
Frequently Asked Question (FAQ) regarding Agents and Brokers (including Web-brokers) and Application Fees

Q: Can agents or brokers, including web-brokers,¹ charge a reasonable application fee to a consumer that it is assisting in selecting and enrolling in a Qualified Health Plan (QHP) through the Federally-facilitated Marketplace (FFM)?

A: In guidance, we stated that we expect that consumers are not charged a separate transaction or service fee for shopping or enrolling in a QHP offered through the FFM using a web-broker's services or website. See the Role of Agents, Brokers and Web-brokers in the Health Insurance Marketplaces (November 7, 2014).

It has come to our attention that some web-brokers may have invested significant resources to develop special software to assist consumers with selection and enrollment in QHPs offered through the FFM, and some independent agents and brokers may leverage those web sites to facilitate QHP selection and enrollment. We believe that in these circumstances, where there is a bona fide service of value that goes beyond the traditional assistance provided by an agent or broker registered with the FFM, it may be appropriate to allow for the collection of an additional fee. However, any practice of collecting such fees from consumers for providing assistance with QHP selection and enrollment through the FFM would be subject to applicable state law. If permitted under state law, agents, brokers, and web-brokers that elect to pass on these types of costs to consumers for selecting and submitting QHP applications offered through the FFM through a non-FFM website should provide a disclaimer to consumers that: 1) clearly discloses the amount and reason for the fee, and 2) informs the consumer that he/she can apply through the FFM website (Healthcare.gov) at no cost.

As a reminder, use of web-broker websites to assist with selection and enrollment in coverage through the FFM must comply with the requirements of 45 C.F.R. 155.220(c)(3), including but not limited to providing consumers with the ability to withdraw from the process and use the FFM website instead at any time.

¹ CMS uses the term “web-broker” to describe an individual agent or broker, group of agents and brokers, or company that provides a non-FFM website to assist consumers in the QHP selection and enrollment process as described in 45 C.F.R. 155.220(c)(3).