

# Assister Dos and Don'ts



*September 2017*

*The information provided in this presentation is only intended to be a general informal summary of technical legal standards. It is not intended to take the place of the statutes, regulations, and formal policy guidance that it is based on. This presentation summarizes current policy and operations as of the date it was presented. Links to certain source documents have been provided at the end of the presentation for your reference. We encourage audience members to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information about the requirements that apply to them.*

# Agenda

Application and Enrollment Assistance

Outreach and Education

Avoiding Conflicts of Interest

Culturally and Linguistically Appropriate Services and Services  
Accessible for People with Disabilities

# A Note about this Presentation

This presentation addresses specific requirements for Navigators and certified application counselors (CACs) in Federally-facilitated Marketplaces (FFMs) (collectively referred to as “assisters”).

# Application and Enrollment Assistance

# Fair, Accurate, and Impartial

Assisters must provide information in a fair, accurate, and impartial manner to everyone who seeks your help.



# To provide fair, accurate, and impartial information, you must:

- ✓ Provide information that helps consumers submit a Marketplace eligibility application for coverage and financial assistance.
- ✓ Provide comprehensive information about the substantive benefits and features of a plan.
- ✓ Help consumers find plans with cost-sharing reductions or other federal financial assistance, if they are eligible.
- ✓ Clarify distinctions among coverage types, including QHPs, Medicaid and CHIP.

# To provide fair, accurate, and impartial information, you must:

- ✓ Make sure consumers make their own informed choices about which coverage option best meets their needs and budget.
- ✓ Make sure the acts of selecting, applying for, and enrolling in a plan stay in the consumers' hands.



# To provide fair, accurate, and impartial information, you must not:

- ⊘ Log into the consumer's online Marketplace account, fill out the Marketplace application, or select a plan on your own.
- ⊘ Recommend that a consumer select a specific plan or set of plans.
- ⊘ Refer a consumer to any specific agent or broker or any specific set of agents or brokers.





# Ensuring Financial Integrity and High Quality Assistance

When providing assistance related to your duties as an assister, you **must not**:

- ❌ Charge consumers for assistance.
- ❌ Receive compensation from your organization on a per-application, per-individual-assisted, or per-enrollment basis.
- ❌ Receive consideration from a health insurance issuer (or issuer of stop loss insurance) in connection with enrolling a consumer in a QHP or non-QHP.

# Outreach and Education

# Gifts

By “gifts,” we mean

- Gift items, gift cards, cash cards, cash, and
- Promotional items that market or promote the products or services of a third party.



# Gifts

- ⊘ You **must not use Marketplace funds** to purchase gifts of any value.
- ⊘ You must not use funds from any source to provide gifts of any value **as an inducement for enrollment.**
  - By “inducing enrollment,” we mean conditioning receipt of the gift(s) on a consumer actually enrolling in coverage, as opposed to encouraging consumers to seek or receive information, application assistance, or other authorized assistance.



# Gifts

As long as Marketplace funds aren't used:

- ✓ You may provide gifts that **do not exceed a \$15 value** to encourage consumers to seek or receive information, application assistance, or other authorized assistance, as long as receiving the gift is not conditioned on actual enrollment and Marketplace funds are not used to acquire the gift.
- ✓ You may reimburse **legitimate expenses incurred by a consumer in an effort to receive Exchange application assistance**, such as travel or postage expenses. These types of expenses are not considered gifts.

# Door-to-Door and Other Direct Contact Activities

- ✓ You **may** conduct **outreach and education activities** by going door-to-door or through other unsolicited means of direct contact, such as a direct phone call to consumers' homes.



- ✗ You **must not** go door-to-door, or use other unsolicited means of direct contact such as a phone call, for the purpose of providing **application or enrollment assistance** to consumers if they haven't requested or initiated the contact or if you or your organization doesn't already have a relationship with the consumer.

# Robo-Calls



- ❌ You **must not** call consumers using an automatic telephone dialing system or an artificial or prerecorded voice (frequently referred to as robo-calls) unless the consumer already has a relationship with you or your organization.
- ✅ If you or your organization already has a relationship with a consumer, you **may** use this type of tool to reach out to those consumers for things like reminding these consumers of upcoming events.

# Avoiding Conflicts of Interest



# Navigators:

## Avoiding Conflicts of Interest

Navigator organizations and individual Navigators **cannot**:

- ⊘ Be a health insurance issuer or issuer of stop loss insurance
- ⊘ Be a subsidiary of a health insurance issuer or issuer of stop loss insurance
- ⊘ Be an association that includes members of, or lobbies on behalf of, the insurance industry
- ⊘ Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with enrolling a consumer in a QHP or non-QHP

# Navigators: Avoiding Conflicts of Interest

Navigators **must disclose** to the Marketplace and, in plain language, to each consumer they assist:

1. Any non-prohibited lines of insurance business that the Navigator, or his or her organization, intends to sell while serving as a Navigator.



# Navigators:

## Avoiding Conflicts of Interest

Navigators **must disclose** to the Marketplace and, in plain language, to each consumer they assist (cont'd):

2. Any existing employment relationships, or any former employment relationships within the last 5 years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.
  - This includes any existing employment relationships between a spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.

# Navigators:

## Avoiding Conflicts of Interest

Navigators **must disclose** to the Marketplace and, in plain language, to each consumer they assist (cont'd):

3. Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or stop loss insurance issuers or their subsidiaries.



# CACs:

## Avoiding Conflicts of Interest

### CACs cannot:

- ⊘ Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals in a QHP or a non-QHP.

# CACs:

## Avoiding Conflicts of Interest

- ✓ CACs must disclose to the CAC organization, and to every consumer the CAC assists:
  - Any relationships the CAC has with QHPs or insurance affordability programs, or other potential conflicts of interest



Culturally and Linguistically  
Appropriate Services, and  
Services Accessible for  
Consumers with Disabilities

# Nondiscrimination

- ⊘ All assisters are prohibited from discriminating based on race, color, national origin, disability, age, sex, gender identity, or sexual orientation.





# Navigators: Culturally and Linguistically Appropriate Services



- ✓ Navigators **must provide services that are culturally and linguistically appropriate** to the consumers you are helping, including consumers with limited English proficiency (LEP).
- ✓ This means that Navigators must:
  1. Have a general understanding of the racial, ethnic, and cultural groups in your service area.
  2. Collect and maintain updated demographic information about the communities in your service area, including the primary languages spoken.

# Navigators: Culturally and Linguistically Appropriate Services

- ✓ This means that Navigators must (cont'd):
3. Help consumers in their preferred language at no cost to the consumer.
  4. Give LEP consumers oral and written notice in their preferred language of their right to receive language assistance services and how to obtain them.
  5. Receive ongoing training on how to provide culturally and linguistically appropriate services.
  6. Take steps to recruit, support, and promote a staff who share demographic characteristics with the communities you're serving.



# Navigators: Helping Consumers with Disabilities

Navigators must ensure that your services are **accessible to consumers with disabilities.**

This means that Navigators must:

1. Ensure that consumer education materials, Web sites, and other consumer assistance tools are accessible
2. Provide auxiliary aids and services for consumers with disabilities if necessary, at no cost to the consumer
3. Provide assistance in a location and a manner that is accessible to consumers with disabilities

# Navigators: Helping Consumers with Disabilities

✓ This means that Navigators must (cont'd)

4. Allow authorized representatives to help consumers with disabilities make informed decisions
5. Know enough about local, state, and federal long-term services and support programs so that you can refer consumers to these programs when appropriate
6. Be able to work with all individuals regardless of age, disability, or culture



# Certified Application Counselors and Language/Disability Access

- ✓ CACs **are** required to provide assistance that is accessible to individuals with disabilities, but can meet this requirement through appropriate referrals to Navigators or the Marketplace Call Center.

NOTE: CACs **are not** required, but are encouraged, to provide translation and other language access services.

Many organizations are required by federal, state, or local laws to provide accessible and appropriate services to the consumers they serve. Check with your organization if you are unsure of your responsibilities.

# Contact Information

- The examples discussed are not exhaustive.
- If you have specific questions, please contact:
  - **Certified Application Counselors:**  
[CACQuestions@cms.hhs.gov](mailto:CACQuestions@cms.hhs.gov)
  - **Navigators:** Your Navigator grantee Project Officer  
or [NavigatorGrants@cms.hhs.gov](mailto:NavigatorGrants@cms.hhs.gov)

# Resources

- Assister Tip Sheets: Dos and Don'ts in Federally-facilitated and State Partnership Marketplaces:
  - [Application and Enrollment Assistance](#)
  - [Outreach and Education](#)
  - [Conflict of Interest Requirements](#)
  - [Providing Nondiscriminatory, Culturally and Linguistically Appropriate Services, and Services Accessible for Consumers with Disabilities](#)
- [Updated Guidance for Navigator Cooperative Agreement Recipients in FFM's: Carrying out Navigator Duties and Activities through Subrecipients or Contractors](#)
- [Tips for Assisters on Working with Outside Organizations](#)
- [Information and Tips for Assisters: How and when to provide information about agent and broker services to consumers, and other information about engaging with agents and brokers](#)