



April 11, 2023

Submitted electronically via [www.regulations.gov](http://www.regulations.gov)

The Honorable Richard L. Revesz, Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17 Street NW  
Washington, DC 20503

**Subject: Initial Proposals for Updating OMB's Race and Ethnicity Statistical Standards (OMB–2023–0001)**

Dear Mr. Revesz,

Covered California is pleased to submit comments in response to the initial proposals from the Interagency Technical Working Group on Race and Ethnicity Standards (Working Group) for updating the Office of Management and Budget's (OMB) 1997 Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (SPD 15).

With over 1.7 million members,<sup>1</sup> Covered California is the largest state-based health insurance marketplace, serving one of the most diverse states in the country.<sup>2</sup> Since our inception following the passage of the Affordable Care Act, addressing health equity and disparities in health care has been integral to the mission of Covered California and efforts to hold the health insurers who offer products on our marketplace, our Qualified Health Plan (QHP issuers), accountable. Below, we offer feedback on select proposals, particularly the need to require the collection of detailed race and ethnicity categories by default. These comments are based on our perspective as an active purchaser with extensive experience, balancing the administrative and financial burdens on QHP issuers with the benefits of collecting and utilizing demographic data to enable and assess health care disparity interventions.

**Background: Covered California's Race and Ethnicity Collection Practices**

The ability to meaningfully analyze complete and accurate data is the foundation of Covered California's health equity work. Currently, Covered California provides individuals who apply

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<sup>1</sup>Covered California Media, *Covered California Finishes Open Enrollment with More Than 1.7 Million People Signed Up to Receive Quality Health Care Coverage* (March 9, 2023) Covered California <<https://www.coveredca.com/newsroom/news-releases/2023/03/09/>> [as of March 23, 2023].

<sup>2</sup> *Racial and Ethnic Diversity in the United States: 2010 Census and 2020 Census* (Aug. 12, 2021) United States Census Bureau <<https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>> [as of March 23, 2023].

for coverage through its single-streamlined application<sup>3</sup> the ability to answer optional questions identifying their race and ethnicity. To capture the diversity of our state, Covered California has adopted demographic data categories that build on and exceed the standards set forth in the Affordable Care Act<sup>4</sup> and implementing guidance.<sup>5</sup> Notably, and consistent with the Workgroup's proposal, the race and ethnicity data elements in Covered California's application includes reporting of Latina/o/x and Asian and Pacific Islander subgroups.<sup>6</sup> Covered California's voluntary response rate to race and ethnicity questions during the enrollment process is 66 percent for race and 86 percent for ethnicity.<sup>7</sup> To improve the completeness of our demographic data, QHP issuers are required to obtain additional race and ethnicity data, acquiring such data for 80 percent of their Covered California enrollees, with financial penalties and incentives tied to meeting the threshold. Finally, QHP issuers must meet the race and ethnicity collection standards mirroring OMB's SPD 15 categories as part of Covered California's requirement that they obtain the National Committee for Quality Assurance (NCQA) Health Equity Accreditation.

This robust data collection strategy and the granular level of detail on more comprehensive data categories enables us to target resources more appropriately and provide culturally competent outreach activities to address the needs of our member population, ultimately bolstering enrollment and the coverage of underserved populations. In addition, our data enables us to analyze for disparities by stratifying and reporting QHP issuer performance on key performance measures by race, ethnicity, and language, and in the future, by sexual orientation, gender identity, and disability status. More recently, Covered California has been working with Medi-Cal, California's Medicaid health care program, and the California Public Employees' Retirement System (CalPERS), the state's public employee health benefits purchaser, to align our work on quality and equity for even greater impact.

### **Need to Require the Collection of Detailed Race and Ethnicity Categories by Default**

While Covered California is committed to collecting a range of race and ethnicity data to improve our health equity work, the variation in the collection of this data across multiple entities hinders our ability to engage in larger scope performance standards and impedes the overall goal of alignment across the health care ecosystem.

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<sup>3</sup> Covered California shares its single-streamlined application with the Department of Health Care Services, the state's Medicaid agency.

<sup>4</sup> Section 4302 of the Patient Protection and Affordable Care Act (ACA) requires the Secretary of the Department of Health and Human Services (HHS) to establish data collection standards for race, ethnicity, primary language, sex and disability status.

<sup>5</sup> Race and ethnicity data elements include reporting of Hispanic, Asian, and Native Hawaiian/Pacific Islander subgroups. The categories for HHS data standards for race and ethnicity are based on the disaggregation of the OMB standard used in the American Community Survey (ACS) and the 2000 and 2010 Decennial Census. The subgroup categories can be rolled-up to the OMB standard. The 2011 HHS Data Standards were promulgated to create a set of uniform data collection standards for inclusion in surveys conducted or sponsored by HHS. They are also the standards used by HHS, as the Federally-Facilitated Exchange administrator, to collect these data through the Exchange application. (*HHS Implementation Guidance on Data Collection Standards for Race, Ethnicity, Sex, Primary Language, and Disability Status* (Oct. 30, 2011) Office of the Assistant Secretary for Planning and Evaluation <<https://aspe.hhs.gov/reports/hhs-implementation-guidance-data-collection-standards-race-ethnicity-sex-primary-language-disability-0>> [as of March 23, 2023].)

<sup>6</sup> Covered California application data elements for race include American Indian or Alaska Native, Asian Indian, Black or African American, Cambodian, Chinese, Filipino, Guamanian or Chamorro, Hmong, Japanese, Korean, Laotian, Multiple Races, Native Hawaiian, Other, Samoan, Vietnamese, White. Ethnicity data elements include Not Hispanic/Latino/Spanish origin, Hispanic/Latino/Spanish origin, Cuban, Guatemalan, Mexican/Mexican American/Chicano, Multiple Ethnicities, Puerto Rican, Salvadoran, Other. All subgroup categories can be rolled-up to the OMB standard.

<sup>7</sup> *Covered California Open Enrollment Profile Net 2023* (Feb. 1, 2023) Covered California <[https://hbex.coveredca.com/data-research/library/CC\\_Open\\_Enrollment\\_Renewal\\_Profile\\_Net\\_2023\\_R20230308.xlsx](https://hbex.coveredca.com/data-research/library/CC_Open_Enrollment_Renewal_Profile_Net_2023_R20230308.xlsx)> [as of March 23, 2023].

For this reason, Covered California supports a more explicit and unequivocal requirement for detailed disaggregated data by the six most numerous subcategories with additional write-in examples, based on the 2015 U.S. Census Bureau National Content Test Race and Ethnicity Analysis Report, with the option for territorial, state, and local additional categories. Using the six most numerous subcategories as the minimum required disaggregation allows for changes to subcategories as populations change. Aggregated categories mask significant differences among subpopulations within that group – both at the most basic level of proportion within the group, as well as potentially significant differences in experience.

The adoption of this requirement would be a first step to streamlining universal race and ethnicity data collection. A unified disaggregated data collection requirement would support vital data collection efforts across the health care ecosystem and position the health care industry to better understand the unique identities, experiences, and needs of subpopulations within an aggregated category, especially for resource allocation, program design, and equity work.

### **Collection of Race and Ethnicity Information Using One Combined Question**

Covered California consistently hears from those assisting our applicants and enrollees that the two current race and ethnicity questions are confusing and limit the data being collected. Many who identify as Hispanic, Latina/o/x, or of Spanish origin do not differentiate between race and ethnicity and express confusion that their identity is not included in the race categories, or concern that their ethnicity is separated into its own question. A single question with complete response options combining what we currently label as race and ethnicity choices are reflective of the self-identification of Hispanic or Latina/o/x respondents.

Transitioning to a set of combined race and ethnicity questions would more accurately reflect current societal conceptions of race and ethnicity, improve voluntary response rates, and reduce variation in data collection. This is especially important to Covered California, where the Hispanic and Latina/o/x population makes up over 22 percent of our enrollment.<sup>8</sup> It is critical that the questions do not confuse, discourage, or alienate our Hispanic and Latina/o/x communities as we want them included, counted, and represented in our data.

### **Addition of “Middle Eastern or North African” (MENA) As A New Minimum Category**

Covered California supports a new race reporting category of Middle Eastern or North African to recognize this community. We adhere to the principle that response options should reflect the identities of those who will be asked to answer. Without a response option that reflects respondents’ self-identification, their unique identities and experiences are lost within a larger racial group like White or Other, or we could have a persistent, systematic bias in non-response rates.

### **Update Terminology in SPD 15**

Covered California supports the use of terms “multi-racial” and “multi-ethnic” (rather than “mixed race”), or alternatively, “individuals identifying as more than one race” or “individuals

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<sup>8</sup> Covered California Open Enrollment Profile Net 2023 (Feb. 1, 2023) Covered California <[https://hbex.coveredca.com/data-research/library/CC\\_Open\\_Enrollment\\_Renewal\\_Profile\\_Net\\_2023\\_R20230308.xlsx](https://hbex.coveredca.com/data-research/library/CC_Open_Enrollment_Renewal_Profile_Net_2023_R20230308.xlsx)> [as of March 23, 2023].

identifying as more than one ethnicity.” The terminology should be inclusive and representative of the respondents’ self-identification. The suggested alternatives are terms more commonly used by individuals with this self-identification, and “mixed race” is considered an outdated term.

### **Implementation Guidance Considerations: Prohibiting Indirect Estimation for Race and Ethnicity**

As the Workgroup develops guidance to implement the updated directive, Covered California encourages the Workgroup to clarify that indirect estimation or proxy methodologies for race and ethnicity (such as using zip code/census tract/address data or surnames) should never be used to assign a race or ethnicity to individuals. Indirect estimation applied to individuals in this way is a misapplication of the techniques and results in potentially widespread mis-categorization of individuals, masking their identity, experiences, and needs. Rather, indirect estimation should be strictly limited to applications at a population or community level to add estimations to fill in missing or unknown data.

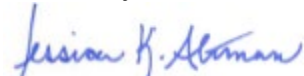
Taking this position would provide states, national measurement organizations like NCQA, and other organizations, the backing to enforce the correction of this historical misuse of indirect estimation.

### **Comments On Any Additional Topics and Future Research**

Covered California supports changing the standard category to “Native Hawaiian and Pacific Islander” by deleting “other.” “Other” is not only inconsistent with these communities’ self-identification, but it creates an unnecessary distinction between Native Hawaiian identification and those with different Pacific Island ancestry.

We appreciate your consideration of our comments. If you have any questions, please feel free to contact us.

Sincerely,



Jessica Altman  
Executive Director