

## Assister Tip Sheet: Dos and Don'ts for Providing Application and Enrollment Assistance in Federally-facilitated and State Partnership Marketplaces

Navigators, in-person assisters,<sup>i</sup> and certified application counselors (CACs) in the Federally-facilitated and State Partnership Marketplaces must all fulfill a similar set of duties when providing application and enrollment assistance to consumers. If you are one of these types of assisters, this tip sheet helps you understand how to meet some of the requirements that apply to you under applicable federal regulations.

### **Provide fair, accurate, impartial assistance to all consumers**

Every assister must always **provide information in a fair, accurate, and impartial manner** to everyone who seeks your help, which includes: providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including qualified health plans (QHPs); and helping consumers make informed decisions during the health coverage selection process.<sup>ii</sup> If you are a Navigator, you must also help a consumer select a QHP if requested to do so by the consumer.<sup>iii</sup> If you are a CAC, and a consumer informs you that he or she would like to enroll with your help into Medicaid, the Children's Health Insurance Program (CHIP), or a QHP offered through the Marketplace, you **must facilitate enrollment.**<sup>iv</sup>

### **To provide information in a fair, accurate, and impartial manner, and to facilitate enrollment, you must:**

- Provide information that assists consumers with submitting a Marketplace eligibility application.<sup>v</sup> For example, you should help the consumer understand what types of financial assistance he or she might qualify for, answer application questions appropriately, and if necessary clarify how to browse for and select a plan online.
- Provide comprehensive information about the substantive benefits and features of a plan, such as deductibles, coinsurance and copayments; coverage limitations or exclusions; information about whether a particular provider or hospital is in a plan's network; and drug formulary information which can identify if and how the plan covers particular drugs.<sup>vi</sup>
- Help the consumer find plans that may offer cost-sharing reductions or other federal financial assistance, if they're eligible (for example, Ryan White HIV/AIDS Program premium and cost-sharing assistance).

- Clarify the distinctions among health coverage types, including QHPs, Medicaid and the Children’s Health Insurance Program (CHIP). Explain information such as the length of benefit years, eligibility rules, out-of-pocket costs options, and provider networks. This information helps consumers assess the full range of their coverage options and the strengths and weaknesses of different options or plans.<sup>vii</sup>
- Make sure the consumer ultimately makes his or her own informed choice about which coverage option best meets his or her needs and budget.<sup>viii</sup>
- Ensure that the acts of selecting, applying, and enrolling in a plan stay in the consumer’s hands. If a consumer who is applying or selecting a plan online asks for help using a computer to learn about, apply for, and enroll in Marketplace coverage, you may use the keyboard or mouse, but only to follow the consumer’s specific directions with the consumer physically present in-person.
- For Marketplace Call Center purposes only, you may act as a third party representative to communicate with the Marketplace Call Center on the consumer’s behalf. To do so, the consumer can call the Marketplace Call Center and give his or her verbal authorization to a Call Center Representative.
  - Note that this is not the same as a formal designation of an authorized representative, which occurs when a consumer chooses someone to act, rather than only communicate, on his or her behalf during interactions with the Marketplace.
  - Instead, this designation allows you to facilitate communication with the Call Center for a consumer when the consumer otherwise cannot communicate or chooses not to communicate with the Call Center themselves.

**To provide information in a fair, accurate, and impartial manner, and to facilitate enrollment, you must not:**

- Log into the consumer’s online Marketplace account, fill out the online or paper Marketplace application, or select a plan on your own; the consumer must perform each of these tasks independently. Under limited circumstances, if a consumer who is applying or selecting a plan online asks for help typing or using a computer to learn about, apply for, and enroll in Marketplace coverage, you may use the keyboard or mouse, but only to follow consumer’s specific directions with the consumer physically present in-person.
- Recommend that a consumer select a specific plan or set of plans—even if the consumer asks for your recommendation.<sup>ix</sup>
- Refer a consumer to any specific agent or broker or any specific set of agents or brokers.



- Instead, if a consumer expresses that he or she would like the help of a health insurance agent or broker, you may inform the consumer about the general availability of licensed, Marketplace-trained health insurance agents and brokers as an additional resource that may be able to provide recommendations to the consumer or answer complex health insurance issues. You may direct the consumer to general listings of agents and brokers who are available in the given state or city where the consumer lives.<sup>x</sup> As stated above, never make a referral to any specific agent or broker or specific set of agents or brokers because doing so might undermine your duty to provide fair and impartial information.<sup>xi</sup> More information about how you may interact with agents and brokers when providing consumer assistance will be covered in a separate document.

## Ensure financial integrity and high quality assistance

Consumers must be able to obtain access to fair, accurate, and impartial application and enrollment assistance through the Marketplace's consumer assistance programs **without having to pay a fee**. Similarly, these programs are designed to ensure that assisters **do not have a financial incentive to rush** through the assistance process, which could undermine an assister's duties to act in the consumer's best interest or provide information about the full range of each consumer's coverage options.

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

- Charge consumers for assistance.<sup>xii</sup>
- Receive compensation from your organization on a per-application, per-individual-assisted, or per-enrollment basis, beginning on November 15, 2014.<sup>xiii</sup> Please note that individual assisters receiving compensation on these bases aren't in violation of federal assister requirements if such compensation is received before November 15, 2014, and isn't received prospectively for applications or enrollments that are expected to occur after November 15, 2014, or with respect to individuals who are expected to be assisted after November 15, 2014.
- Receive direct or indirect payment from a health insurance issuer in connection with enrolling a consumer in a health plan.<sup>xiv</sup> More information about this requirement will be covered in a separate document.

**Note:** The examples above are not exhaustive. If you have specific questions, please contact the following:

- **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)

---

<sup>i</sup> By “in-person assister” we mean non-Navigator assistance personnel carrying out consumer assistance functions under §§155.205(d) and (e) in a Federally-facilitated Marketplace (including a State Partnership Marketplace) and to Non-Navigator Assistance Personnel funded through an Exchange Establishment Grant. “In-person assister” does not include an individual certified application counselor or his or her designated organization.

<sup>ii</sup> See 45 CFR 155.210(e)(2), 155.215(a)(2)(i), and 155.225(c)(1).

<sup>iii</sup> See 45 CFR 155.210(e)(3)

<sup>iv</sup> See 155.225(c)(3).

<sup>v</sup> See 45 CFR 155.210(e)(2), 155.215(a)(2)(i), and 155.225(c)(1).

<sup>vi</sup> Ibid. See also 78 FR 42845 (July 17, 2013), available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-07-17/pdf/2013-17125.pdf>, and 79 FR 30277 (May 27, 2014), available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-27/pdf/2014-11657.pdf>.

<sup>vii</sup> Ibid.

<sup>viii</sup> Ibid.; see also 79 FR 30276.

<sup>ix</sup> See 79 FR 30276-77 (May 27, 2014), available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-27/pdf/2014-11657.pdf>.

<sup>x</sup> CMS maintains on its Web site links to agent and broker trade association Web sites, which would allow a consumer to look up agents and brokers in a particular local area with a Federally-facilitated or State Partnership Marketplace. See <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/a-b-resources.html#Links to Agent and Broker Industry Trade Associations>. State departments of insurance might have other health insurance agent and broker resources available.

<sup>xi</sup> See 79 FR 30277 (May 27, 2014), available at: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-27/pdf/2014-11657.pdf>.

<sup>xii</sup> 45 CFR 155.210(d)(5), 155.215(a)(2)(i), and 45 CFR 155.225(g)(1). In addition to not charging applicants, Navigators and in-person assisters also must not receive any form of payment from or on behalf of an individual applicant or enrollee. 45 CFR 155.210(d)(5) and 155.215(a)(2)(i).

<sup>xiii</sup> 45 CFR 155.215(i) and 155.225(g)(3).

<sup>xiv</sup> 45 CFR 155.210(d)(4), 45 CFR 155.215(a)(2), and 45 CFR 155.225(g)(2).

