

Tips for Assisters on Working with Outside Organizations¹

Updated 2018

Navigators and certified application counselors (CACs) in Federally-facilitated Marketplaces (FFMs)² (collectively referred to as “assisters” or “you” in this document) may be required under CMS regulations to provide certain kinds of referrals or may find it helpful to collaborate or partner with outside organizations³ as part of outreach and enrollment assistance efforts. Below are guidelines and best practices to help assisters understand how to structure these relationships with outside organizations. Throughout this document the terms referral, collaboration, and/or partnership are used to describe these relationships with outside organizations.

What kinds of referrals are required?

Consumer Grievances, Complaints, and Questions about Health Coverage Styles

Navigators, as part of their required duties, must provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act (PHSA), or any other appropriate State agency or agencies, for consumers with grievances, complaints, or questions about their health plan, coverage, or a determination under their plan or coverage.⁴

¹ This document is current as of the date it was posted to Marketplace.cms.gov and discusses requirements that apply to Navigators and certified application counselors in FFMs under the Affordable Care Act and CMS regulations. We encourage readers to review the applicable statutes and regulations for a complete and current statement of their contents. Assisters should be aware that other state or federal laws that are not discussed in this document might apply to their relationships with outside organizations.

² The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFMs where the state performs plan management functions and State Partnership Marketplaces.

³ By “outside organizations,” we mean organizations that are not other assister organizations or HHS entities such as CMS Regional Offices.

⁴ See 45 CFR 155.205(d)(2); 155.210(e)(4).

- Many states offer help to consumers with health insurance problems through **Consumer Assistance Programs (CAPs) or Health Insurance Ombudsmen** established under section 2793 of the PHSA. Among other things, CAPs or Ombudsmen help consumers file complaints and appeals against health plans, help consumers obtain premium tax credits through Marketplaces, and educate consumers about their rights and empower them to take action. Navigators must provide referrals to these programs, where they exist, or to other appropriate State agencies.
- Visit [Consumer Assistance Grants](#) to find out if your state has a CAP or Ombudsman, or to locate your state's Department of Insurance or other state agency resources.

As long as they have sufficient knowledge to make these types of referrals, CACs may, but are not required to, provide them.

Consumer Questions about Certain Tax Topics

Beginning with Navigator grants awarded in 2018, FFM Navigators must also provide referrals to licensed tax advisers, tax preparers, or other resources for assistance with tax preparation and tax advice related to consumer questions about the Marketplace application and enrollment process, exemptions from the requirement to maintain minimum essential coverage and from the individual shared responsibility payment, and premium tax credit reconciliations.⁵ Until Navigator grants are awarded in 2018, FFM Navigators are permitted, but not required, to provide these kinds of referrals. Below are examples of the kinds of tax assistance resources Navigators might refer consumers to:

- The **Volunteer Income Tax Assistance (VITA)** program. VITA offers free tax help to people who generally make \$54,000 or less, persons with disabilities, and limited English speaking taxpayers who need assistance in preparing their own tax returns.
- The **Tax Counseling for the Elderly (TCE)** program. TCE offers free tax help for all taxpayers, particularly those who are 60 years of age and older, specializing in questions about pensions and retirement-related issues unique to seniors. To locate the nearest VITA or TCE site near you, use the [VITA Locator Tool](#) or call 800-906-9887.
- Other licensed, certified, or accredited local or national federal tax return preparers. We encourage Navigators to start by using [this IRS tool](#) to research tax return preparers in your area. You should check that the tax professional's licensure, certification, or accreditation (as applicable) is in good standing before referring consumers to that person. You can also leverage existing relationships or develop new ones with tax professionals in your community, consistent with applicable requirements and prohibitions discussed below.

⁵ See 45 CFR 155.210(e)(9)(v).

As long as they have sufficient knowledge to make these types of referrals, CACs may, but are not required to, provide them.

Consumers' Legal Questions Related to Marketplace Eligibility Appeals

There are also certain kinds of legal services referrals that Navigators may be required to provide, if those referrals are relevant to the consumer's needs, as part of Navigators' assistance with Marketplace eligibility appeals. Beginning with FFM Navigator grants awarded in 2018, FFM Navigators must help consumers understand the process of filing Marketplace eligibility appeals. Until 2018, Navigators are permitted, but not required, to provide this appeals assistance.⁶ CMS interprets this assistance with Marketplace eligibility appeals to include, where relevant to consumers' needs, providing information about free or low-cost legal help in the consumer's area, including local legal aid or legal services organizations and other State offices to help with the Marketplace eligibility appeals process.⁷

- [CAPs, Ombudsmen, and other state agencies](#) may also help consumers with appeals of Marketplace eligibility decisions.
- You should familiarize yourself with free and low-cost legal service providers in your community. A good place to start is by searching [here](#) for legal aid organizations funded by the Legal Services Corporation.

As long as they have sufficient knowledge to make these types of referrals, CACs may, but are not required to, provide them.

Referrals to Other Assisters, the Marketplace Call Center, or other Resources

CACs must provide information in a manner that is accessible to individuals with disabilities; if they do not do so directly, they must do so through an appropriate referral to a Navigator or the Marketplace Call Center.⁸ We also expect CACs to provide appropriate referrals to geographically accessible Navigators and/or the Marketplace call center if the CAC is unable to assist a consumer with limited English proficiency.⁹

⁶ See 45 CFR 155.210(e)(9)(i).

⁷ See 81 FR 12253 (March 8, 2016).

⁸ See 45 CFR 155.225(d)(5).

⁹ See 78 FR 42847 (July 17, 2013). Additionally, if a CAC organization that receives federal funds to provide services to a defined population and limits its provision of CAC services to that population pursuant to 45 CFR 155.120(c)(2), but is approached for CAC services by an individual who is not included in the defined population that the organization serves, the organization must refer the individual to other Marketplace-approved resources that can provide assistance. See 45 CFR 155.120(c)(2).

Navigators in FFMs are required to provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace, including by providing information in a manner that is accessible to individuals with limited English proficiency at no cost to the individual. They are also required to provide information in a manner that is accessible to individuals living with disabilities, including accessible Web sites and the provision of auxiliary aids and services, at no cost to the individual.¹⁰ Navigators in FFMs must also acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and supports programs when appropriate.¹¹ Navigators in FFMs must also seek advice or experts when needed to ensure that they are able to work with all individuals regardless of age, disability, or culture.¹²

For all assisters, if you or your organization lacks the immediate capacity to help a consumer due to limited time, staff, or resources, you should refer the consumer to the Marketplace Call Center or another FFM assister who might have better capacity to serve that individual more quickly and effectively. All referrals to other assisters should be made with the goal of helping consumers find help with minimum effort or disruption for the consumer.¹³

What are other ways assisters can work with outside organizations?

In addition to providing required referrals, assisters may find it helpful to provide consumers with other kinds of non-required referrals. Subject to the limitations and guidelines below, assisters may also collaborate or partner with outside organizations at outreach or enrollment events, or in a variety of other ways. For example, when helping consumers experiencing homelessness who may not have a mailing address, assisters might want to develop a relationship with a local shelter or community center that can help the consumer set up an address where they can receive mail from the Marketplace or state Medicaid agency.

Assisters might find it helpful to work with or refer consumers to:

- **Federal or state programs that offer health care, health coverage, or payment assistance or discounts related to health services**, such as your state Medicaid or Children’s Health Insurance Program agency, the VA Health Benefits Program, Medicare and State Health Insurance Assistance Program (SHIP) counselors, Federally Qualified Health Centers, Ryan White HIV/AIDS programs, or AIDS Drug Assistance Programs for lower-cost prescription drugs
- **Organizations that specialize in disease specific or local patient groups** such as the American Cancer Society or the American Diabetes Association.

¹⁰ See 45 CFR 155.205(c)-(e); 155.210(e)(5); 155.215(c); and 155.215(d).

¹¹ See 45 CFR 155.215(d)(5).

¹² See 45 CFR 155.215(d)(6).

¹³ See 78 FR 42830, 42836, 42839 (July 17, 2013).

- **Other local or community organizations** such as homeless shelters; food banks; lesbian, gay, bisexual, and transgender (LGBT) community centers; churches; legal aid organizations; and local colleges and universities.
- **Local businesses** such as coffee shops, malls, farmer's markets, and grocery stores. For example, these businesses might allow you to leave outreach materials for their customers, or to set up an information table to engage with customers about enrolling in coverage.

In some cases, assisters may also find it helpful to work with or refer consumers to **agents and brokers**. Some consumers may find it helpful to discuss their health coverage options with a health insurance agent or broker, a private entity or individual that is licensed and regulated by a state and typically gets a payment, or commission, from a health insurer with whom they have a contractual relationship for enrolling a consumer into the insurer's plans.

When working with or referring consumers to agents and brokers, it is important to understand when it might be appropriate to inform consumers about the services agents and brokers provide, and how you can collaborate and engage with agents and brokers in a way that does not violate the legal requirements that apply to you in your assister role. For instance, although referrals to a general listing of agents and brokers may be helpful to consumers, assisters may not refer consumers to a specific agent or broker. For more information about the requirements and limitations that apply when working with, collaborating with, or partnering with agents and brokers, see visit [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.](#)

The difference between required and optional referrals

Assisters must provide fair, accurate, and impartial information to consumers.¹⁴ When providing referrals that are required under CMS regulations, assisters must refer consumers to outside organizations that are **required** to provide fair, accurate, and impartial information. CMS considers state or federal government agencies; professionally licensed, accredited, or certified tax advisers and preparers; and licensed attorneys to meet this requirement. Although not required when providing **optional referrals**, or forming non-required partnerships with outside organizations, such as community centers, local businesses, and national advocacy organizations, it is still a good practice for assisters to ensure to the extent they are able that the organization is providing unbiased, accurate, and up-to-date information to consumers.

¹⁴ See 45 CFR 155.210(e)(2); 155.215(a)(2)(i); and 155.225(c)(1).

Requirements and prohibitions for working with outside organizations¹⁵

All referrals from an assister to other organizations, as well as partnerships or collaborations between an assister and other organizations, must be consistent with the statutory and regulatory requirements that apply to assisters, including the requirement that assisters provide information in a fair, accurate, and impartial manner,¹⁶ and the conflict of interest provisions prohibiting assisters from receiving 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.¹⁷ Additionally, CACs are required to act in consumers' best interests, and all assisters are expected to consider consumers' expressed interests, needs, and desires when fulfilling their duty to provide fair, accurate, and impartial information.¹⁸ We therefore recommend that whenever an assister makes a referral to or otherwise collaborates with another organization, the best interests of consumers, and consumers' expressed interests, needs, and desires be considered. For more information about assister conflict of interest requirements, see our [Tip Sheet: Federally-facilitated Marketplace Assister Conflict of Interest Requirements](#).

Below are some general rules to keep in mind when making referrals or collaborating or partnering with outside organizations:

1. **Assisters are generally permitted to collaborate with, make referrals to, and recommend the services of specific outside organizations.** Assisters must ensure that these referrals and collaborations are consistent with their duty to provide fair, accurate, and impartial information, including by ensuring that the outside organization does not have a direct financial relationship with health insurance or stop loss insurance issuers or a financial incentive to enroll consumers into a specific health plan or coverage. For example, an assister can partner with a specific food bank, or refer consumers to a specific legal aid organization, without violating their duty to provide fair, accurate, and impartial information, provided that the guidelines in this document are followed. In contrast, as explained in prior CMS guidance on this topic, assisters should not refer consumers to a specific agent or broker.¹⁹

¹⁵ As a reminder, by "outside organizations," we mean organizations that are not other assister organizations or HHS entities such as CMS Regional Offices.

¹⁶ See 45 CFR 155.210(e)(2) (applicable to Navigators) and §155.225(c)(1) (applicable to certified application counselors).

¹⁷ See 45 CFR 155.210(d)(4) (applicable to Navigators) and §155.225(g)(2) (applicable to certified application counselors).

¹⁸ See 45 CFR 155.225(d)(4) and 79 FR 30277 and 30279 (May 27, 2014).

¹⁹ See 45 CFR 155.210(d)(4) (applicable to Navigators); §155.215(a)(2)(i) (applicable to in-person assisters); §155.225(g)(2) (applicable to certified application counselors).

2. To ensure that your referrals, collaborations, and partnerships are fair and impartial, **assisters must apply the same list of objective criteria in selecting each organization you refer consumers to or partner or collaborate with.** Assisters should also consider consumers' best interests and consumers' expressed interests, needs, and desires when evaluating outside organizations. An example of a list of objective criteria you might use to evaluate organizations is included below, under Tips for Identifying Organizations for Partnership or Collaboration.
3. Any assister receiving HHS grant or contract funding must follow the terms of its grant or contract, as well as all applicable grant or contract regulations, when working with outside organizations.
4. Any assister receiving HHS grant or contract funding must follow the terms of its grant or contract, as well as all applicable grant or contract regulations, when working with outside organizations.

As a best practice, assisters should also clearly inform consumers:

1. Whether the outside organization **is approved or certified by the FFM**, and whether it is likely to be bound by the same legal requirements and prohibitions that apply to you and your organization, such as privacy and security requirements.
2. That the referral to an outside organization **does not imply an endorsement of that organization by CMS.**

What you cannot do:

1. Assisters must not accept payment in exchange for providing a referral or recommending the services of an outside organization. CMS interprets the requirement that assisters provide information in a fair, accurate, and impartial manner to mean that assisters must not accept payment in exchange for providing a referral or recommending the services of another organization.²⁰ This does not prohibit referrals between an assister and an outside organization. For example, a Navigator may refer consumers to a local tax preparer for help with exemptions and premium tax credit reconciliations, and the same tax preparer may refer consumers to the Navigator for help with the Marketplace, provided that the guidelines discussed in this document are followed, including the use of an objective list of criteria, and consideration of consumers' best interests and expressed interests, needs, and desires when selecting the local tax preparer. Assisters should also be aware that other state or federal laws that are not discussed in this document might apply to their relationships with outside organizations.

²⁰ See 81 FR 12256 (March 8, 2016).

Tips for identifying organizations for partnership or collaboration

If your organization is looking to build relationships with individuals or organizations in the community, here are a few helpful tips to keep in mind.

1. **Identify the subject areas in which a referral resource or partnership might be required or helpful.** Think through any circumstances in which you are required to provide consumers with referrals, as well as the types of questions consumers have and areas where they might need assistance that would make it easier for them to apply and enroll. For example, other organizations might provide services that would make receiving Marketplace application assistance easier for consumers (e.g. free parking or use of computers at an outreach event). Brainstorm a list of organizations, businesses, and individuals in your community that can provide the type of assistance that would make it easier for some consumers to apply for and enroll in coverage.
2. **Develop a list of objective criteria for evaluating a potential resource and referral or collaboration partner.** As discussed above, to ensure that you are providing fair and impartial referrals, your organization must apply the same list of objective criteria to each outside individual or organization that you consider as a potential referral or collaboration partner. In addition to applying a list of objective criteria, you should also take consumer's best interests and expressed interests, needs, and desires into consideration when evaluating outside organizations. Included below are some examples of criteria that your organization might find helpful in developing its own list. A few questions you should consider are
 - Does the organization or person have a direct financial relationship with health insurance or stop loss insurance issuers or a financial incentive to enroll consumers into a specific health plan or coverage? If so, additional guidelines may apply to your referrals. If so, additional guidelines may apply to your referrals. For more information, please see [Information and Tips for Assistors: How and when to provide information about agent and broker services to consumers, and other information about engaging with agents and brokers.](#)
 - Is the organization or person licensed, certified, or accredited by a government entity or professional organization, and is the organization's or person's license, accreditation, and/or certification in good standing? This check should be updated periodically.
 - For required referrals, is the organization or person legally required to provide fair, accurate, and impartial information, and/or is this requirement a condition of its professional licensure, certification, or accreditation?

- Is the organization or person easily accessible by consumers who seek your services (e.g., is it in the same local area or close to public transit)?
 - Does the organization or person provide services that are accessible to people with disabilities or limited English proficiency?
 - Does the organization or person provide services in a way that is culturally competent for the population(s) you serve?
 - Does the organization or person have policies and practices in place to protect consumers' personally identifiable information (PII)?
 - Does the organization or person offer products or services that the consumer can afford, or that are at no cost to the consumer?
 - Does the organization or person require payment upfront from its clients?
 - Have former or current clients reported having been helped by this organization or person?
 - What is the organization's or person's reputation/standing in your community? Try looking up the organization's or person's listing with entities like the Better Business Bureau.
3. **Get to know the potential outside organization.** If you are unfamiliar with an organization, business, or individual, get and check references and professional credentials. Screen the organization or person against your evaluation criteria identified in step 2. If a person or organization seems to be a good fit, consider scheduling a face-to-face meeting. Explain what your assister organization does and the reason you would like to collaborate with the person or organization. Try to get a better understanding of the work they do and how your consumers can be served by them. Identify a key contact for referrals and keep an open line of communication.
4. **Create a list of the persons and organizations** you have decided to partner and collaborate with so it is readily available when working with consumers. .If a consumer asks, be prepared to explain how you decided to include persons and organizations on the list (for example, if you checked licensure or other credentials, you might want to indicate that you did so and when you last checked). Check in with the organizations on the list periodically to ensure you have the right contact information and that their professional licenses, accreditations, or certifications (if applicable) remain in good standing. You may want to also follow up with consumers to see how their experience was with the organization that you referred them to. This will help ensure that you are partnering and collaborating with reliable organizations.
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Frequently asked questions

Q: Can an assister organization use an outside organization's scheduling tool software as a way for consumers to schedule appointments with assisters?

A: Yes. Assisters can use an outside organization's scheduling tool as a way for consumers to directly schedule in-person appointments with assisters. For Navigators in FFMs, this would generally be a permissible use of HHS Navigator grant funds because technology tools are generally allowable costs. Keep in mind, however, that you cannot claim as allowable costs any costs that are not related to the scope of work under your contract or grant without HHS's express permission. If you are not sure whether the organization's scheduling tool's functionality is covered by the scope of work under your HHS contract or grant, you should confer with your HHS contact for the grant or contract about whether the cost is allowable. Additionally, any assister using external software such as a scheduling tool must review and apply to the use of the software the privacy and security agreement provisions in your CAC organization's agreement with CMS or your HHS Navigator grant terms and conditions. You must also ensure that your process of selecting an outside organization's scheduling tool is done with fairness and impartiality. Apply your list of objective criteria to each scheduling tool you are considering, and use that information to help guide your selection

Q: Can an individual assister be trained to provide tax services under the Volunteer Income Tax Assistance (VITA) program? Can an assister organization also serve as a VITA site?

A: Yes, as long as the assister and the assister organization keep their assister work separate from their tax preparation work. Many assisters find it helpful to have VITA volunteers on site to provide assistance with the tax filing components of the premium tax credit reconciliation process or claiming exemptions through a federal tax return, and some assisters are dually trained as assisters and VITA volunteers. However, assisters may not provide tax advice in their capacity as assisters. For example, assisters acting in their capacity as assisters should not help consumers fill out IRS forms or complete their tax returns. Where assisters are also tax professionals, they should keep these duties separate and not perform any tax assistance within their capacity as assisters or using HHS Navigator grant funds.

Q: Can an assister share a consumer's personally identifiable information (PII) with an outside organization when providing a referral?

A: Yes, as long as the consumer consents to such disclosure. Assisters are permitted to create, collect, disclose, access, maintain, store, or use consumer PII only to perform functions that they are authorized to perform as assisters. Before sharing a consumer's PII with an outside organization as part of a referral, assisters should obtain and record the consumer's consent to this use of the consumer's PII.

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