



Assister Dos and Don'ts

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

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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, non-Navigator assistance personnel (also known as in-person assisters), and certified application counselors (CACs) in Federally-facilitated Marketplaces (FFMs), including State Partnership Marketplaces (SPMs) (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
- ✓ 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 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 and Promotional Items

⊘ You must not use Marketplace funds to purchase gifts, gift cards, cash, or third-party promotional items, regardless of their value

Gifts, Gift Cards, and Cash

- ✓ As long as Marketplace funds aren't used:
 - You may provide gifts, gift cards or cash up to a \$15 value for the purpose of encouraging someone to enroll in coverage through the Marketplace
 - You may provide gifts, gift cards, or cash of over a \$15 value to consumers, as long as you do not require the consumer to take any action towards enrolling in coverage in order to receive the gift
 - You may provide gifts, gift cards, or cash of more than \$15 value to consumers to reimburse them for legitimate expenses (such as postage or travel) incurred in an effort to receive Marketplace application assistance

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

Physical Presence

- ✓ Navigators and in-person assisters must maintain a physical presence in the state where they are authorized to help consumers with the Marketplace

NOTE: CACs aren't required to maintain a physical presence in the state where they help consumers with the Marketplace

Avoiding Conflicts of Interest



Navigators and In-person Assisters: Avoiding Conflicts of Interest

- Navigator and in-person assister organizations and individual Navigators and in-person assisters **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 and In-person Assisters: Avoiding Conflicts of Interest

- ✓ Navigators and in-person assisters **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 in-person assister, or his or her organization, intends to sell while serving as a Navigator or in-person assister

Navigators and In-person Assisters: Avoiding Conflicts of Interest

- ✓ Navigators and in-person assisters **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 and In-person Assisters: Avoiding Conflicts of Interest

- ✓ Navigators and in-person assisters **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 and In-Person Assisters: Culturally and Linguistically Appropriate Services

- ✓ Navigators and in-person assisters 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 and in-person assisters 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 and In-Person Assisters: Culturally and Linguistically Appropriate Services

- ✓ This means that Navigators and in-person assisters 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 and In-Person Assisters: Helping Consumers with Disabilities

- ✓ Navigators and in-person assisters must ensure that your services are accessible to consumers with disabilities
- ✓ This means that Navigators and in-person assisters 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 and In-Person Assisters: Helping Consumers with Disabilities

- ✓ This means that Navigators and in-person assisters 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, in-person assisters, 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
 - **Navigators:** Your Navigator grantee Project Officer or 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
 - Providing Nondiscriminatory, Culturally and Linguistically Appropriate Services, and Services Accessible for Consumers with Disabilities