



## Filling in Gaps in Consumer Assistance: How Exchanges Can Use Assisters

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**M**any advocates have been working with their states to plan for the consumer assistance functions that the exchanges will need to carry out. One way exchanges will handle consumer assistance is through navigator programs, which advocates are likely to be familiar with. But exchanges may have an additional way to provide consumer assistance through what are called “assisters.” This piece explains the differences between navigator and assister programs and how in-person assistance can function in the different types of exchanges.

Navigators will facilitate enrollment in exchange health plans and conduct public education and outreach about the new coverage options. However, these navigator programs may not have enough resources to meet consumer needs in the first year of enrollment. “In-person assisters,” similar programs that were recently described in federal guidance, can help fill the gap. Assisters will be allowed to help consumers file applications, obtain eligibility determinations, report changes in status, compare coverage options, and select and enroll in qualified health plans. (For more on these functions, see “Where to Find More Information” on page 9.)

Grants to the entities that will serve as navigators must come entirely from an exchange’s operating funds—the Affordable Care Act specifies that federal grants to establish exchanges cannot be used to pay navigator entities. However, it will take time for exchanges to accumulate the necessary operational funds to provide education and enrollment assistance to everyone who needs it. Meanwhile, through September 2015, states can use federal grants to establish in-person assistance programs and to provide education and outreach through assisters.

States that run their own exchanges can *opt* to establish an assister program that is separate from its navigator program. States that partner with the federally facilitated exchange to provide consumer assistance *must* establish in-person assister programs that are separate from navigator programs. In states that are neither running their own exchange nor partnering to provide consumer assistance, the federal government will establish in-person assistance programs. We anticipate that the Centers for Medicare and Medicaid Services (CMS) will issue a request for proposals for an entity to provide in-person assistance in those states, and such an entity might, in turn, subcontract with “assister” organizations at the state or local level.

States and consumer groups should plan for in-person assistance now so that good programs will be up and running by October 2013. States that will be responsible for in-person assistance should apply for federal funding. And consumer-based organizations that might be well-suited to be in-person assisters should prepare themselves to respond quickly to calls for proposals.

## Federal Regulations and Guidance on Consumer Assistance in Exchanges

All exchanges must provide consumer assistance. (This requirement is explained in 45 Code of Federal Regulations 155.205.) In addition to providing a call center and a website for consumers, exchanges must do the following:

1. Provide information in plain language that is readily accessible to applicants and enrollees. For people with disabilities, auxiliary aids and services to get this information must be available at no cost. For people with limited English proficiency, language services that include oral interpretation and written translation must also be available at no cost. Written materials for consumers must include tag lines in languages other than English indicating that these language services are also available.
2. Have a consumer assistance function, including a navigator program, and refer consumers to other consumer assistance programs in the state when appropriate.
3. Conduct outreach and education activities that meet the above accessibility standards to educate consumers about the exchange and about insurance affordability programs to encourage participation. (“Insurance affordability programs” are defined as premium tax credits and cost-sharing reductions in exchange plans, Medicaid, CHIP, and if applicable, Basic Health programs.)

State-based exchanges must perform all of the functions listed above, and states with consumer assistance partnership exchanges must perform the second and third functions. States with either role in operating exchanges have a limited amount of time to use federal establishment grants to set up their consumer assistance programs and to conduct outreach and education activities for those programs. In guidance, CMS has further explained that exchanges can use “in-person assisters” that are distinct from navigators. CMS has referenced in-person assistance programs in three sources (see box).



### CMS Resources

- *Guidance on Federally Facilitated Exchanges*, issued on May 16, 2012, available online at <http://cciio.cms.gov/resources/files/ffe-guidance-05-16-2012.pdf>.
- *Cooperative Agreement to Support Establishment of the Affordable Care Act’s Health Insurance Exchanges*, issued on June 29, 2012 (and subsequent updates), available on [www.grants.gov](http://www.grants.gov) by searching for CFDA 93.525 under “find grant opportunities.”
- *Blueprint for Approval of Affordable State-Based and State Partnership Insurance Exchanges*, issued on August 14, 2012, available online at <http://www.cciio.cms.gov/resources/files/hie-blueprint-081312.pdf>.

## How Is an In-Person Assistance Program Different from a Navigator Program?

While there is considerable overlap between the functions of navigator programs and in-person assistance programs, there are four key differences between the programs:

1. Exchanges must award grants to the entities that will serve as navigators, and those grants must be funded from an exchange's operating budget. The Affordable Care Act prohibits states from using the federal funds that they receive to establish exchanges for making grants to navigator entities. There is no such restriction on funding for assisters. So, exchanges *can* use federal establishment grants to fund their assister programs, and they could decide to use exchange staff or contractors to serve as the assisters—assister entities need not be grantees.
2. The Affordable Care Act specifies the types of entities that are eligible to be navigators, ranging from trade associations to licensed agents and brokers to community-based organizations. Federal rules require exchanges to award navigator grants to at least two types of entities, one of which must be a community-based and consumer-focused nonprofit. In contrast, there are no federal rules specifying the type or number of entities that can serve as in-person assisters. For navigators, federal rules require exchanges to assure that those entities that receive navigator grants have no conflicts of interest. HHS has indicated that conflict of interest standards will also apply to in-person assisters that work with federally facilitated exchanges, and that it would be appropriate for state exchanges to use similar conflict of interest standards for their assister programs.
3. An exchange may select navigators that target specific populations that are likely to qualify for exchange coverage, such as a community organization that focuses on low- and modest-income families or on reaching a particular ethnic community, or a trade organization that focuses on small businesses. Each navigator entity must still provide culturally and linguistically appropriate information for the population served by the exchange, but it is likely that some will target outreach to particular populations. However, exchanges must provide assistance to *all* potentially eligible consumers. States can use in-person assister programs to serve consumers who are not targeted by the exchange's navigator entities.
4. The Affordable Care Act specifies which duties navigators must perform, such as facilitating enrollment in qualified health plans. There is more flexibility in the duties of assisters. As HHS explained in its May 16 *Guidance*, those duties may include helping consumers file applications, obtain eligibility determinations, report changes in status, compare coverage options, and select and enroll in qualified health plans.

## Four Key Differences between Navigators and Assisters

	Navigators	Assisters
1. Can these programs receive federal grant funding for their day-to-day operations?	No. Grants that go to navigator entities must come from an exchange's operating funds.	Yes. In-person assistance can be funded through Level One establishment grants, which last one year.
2. What duties are these programs responsible for?	The law sets out specific responsibilities for navigators, including facilitating enrollment in qualified health plans.	There is flexibility in the duties assisters perform, which may include helping consumers file applications, obtain eligibility determinations, report changes in status, compare coverage options, and select and enroll in qualified health plans.
3. Who will perform these roles?	Exchanges must use at least 2 types of navigators, one of which must be a community-based, consumer-focused nonprofit organization. The other type might be a trade association, licensed agent or broker, or other entity with a relationship to the populations likely to be eligible for exchange coverage.	An exchange is not required to select two types of in-person assisters. It can use staff, contractors, and/or grantees as assisters.
4. What groups will these programs target?	Navigators may target specific groups of people who are likely to qualify for exchange coverage.	Assisters can be used to reach anyone who needs help, including those not targeted by navigator grantees.

## In-Person Assistance in State-Based Exchanges

### ■ What is required of states that run their own exchanges?

States that operate their own exchanges must document that they are providing all required consumer assistance functions, but they are not required to provide an in-person assistance program that is distinct from their navigator program. If a state does elect to operate an in-person assistance program, in order to run an exchange in 2014, it must submit the following for approval by November 16, 2012:

Brief description of Exchange's plan to operate an in-person assistance program distinct from the Navigator program, which provides in-person assistance to consumers, including documentation outlining the Exchange's progress in developing conflict of interest and training standards; how it will ensure in-person assistance program staff are appropriately trained and meet the Exchange's conflict of interest, accessibility, and privacy and security standards; and a timeline and strategy for funding for the in-person assistance program and making the program fully operational. (*Blueprint Standard 2.7*)

- **How can in-person assistance programs be funded in state-based exchanges?**

States can use Level One establishment grants to set up their consumer assistance programs, including in-person assisters. Even states that have already received a Level Two grant can apply for additional Level One funding for this activity. States can apply for Level One funding quarterly through October 2014 (the deadline has been extended several times), and each Level One grant can last for up to one year.

A cautionary note: Since some people who apply for coverage through an exchange may be found eligible for Medicaid or CHIP, part of an assister's work might be related to those programs. And to the extent that an assister's work involves helping people who may be eligible for Medicaid or CHIP, the assister program can receive federal matching funds from Medicaid or CHIP for that part of its work. HHS requires states to "cost allocate" tasks that serve Medicaid and CHIP enrollees, as opposed to tasks that serve other exchange enrollees that can be covered by exchange establishment grants. States need to be careful about how they do these cost allocations. They will need to work with HHS to determine how to allocate federal dollars for assisters and the extent to which the state will be responsible for matching funds.

## In-Person Assistance in Consumer Assistance Partnership States

- **What is required of states that partner with the federal government to run the consumer assistance component of an exchange?**

In partnership exchanges where states elect to run the consumer assistance function, CMS explained in its May 16 *Guidance* that HHS will manage a website and consumer hotline for the exchanges, but the states themselves will administer, oversee, and support other in-person assistance, including navigator programs. The *Blueprint* clarifies that partnership states that choose to run consumer assistance must establish in-person assistance programs that are distinct from their navigator programs. HHS will be responsible for selecting the navigator entities and awarding grants, but the states will be responsible for providing oversight of and support for the navigators. For in-person assisters, the state that is partnering can select and contract with in-person assister programs. The *Blueprint* further explains that partnership exchange states that handle consumer assistance must document their plans to provide in-person assistance that is distinct from their navigator programs as follows:

The appropriate State entity has established an in-person assistance program distinct from the Navigator program, and has a process in place to operate the program consistent with Federally-facilitated Exchange guidance, policies, and procedures. Brief description of the appropriate State entity's plan to operate an in-person assistance program including documentation outlining how it will meet the requirements set out in Federally-facilitated Exchange guidance, policies, and procedures. (*Blueprint* Standard 13.3 b)

- **How will in-person assistance programs be funded in states with consumer assistance partnership exchanges?**

Partnership exchange states can apply for Level One grants to help fund consumer assistance using the same process as states that are running their own exchanges. These grants will last for one year. If their consumer assistance programs serve Medicaid and CHIP enrollees as well as exchange enrollees, partnership exchange states will need to cost-allocate some consumer assistance expenses to their Medicaid and CHIP programs.

## **In-Person Assistance in States with a Federally Facilitated Exchange Where the Federal Government Runs Consumer Assistance**

- **What is required of states that do not run the consumer assistance component?**

In its *Guidance*, CMS explained its plans to provide consumer support, outreach, and education in states that elect not to run the consumer assistance function (this applies to plan management partnership exchange states and to states with a fully federally run exchange). In these states, HHS will conduct outreach and education campaigns about programs that help make exchange coverage more affordable and about qualified health plans. HHS will also provide a website, a toll-free hotline, and other in-person assistance for the federally facilitated exchange, which must be accessible to people with disabilities and to people with limited English proficiency. HHS also intends to award navigator grants in all states with federally facilitated exchanges in time for navigators to be trained and certified, and for the programs to be fully operational by October 2013.

- **How will in-person assistance programs be funded in states that are not running consumer assistance?**

It is possible that the federal government may award a contract for in-person assistance in states that have not opted for a partnership exchange. This assistance would supplement the work of navigator programs and help reach any consumers who are not targeted by navigator grantees. If an entity is selected as a nationwide contractor for states with federally facilitated exchanges, it might subcontract with groups in those states to provide direct assistance, or it might hire its own workforce to do this.

## What Can Advocates Do?

- ✓ In states that are running their own consumer assistance programs (state-based exchanges or consumer assistance partnership exchanges), advocates should talk with their states about how best to provide assistance to residents, including in-person assistance. Advocates should also make recommendations to their states about what entities or types of entities might have the capacity to provide consumer assistance and what types of training and support those entities should receive.
- ✓ In states where the federal government is running the consumer assistance function (federally facilitated exchanges and plan management partnership exchanges), advocates can make their recommendations to the Center for Consumer Information and Insurance Oversight (CCIIO) at CMS.
- ✓ In addition to submitting recommendations about how best to conduct consumer assistance and which groups might perform that function, advocates may want to directly reach out to community-based organizations that could provide consumer assistance or manage a consumer assistance program. No matter who ends up in charge of consumer assistance in a particular state, that entity will likely need help from community-based organizations that can reach different linguistic groups, people with disabilities, and other vulnerable populations.

We anticipate that, in the coming months, CMS will issue a request for proposals for entities to assist consumers who live in states where the federal government will be handling the consumer assistance function. After states and/or the federal government issue requests for proposals for their in-person assister programs and navigator programs, there may be a very short window of time to respond. Therefore, community-based organizations should begin their planning now if they would like to operate a navigator program or in-person assister program.

## Exchanges 101: Types and Funding

States can choose from the following exchange models:

1. A state-based exchange, where a state runs its own exchange directly.
2. A federally facilitated exchange (FFE), where the federal government operates an exchange for the state.
3. A state partnership in a federally facilitated exchange, where the state partners to operate specific exchange functions within an FFE.
  - In a consumer assistance partnership, states are responsible for overseeing the navigator program and providing in-person consumer assistance through other entities.
  - In a plan management partnership, states are responsible for functions such as certifying that insurance plans meet the requirements to sell coverage in the exchange and are therefore considered “qualified health plans.”\*
  - States can also elect to partner to perform both of these functions.

Exchange functions can be funded from two different types of sources:

- Establishment grants: Through 2014, states can apply for Level One federal grants to set up their exchanges, to set up the partnership function(s) they will run, or to better interface with the federally facilitated exchange. They can apply for multiple Level One grants to perform different tasks. Each Level One grant must be used within one year. Through 2014, states that are operating their own exchanges can also apply for Level Two federal grants to further the establishment of their exchanges. They can use that funding over a three-year period.
- Operational funds: States will need to determine how they will finance the day-to-day operations of their exchange. For example, a state might assess fees on all licensed plans to finance its exchange. Similarly, the federally facilitated exchange might charge a fee to participating plans to generate its operating budget.

For more information about the different types of exchanges, see Families USA's *State Responsibilities in a Partnership Exchange*, available online at <http://familiesusa2.org/assets/pdfs/health-reform/State-Exchange-Partnership-Responsibilities.pdf>.

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\* Qualified health plans are plans that have been certified as eligible to participate in an exchange because they meet the following requirements: they provide essential benefits; the insurer is licensed and in good standing; the insurer offers plans at required cost-sharing levels (silver and gold) in the exchange; if it also sells plans outside the exchange, it charges the same premiums both inside and outside the exchange; and it complies with any other regulations of the state or the applicable exchange.



## Where to Find More Information

The Center for Consumer Information and Insurance Oversight (CCIIO), which is part of the Centers for Medicare and Medicaid Services (CMS), posts all of its exchange regulations and guidance online at <http://cciio.cms.gov/resources/regulations/index.html>.

Center for Consumer Information and Insurance Oversight, *Blueprint for Approval of Affordable State-Based and State Partnership Insurance Exchanges* (Washington: Department of Health and Human Services, August 14, 2012), available online at <http://cciio.cms.gov/resources/files/hie-blueprint-081312.pdf>.

Center for Consumer Information and Insurance Oversight, *The Consumer-Mediated, Dynamic Eligibility and Enrollment Process*, a PowerPoint presentation for a Health Insurance Exchange System-Wide Meeting (Washington: Department of Health and Human Services, May 21-23, 2012), available online at <http://cciio.cms.gov/resources/files/hie-cmdeep.pdf>.

Center for Consumer Information and Insurance Oversight, *Cooperative Agreement to Support Establishment of the Affordable Care Act's Health Insurance Exchanges* (Washington: Department of Health and Human Services, June 2012), available online at [www.grants.gov](http://www.grants.gov) by searching for CFDA 93.525 under “find grant opportunities.”

Center for Consumer Information and Insurance Oversight, *General Guidance on Federally-Facilitated Exchanges* (Washington: Department of Health and Human Services, May 16, 2012), available online at <http://cciio.cms.gov/resources/files/ffe-guidance-05-16-2012.pdf>.

Letter from Cindy Mann, Centers for Medicare and Medicaid Services et al., to State Exchange Grantees, Medicaid and CHIP Directors, and Health and Human Services Directors, explaining how to allocate costs of certain expenses among programs, January 23, 2012, available online at <http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/SMD-01-23-12.pdf>.

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