

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
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From: Peter Nelson, Deputy Administrator and Director, Center for Consumer Information & Insurance Oversight

Subject: Issuer “Agent-of-Record” Processes

Qualified Health Plan (QHP) issuers continue to be critical partners for the Centers for Medicare & Medicaid Services (CMS) in the fight against fraud in the Health Insurance Marketplaces. In recent weeks, issuers stepped up their efforts by investigating a large volume of enrollments thus enabling CMS to cancel those that consumers did not authorize.

CMS continues to implement protections against unauthorized or non-compliant enrollments facilitated by agents and brokers, including enrollments without required identifying information for consumers. For example, CMS has made changes to Federally-facilitated Exchange¹ (FFE) systems to prohibit the addition of an agent or broker’s national producer number (NPN) to an eligibility application or enrollment that does not include either a consumer or applicant Social Security number that can be verified in real time or an immigration document number that can be verified in real time for all non-newborn applicants. Additionally, as of October 12, 2026, Enhanced Direct Enrollment partners must have implemented system changes to ensure that consumers authorize all application and enrollment actions taken by agents and brokers. These protections help ensure that agents and brokers do not receive commission payments from issuers for unauthorized or non-compliant enrollments and protect consumers from unauthorized or non-compliant enrollments.

CMS is aware that issuers may maintain “agent-of-record” or “broker-of-record” attribution processes, many of which predate the enactment of the Patient Protection and Affordable Care Act. CMS does not intend to disrupt these existing processes. Under these processes, agents and brokers who are appointed by the issuer could submit post-enrollment documentation to receive compensation,² even when the agent or broker is not included in the original enrollment data sent to the issuer by CMS. In the 2017 Letter to Issuers in the FFEs, CMS noted that its expectation was that an issuer would issue compensation to an FFE-registered agent or broker with whom the QHP issuer is affiliated if it is determined from the issuer’s, agent’s, or broker’s records that the agent or broker did in fact assist the consumer, but the NPN was erroneously left off the 834

¹ Unless indicated otherwise, the FFE includes FFEs and State-based Exchanges on the Federal Platform (SBE-FPs), including FFEs where states perform plan management functions.

² Compensation includes commissions, fees, or other incentives (whether monetary or non-monetary) related to enrollment or renewal in FFE or SBE-FP coverage as established in the relevant contract between a QHP issuer and the agent or broker.

enrollment transactions. These verifying records could include “a consent form from the consumer, an issuer’s broker of record form, or similar documentation.”³

To ensure that issuers do not inadvertently support the ability of agents and brokers to circumvent CMS’s updated protections against non-compliant activity, CMS is issuing this guidance to clarify that issuers should no longer operate processes like those described in the 2017 Letter to Issuers. That is, issuers should not allow an agent or broker whose NPN is not listed in the original enrollment data sent to the issuer by CMS to claim credit for the enrollment by subsequently submitting evidence, such as an agent-of-record or broker-of-record form, indicating that the consumer had entered into a relationship with the agent or broker. Issuers may still work with agents, brokers, and CMS to facilitate legitimate book of business transfers, as described in the FFE Enrollment Manual.

CMS believes that removing the opportunity to revise the agent-of-record after enrollment will help ensure more enrollments have the appropriate consumer consent documentation required. Agent-of-record attribution would then be fixed at the point of enrollment — the same point at which consent is documented. Currently, allowing post-enrollment changes creates an opportunity for an agent to become the agent-of-record on an enrollment without the consumer’s knowledge or consent. Eliminating this window would reduce the risk of unauthorized enrollments by ensuring that the agent attributed to an enrollment is the one who actually obtained the consumer’s consent.

To the extent permitted by law, issuers may continue to enter into contractual relationships with agents, brokers, and agencies under which the issuer provides compensation for enrollments completed by a specific agent or broker to another agent, broker, or agency.

For additional guidance on QHP issuer oversight of agents and brokers as it relates to compensation, please refer to the 2016 Letter to Issuers,⁴ 2017 Letter to Issuers,⁵ 2018 Letter to Issuers,⁶ 2026 Letter to Issuers,⁷ and 2027 Letter to Issuers.⁸

CMS appreciates the strong commitment that issuers have towards crushing fraud in all CMS programs.

³ 2017 Final Letter to Issuers in the FFEs (CMS, February 29, 2016)

https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2017-Letter-to-Issuers_022916.pdf

⁴ 2016 Final Letter to Issuers in the FFEs (CMS, February 20, 2015)

<https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2016-Letter-to-Issuers-2-20-2015-R.pdf>

⁵ 2017 Final Letter to Issuers in the FFEs (CMS, February 29, 2016)

https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2017-Letter-to-Issuers_022916.pdf

⁶ 2018 Final Letter to Issuers in the FFEs (CMS, Dec. 16, 2016, updated Feb. 17, 2017)

<https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2018-Letter-to-Issuers-in-the-Federally-facilitated-Marketplaces-and-February-17-Addendum.pdf>

⁷ 2026 Final Letter to Issuers in the FFEs (CMS, January 15, 2025) <https://www.cms.gov/files/document/final-2026-letter-issuers.pdf>

⁸ 2027 Final Letter to Issuers in the FFEs (CMS, May 28, 2026) <https://www.cms.gov/files/document/2027-final-letter-issuers.pdf>