130 CMR 515.013(D), but, in any event, no later than as required by the NVRA, 52 U.S.C. 20506(d).
- d. Each Local MassHealth Office shall maintain a manual count of the number of filled-out Agency Voter Registration Applications it receives, and shall designate one or more individuals to perform this task and to transmit such Applications to appropriate LEOs pursuant to Section III.B.6.b. and c..

C. **Policies and Procedures for Covered Transactions**

- 1. By no later than July 31, 2015, MassHealth shall implement the procedures described in the Eligibility Operations Memorandum (**Exhibit B**) and Job Aid and Script (**Exhibit C**).
- 2. Eligibility Workers shall follow the Job Aid and Script (**Exhibit C**) during their interactions with Clients.
- 3. No later than fourteen (14) calendar days after the Effective Date of this Agreement, MassHealth shall finalize a job aid for CSRs (also called a “Knowledge Center article”) and corresponding script, which comply with the

voter registration procedures described in **Exhibit C**. MassHealth shall require CSRs to follow the Knowledge Center article and corresponding script during their interactions with Clients.

**D. Local MassHealth Offices**

1. MassHealth shall make television announcements in the waiting room(s) and/or lobby(ies) of each Local MassHealth Office, if televisions are provided in the waiting room(s) or lobbies, to explain to Clients and visitors how to register to vote at that Local MassHealth Office and to offer voter registration assistance. MassHealth shall confer with Plaintiffs' counsel in good faith on the final content of such announcements, but MassHealth retains the right to decide the final content of the announcements.
2. Signs regarding voter registration prepared by the SOC shall be posted in prominent locations in the waiting room(s) and/or lobby(ies) in each Local MassHealth Office.
3. Voter Registration Applications shall be visible and easily available in the waiting room(s) and/or lobbies in each Local MassHealth Office for anyone visiting the Local MassHealth Office.
4. Each Local MassHealth Office shall maintain at least a two (2)-month's supply of both Mail-in Voter Registration Applications and Agency Voter Registration Applications in at least English, Spanish, and Chinese. MassHealth shall determine what amount constitutes a two (2)-month supply for each Local MassHealth Office. It shall be the responsibility of the Statewide NVRA Coordinator, and the Local NVRA Coordinator or Director or Assistant Director for each Local MassHealth Office, to ensure that each Local MassHealth Office has at least a two (2)-month's supply of Voter Registration Applications at all times.

**E. Training**

1. Materials

- a. MassHealth, in consultation with the SOC, shall create and maintain training materials regarding the voter registration requirements of the NVRA and this Agreement for use by MassHealth in conducting the trainings described in Section III.E.4. and 5 to the extent that such training materials differ from those developed under Section III.E.3. Such training materials shall be reviewed and modified, if necessary, at least once each calendar year by MassHealth. Plaintiffs' counsel shall be provided at least seven (7) business days advance notice and an opportunity to review and comment on any modifications to such training materials. MassHealth need not provide Plaintiffs' counsel with an opportunity for review and comment if the changes are to formatting alone, or are mere changes of dates, names of personnel, or contact information.
  - b. Written guidance, in the form of a Job Aid, MEC weekly update, or other training document, and training by supervisors shall be provided to MassHealth employees and to CSRs regarding voter registration responsibilities within fifteen (15) business days of finalizing any modifications to the substance of voter registration procedures or materials.
  - c. MassHealth shall maintain all training materials regarding the voter registration requirements of the NVRA and this Agreement on the MassHealth Intranet, which shall be available for any Eligibility Worker to review. MassHealth shall also instruct its customer service vendor to maintain all training materials regarding the voter registration requirements of the NVRA and this Agreement in a location that is readily accessible for any CSR to review.
2. To alert and train staff regarding the implementation of the procedures described in Section III.B., MassHealth shall:
- a. no later than July 31, 2015, circulate to Eligibility Workers the Eligibility Operations Memorandum (**Exhibit B**) and Job Aid and Script (**Exhibit C**);
  - b. no later than July 31, 2015, cause its customer service vendor to circulate to CSRs a job aid (or similar training document) and script containing the content shown in the Eligibility Operations Memorandum (**Exhibit B**) and Job Aid and Script (**Exhibit C**), and describing voter registration procedures applicable to CSRs; and
  - c. the MEC weekly update shall include a reminder about voter registration procedures at least two (2) times each calendar year.

3. Simultaneously with the implementation of the voter registration procedures described in Section III.C., but, in any event, no later than July 31, 2015, MassHealth shall conduct and complete formal mandatory training through its training unit for all employees, and shall cause such training to be conducted for CSRs who have voter registration responsibilities. Such training may be a webinar or other interactive format, and shall, at a minimum, include the elements described in **Exhibit D** attached hereto. MassHealth anticipates conducting this initial training as a “live,” in-person training, but retains the discretion to use other interactive formats in certain limited circumstances, such as if an employee has missed the “live” training. Plaintiffs’ counsel shall be provided at least seven (7) business days advance notice and an opportunity to review and comment on the training materials for this formal mandatory training.
4. All training programs for new Eligibility Workers, CSRs and/or supervisors, including training programs for those who may transfer into these positions, shall include training regarding voter registration responsibilities under the NVRA and this Agreement. All such programs shall include, among other things, explanations of any applicable procedures and practices described in this Agreement. At a minimum, the training shall include the elements described in **Exhibit D**.
5. All Eligibility Workers, CSRs, and supervisors shall be required to participate in mandatory “annual refresher” training via interactive webinar (or similar interactive format) regarding their voter registration responsibilities under the NVRA and this Agreement. With the exception of the training conducted under Section III.E.3., MassHealth shall not be required to conduct its “annual refresher” trainings as a “live,” in-person training but may do so in its discretion. MassHealth shall use the training that occurs under Section III.E. 3. as a model for its mandatory “annual refresher” training regarding voter registration responsibilities, and such training shall count as the first “annual refresher” training regarding voter registration responsibilities. The “annual refresher” training shall incorporate a knowledge check, either as an online quiz or comparable test.
6. All other MassHealth employees having voter registration responsibilities shall be trained regarding those responsibilities that pertain to their job. Plaintiffs’ counsel shall be provided at least seven (7) business days advance notice and an opportunity to review and comment on any voter registration training materials, to the extent that they differ from the Eligibility Operations Memorandum (**Exhibit B**) and Job Aid and Script (**Exhibit C**).



7. MassHealth shall maintain a record of each employee's formal mandatory training history regarding the NVRA and this Agreement, conducted under Sections III.E.3. to III.E.5.. MassHealth shall ensure that its customer service vendor maintains a record of each CRS's formal mandatory training history conducted under such Sections.

**F. Monitoring**

1. *Data Collection*

For each month, the Statewide NVRA Coordinator shall compile the following data:

- a. the number of Covered Transactions by type of transaction as follows:
  - i. the number of in-office transactions, separately categorized as follows:
    - (1) in-office applications;
    - (2) in-office renewals; and
    - (3) in-office changes of address (including those dropped off at a Local MassHealth Office without interaction with an Eligibility Worker or CSR).
  - ii. the number of Remote Transactions, separately categorized as follows:
    - (1) telephone and online applications;
    - (2) applications made by mail and facsimile;<sup>7</sup>
    - (3) renewals made by mail or facsimile;<sup>8</sup>
    - (4) "automatic" renewals not requiring a Client response; and
    - (5) changes of address made by telephone (except that, once MassHealth implements the procedure set forth in Section III.B.3.e.iv., these data shall be replaced by the number of changes of address recorded in MassHealth's online application

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<sup>7</sup> This number shall be calculated by subtracting the number of in-office applications from the total number of paper applications (those submitted to a Local MassHealth office, or by mail or facsimile) processed through the online application portal.

<sup>8</sup> Until such time that MassHealth completes the transition from its legacy eligibility systems to the online application portal, which is anticipated to be completed in early 2016, all Client renewals that are not "automatic" shall be reported as applications.

portal without a corresponding application or renewal on the same date);

- b. for each Local MassHealth Office, a manual count of the number of Agency Voter Registration Applications filled out by Clients and other individuals in that Office that are transmitted to LEOs;
- c. from MassHealth's online application portal, the number of recorded "Yes" responses and "No" responses to the voter registration questions described in Section III.B.3.f.i.(2). (for telephone and online applications). Each telephone application shall be counted as a "Yes" response;
- d. from Mass IT, the monthly number of "automatic" voter registration mailings generated from MassHealth's online application portal pursuant to Section III.B.3.e.i.-ii. (*i.e.*, telephone applications and online applications);
- e. from Mass IT, the monthly number of voter registration mailings accompanying a renewal notice pursuant to Section III.B.3.e.iii. (including a notice that it is time to renew eligibility, and a notice that the Client's eligibility has been renewed without the need for a further response from the Client (*i.e.*, an "automatic" renewal notice));
- f. from MassHealth's customer service vendor, the monthly number of voter registration mailings generated as a result of changes of address made by telephone (except that, once MassHealth implements the procedure set forth in Section III.B.3.e.iv., this number shall be incorporated into Section III.F.1.d.).

2. *Review and Follow Up by Statewide NVRA Coordinator*

Except as otherwise specified below, the procedures described in this Section III.F.2. shall begin with the first month after the Effective Date and shall include the last month of the term of this Agreement.

- a. The Statewide NVRA Coordinator shall review, on a monthly basis, the following numbers:
  - i. the manual counts of Agency Voter Registration Applications filled out by Clients and other individuals at Local MassHealth Offices compared to the number of in-office Covered Transactions described in Section III.F.1.a.i. and III.F.1.b.;
  - ii. the number of "Yes" responses to the voter registration questions referenced in Section III.F.1.c. (including all telephone applications), compared to the number of the related mailings made by Mass IT described Section III.F.1.d.. After

the changes described in Section III.B.3.e.iv. are made, this comparison shall be replaced by a comparison of the sum of the number of changes of address and the “Yes” responses (including all telephone applications) to the number of related mailings made by Mass IT described in Section III.F.1.d.; and

iii. the number of changes of address made by telephone as described in III.F.1.a.ii.(5) compared to the number of related mailings made by MassHealth’s customer service vendor described in III.F.1.f. (except that, once MassHealth implements the procedure set forth in Section III.B.3.e.iv., these numbers shall be reported under Section III.F.2.a.ii. above).

b. Based on the review described in Section III.F.2.a., or based on information received from the SOC, the Statewide NVRA Coordinator shall: (i) identify potential issues that the Statewide NVRA Coordinator determines may suggest noncompliance with the voter registration requirements of the NVRA and/or this Agreement; (ii) follow up with the relevant Local MassHealth Office(s) to address all such issues; and (iii) as appropriate, correct all such issues in the relevant Local MassHealth Offices.

3. *Follow Up by Local MassHealth Offices*

If and when a Local NVRA Coordinator, or a Director or Assistant Director of a Local MassHealth Office, or any supervisor at MassHealth’s customer service vendor identifies, independently of other monitoring or reviews described in this Agreement, any issues that such person determines may suggest noncompliance with the voter registration requirements of the NVRA and/or this Agreement, such person shall follow up to address such issues, as appropriate, and shall report any remedial actions that are taken to the Statewide NVRA Coordinator.

4. *Quality Control Procedures*

a. MassHealth shall standardize Local MassHealth Office voter registration procedures, in compliance with the NVRA and this Agreement, so that each Local MassHealth Office is following the same procedures.

- b. No later than thirty (30) calendar days after the Effective Date, MassHealth shall implement the following quality control procedures to oversee compliance with the NVRA and this Agreement. No later than ten (10) business days before the procedures described in Section III.F.4.b.i, iii, and v. are finalized, MassHealth shall make available to Plaintiffs' counsel for review and comment documents memorializing such procedures. The quality control procedures shall consist of at least the following:
- i. at least once every one hundred eighty (180) calendar days, Mass IT shall conduct quality control tests to ensure that voter registration materials are included in each type of automated mailing required under Section III.B.3.e.;
  - ii. at least once every one hundred eighty (180) calendar days, supervisors at Local MassHealth Offices shall observe Eligibility Workers interacting with Clients during in-office Covered Transactions to ensure that offers of assistance are provided in compliance with Section III.B.5.;
  - iii. as stated in Section III.A.4., and subject to the limitations stated therein, the EPRS form for non-managerial employees with voter registration responsibilities shall include voter registration as a subcategory of the list of required responsibilities;
  - iv. at least once each calendar year, for each Local MassHealth Office, the Statewide NVRA Coordinator shall conduct a spot check to ensure that:
    - a. each Local MassHealth Office has adequate supplies of voter registration materials, based on the assessment of each Local MassHealth Office and the Statewide NVRA Coordinator of what constitutes adequate supplies;
    - b. "Register to Vote Here" posters (and other required postings) are easily visible at each Local MassHealth Office, and that Voter Registration Applications are available in the waiting room(s) and/or lobby(ies) of each Local MassHealth Office; and

- c. Local MassHealth Office waiting room(s) and/or lobby(ies) that contain televisions display information explaining how to register to vote at that Local MassHealth Office and offering voter registration assistance;
- v. for MassHealth's customer service vendor, MassHealth shall require that the vendor's audit procedures include review of whether the procedures regarding voter registration were followed. If such procedures were not or are not being followed, MassHealth shall require that remedial action be taken including, as appropriate, retraining or disciplinary action. MassHealth shall require that its vendor report instances of non-compliance and/or remedial actions to the Statewide NVRA Coordinator; and
- vi. if any instances of non-compliance in providing voter registration services are found during the quality control procedures set forth in this Section III.F.4., including without limitation any instances of non-compliance involving individual Eligibility Workers or CSRs, MassHealth staff shall refer such instances of non-compliance to the Statewide NVRA Coordinator for appropriate follow up or remedial action with the particular Local MassHealth Office, Eligibility Worker, or CSR. In addition, the Statewide NVRA Coordinator shall ensure that voter registration assistance or materials are provided to Clients who may not have received required voter registration services.

5. *Additional Quality Control*

- a. The Statewide NVRA Coordinator shall investigate any complaints made by, or on behalf of, Clients regarding voter registration services through Local MassHealth Offices and follow up and take remedial actions, as appropriate.
- b. The Statewide NVRA Coordinator shall take remedial action as MassHealth deems appropriate when it is determined that a MassHealth employee or employee of any customer service vendor contracted to conduct Covered Transactions on behalf of MassHealth is not complying with the voter registration requirements of the NVRA or this Agreement.

**G. Reporting to Plaintiffs' Counsel and the SOC**

1. *Single Reports*

- a. With the first monthly report described in Section III.G.2, MassHealth shall report to Plaintiffs' counsel the name of the Statewide NVRA Coordinator and the name of each Local NVRA Coordinator.
  - b. In the first report after any modifications have been made to the online application portal under Section III.B.3.f.iii., MassHealth shall provide to Plaintiffs' counsel screenshots of all such modifications.
2. Beginning with the first (1<sup>st</sup>) month after the Effective Date, and continuing through and including information about the last month of the term of this Agreement, MassHealth shall report to Plaintiffs' counsel (in an Excel spreadsheet) by the twentieth (20<sup>th</sup>) day of each succeeding month, and separately for each Local MassHealth Office, all of the information described in Section III.F.1.a-c.. If the Effective Date falls on a date after the middle of a month (*e.g.*, June 20, 2015), the first (1<sup>st</sup>) report shall include data beginning from the first (1<sup>st</sup>) day through the last day of the following month (*e.g.*, July 1-31, 2015), and shall be sent by the twentieth (20<sup>th</sup>) day of the month thereafter (*e.g.*, August 20, 2015).<sup>9</sup>
  3. Beginning with the first (1<sup>st</sup>) month after the Effective Date, and continuing through and including information about the last month of the term of this Agreement, MassHealth shall report to the SOC (in an Excel spreadsheet) by the twentieth (20<sup>th</sup>) day of each succeeding month, the total number of in-office Covered Transactions and Remote Transactions for that month.
  4. Beginning from the Effective Date and continuing through and including information about the last quarter of the term of this Agreement, in January, April, July, and October of each calendar year, MassHealth shall report to Plaintiffs' counsel the information listed below for each calendar quarter. Each report shall be provided on the twentieth (20<sup>th</sup>) day of the applicable month, and shall include information relating to the three (3) preceding months (*e.g.*, the October report shall include information relating to July – September). If the Effective Date falls on a date after the middle of a month (*e.g.*, June 20, 2015), the first (1<sup>st</sup>) report shall include information pertaining to the three (3) months following the end of that month (*e.g.*, July-September 2015), and shall be provided by the twentieth (20<sup>th</sup>) day of the next month (October 20, 2015). The last report provided to Plaintiffs' counsel under this Agreement shall cover the period up to and including the last month of the term of this Agreement, but not any period following the last month. Each report shall contain information regarding:

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<sup>9</sup> Reports of information under III.G.2.-3. pertaining to the months beginning with the Effective Date through and including December 2015 may be included in the quarterly reports described in Section III.G.4.

- a. changes in the Statewide or Local NVRA Coordinators that occurred during the preceding calendar quarter;
  - b. new or different policies or procedures adopted during the term of this Agreement regarding voter registration requirements of the NVRA and/or this Agreement;
  - c. each Local MassHealth Office at which “follow up” activities related to voter registration procedures and/or practices occurred, as described in Section III.F.2. and 3., together with a description of all such “follow up” and/or remedial actions taken by or on behalf of MassHealth;
  - d. the occurrence and results of quality control tests performed by Mass IT during the preceding calendar quarter pursuant to Section III.F.4.b.i.;
  - e. the occurrence and a summary of results and follow up, if any, of the quality control procedures described in Sections III.F.4.b.ii, iv, v and III.F.5., as well as any “follow up” actions determined to be appropriate by the Statewide NVRA Coordinator based on quality control procedures;
  - f. all of the information described in Section III.F.1.d-f..
- 5. Consistent with the Massachusetts Fair Information Practices Act and other applicable laws, any information provided to Plaintiffs’ counsel under this Section III.G. shall exclude all personal data or other identifying information of any Client.
  - 6. The reports described in this Section III.G. shall be sent to the following contact persons on behalf of Plaintiffs, or such alternative persons designated by Plaintiffs: Lisa Danetz (ldanetz@demos.org), Eugene Morgulis (eugene.morgulis@ropesgray.com), Catherine Flanagan (cflanagan@projectvote.org). The contact individual for MassHealth and EOHHS shall be Caroline Cai (caroline.cai@state.ma.us)..

#### **IV. Substantive Provisions as to EOHHS**

##### **A. Virtual Gateway**

- 1. By no later than ninety (90) calendar days after the Effective Date, EOHHS, through its Information Technologies (IT) function, shall make available a Mail-In Voter Registration Application that is pre-coded with DTA’s Agency Code for download on the Virtual Gateway portal for self-service applicants for DTA-administered Supplemental Nutrition Assistance Program (“SNAP”) benefits.

2. By no later than ninety (90) calendar days after the Massachusetts online voter registration system becomes operational, EOHHS, through its Information Technologies (IT) function, shall incorporate a link to such system on the Virtual Gateway portal for self-service applicants for DTA-administered SNAP benefits. If the SOC creates a unique online voter registration URL for DTA, EOHHS shall replace the existing URL for online voter registration with such URL within ninety (90) calendar days after such URL becomes operational
3. Within fifteen (15) calendar days after Virtual Gateway has been modified under Section IV.A.1. and 2., EOHHS shall report such modification and provide screenshots of all such modifications to Plaintiffs' counsel.

**B. Annual Reminder**

1. In or around January of each calendar year during the term of this Agreement, but at least once each calendar year, EOHHS shall send a reminder to all Voter Registration Agencies within EOHHS as well as those Voter Registration Agencies listed in the second paragraph of G.L. c. 6A, § 16, reminding those Agencies of their obligations to perform their responsibilities under Section 7 of the NVRA, in connection with all applications for benefits, renewals or recertifications, and changes of address.

Such reminders shall advise that:

- a. the Agencies must distribute Voter Registration Applications, provide assistance, and transmit filled-out Voter Registration Applications to LEOs;
  - b. the details of such advice can be found in the SOC's Voter Registration Workbook for Agencies;
  - c. the Agencies should take reasonable measures to ensure compliance with the law;
  - d. the Agencies should cooperate with the SOC upon the SOC's request, with regard to voter registration issues, including by providing SOC with copies of voter registration policies and procedures and training materials for review and comment by SOC; and
  - e. the SOC is available for consultation regarding any voter registration issues.
2. Upon issuance of the EOHHS reminder notice, EOHHS shall provide Plaintiffs' counsel with a copy.



**V. Dismissal and Releases**

- A. After the Execution Date, Plaintiffs and Defendants MassHealth and EOHHS shall promptly file a joint motion requesting the Court to enter the [Proposed] Order of Final Judgment, in the form attached hereto as **Exhibit E**.
- B. Plaintiffs fully, finally and forever release, relinquish, discharge, and waive any and all claims against MassHealth that are asserted or could have been asserted in the Amended Complaint in this Action filed on March 17, 2014 (Doc. No. 143), or that are based or could be based on Section 7 of the NVRA, from the beginning of time until the end of the term of this Agreement, including any and all claims for injunctive or declaratory relief.
- C. Plaintiffs fully, finally and forever release, relinquish, discharge, and waive any and all claims against EOHHS relating to DTA and MassHealth only that are asserted or could have been asserted in the Amended Complaint in this Action filed on March 17, 2014 (Doc. No. 143) or that are based or could be based on Section 7 of the NVRA, from the beginning of time until the end of the term of this Agreement, including any and all claims for injunctive or declaratory relief.

**VI. Term**

- A. This Agreement shall take effect on the Effective Date and shall remain in full force and effect through July 31, 2018.
- B. Without affecting the finality of the [Proposed] Order of Final Judgment, the Court shall retain jurisdiction, during the term of this Agreement, to adjudicate noncompliance motions and resolve disputes arising under this Agreement, all under the procedures set forth in Section VII.

**VII. Dispute Resolution Procedures**

If, at any time during the term of this Agreement, Plaintiffs believe that MassHealth or EOHHS is not in compliance with any one or more of its obligations under this Agreement, the parties shall follow the dispute resolution procedures set forth in this Section VII.

- A. Plaintiffs shall notify MassHealth and/or EOHHS in writing of any alleged noncompliance with this Agreement and shall request a meeting with MassHealth and/or EOHHS for the purpose of attempting to remedy such alleged noncompliance. Plaintiffs and MassHealth shall meet within thirty (30) calendar days of such notification of such alleged noncompliance.

- B. If Plaintiffs are not satisfied that such alleged noncompliance has been remedied, at any time after sixty (60) calendar days after Plaintiffs notified MassHealth and/or EOHHS of such alleged noncompliance, Plaintiffs may file a motion with the Court seeking a judicial determination that MassHealth and/or EOHHS is not substantially complying with this Agreement. Within thirty (30) calendar days of the filing of such motion, MassHealth and/or EOHHS shall file its response to such motion. If the Court finds that MassHealth and/or EOHHS has not substantially complied with this Agreement, it may enter an order consistent with equitable principles, but not an order of contempt, that is designed to achieve compliance by MassHealth and/or EOHHS with this Agreement.
- C. If Plaintiffs believe that MassHealth and/or EOHHS has not complied with an order entered pursuant to this Section VII, Plaintiffs may, after reasonable notice to MassHealth and/or EOHHS, move for further relief from the Court to obtain compliance with the Court's prior order.
- D. Notwithstanding anything in this Section VII to the contrary, if Plaintiffs believe that MassHealth and/or EOHHS is not substantially complying with any one or more of its obligations under this Agreement within ninety (90) calendar days before the expiration of the term of this Agreement, Plaintiffs may file a noncompliance motion with the Court without following the dispute resolution procedures set forth in this Section VII. Within fourteen (14) calendar days of the filing of such a motion, MassHealth and/or EOHHS shall file its response to such motion. Such a motion may include a request for an interim order for the extension of the terms of the specific provisions of this Agreement that Plaintiffs believe that MassHealth and/or EOHHS is not substantially complying with pending a ruling on such a motion. If the Court finds that MassHealth and/or EOHHS is not in substantial compliance, the Court may, even after the expiration of the term of this Agreement, extend the terms of those provisions of this Agreement as to which MassHealth and/or EOHHS is not in substantial compliance for such time as is necessary for MassHealth and/or EOHHS to obtain substantial compliance. Except as provided in this Section VII, the term of this Agreement and the Court's jurisdiction over this Agreement shall terminate as provided in Section VI.
- E. This Agreement may be enforced only by Plaintiffs. Nothing contained in this Agreement is intended to confer any rights or remedies on any person other than the parties hereto.

## **VIII. Attorneys' Fees, Expenses and Costs**

- A. Except as provided in Section VII.C, the payment made by DTA pursuant to Section VII.A. of the DTA Settlement Agreement shall constitute the full compromise and settlement of all claims for attorneys' fees and litigation expenses and costs related to this Action: (i) that Plaintiffs have, as of the Execution Date of this Agreement against MassHealth and EOHHS; and (ii) that Plaintiffs might have made against MassHealth and EOHHS for activities occurring after the Execution Date of this Agreement, including without limitation for activities to obtain the [Proposed] Order of Final Judgment (**Exhibit E**), or to monitor the implementation of, and MassHealth's and EOHHS's compliance with, this Agreement. This Agreement is not an admission or evidence that any Defendant is liable to Plaintiffs for the payment of attorneys' fees and litigation expenses or costs in, or related to, this Action, but rather represents only the compromise and settlement of a disputed claim.
- B. The compromise and settlement of Plaintiffs' claim for attorneys' fees and litigation expenses and costs against any Defendant shall not establish, or be evidence of: (1) a "reasonable" hourly rate for Plaintiffs' counsel or any other counsel; (2) the "reasonableness" of any legal services or activities performed by Plaintiffs' counsel in this or any other action; or (3) the "reasonableness" of any item of litigation expenses or costs in this or any other action.
- C. If Plaintiffs file a noncompliance motion following the dispute resolution procedures set forth in Section VII and prevail, Plaintiffs shall be entitled to request attorneys' fees and litigation expenses and costs related to litigating the claim of noncompliance. Plaintiffs shall only be considered to have prevailed for purposes of this subsection if the Court makes a finding of substantial noncompliance under Section VII.B above. If Plaintiffs seek attorneys' fees and litigation expenses and costs under this Section VIII.C., they shall first submit their request to MassHealth or EOHHS. If MassHealth or EOHHS and Plaintiffs cannot agree on the amount to be paid within thirty (30) calendar days following the submission of the request, the dispute shall be submitted to the Court for formal resolution.

## **IX. Additional Provisions**

- A. *Entire Agreement:* This Agreement contains all the agreements, conditions, promises and covenants between Plaintiffs and MassHealth and EOHHS, and their respective counsel, regarding matters set forth in this Agreement and supersedes all prior or contemporaneous agreements, drafts, representations or understandings, either written or oral, with respect to the subject matter of this Agreement.

- B. *Binding Effect:* Plaintiffs and MassHealth and EOHHS represent and warrant that they have authority to enter into this Agreement and that this Agreement shall be binding upon, and inure to the benefit of, their successors and assigns. Each of the persons executing this Agreement on behalf of a Plaintiff or MassHealth or EOHHS represents and warrants that he or she has the authority to do so.
- C. *Written Modification:* Plaintiffs or MassHealth or EOHHS may not modify any provision of this Agreement, except by written consent of Plaintiffs and MassHealth and EOHHS. However, the deadlines for submitting data and reports to Plaintiffs' counsel pursuant to Section III.G above may be modified by written consent of Plaintiffs and MassHealth, or their respective counsel.
- D. *Interpretation:* Plaintiffs and MassHealth and EOHHS have participated in the drafting of this Agreement and, accordingly, any claimed ambiguity shall not be presumptively construed for or against any Plaintiff or MassHealth or EOHHS.
- E. *Force Majeure:* MassHealth and EOHHS shall not be subject to any noncompliance motion for failure to perform under this Agreement, and any such failure shall not be considered a breach of or noncompliance with any provision of this Agreement, if such failure results directly from any act of God, riot, war, civil unrest, flood, or earthquake.
- F. *Waiver of Appeals:* Plaintiffs and MassHealth and EOHHS waive any right to appeal or collaterally attack the [Proposed] Order of Final Judgment, if entered in the same form attached hereto as **Exhibit E**.
- G. *Execution:* This Agreement may be executed in counterparts, each of which shall constitute an original instrument and all of which together shall constitute one and the same Agreement. This Agreement shall have no legal effect, and shall not be enforceable, until it is executed by all parties to the Agreement and signature pages are exchanged.
- H. *No Consent Decree:* This Agreement shall not constitute, be construed as, or otherwise be incorporated into a consent decree or other order of the Court.
- K. *If No Entry of Proposed Order by Court:* If the Court does not enter the [Proposed] Order of Final Judgment in the form attached hereto as **Exhibit E**, either Plaintiffs or MassHealth or EOHHS may determine, in their or its absolute judgment, that this Agreement is null and void and of no force or effect. Such a determination will be effective only if conveyed in writing to the other parties within ten (10) business days of entry of the order of judgment. In that event, nothing herein shall be deemed to prejudice the position of any Plaintiff or MassHealth or EOHHS with respect to this Action or otherwise, and neither the existence of this Agreement, nor any of its provisions, or any of the negotiations or proceedings leading to this Agreement, shall be admissible in evidence, referred to for any purpose in this Action or in any other litigation or proceeding, or construed as an admission, presumption or concession by any Plaintiff or

MassHealth or EOHHS of any liability or the truth of any of the allegations or defenses raised in this Action.

*Plaintiff:*

New England Area Conference of the  
National Association for the Advancement  
of Colored People

By,

A handwritten signature in blue ink, appearing to read 'Juan Cofield', written over a horizontal line.

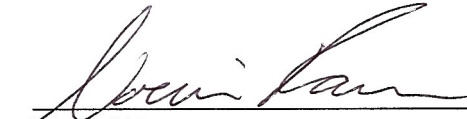
Juan Cofield  
President

Dated: June 16, 2015

*Plaintiff:*

New England United for Justice

By,



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Noemi Ramos  
Executive Director

Dated: June 16, 2015

*Defendant:*

Daniel Tsai, in his official capacity as Director of the Office of Medicaid (Massachusetts)



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Daniel Tsai

Dated: 6/15, 2015

*Defendant:*

Marylou Sudders, in her official capacity as Secretary of the Executive Office of Health and Human Services

A handwritten signature in cursive script, appearing to read 'M Sudders', written in black ink.

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Marylou Sudders

Dated: 6/15/, 2015



## **EXHIBIT A**

### **IMPORTANT INFORMATION ABOUT VOTER REGISTRATION**

Dear Applicant or Member:

You are receiving this letter because your recent interaction with MassHealth entitles you to voter registration materials under the National Voter Registration Act of 1993 (“NVRA”). **A voter registration application is enclosed.**

If you are a U.S. citizen and want to register to vote, fill out the enclosed voter registration application and send it to the local election official in your city or town, or deliver it to a MassHealth Enrollment Center or any MassHealth office. If you are not a U.S. citizen, you are not eligible to vote and you should not fill out a voter registration application.

**If you have any questions about how to register to vote, or if you need help filling out a voter registration application, call one of the telephone numbers listed below or speak with an Eligibility Worker at a MassHealth Enrollment Center.** The MassHealth Enrollment Center locations can be found at [www.mass.gov/masshealth](http://www.mass.gov/masshealth) (click on “Contact Us Information for MassHealth Applicants and Members”).

MassHealth Customer Service Center: 1-800-841-2900 (TTY: 1-800-497-4648 for people who are deaf, hard of hearing, or speech disabled)

In addition to a voter registration application, a Voter Preference (“Declination”) Form is also enclosed on the back side of this notice. As required by the NVRA, this form is distributed with the voter registration application and contains important information about the voter registration process. You do **not** need to send the Massachusetts Voter Preference Form back to MassHealth or to your local election official, but you may want to keep it for future reference.

## EXHIBIT B



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
[www.mass.gov/masshealth](http://www.mass.gov/masshealth)



Eligibility Operations Memo X-X  
\_\_\_\_\_, 2015

TO: MassHealth Eligibility Operations Staff

FROM: \_\_\_\_\_, \_\_\_\_\_

RE: **MassHealth Responsibilities under the National Voter Registration Act and the Help America Vote Act**

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### **Introduction**

This memo outlines the procedures MassHealth must use to ensure that MassHealth applicants and members are offered the opportunity to register to vote, and assistance in doing so, as required by the National Voter Registration Act (NVRA), the Help America Vote Act, and related state law. This memo also identifies the appropriate forms to be used in association with the voter registration process and related retention requirements.

This memo replaces Eligibility Operations Memo 12-07, issued November 1, 2012.

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### **Voter Registration**

Under federal law, MassHealth is required to offer applicants and members an opportunity to register to vote, and assistance in doing so, and to maintain records verifying this process. MassHealth is responsible for offering voter registration opportunities and assistance to applicants and members at application, annual redetermination, or change of address. In addition, MassHealth must provide the same degree of help in filling out the voter registration form as is offered with a MassHealth application or review form.

MassHealth may not coerce anyone to register to vote or attempt to persuade anyone to make any particular voting choices. No statements or actions by MassHealth should lead the individual to believe MassHealth benefits or services will be affected by the individual's decision about whether to register to vote.

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<b>Voter Eligibility</b>	<p>MassHealth is not responsible for determining an individual's eligibility for voter registration. The local election official determines the registration status and mails an Acknowledgement Notice to every applicant with information that may include registration status and location of the polling place.</p> <hr/>
<b>Voter Registration Materials</b>	<p>Each MassHealth Enrollment Center (MEC) must have the following voter registration material:</p> <ul style="list-style-type: none"><li>• Declination Forms;</li><li>• Forms entitled, "Important Information About Voter Registration"</li><li>• Massachusetts Official Voter Registration Forms (sometimes referred to as voter registration affidavits);</li><li>• Massachusetts Official Mail-In Voter Registration Forms;</li><li>• Secretary of the Commonwealth's Voter Registration Workbook; and</li><li>• Secretary of the Commonwealth's Agency Voter Registration Order Sheet</li></ul> <hr/>
<b>Posting Requirement</b>	<p>The following items must be posted at all MECs:</p> <ul style="list-style-type: none"><li>• A copy of M.G.L., chapter 56, sections 7, 8, and 9; and</li><li>• A "Register to Vote Here" poster.</li></ul> <hr/>
<b>Declination Form</b>	<p>A "Declination Form," provided by the Secretary of the Commonwealth's Office, is required by the NVRA and MEC staff must offer it to every individual who applies for coverage, redetermination of coverage, or a change of address at a MEC. MassHealth must keep Declination Forms for at least 22 months after the first federal election that occurs following the date on which the form is submitted, and thereafter as specified by applicable state document retention policies.</p> <p><b>Part A:</b> This part states the individual's choice about voter registration, such as if he or she would like to register or is already registered. If the individual needs to change a registered name, address, or party enrollment, he or she should answer "Yes."</p> <p><b>Part B:</b> This part of the form does not record the name of the applicant or member, but the eligibility worker records the applicant or member's response to the question in Part A. Part B becomes an agency record.</p> <p><b>Part C:</b> This is the copy for the applicant or member. If meeting with the applicant or member in person at a MEC office, the MEC staff must detach and give it to every individual who applies for coverage, redetermination of coverage, or a change of address, regardless of whether the individual completes Part A.</p>

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**Important  
Information  
About Voter  
Registration**

The form entitled, "Important Information About Voter Registration," is required by the NVRA and MassHealth will include it with every mailing of voter registration materials following telephone applications and changes of address, and accompanying notices about redeterminations of coverage.

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**Voter Registration  
Forms**

There are two official voter registration forms.

The Massachusetts Official Voter Registration Form (also referred to as the voter registration affidavit) is currently a two-part form. It is offered to and completed by an individual who wants to register to vote or change a name, address, or party enrollment in person while in the MEC. The Massachusetts Official Voter Registration Form is available in English, Spanish, and Chinese.

The Massachusetts Official Mail-In Registration Form is available in English, Spanish, Russian, Chinese, Vietnamese, Portuguese, Haitian-Creole, Cape Verdean, and Khmer. Each MEC must maintain sufficient supplies of each, depending on the needs of the communities served. The Massachusetts Official Mail-In Registration Forms available at each MEC will be pre-coded with MassHealth's agency code.

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**Voter Registration  
Process at the MEC**

If the individual completes the two-part Massachusetts Official Voter Registration Form, MEC staff must give the individual the second page (yellow sheet) along with Part C of the Declination Form. The yellow sheet is the only proof that the individual has filled out the registration form until the local election official receives the original copy from MassHealth.

**Information to help individuals complete specific sections of the  
Massachusetts Official Voter Registration Form**

Sections 1 -- If you have knowledge that an individual is not a U.S. Citizen, inform the individual that only U.S. citizens can register to vote and do not provide assistance in completing the voter registration application.

- Section 2 and 3 – self-explanatory
- Section 4 – must **not** provide a post office box. If the individual has no traditional address, e.g. is homeless, s/he should refer to the map at the top of the form to indicate the location at which s/he usually spends the night.

- Sections 5 and 6 – self-explanatory.  
**Note:** A post office box may be provided for Section 5.
- Section 7 – identification number
  - federal law requires a valid and current Massachusetts driver's license to register to vote; or
  - if no license, the last four digits of the social security number; or
  - if neither, "none" must be entered in the box
- Sections 8 and 9 – self-explanatory  
**Note:** It is not appropriate for MEC staff to explain or help the individual choose the party enrollment.
- Section 10 – if never registered to vote, leave this section blank
- Section 11 – if physically unable to complete the form, the assisting person **must** complete the form, sign it, and record his or her name on the form. A telephone number is optional.
- Sections 12 through 14 – self-explanatory
- Agency Designation Code – enter the code **BBA**.

MassHealth staff must enter the code **BBA** in the Agency Designation Code section in the lower right of the two-part Massachusetts Official Voter Registration Form. The Massachusetts Official Mail-In Registration Form is pre-printed with MassHealth's Agency Designation Code.

MEC staff must mail the Massachusetts Official Voter Registration Form to the appropriate city or town local election official within five calendar days after the individual completes the form. The mailing address for each city and town is listed on the Massachusetts City and Town Directory page of the Secretary of the Commonwealth's Elections Division website at [www.sec.state.ma.us/ele/electclk/clkidx.htm](http://www.sec.state.ma.us/ele/electclk/clkidx.htm).

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### **Voter Registration Process for Remote Transactions**

Individuals who apply for coverage, annual redetermination of coverage, or change of address through remote means (online, telephone, mail/fax) must also receive voter registration services from MassHealth. For those applying for coverage online, MassHealth now offers voter registration opportunities through the online application portal at [www.mahealthconnector.org](http://www.mahealthconnector.org). All paper MassHealth application packets contain a Massachusetts Official Mail-In Voter Registration Form and information contained on the Declination Form. Annual renewal mailings include a Massachusetts Official Mail-In Voter Registration Form and Important Information About Voter Registration Form. And, whenever an individual submits a telephone application or requests a change of address by any means, MassHealth will automatically mail the member or applicant a Massachusetts Official Mail-In Voter Registration Form and the Important Information About Voter Registration Form.

The attached Job Aid contains detailed Voter Registration Processes for Maximus and the MECs for serving walk-in customers, taking phone applications, processing paper applications, and taking incoming phone calls with address changes,. The job aid includes specific steps for MEC receptionists and specific steps for MEC eligibility workers and Maximus CSRs. Also attached are scripts that MEC staff and Maximus staff must follow when interacting with members and applicants regarding the voter registration process.

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**Record Keeping**

Each MEC must mail the *original* completed Declination Forms to the Electronic Document Management Center (EDMC) and also mail *copies* of completed voter registration forms to the EDMC on a weekly basis. EDMC staff will scan and store them electronically.

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**Attachments**

The following documents are included with this memo:

- Declination Form;
  - “Important Information About Voter Registration” Form
  - Massachusetts Official Voter Registration Form (sometimes referred to as voter registration affidavit);
  - Massachusetts Official Mail-In Voter Registration Form;
  - Job aid;
  - Scripts for Maximus and MECs, and
  - Copy of M.G.L., chapter 56, sections 7, 8, and 9.
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**Questions**

If you have any questions about this memo, please have your MEC designee contact the Policy Hotline email at [MassHealthHelp@MassMail.State.MA.US](mailto:MassHealthHelp@MassMail.State.MA.US).

## Voter Registration Requirements

### OVERVIEW

Under the National Voter Registration Act (NVRA), the Help America Vote Act and related state law, MassHealth is required to offer applicants and members an opportunity to register to vote and assistance in doing so. MassHealth is further required to maintain records verifying this process.

MassHealth is responsible for offering voter registration opportunities and assistance to applicants and members upon application for coverage, redetermination, or change of address. In addition, MassHealth must provide the same degree of help in filling out voter registration forms as is offered with a MassHealth application or review form.

MassHealth may not coerce anyone to register to vote or attempt to persuade anyone to make any particular voting choices. No statements or actions by MassHealth should lead the individual to believe MassHealth benefits or services will be affected by the individual's decision about whether to register to vote.

### VOTER REGISTRATION FORMS

- **Declination Form**

Required by the NVRA, MEC/CPU staff must provide it to every individual who applies for coverage as well as at redetermination or a change of address occurring at a MEC.

- **“Important Information About Voter Registration” Form**

Required by the NVRA, MEC/CPU staff must include it as part of every voter registration mailing connected to telephone applications, renewals, and changes of address.

**NOTE:** ACA/SACA application packets include the Mail-in Voter Registration form and the information contained in the Declination Form. There is no need to include the Important Information About Voter Registration Form in a mailing that contains the ACA/SACA application packet.

- **Massachusetts Official Voter Registration Form**

Completed by an individual who wants to register to vote or update his or her registration due to a change of name, address, or party enrollment in person while in a MassHealth office. This is a small form with multiple colored copies.

- **Mail-In Voter Registration Form**

Completed by individuals who wish to fill out a Voter Registration form outside a MassHealth Office. This form must be included with any mailed application or review form. This is an 8 ½ by 11 two sided card stock form.

### MEC/MAXIMUS WALK-IN PROCEDURES:

#### **MEC/Maximus Receptionist**

- If the “walk-in” member/applicant drops off a change of address document such as a new utility bill or a note with his/her name and new address written on it, the MEC/Maximus receptionist must explain that if the member/applicant wishes to register to vote, the individual can do so at the office and can get help if needed, or the individual can take home a voter registration form. Explain that MassHealth will mail the voter registration form to the appropriate local election official if it is completed in the office. If the individual wants to register to vote at the office, provide a Massachusetts Official Voter Registration Form (if help is requested, refer the individual to an eligibility worker). If the individual asks to take a form home to fill out later, provide a Mail-in Voter Registration form. The MEC/Maximus receptionist must enter the member's name and the reason for the visit (to report an address change) on the walk-in tracking log. The MEC/Maximus receptionist puts the reported address change document in a designated box for work to be mailed to the EDMC.
- If the “walk-in” member/applicant asks to see an eligibility worker, the MEC/Maximus receptionist must record the member/applicant's name and reason for visit on the walk-in tracking log, specifying whether the member/applicant is there for help applying, for help reapplying, for help changing an address, or for assistance with another issue. The MEC/Maximus receptionist must provide the member/applicant a Declination Form and ask the member/applicant to complete it while

waiting for the eligibility worker and then hand the completed form to the eligibility worker.

### **Eligibility Worker/Customer Service Representative (CSR)**

- Upon welcoming the member/applicant into the interview room, the eligibility worker/CSR asks for the completed Declination Form and reviews it.
- If, in Part A of the Declination Form, the member/applicant checked off “No” or “Already registered where I live now”, no further action is needed. The eligibility worker/CSR completes Part B of the Declination Form and enters the member/applicant name, DOB and Medicaid ID on the top of the form. Tear off and hand the member/applicant Part C.
- If the member/applicant did not complete Part A of the Declination Form, the eligibility worker/CSR will ask the member/applicant to complete the form, and provide assistance in doing so if requested. If the member/applicant does not wish to complete the Declination Form but asks to take a voter registration form home to fill out later, provide a Mail-in Voter Registration form. If the eligibility worker/CSR knows that the member/applicant is not a U.S. citizen, explain that only U.S. citizens can register to vote, and do not provide a voter registration form or assistance in filling it out.
- If, in Part A of the Declination Form, the member/applicant checked off “Yes”, the eligibility worker/CSR will give the Massachusetts Official Voter Registration Form to the member and ask him/her to complete it, offering assistance if needed, and explaining that if the individual completes the form while at the office, MassHealth will mail the form to the appropriate election official. The eligibility worker/CSR will explain that an individual must be a U.S. citizen and 18 at the time of the next election in order to register to vote, unless the eligibility worker/CSR knows that the individual meets these qualifications. If the member/applicant indicates that he or she would prefer to complete a voter registration form at home, provide a Mail-in Voter Registration form. If the eligibility worker/CSR knows that the member/applicant is not a U.S. citizen, do not provide a voter

registration form or assistance in filling it out. The eligibility worker/CSR completes Part B of the Declination Form and enters the member name, DOB and Medicaid ID on the top of the form. Tear off and hand the member/applicant Part C.

- If a member/applicant has completed the Massachusetts Official Voter Registration Form in the office, the eligibility worker/CSR must write the code “BBA” in the box at the bottom right corner of the form, and then give the individual the second page (yellow sheet). The yellow sheet is the only proof that the individual has filled out the registration form until the local election official receives the original copy from MassHealth.
- At the end of the interview, the eligibility worker/CSR will return the Declination Form and the Massachusetts Official Voter Registration Form, if completed, to the front desk receptionist for delivery to the appropriate Local Election Official and the EDMC.

### **Clerical Supervisor or Designee**

Once per day, the clerical supervisor or designee will photocopy the completed voter registration forms and mail the originals to the appropriate city or town clerk’s office/local election office. Before photocopying, the clerical supervisor or designee will make sure that the code “BBA” is written on the bottom right corner of each completed voter registration form. The mailing address for each city and town is listed on the Massachusetts City and Town Directory page of the Massachusetts Election Division Web site at [www.sec.state.ma.us/ele/eleclk/clkidx.htm](http://www.sec.state.ma.us/ele/eleclk/clkidx.htm).

Once per week, the clerical supervisor or designee should mail out all original Declination Forms and copies of completed voter registration forms to the EDMC at the following address:

EDMC  
P.O. Box 4405  
Taunton, MA 02780



# Voter Registration Requirements

## MEC/MAXIMUS– TELEPHONE PROCEDURES

### • Requests for Paper Applications

If an individual requests an application (ACA/SACA), the CSR must mail the ACA/SACA application packet, which includes a copy of the Mail-in Voter Registration form and information contained in the Declination Form.

### • Renewals/Review Forms

If a member calls to request an Eligibility Review form (ERV/MER) the Mail-In Voter Registration form and Important Information About Voter Registration Form must be included in the mailing. The CSR must add a note in the Maximus Customer Relationship Management System (CRM), MassServe, that a Mail-in Voter Registration form was sent and the date it was sent.

### • Address Changes

If a member calls to report a change of address, the CSR will record the call as an address change call in MassServe and transfer the call to the MEC if the member is in the MA-21 system. If the member is in the HIX, or has referred eligibility from another agency, the CSR will process the reported change of address. When processing the reported change of address in the HIX, the CSR will not answer the voter registration question at the end of the application but intentionally leave it blank.<sup>1</sup> Before transferring the call or processing the address change, the CSR must inform the member that MassHealth will be sending a mailing with a voter registration application and instruction on how to fill it out. Maximus will then mail a Mail-in Voter Registration form and the Important Information About Voter Registration Form to all households who report a change of address over the phone, and make a note in MassServe that a Mail-in Voter Registration form was sent and the date it was sent.

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<sup>1</sup> This is to ensure that the online application voter registration yes/no numbers do not include address changes but just include applications and renewals. Maximus will mail the voter registration application to these individuals.

## TELEPHONE APPLICATION PROCEDURES

As the Maximus CSR completes the phone application for the applicant, the CSR must inform the member that MassHealth will be sending a mailing with a voter registration application and instruction on how to fill it out. **The CSR must then click “yes” to the voter registration question that appears below the application signature** (“If you are not registered to vote where you live now and you are eligible to register to vote, would you like to apply to register to vote today?”). The clerical unit at one of the local MassHealth offices will then send all phone applicants a Mail-in Voter Registration form and the Important Information About Voter Registration Form based on a daily mail file that is generated by the Online Application Portal.

## PAPER APPLICATION/REVIEW FORM PROCEDURES

As the eligibility worker enters a paper application or paper renewal application, he/she MUST leave the answer to the voter registration question on the HIX blank, even if the applicant answered it on the paper application/renewal application (next to the signature page). Since all application packets contain a Mail-in Voter Registration Form, there is no need to mail another form to those who answer “yes” to the voter registration question.

## PAPER ADDRESS CHANGE PROCEDURES

As the eligibility worker processes a paper address change that is not accompanying an application or renewal application, he/she must do the following: Address a voter registration packet (that will be pre-packaged by each MEC’s clerical unit) to the head of household and put it in the outgoing mail box at the MEC at the end of the day. This voter registration packet will have an Important Information About Voter Registration Form and a voter registration form to complete and return to the household’s local election official. If the address change is being entered in the HIX, the eligibility

worker will not answer the voter registration question at the end of the application but intentionally leave it blank.<sup>2</sup>

### **CPU/EDMC RESPONSIBILITIES:**

#### **Mail in Voter Registration Forms-**

The Mail-in Voter Registration form will be included with every application or review mailing. Applicants/members may return the Mail-in Voter Registration to MassHealth when submitting their application or review.

Preppers at the CPU and EDMC must review applications and reviews to check for the Voter Registration form. If the applicant/member returned the Mail-in Voter Registration form with the application/review:

1. Remove the voter registration forms from the application
2. Photocopy the form
3. Send the original Mail-in Voter Registration form to the appropriate local election official's office. Mail a copy of the voter registration form to the EDMC on a weekly basis where it will be stored electronically.

#### **Declination Forms-**

All Declination Forms received at the MECs, CPU or Maximus must be mailed to and stored at the EDMC electronically on a weekly basis, after the eligibility worker enters the Member Name, DOB and Medicaid ID at the top of the form.

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<sup>2</sup> This is to ensure that the online application voter registration yes/no numbers do not include address changes but just include applications and renewals.

## EXHIBIT C-2

### **Voter Registration Scripts for MassHealth Enrollment Centers (MECs) and MassHealth Customer Service Center (Maximus)**

#### **Script for MEC/Maximus Voter Registration Walk-in Procedures**

##### **MEC/Maximus Receptionist Script to Read to Client:**

- Whenever a member/applicant asks to see an eligibility worker, the receptionist will take the member/applicant's name and reason for visit and provide him/her a voter preference ("declination") form and say: ***"Please complete Part A of this form while waiting to see the eligibility worker (or customer service representative). Please make sure to hand him or her the completed form."***
- Whenever a customer/member, without meeting with an Eligibility Worker, drops off a change of address document such as a utility bill or a note with their new address written on it, and the document is not accompanied by an application or review form, the receptionist will say: ***"If you want to register to vote today, you can complete a voter registration form here at the office, and get help if you need it. Or you can take one home. If you complete the form here, MassHealth will mail it to your local election official."***
- If the customer/member wants to register to vote in the office, the receptionist will hand the person a Massachusetts Official Voter Registration application and say: ***"Here is the voter registration form to fill out here at the office. Please take a few minutes to complete it and once you complete it, you can leave it with me. If you need help completing the form, you can meet with an eligibility worker (or customer service representative)."***

##### **Eligibility Worker/CSR Script to Read to Client:**

- Whenever a member/applicant hands the eligibility worker/CSR the completed voter preference ("declination") form and Part A is answered "no" or "Already registered where I live now", no further action is needed and the eligibility worker/CSR will say: ***"Thank you for completing the declination form. I will quickly complete Part B, put some information on the top of the form and then give you Part C to take home."*** Tear off and give the member/applicant Part C of the declination form.
- Whenever a member/applicant hands the eligibility worker/CSR the declination form and Part A is not completed, the eligibility worker/CSR will say: ***"Please complete Part A in this form and then hand it to me. I can help you complete Part A if you would like."*** If the member/applicant requests assistance, the eligibility worker/CSR will say: ***"If you are not registered to vote where you live now and you are eligible to register to vote, would you like to apply to register to vote here today? Yes? No? or Already registered where you live now? I will enter today's date and please sign here."*** Once completed with Part A, the

eligibility worker/CSR will complete Part B, put the member's/applicant's name, DOB and Medicaid ID (if have one) on the top of the form and then give the member/applicant Part C of the declination form (if the member/applicant responds "yes" to the question on the declination form, provide the Massachusetts Official Voter Registration form and follow the procedure below).

- If the member/applicant does not wish to complete the declination form but requests a voter registration form to take home with him/her, the eligibility worker/CSR will give the member/applicant a mail-in voter registration form and say the following: ***"Here is a mail-in voter registration form you can take home with you. You or a member of your household can complete it and mail it to your local election office as is instructed on the form. Or, you can return it to any MassHealth office, and MassHealth will mail it for you. If you or someone in your household needs help in completing the form, call or visit MassHealth."***
- Whenever a member/applicant hands the eligibility worker/CSR the completed declination form and Part A is answered "yes", the eligibility worker/CSR will give the Massachusetts Official Voter Registration form to the member/applicant and say the following, unless the eligibility worker/CSR knows that the member/applicant meets the age and citizenship requirements: ***"You must be a U.S. Citizen and 18 at the time of the next election to register to vote."*** The eligibility worker/CSR will also say: ***"Here is the voter registration form. Please take a few minutes to complete it. I can help you if you like. Once you complete it, you can leave it with me and we will mail it to your local election office. Or if you'd prefer to take a form to complete at home and mail directly to your local election office, I can give you a mail-in voter registration form."*** Once the member/applicant hands the eligibility worker/CSR the completed voter registration form or the eligibility worker/CSR gives the member/applicant the mail-in voter registration form, the eligibility worker/CSR will complete Part B, put the member's/applicant's name, DOB and Medicaid ID (if have one) on the top of the form and then give the member/applicant the yellow sheet (attached to the Massachusetts Official Voter Registration form), along with Part C of the declination form. If requested, provide assistance in completing the voter registration form.
- NOTE: if, at any time, the eligibility worker/CSR knows that a member/applicant is not a U.S. citizen, explain that only U.S. citizens can register to vote, and do **not** provide any type of voter registration form or assistance in completing it.

## **Script for MEC/Maximus Voter Registration Telephone Procedures**

### **Address Changes:**

- When a member calls to report a change of address, the Maximus CSR will transfer the call to the MEC if the member is in the MA-21 system. If the member is in the HIX, or has referred eligibility from another agency, the Maximus CSR will process the reported change of address. Either way, a mail-in voter registration form will be automatically mailed on a daily basis. Before transferring the call or processing the address change, the CSR will say: ***“Please be aware that MassHealth will be sending you a mailing with a voter registration application and instruction on how to fill it out. This is a federal requirement.”***

### **Telephone Applications:**

- When an applicant calls to complete a phone application, the CSR will say at the end of the application process: ***“Please be aware that MassHealth will be sending you a mailing with a voter registration application and instruction on how to fill it out. This is a federal requirement.”***

**EXHIBIT D**  
**Topics to be Included in NVRA Training**

**About the National Voter Registration Act**

- Why Congress enacted the NVRA.
- The role of MassHealth and other Public Assistance Agencies under the NVRA.
- The relationship between MassHealth's mission of providing public assistance benefits and provision of voter registration services, including the fact that MassHealth may be a client's only way to easily access voter registration services.
- The statutory requirements of the NVRA.

**Roles of Different MassHealth Employees in Providing Voter Registration Services Including Office Directors, Assistant Directors, NVRA Coordinators, Supervisors, Eligibility Workers, Customer Service Representatives, and Receptionists.**

**Voter Registration Procedures**

- Availability and provision of voter registration materials and information in MassHealth Enrollment Center ("MEC") lobbies and waiting rooms.
- All aspects of voter registration services described in Exhibits B and C to the MassHealth Settlement Agreement ("Agreement"), and provision of voter registration services to Clients as set forth in the Agreement, including, but not be limited to:
  - Distribution procedures for various types of Covered Transactions as set forth in the Agreement.
  - Voter registration assistance procedures:
    - Provision of assistance in accordance with Exhibits B and C to the Agreement.
    - Instruction that Clients can send Mail-in Voter Registration Applications directly to local election officials, or physically deliver them (or Agency Voter Registration Applications) to MECs, or MassHealth Call Centers to be transmitted to local election officials.
    - Instruction that filled-out Voter Registration Applications that are delivered to MECs or MassHealth Call Centers must be checked for completeness, including at least the following fields: name, date, date of birth, address(es), identification number, the age and citizenship checkboxes, and Client signature.
  - Transmittal of filled-out voter registration applications in accordance with the NVRA, MassHealth regulations, and the Agreement.

**Voter Registration Materials and Supplies:** The requirement that at least a two (2) month supply of voter registration materials must be available at all MECs and MassHealth Call Centers.

**Oversight**

- The rationale for oversight, including that oversight and quality control help ensure that voter registration services are provided by MassHealth as required under the NVRA and the Agreement.
- Types of oversight.
- Who is responsible for each type of oversight.

**EXHIBIT E**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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NAACP-NEW ENGLAND AREA  
CONFERENCE; and NEW ENGLAND  
UNITED FOR JUSTICE,

Plaintiffs,

v.

WILLIAM F. GALVIN, in his official capacity  
as Secretary of the Commonwealth;  
MARYLOU SUDDERS, in her official capacity  
as Secretary of the Executive Office of Health  
and Human Services; and DANIEL TSAI, in his  
official capacity as Director of the Office of  
Medicaid,

Defendants.

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Civil Action No. 1:12-cv-10872-DJC

**[PROPOSED] ORDER OF FINAL JUDGMENT**

Pursuant to Fed. R. Civ. P. 41(a)(2) and 58, and based on the Settlement Agreements by and between plaintiffs New England Area Conference of the National Association for the Advancement of Colored People and New England United for Justice (collectively “Plaintiffs”) and defendants Marylou Sudders (as successor to JudyAnn Bigby), in her official capacity as Secretary of the Executive Office of Health and Human Services (“EOHHS”), and Daniel Tsai (as successor to Kristen Thorn), in his official capacity as Director of the Office of Medicaid (“MassHealth”); and by and between Plaintiffs and defendant William F. Galvin, in his official capacity as Secretary of the Commonwealth (“SOC”) (collectively, with EOHHS and MassHealth, “Defendants”), the Court directs an entry of final judgment dismissing, with prejudice, this action and all claims asserted against all Defendants.

As provided in each of the Settlement Agreements referenced above, and the Settlement Agreement by and between Plaintiffs and former defendant Thomas G. Massimo (as successor to



Daniel Curley), in his official capacity as Acting Commissioner of the Department of Transitional Assistance (Doc. No. 213-1), and without affecting the finality of this Order of Final Judgment, this Court shall retain jurisdiction, during the term of each Settlement Agreement, to adjudicate noncompliance motions and resolve disputes arising under each Settlement Agreement, all under the procedures set forth in each such Agreement.

Pursuant to Fed. R. Civ. P. 58(b)(2), the Court hereby approves the form of this Order of Final Judgment and directs the Clerk to promptly enter it.

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Denise J. Casper  
United States District Judge

Dated: June \_\_\_, 2015