

# Tips for FFM Assisters on Working with Outside Organizations



*June 2018*

*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

What kinds of referrals are required?

What are other ways assisters can work with outside organizations?

The difference between required and optional referrals

Requirements and prohibitions for working with outside organizations

Tips for identifying organizations for partnership or collaboration

Test your knowledge

# A Note about this Presentation

- This presentation addresses specific requirements, guidelines, and best practices for Navigators and certified application counselors (CACs) in Federally-facilitated Marketplaces (FFMs), (collectively referred to as “assisters” or “you” in this presentation).
- The terms “Federally-facilitated Marketplace” and “FFM,” as used in this presentation, include FFMs where the state performs plan management functions and State Partnership Marketplaces (SPMs).
- By “outside organizations,” we mean organizations that are not other assister organizations or HHS entities such as CMS Regional Offices.
- Assisters should be aware that other state or federal laws that are not discussed in this presentation might apply to their relationships with outside organizations.

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# What kinds of referrals are required?

- Consumer Grievances, Complaints, and Questions about Health Coverage
- Consumer Questions about Certain Tax Topics
- Consumers' Legal Questions Related to Marketplace Eligibility Appeals
- Referrals to Other Assistors, the Marketplace Call Center, or other Resources

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# 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
- Organizations that specialize in disease specific or local patient groups
- Other local or community organizations
- Local businesses



# Working with agents and brokers

- In some cases, assisters may also find it helpful to work with or refer consumers to agents and brokers.
- 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, referrals to a general listing of agents and brokers may be helpful to consumers, **but 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: <https://marketplace.cms.gov/technical-assistance-resources/agents-and-brokers-guidance-for-assisters.PDF>

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# The difference between required and optional referrals

- Assisters must provide fair, accurate, and impartial information to consumers.
- **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.

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# Requirements and prohibitions for working with outside organizations (cont'd)

## General rules to keep in mind:

- **Assisters are generally permitted to collaborate with, make referrals to, and recommend the services of specific outside organizations.**
- 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.**
- 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.

# Requirements and prohibitions for working with outside organizations (cont'd)

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

- 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.
- That the referral to an outside organization **does not imply an endorsement of that organization by CMS**.

# Requirements and prohibitions for working with outside organizations (cont'd)

## What you cannot do:

- **Assisters must not accept payment in exchange for providing a referral or recommending the services of an outside organization.**
  - **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 presentation are followed.
  - Assisters should also be aware that other state or federal laws that are not discussed in this presentation might apply to their relationships with outside organizations.

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# Tips for identifying organizations for partnership or collaboration

- 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.
  - 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.

# Tips for identifying organizations for partnership or collaboration (cont'd)

2. **Develop a list of objective criteria for evaluating a potential resource and referral or collaboration partner.**
  - 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 consumers' best interests and expressed interests, needs, and desires into consideration when evaluating outside organizations.

# Tips for identifying organizations for partnership or collaboration (cont'd)

**Below are some examples of criteria that your organization might find helpful in developing its own list. Consider whether the person/organization you're evaluating...**

- Has 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.
- Is licensed, certified, or accredited by a government entity or professional organization, and that the license, accreditation, and/or certification is in good standing.
- For required referrals, is legally required to provide fair, accurate, and impartial information, and/or this requirement is a condition of its professional licensure, certification, or accreditation.
- Is easily accessible by consumers who seek your services.
- Provides services that are accessible to people with disabilities or limited English proficiency.
- Provides services in a way that is culturally competent for the population(s) you serve.
- Has policies and practices in place to protect consumers' personally identifiable information (PII).
- Offers products or services that the consumer can afford, or that are at no cost to the consumer.
- Requires payment upfront from its clients.
- Has former or current clients who report having been helped by this organization or person.
- Has a good reputation/standing in your community.

# Tips for identifying organizations for partnership or collaboration (cont'd)

## 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.

# Tips for identifying organizations for partnership or collaboration (cont'd)

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.
  - 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.

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**Q: If I want to refer a consumer to a homeless shelter, may I refer the consumer to a particular one, or do I have to provide the consumer with a list of all the homeless shelters in their area?**

A: Generally, you may refer a consumer to a specific homeless shelter, as long as you follow the guidelines we've discussed, including:

- Ensuring that the referral is consistent with your duty to **provide fair, accurate, and impartial information**, including by ensuring that the shelter 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.
- Applying the **same list of objective criteria** in selecting the shelter that you apply when selecting any organization you refer consumers to or partner or collaborate with.
- You should also consider the **best interests of the consumer**, and the consumer's expressed interests, needs, and desires.
- **Not accepting payment in exchange for providing the referral** or recommending the shelter's services.

# Test your knowledge

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**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?**

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**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 or Enrollment Assistance Program contract funds.

# Resources

- **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**
  - <https://marketplace.cms.gov/technical-assistance-resources/agents-and-brokers-guidance-for-assisters.PDF>
- **Tip Sheet: Federally-facilitated Marketplace Assister Conflict of Interest Requirements**
  - <https://marketplace.cms.gov/technical-assistance-resources/conflict-of-interest-requirements.pdf>

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