

Tips for Assisters on Working with Outside Organizations

This fact sheet provides information and guidance that Navigators and certified application counselors (collectively, assisters) need to know about referrals and working with outside organizations.

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Overview

Assisters may be required under the Center for Medicare & Medicaid Services (CMS) regulations to provide certain kinds of referrals or may find it helpful to collaborate or partner with outside organizations as part of outreach and enrollment assistance efforts. Outside organizations do not include those that are other assister organizations or Health and Human Services (HHS) entities like CMS regional offices. The terms referral, collaboration, and/or partnership may also be used to describe relationships with outside organizations.

Version 2.0 April 2023. This information is intended only for the use of entities and individuals certified to serve as Navigators, certified application counselors, or non-Navigator personnel in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFM where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This material was produced and disseminated at U.S. taxpayer expense.

Required Referralsⁱ

Navigators are required to provide referrals to certain types of outside organizations for any enrollee with a grievance, complaint, or request regarding their health coverage. Beginning with Navigator grants awarded in 2022, including non-competing continuation awards, Navigators are also required to provide information on and assistance with all of the following topics:

- Understanding the process of filing Marketplace eligibility appeals;
- Understanding and applying for hardship and affordability exemptions granted through the Marketplace for consumers age 30 and older seeking to enroll in a Catastrophic plan;
- Marketplace-related components of the premium tax credit reconciliation process and understanding the availability of IRS resources on this process;
- Understanding basic concepts and rights related to health coverage and how to use it; and
- 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 and premium tax credit reconciliations.

Consumer Grievances, Complaints, and Questions About Health Coverage

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.ⁱⁱ

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, including:

- Helping consumers file complaints and appeals against health plans.
- Helping consumers obtain premium tax credits through Marketplaces.
- Educating consumers about their rights and empowering them to take action.

Navigators must provide referrals to these programs, where they exist, or to other appropriate state agencies. Use the map at [CMS.gov/ccio/resources/consumer-assistance-grants](https://www.cms.gov/ccio/resources/consumer-assistance-grants) to find contact information for your state's CAP. If your state doesn't have a CAP, the map will direct you to other possible resources – such as the state Department of Insurance and the U.S.

Department of Labor – including phone numbers, email addresses, direct mailing addresses, and websites.

CACs may, but are not required to, provide these types of referrals if they have sufficient knowledge to do so.

Consumer Questions about Certain Tax Topics

Assisters are not allowed to provide tax advice to consumers in their role as assisters. Beginning with Navigator grants awarded in 2022, Navigators are required to 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 and premium tax credit reconciliations. These resources include, but are not limited to:

- The **Volunteer Income Tax Assistance (VITA)** program. VITA offers free tax help to people who generally make \$60,000 or less, persons with disabilities, and limited-English-speaking taxpayers who need assistance in preparing their own federal income 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, use the VITA Locator Tool at [IRS.treasury.gov/freetaxprep](https://www.irs.gov/freetaxprep), call 800-906-9887, or visit [IRS.gov/individuals/find-a-location-for-free-tax-prep](https://www.irs.gov/individuals/find-a-location-for-free-tax-prep).
- Other licensed, certified, or accredited local or national federal income tax return preparers. We encourage Navigators to visit [IRS.treasury.gov/rpo/rpo.jsf](https://www.irs.gov/rpo/rpo.jsf) to 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.
- Information about taxes and Marketplace coverage located at [HealthCare.gov/taxes](https://www.healthcare.gov/taxes).

CACs may, but are not required to, provide these types of referrals if they have sufficient knowledge to do so.

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 Navigator grants awarded in 2022, Navigators are required to help consumers understand the process of filing Marketplace

eligibility appeals. 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. You should familiarize yourself with these service providers in your community. We encourage Navigators to search legal aid organizations funded by the Legal Services Corporation at [LSC.gov/about-lsc/what-legal-aid/get-legal-help](https://www.lsc.gov/about-lsc/what-legal-aid/get-legal-help).
- Referring consumers to [CAPs](#), [Ombudsmen](#), and other state agencies to help with Marketplace eligibility decision appeals.

CACs may, but are not required to, provide these types of referrals if they have sufficient knowledge to do so.

For more information about appeals and the Marketplace, refer to [HealthCare.gov/marketplace-appeals](https://www.healthcare.gov/marketplace-appeals).

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

If you or your organization lack the immediate capacity to help a consumer due to limited time, staff, or resources, you should refer the consumer to the Federally-facilitated Marketplace (FFM) 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.

Navigators are also required to provide information (at no cost to the individual) in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace, including:

- Providing information accessible to individuals with Limited English Proficiency (LEP).
- Providing information accessible to individuals with disabilities, including accessible websites and auxiliary aids and services.ⁱⁱⁱ

Navigators in FFM must also:

- Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.^{iv}
- Seek advice or experts when needed to ensure they are able to work with all individuals regardless of age, disability, or culture.^v

To provide services that are culturally and linguistically appropriate to the consumers they are helping, including consumers with LEP, Navigators must:

- Develop and maintain general knowledge of the racial, ethnic, and cultural groups in their service area.
- Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken.
- Provide oral and written notice in a consumer's preferred language of their right to receive translation or other language assistance services and guidance on how to obtain these services.

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.^{vi} CACs should provide appropriate referrals to geographically accessible Navigators and/or the Marketplace Call Center if the CAC is unable to assist a consumer with LEP.^{vii}

All assisters must also comply with any other applicable state or federal nondiscrimination laws prohibiting assisters from discriminating based on:

- Race
- Religion
- Color
- National origin
- Disability
- Age
- Sex
- Gender identity
- Sexual orientation

If a CAC organization that receives federal funds to provide services to a defined population (and limits provision of CAC services to that population) is approached for CAC services by an individual not included in the defined population, it must refer the individual to other Marketplace-approved resources that can provide assistance.

Non-required Referrals

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. These entities can help the consumer set up an address where they can receive mail from the Marketplace or state Medicaid agency.

Exhibit 1 lists examples of outside organizations assisters might find it helpful to work with or refer consumers to.

Exhibit 1 - Outside Organizations

Organization or Program	Examples
Federal or state programs that offer health care, health coverage, or payment assistance or discounts related to health services	<ul style="list-style-type: none"> ▪ State Medicaid or Children’s Health Insurance Program agency ▪ 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
Disease-specific organizations	<ul style="list-style-type: none"> ▪ American Cancer Society ▪ American Diabetes Association
Local or community organizations	<ul style="list-style-type: none"> ▪ Homeless shelters ▪ Food banks ▪ Lesbian, gay, bisexual, and transgender (LGBT) community centers ▪ Places of worship ▪ Legal aid organizations ▪ Local colleges and universities
<p>Local businesses *</p> <p>* These types of businesses might allow you to leave outreach materials for their customers or set up an information table to engage with customers about enrolling in coverage.</p>	<ul style="list-style-type: none"> ▪ Coffee shops ▪ Malls ▪ Farmer’s markets ▪ Grocery stores

Referrals to Agents and Brokers

In some cases, assisters may also find it helpful to work with or refer consumers to **agents and brokers**, private entities or individuals licensed and regulated by a state and typically get a payment, or commission, from a health insurer with whom they have a contractual relationship for enrolling a consumer into the insurer's plans. Agents and brokers are typically compensated by health insurance companies with whom they have a contract and are sometimes exclusively affiliated with a specific health insurance company or companies to sell certain products. With the exception of web-brokers, agents and brokers are not required by federal law to display all available qualified health plans (QHPs) or to facilitate enrollment into all QHPs. **Web-brokers** is a term used by CMS to refer to agents or brokers who own and manage their own enrollment websites (or use the website of another agent or broker) as an alternative to using HealthCare.gov.

It may be appropriate for you to inform a consumer about services provided by agents and brokers in the following scenarios:

- If a consumer specifically asks about the services that agents and brokers provide and expresses a desire to talk to an agent or broker—this might occur before or after you've had a chance to show the consumer all their enrollment options.
- If, after you show a consumer all their enrollment options, the consumer expresses a desire to receive a recommendation about which plan or type of plan to choose, and if agents and brokers are permitted under state law to make such recommendations. In this case, you should remind the consumer that you cannot make plan recommendations. In addition, you could suggest that the consumer speak to an agent or broker if they wish to receive a plan recommendation.

When referring consumers to an agent or broker:

- You should know how you can collaborate and engage with agents and brokers without violating assister legal requirements.
- You may provide referrals to a general listing of agents and brokers if the consumer asks to work with an agent or broker, but assisters should not refer consumers to a specific agent or broker. Assisters may help a consumer with contacting a specific agent or broker only after the consumer chooses an agent or broker to contact from a general list. You may inform the consumers that agents and brokers as well as Navigators and CACs are also listed at Find Local Help at [LocalHelp.healthcare.gov/#/](https://www.healthcare.gov/local-help/).
- You can refer consumers and employers to Help On Demand at [CMS.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Help-On-Demand-for-Agents-and-Brokers](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Help-On-Demand-for-Agents-and-Brokers), a CMS-contracted, real-time referral system that

connects consumers with Marketplace-registered, licensed agents and brokers in their area who can assist them with plan selection and enrollment in individual insurance coverage through the Marketplace or in Small Business Health Options Program (SHOP) coverage.

Help On Demand referrals are not provided by CMS or the Marketplace, and they do not constitute an endorsement by HHS or the U.S. Government of the individual agents or brokers. However, all participating agents and brokers must complete Marketplace training and registration, sign applicable agreements with CMS, and hold an active license for a health line of authority in the respective state in addition to completing Help On Demand training. For more information, visit [Marketplace.cms.gov/technical-assistance-resources/help-on-demand-tool-faq.pdf](https://marketplace.cms.gov/technical-assistance-resources/help-on-demand-tool-faq.pdf).

When referring consumers to an agent or broker, you should **not**:

- Refer consumers to agents and brokers as a substitute for fulfilling any of your federally required duties.
- Try to persuade a consumer to use a specific agent or broker or a specific web-broker or recommend a particular web-broker or subset of web-brokers because doing so would serve as an implicit endorsement; CMS would consider this activity to violate your duty to provide impartial information.
- Use a web-broker site when performing online application and enrollment assistance unless you are using it as a reference tool to supplement the information available on HealthCare.gov.
- Advertise or otherwise display a link or widget to a specific web-broker at its service location or on its website (as applicable).
- Accept consideration of any kind (direct or indirect, cash or in-kind) from an agent or broker that could be tied to the compensation received by that agent or broker from a health insurance issuer or stop loss insurance issuer for enrolling a person in a QHP or non-QHP.
- Host or reserve space for agents and brokers at your service locations, regardless of whether you are receiving any payments, services, or other consideration in exchange for the space.

For more information about the requirements and limitations that apply when working, collaborating, or partnering with agents and brokers, visit [Marketplace.cms.gov/technical-assistance-resources/agents-and-brokers-guidance-for-assisters.pdf](https://marketplace.cms.gov/technical-assistance-resources/agents-and-brokers-guidance-for-assisters.pdf).

Requirements and Prohibitions for Working with Outside Organizations^{viii}

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.

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,^{ix} and
- 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.^x

When providing **required referrals**, 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 (e.g., 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.

Additionally, all assisters are required to act in consumers' best interests and to consider consumers' expressed interests, needs, and desires when fulfilling their duty to provide fair, accurate, and impartial information.^{xi} For more information about assister conflict of interest requirements, refer to *Assister Conflict of Interest Requirements* at [Marketplace.cms.gov/technical-assistance-resources/conflict-of-interest-requirements.PDF](https://marketplace.cms.gov/technical-assistance-resources/conflict-of-interest-requirements.PDF).

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. In contrast, as explained in prior CMS guidance on this topic, assisters should not refer consumers to a specific agent or broker.^{xii} 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.

Tips for Identifying Organizations for Partnership or Collaboration

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 are expected to consider consumers' best interests and consumers' expressed interests, needs, and desires when evaluating outside organizations.

Consistent with guidance in the 2023 Notice of Benefits and Payment Parameters Final Rule^{xiii} and the January 2023 Executive Order: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,^{xiv} outreach activities should include engagement with members of underserved communities. Identifying partners may include researching Essential Community Provider (ECP) organizations in the community, including:

- Family planning providers
- Indian health care providers
- Federally Qualified Health Centers
- Hospitals
- Ryan White providers

When you or your organization build relationships with individuals or organizations in the community, it may be helpful to:

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 that your organization must apply to each potential resource and referral or collaboration partner.** You should also consider consumers' best interests and expressed interests, needs, and desires when evaluating outside organizations. You should consider these questions as criteria for your list:

- Does the organization or person have a direct financial relationship with a health insurance issuer or stop loss insurance issuer or a financial incentive to enroll consumers into a specific health plan or coverage? If so, additional guidelines may apply to your referrals.
- 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 should be confirmed 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 geographically 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 LEP?
- 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 finding 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 organization or person. 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 organizations and persons** 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 organizations and persons 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 evaluate 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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- ⁱ Refer to 2023 Final Rule 45 CFR § 155.210(e)(9)(v) at [ECFR.gov/current/title-45/subtitle-A/subchapter-B/part-155/subpart-C/section-155.210#p-155.210\(e\)\(9\)\(v\)](https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-155/subpart-C/section-155.210#p-155.210(e)(9)(v)) for required referrals as described in this job aid.
- ⁱⁱ 45 CFR § 155.205(d)(2); § 155.210(e)(4)
- ⁱⁱⁱ 45 CFR §§ 155.205(c)-(e); 155.210(e)(5); 155.215(c); and 155.215(d).
- ^{iv} 45 CFR § 155.215(d)(5)
- ^v 45 CFR § 155.215(d)(6).
- ^{vi} 45 CFR § 155.225(d)(5).
- ^{vii} 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.
- ^{viii} As a reminder, by “outside organizations,” we mean organizations that are not other assister organizations or HHS entities such as CMS Regional Offices.
- ^{ix} 45 CFR § 155.210(e)(2);
- ^x 45 CFR § 155.210(d)(4) (applicable to Navigators) and § 155.225(g)(2) (applicable to certified application counselors)
- ^{xi} 45 CFR § 155.225(d)(4) and 79 FR §§ 30277 and 30279 (May 27, 2014)
- ^{xii} 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)
- ^{xiii} [CMS.gov/files/document/cms-9911-f-patient-protection-final-rule.pdf](https://www.cms.gov/files/document/cms-9911-f-patient-protection-final-rule.pdf)
- ^{xiv} [WhiteHouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/)

