



Title: Guidance for Web-brokers on Displaying Mandatory Standardized Disclaimers

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This guidance provides details on the requirements for the mandatory General non-Federally-facilitated Marketplace (FFM) Disclaimer under 45 C.F.R. 155.220(c)(3)(vii) and the mandatory Plan Detail Disclaimer under 45 C.F.R. 155.220(c)(3)(i). Web-brokers¹ must display these disclaimers on their websites in accordance with the regulation and the requirements outlined in this guidance. This guidance also clarifies the requirement to “prominently display” these mandatory standardized disclaimers.

Mandatory General non-FFM Disclaimer Requirements

In accordance with 45 C.F.R. 155.220(c)(3)(vii), all Web-brokers must include the following General non-FFM Disclaimer on their websites:

“Attention: This website is operated by [Name of Company] and is not the Health Insurance Marketplace website. In offering this website, [Name of Company] is required to comply with all applicable federal law, including the standards established under 45 C.F.R. 155.220(c) and (d) and standards established under 45 C.F.R. 155.260 to protect the privacy and security of personally identifiable information. This website may not display all data on Qualified Health Plans being offered in your state through the Health Insurance Marketplace website. To see all available data on Qualified Health Plan options in your state, go to Health Insurance Marketplace website at HealthCare.gov.”

The disclaimer must:

- Be prominently displayed on both the initial consumer landing page and on the landing page displaying Qualified Health Plan (QHP) options that appears before the applicant makes a decision to purchase coverage (QHP selection page);
- Use the exact language provided by the Department of Health & Human Services (HHS); and
- Include a functioning web link to the Health Insurance Marketplace website (HealthCare.gov).

CMS encourages a Web-broker that does not offer certain products or services (e.g., catastrophic health plans) to also include the following language as part of the General non-FFM Disclaimer.

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).

A Web-broker should only include the bullets corresponding to the certain products or services it does not offer:

“Also, you should visit the Health Insurance Marketplace website at HealthCare.gov if:

- You want to select a catastrophic health plan.
- You want to enroll members of your household in separate Qualified Health Plans.
- The plans offered here don’t offer pediatric dental coverage and you want to choose a Qualified Health Plan that covers pediatric dental services or a separate dental plan with pediatric coverage. Pediatric dental services are an essential health benefit.”

Mandatory Plan Detail Disclaimer Requirements

A Web-broker must provide (or provide a link to) additional comparative information required under 45 C.F.R. 155.205(b)(1) for all QHPs, including stand-alone dental plans (SADPs)², offered through the Marketplace. If not directly provided by CMS, a Web-broker may obtain additional information on health plan products (QHPs and SADPs) that are displayed on its website directly from those health insurance and SADP issuers with whom it has a contractual relationship.

In accordance with 45 C.F.R. 155.220(c)(3)(i), if a Web-broker does not have access to the additional required comparative information for a QHP offered through the Marketplace, including premium and benefit information, it must display the following standardized Plan Detail Disclaimer for the specific QHP:

“[Name of Company] isn’t able to display all required plan information about this Qualified Health Plan at this time. To get more information about this Qualified Health Plan, visit the Health Insurance Marketplace website at HealthCare.gov.”

The standardized Plan Detail Disclaimer must:

- Be prominently displayed where plan information on the QHP would normally appear, so it is noticeable to the consumer
- Be provided separately for each QHP where this information is missing;
- State that the comparative information for all QHPs offered through the Marketplaces is available on HealthCare.gov;
- Use the exact language provided by HHS; and
- Include an operational link to the Health Insurance Marketplace website (HealthCare.gov).

² As detailed in the Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule and Interim Final Rule (77 Fed. Reg. 18310, 18315) (March 27, 2012), with some limited exceptions, SADPs are considered a type of QHP. CMS expects all Web-brokers to follow the same requirements for SADPs as for QHPs, including display of all applicable SADPs offered through the Marketplace and all available information specific to each SADP on their websites, as well as including the Plan Detail Disclaimer to the extent that all required SADP comparative information is not displayed on their websites.

Prominent Display of Mandatory Standardized Disclaimers Requirements

CMS requires all disclaimers, including the Web-Broker General non-FFM and Plan Detail disclaimers, to be “prominently displayed.” CMS considers the disclaimers to be “prominently displayed,” if they are:

- Viewable without requiring the user to select or “click on” an additional link;
- Written in a font size no smaller than the majority of the text on the webpage;
- Displayed in the same non-English language as any language(s) the Web-broker maintains screens for on its website; and
- Noticeable in the context of the websites (e.g., use a font color that contrasts with the background of the webpage).

Web-brokers may change the font color, size or graphic context of the disclaimer to ensure that it is noticeable to the applicant in the context of the website. However, the exact language of the Mandatory Standardized Disclaimers must be used.