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**July 18, 2017**

**Frequently Asked Questions Regarding Third-party Auditor Operational Readiness Reviews (ORRs) for the Proxy Direct Enrollment Pathway**

The following questions and answers provide additional detail and clarification about the third-party auditor ORRs for the Proxy Direct Enrollment (DE) Pathway.

- 1. Can an entity that develops and provides its approved proxy DE pathway to one or more DE Entities conduct an operational readiness review (ORR) for that pathway and provide the ORR findings to all DE Entities using the proxy DE pathway for the DE Entity's respective ORR reports?**

Yes, the Centers for Medicare & Medicaid Services (CMS) will permit an entity that allows other DE Entities to access its approved proxy DE pathway to hire an auditor to conduct an ORR under 45 C.F.R. §§ 155.220(c)(3)(i)(K) and/or 156.1230(b)(2) of its proxy DE pathway. The entity would develop one ORR report that would produce the applicable audit findings for all DE Entities using the identical version of the entity's approved proxy DE pathway. In this scenario, CMS will permit minor deviations for branding on the approved proxy DE pathway.

In this scenario, each DE Entity that will use the approved proxy DE pathway developed and provided by another entity must identify the arrangement in its Proxy DE Agreement with CMS. The DE Entity may develop its own ORR or use an ORR developed by the entity, but, in the latter scenario, the DE Entity must attest to the accuracy and completeness of the ORR submitted by the entity that is providing the proxy DE pathway. The DE Entity will sign the Proxy DE Agreement and be responsible for complying with all requirements in regulation, guidance, and the Proxy DE Agreement, including oversight of the entity providing the proxy DE pathway.

If a DE Entity will use another entity's approved proxy DE pathway, while adding additional functionality or systems to complete the implementation of its own proxy DE pathway (e.g., the approved proxy DE pathway of the other DE Entity does not comprise the entire proxy DE pathway for a DE Entity), the DE Entity will need to conduct and resubmit the original ORR report with additional findings for any added functionality or systems to confirm the DE Entity's compliance with applicable CMS regulations and the Proxy DE Agreement, as appropriate. For example, if a DE Entity implements another entity's approved proxy DE pathway in such a way that a consumer's personally identifiable information interacts with other systems, the DE Entity would need to conduct an ORR of those other systems and processes for compliance with the privacy and security controls in the Proxy DE Agreement.

Generally, each DE Entity will submit one ORR report that details compliance with applicable CMS requirements. Accordingly, if a DE Entity is using an approved proxy DE pathway and the associated ORR provided by another entity, the DE Entity must indicate in its Proxy DE Agreement that it is using an approved proxy DE pathway provided by another entity and be prepared to submit a copy of the ORR and documentation of the arrangement upon request by CMS. If a DE Entity will use an approved proxy DE pathway provided by another entity, but such pathway will not comprise the totality of the DE Entity's implementation of its own proxy pathway (consistent with the example above), the DE Entity must submit one ORR report that contains both the results of the ORR for the proxy DE pathway provided by the other entity, as well as the results of the ORR that covers any additional systems or requirements that complete the DE Entity's proxy pathway.

**2. Is a DE Entity permitted to allow third-party agents and brokers to use its approved proxy DE pathway for assisting consumers with applying for Advanced Payments of the Premium Tax Credit (APTCs) and Cost-sharing Reductions (CSRs) for qualified health plans (“QHPs”), and/or in completing enrollment in QHPs offered in the individual market through the Federally-facilitated Exchanges (FFE) or State-based Exchanges on the Federal Platform (SBE-FPs)?**

Yes. A DE Entity is permitted to allow third-party agents and brokers who are registered with the FFEs to use its respective approved proxy DE pathway to assist consumers with applying for APTCs and CSRs, and with selecting QHPs offered in the individual market through the FFEs or SBE-FPs.

However, DE Entity must not provide the capability for third party agents or brokers or other downstream and delegated entities that are not or will not be a party to their own Proxy DE agreement with CMS to use its Proxy DE Pathway on the third-party's own website or otherwise outside of the DE Entity's approved website and enrollment pathway identified by the DE Entity in its ORR report. A DE Entity is also prohibited from embedding tools and programming techniques, such as iframe technical implementations, in its proxy DE pathway directing the consumer to such an unapproved website. Each DE Entity is responsible for ensuring compliance with the terms and conditions of the Proxy DE Agreement by all downstream third-party agents and brokers that access and use its approved proxy DE pathway.

**3. What are examples of “complex” application scenarios for which DE Entities cannot use the proxy DE pathway?**

In the guidelines that were released on June 16, 2017 (“Third-party Auditor Operational Readiness Reviews for the Proxy Direct Enrollment Pathway”<sup>1</sup>), CMS stated that the proxy DE pathway is not available for enrollments that require the FFE classic application. Complex scenarios that require the FFE classic application include, but are

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<sup>1</sup> Third-party Auditor Operational Readiness Reviews for the Proxy Direct Enrollment Pathway (June 16, 2017), available at: [https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Third-party\\_Auditor\\_Operational\\_Readiness.pdf](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Third-party_Auditor_Operational_Readiness.pdf)

not limited to, multi-tax filer households, applications where a Social Security Number is not provided, or applications with non-United States-born citizens.

**4. Are DE Entities required to handle all simple use cases through proxy DE that are supported by the streamlined application user interface (UI)?**

Yes, DE Entities participating in the proxy pathway must support all household scenarios supported by the streamlined application UI. If while testing the proxy DE pathway, a DE Entity identifies an eligibility scenario it cannot support in the proxy DE pathway, the DE Entity must notify CMS that it cannot support this scenario in its ORR report. The DE Entity must provide alternative methods for consumers to have their eligibility determined, including, but not limited to, the DE double redirect process, the Exchanges, or the Marketplace call center. CMS will review these scenarios and the DE Entity's implementation of these scenarios for compliance with relevant requirements.