



## Requirements and Prohibitions for Working with Outside Organizations

Below are some general rules to keep in mind when making referrals or collaborating or partnering with outside organizations.<sup>1</sup>

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.<sup>2</sup>
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. Whether you're making referrals or collaborating with a local community organization at an outreach or enrollment event, assister work connecting individuals to organizations that help in areas outside the assisters' scope of work under an HHS contract or grant **should be minimal and not result in additional funding requests under HHS grants or contracts.**
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.

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<sup>1</sup> "Outside organizations" means organizations that are not other assister organizations or HHS entities such as CMS Regional Offices.

<sup>2</sup> See 79 FR 30277; 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 (February 10, 2015), available at <https://marketplace.cms.gov/technical-assistance-resources/agents-and-brokers-guidance-for-assisters.PDF>.



### 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**.

### Assisters cannot:

**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.<sup>3</sup> 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.

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<sup>3</sup> See 81 FR 12256 (March 8, 2016).