



September 9, 2013

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Upton,

I am writing regarding the August 29 letter you sent to selected Navigator grant awardees in the Federally-facilitated and State Partnership Marketplaces.

As you know, the Navigator grantees are just beginning to undertake their work under the grants and in preparation for the October 1 launch of the Marketplace. The services the Navigator grant awardees will be providing are comparable to the work that Medicare counselors have been doing for years, and is vital in helping Americans obtain quality, affordable health care. We are concerned about the timing of your inquiry given its potential to interfere with the Navigators' ability to carry out their crucial efforts in assisting Americans who lack health insurance.

We have previously provided Committee staff with detailed information concerning the Navigator grant process, including information about grant funding and grant award criteria. We also have provided Committee staff with direct access to the same web-based training that is being used by Navigator grant awardees, and have provided your Committee staff briefings on the Navigator program. In an effort to address your remaining questions about the Navigator Program and enable the Navigators to focus on training staff to begin to assist uninsured Americans, we are providing the following responses to the questions posed in your letter to the awardees, as well as copies of their Navigator grant applications.

1. Describe the work that will be performed.

The description of the work that Navigators will be performing is contained in the Center for Medicare & Medicaid Services (CMS) regulations at 45 C.F.R. 155.210 and in the funding opportunity announcement, enclosed with this letter for your reference. Navigator grantees will:

- Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange;
- Provide information and services in a fair, accurate, and impartial manner. Such information must acknowledge other health programs such as Medicaid and the Children's Health Insurance Program (CHIP);
- Facilitate selection of a qualified health plan (QHP);

- Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under Section 2793 of the Public Health Service Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and
- Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace, including individuals with limited English proficiency, and ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

As discussed above, we are producing to the Committee applications submitted by those Navigator awardees that received your requests, and provided consent to CMS to release the application. In their grant applications, the awardees described their plan for carrying out the work specified above during the grant term, including their training requirements; outlined their proposed budget; and detailed their plans for remaining free of conflicts of interest and complying with applicable privacy and security standards during the grant term.

2. Describe the training of Navigators.

All Navigator grant awardees in the Federally-facilitated and State Partnership Marketplaces will receive training so that they are equipped with the necessary information to help consumers apply for coverage through the Marketplace. Pursuant to the Marketplace regulations at 45 CFR 155.215, the training program includes the following topics:

- QHPs, including the coverage “metal” levels, and how QHPs operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;
- The range of insurance affordability programs, including Medicaid, CHIP, and other public programs;
- The tax implications of enrollment decisions;
- Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;
- Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Marketplace;
- Basic concepts about health insurance and the Marketplace; the benefits of having health insurance and enrolling through a Marketplace; and the individual responsibility to have health insurance;
- Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;
- Providing culturally and linguistically appropriate services;
- Ensuring physical and other accessibility for people with a full range of disabilities;

- Understanding differences among health plans;
- Privacy and security standards for handling and safeguarding consumers' personally identifiable information;
- Working effectively with individuals with limited English proficiency; people with a full range of disabilities; and vulnerable, rural, and underserved populations;
- Customer service standards;
- Outreach and education methods and strategies; and
- Applicable administrative rules, processes, and systems related to Marketplaces and QHPs.

This training is estimated to take approximately twenty hours to complete and Navigators are required to pass a certification examination prior to carrying out consumer assistance functions. The training is available on the Medicare Learning Network and your staff received the link and the access to the training when the training was posted on August 29.

3. Describe the processes and procedures in place to monitor Navigators.

CMS carefully monitors grantee performance and investigates allegations of inappropriate activity. Federal Navigator grant awardees must complete approximately twenty hours of training, achieve a satisfactory passing score, submit quarterly financial reports and progress reports, be in frequent contact with CMS staff on the progress of their grant activities, and submit to audits when necessary pursuant to OMB Circular A-133.

The administrative and funding instrument used for this program is a Cooperative Agreement, an assistance mechanism in which substantial CMS programmatic involvement with the recipient is anticipated during the performance of the activities. Under each Cooperative Agreement, CMS' purpose is to support and stimulate the recipient's activities by involvement in, and otherwise working jointly with, the award recipient in a partnership role. To facilitate appropriate involvement during the period of this Cooperative Agreement, CMS and the recipient will be in frequent contact, in particular, as they get their programs up and running.

CMS has assigned specific Project Officers to each Cooperative Agreement award to support and monitor recipients throughout the period of performance. CMS Grants Management Officers, Grants Management Specialists, and Project Officers will monitor, on a regular basis, progress of each recipient. This monitoring may be by phone, document review, meeting and other appropriate means, such as reviewing program progress reports and Federal Financial Reports (FFR or SF-425). This monitoring will be to determine compliance with programmatic and financial requirements.

The FY2012 Consolidated Appropriations Act and the long-standing provisions included in OMB Circulars govern the use of appropriated funds, and apply to Navigator grantees. CMS may terminate any award for material noncompliance,

including, but not limited to, violation of the terms and conditions of the award, failure to perform award activities in a satisfactory manner, improper management or use of award funds, or fraud, waste, abuse, mismanagement, or criminal activity.

Additionally, as discussed above, grantees' oversight and compliance plans are described in their applications, which are enclosed.

4. Describe how the information Navigators receive will be used.

Navigator awardee organizations must follow strict privacy and security guidelines. These requirements are found in the terms and conditions accompanying the award. We have enclosed a copy of the terms and conditions accompanying the awards. Navigators and their employing organizations cannot use the information that they receive for any purpose other than carrying out their required duties. All other uses of the information are prohibited.

5. Describe whether your organization has had discussions with health insurance companies or health care providers regarding the Navigator grant.

Presumably, this question is intended to address the potential for conflicts-of-interest to arise as Navigators assist with enrolling Americans in affordable health insurance coverage. Federal Navigator grant awardees must meet strict conflict of interest standards pursuant to Marketplace regulations at 155.210(d) and 155.215(a):

- Navigators cannot be health insurance issuers or issuers of stop loss insurance.
- Navigators cannot be subsidiaries of a health insurance issuer or issuer of stop loss insurance.
- Navigators cannot be associations that include members of, or lobby on behalf of, the insurance industry.
- Navigators cannot receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.
- Federal Navigator grant awardees must submit to CMS a written attestation that they meet the conflict of interest standards and a written plan to remain free of conflicts of interest.
- Federal Navigator grant awardees must provide information to consumers about the full range of QHP options and insurance affordability programs for which the consumers are eligible.
- Federal Navigator grant awardees must disclose to CMS and to consumers information about:
 - Non-excluded lines of insurance business which the Navigator intends to sell while conducting consumer assistance functions,
 - Existing or former employment relationships (within the last five years) with health insurance or stop loss insurance issuers,

- Existing or anticipated financial, business, or contractual relationships with health insurance issuers, issuers of stop loss insurance, or their subsidiaries.

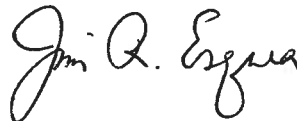
CMS will monitor any complaints or concerns that come in through its casework tracking system, including through the call center and Marketplace web site, and through regular conversations with states, including complaints about potential fraudulent activities.

6. Provide documentation related to the Navigator grant.

Enclosed are cooperative agreement applications submitted by awardees that received a request from the Committee.

We trust that our response fully addresses your questions about the Navigator program and the guidelines and controls in place to monitor the work of the awardees. If you or your staff have additional questions, we are happy to address them, including by providing further briefings on the work that the Navigator grantees are doing.

Sincerely,



Jim R. Esquea
Assistant Secretary for Legislation

Enclosure

cc: The Honorable Henry Waxman
Ranking Member
Committee on Energy and Commerce