

*Navigator Program*

*RESEARCH/ALTERNATIVES ANALYSIS REPORT #2*

*Arkansas' Federally Facilitated  
Exchange Partnership Planning  
Consumer Assistance Advisory Committee*

*Navigator Certification Requirements*

*June 4, 2012*

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## 1. Executive Summary

The goal of this *Research/Alternatives Analysis report #2 – Navigator Certification*, is to provide options for consideration by the Consumer Assistance Advisory Committee (CAAC) to determine requirements for certification, recertification, decertification, or denial of a recertification for individual Navigators. The Committee’s recommendations to the Steering Committee must ensure compliance with Federal regulations and integrity in the process. It is important that the Arkansas Navigator certification requirements reflect requirements that lead to public trust and support Navigator principles recommended to the Steering Committee in May. This report also provides in the appendices federal regulations that the Committee must consider in their discussions.

The Navigator Program is intended to promote the availability and affordability of health coverage through the Arkansas FFE Partnership Model and facilitate consumer enrollment into Arkansas Medicaid, ARKids First, or private insurance plans that best meet the consumer’s needs. Navigators will have a central role in the facilitation of the outreach, education, and the enrollment process that will impact a large number of Arkansas consumers.

In order to qualify as Navigators individuals must meet certification requirements set out by the state, including the following:

- Ensuring compliance with all Federal regulations for Navigator services;
- Ensuring that appropriate services are delivered to the consumers in the State of Arkansas; and,
- Assuring Arkansas consumers that Navigators are trusted sources and will provide reliable, accurate information to consumers in the areas they serve.

The Navigator Program in Arkansas involves two types of entities. The certification process described in this report relates to **individual Navigators** – i.e., individuals who will be working directly with consumers to educate and guide them through the health care system. Navigator Grants will be provided to Navigator Entities who will hire or contract with individual Navigators. Individual Navigators, in many cases, will “work for” (either through full-time or part-time employment, or as a volunteer) Navigator Entities, but individual Navigators may also work independently. Navigator entities will be required to have at least one certified Navigator on staff (Navigator grant application processes will be discussed next month).

Individual Navigators will be chosen based on their commitment and attestation to Federal and state requirements identified in this document and the ability to attain competency in all training components provided by the state (training components to be fully discussed in October). There are three main questions for the Committee’s consideration this month:

**Consumer Assistance Advisory Committee – Goals for June 2012**

The Consumer Assistance Advisory Committee will develop the following recommendations to the FFE Partnership Steering Committee:

1. The appropriate certification requirements for individual Navigators.
2. The appropriate recertification requirements for individual Navigators and the frequency of recertification.
3. Defining parameters for what constitutes decertification of a certified Navigator or denial of a recertification application.

There are no specific Federal certification requirements, nor has any other state set a precedent for what certification requirements should be included in the FFE Partnership model. This report provides options for the Committee's consideration based on the broad Federal requirements and information gained from the discussion of the Advisory Committee in May.

For the purposes of developing recommendations, Navigator certification will be divided into four categories:

1. Attestations from the applicant that they will comply with all Federal and state requirements of the behaviors they must not engage in;
2. Competency expectations following state training;
3. A commitment by individual Navigators to program goals and principles identified by the advisory committee in May;
4. A commitment from licensed insurance brokers and producers who are certified as individual Navigators that they will comply with Federal Navigator regulations specific to brokers and producers in §155.220.

***Next Steps:***

Navigator Entities will complete an application to become Navigator grantees. What requirements should be included in the application? What other information should the application include/not include? These topics and more will be discussed by the CAAC in July.

## 2. Federal Guidance on the Navigator Program

### 2.1 ACA Requirements

In order to qualify as Navigators, individuals must meet certification requirements set out by the state, including the following:

- Ensuring compliance with all Federal regulations for Navigator services;
- Ensuring that appropriate services are delivered to the consumers in the State of Arkansas; and,
- Assuring Arkansas consumers that Navigators are trusted sources and will provide reliable, accurate information to consumers in the areas they serve.

The ACA provides little in the way of specific guidance, but does provide broad guidance. Certification and recertification requirements must reflect a commitment and a compliance with ACA regulations in §155.210 and §155.220. These ACA regulations, which are the same establishing regulations reviewed last month, are provided in the appendices section of this document, but they do not provide specific guidance for consideration. Certification standards, then, rest upon the State of Arkansas and what it considers to be appropriate for the Navigator Program.

### 3. Considerations for the Committee

#### 3.1a – Defining Navigator Certification Requirements

The decision before the Consumer Assistance Advisory Committee is to recommend certification requirements for the selection of individual Navigators to serve Arkansas consumers and support the principles recommended to the FFE Partnership Steering Committee from the first meeting of the CAAC.<sup>1</sup> The following list of certification requirements is intended to begin the Committee’s discussion around this decision point.

#### Recommended Certification Requirements for Individual Navigators:

##### An attestation from the Navigator applicant for the following:

- The Navigator is not a health insurance issuer; subsidiary of a health insurance issuer, or an association that includes members of or lobbies on behalf of the insurance industry health insurance issuer;
- The Navigator does not receive any direct or indirect payments from any health insurance issuer in connection with the enrollment of any qualified individuals or qualified employees in a Qualified Health Plan (QHP) as explicitly prohibited by Federal law;
- The Navigator does not receive any compensation of any kind from any other entity for enrolling individuals in health plans;
- Disclosure of any past compensation received from plans, reason for compensation, and whether or not there is a desire to receive future compensation from any plan or insurer in the health care community;
- A commitment to full participation in required initial **and** on-going training;
- A commitment that the Navigator will not provide financial incentives to potential health coverage consumers, such as rebates or giveaways;
- The Navigator will agree to a criminal background check in accordance with State and Federal rules; and
- The Navigator will agree to put consumer safety first in carrying out the duties of the Navigator.
- Other? References? Age (18 or 21?), Legal Resident of Arkansas, Basic computer and internet skills.

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<sup>1</sup> Recommendations for Navigator Principles made by the committee is included as Appendix C

**For applicants who are insurance brokers or producers:**

- Disclosure of the fact that you are a licensed broker or a licensed producer and an explanation of how you will meet the terms of Federal regulations regarding Navigator participation, including how you will prevent a conflict of interest.

**In order to achieve full certification in addition to the information provided above, Navigators will be expected to attend state provided training. The training will encompass all areas of knowledge that Navigators will be expected to provide to potential enrollees of the exchange, Medicaid, or ARKids First.** Competencies that the Navigator will be expected to achieve include but are not limited to:

- Understanding of the FFE Partnership Model;
- Federal regulations governing the Exchange;
- Program eligibility information specific to the consumer's income, whether it be Medicaid, ARKids First or exchange eligibility (eligibility guidelines, benefits, cost sharing, premiums for applicable groups, and the application process);
- Assurance that personal health information is protected especially when interacting in public places;
- Program requirements for Medicaid, ARKids First and health plans in the exchange;
- How to vary your presentation to meet the needs of all groups that you may encounter while performing Navigator duties whether it be one or all (examples may include but are not limited to):
  - consumers with disabilities,
  - limited English proficiency,
  - limited literacy skills,
  - Individuals of different ethnicities (cultural competency)
  - low-income individuals and families,
  - individuals with special health care needs, and;
  - Small businesses
- How to provide consumers information in a way that is fair, accurate, and impartial and does not favor one insurance over another;
- Proficiency with the income calculation(s) for determining eligibility for public programs and federal tax credits/subsidies;

- Facilitating enrollment in plans and plan renewal or during coverage transitions that arise when income or other life circumstances change (including how the Navigator will assess the likelihood of the consumer to enroll in a plan on their own versus a consumer that will need further assistance);
- Rating systems for qualified health plans and their importance on the quality of care the member will receive in the plan;
- The Navigator role and the importance of post-enrollment support such as referring consumers to health insurance consumer assistance offices or ombudsmen for any enrollee with a question, complaint or grievance regarding their health plan coverage, or a determination under such plan or coverage as well as the regulations regarding the frequency and reasons for changing the qualified health plan with whom the consumer is enrolled;
- Providing information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange;
- How technology will be used to support Navigator duties;
- How to use Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act; and,
- All processes for complaints and grievances (state, federal, and each QHP).

### 3.1b – Recommended Re-Certification Requirements:

The frequency of Navigator recertification is left up to each state. What are the pros and cons for requiring recertification on an annual or a bi-annual basis?

The recertification process will include:

- Reaffirmation of the attestations required for initial certification;
- Changes to any elements provided in the initial certification process;
- Compliance with all state training and reporting requirements;
- A review of the services provided during the previous year and the performance of the individual Navigator during that time;
- A review of complaints, the disposition of the complaints, and their resolutions;



- Navigator performance<sup>2</sup>; and,
- Other?

### 3.1c - Considerations for decertification or denying renewal:

The following list includes examples of what might warrant a decertification or denial of a recertification:

- Navigator does not meet specific quality and other standards;
- Navigator demonstrates conduct that he/she is not operating within professionally-accepted ethical standards;
- There has been a change in status of any of the attestations that result in the Navigator not meeting requirements for participation;
- Consumer complaints about the Navigator that were not resolved or corrected with a corrective action plan;

### 3.2 Other State Actions:

PCG reviewed other states and found no information that any other states have made public that have defined their certification/licensing requirements. PCG found information only that they have plans to do so.

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<sup>2</sup> PCG will assist AID in designing a tool to score the performance of individual Navigators and Navigator Entities. This scoring of performance is still to be determined, and is a topic for the on-going monitoring and performance metrics discussions.

#### 4. Information Sources

The information in this Research/Alternatives Analysis Report was derived from the Federal regulations regarding the Navigator Program.

Link	Description
<a href="http://www.regulations.gov/#!documentDetail;D=HS-OS-2011-0020-2420">http://www.regulations.gov/#!documentDetail;D=HS-OS-2011-0020-2420</a>	ACA regulations published March 2012 45 CFR §155.210
<a href="http://www.regulations.gov/#!documentDetail;D=HS-OS-2011-0020-2420">http://www.regulations.gov/#!documentDetail;D=HS-OS-2011-0020-2420</a>	ACA regulations published March 2012 45 CFR §155.220

## 5. Timeline

June				
Monday	Tuesday	Wednesday	Thursday	Friday
				1 Co-Chair Preparatory Meeting <hr/> Research/Alternatives Analysis report distributed to Committee Members
4  Edits Made/CoChairs deliver to Cmte Mbrs	5	6	7	8  Research/Alternatives Analysis report Discussed at Consumer Assistance Advisory Committee Meeting
11	12	13 PCG Updates Research/Alternatives Analysis report and includes Committee Recommendations <hr/> Updated Research/Alternatives Analysis report distributed to Committee Members	14	15 PCG Prepares Final Advisory Committee Issue Recommendation <hr/> Advisory Committee Issue Recommendation distributed to Steering Committee
18	19	20	21  Steering Committee discusses and adopts final recommendation to the Commissioner	22
25	26	27	28	29  Next Research/Alternatives Analysis report delivered to co chairs, <i><b>Navigator Application and Application Review Processes</b></i>
30				

## Appendix A

### 45 CFR § 155.210

#### Navigator Program Standards

- (a) *General Requirements.* The Exchange must establish a Navigator program consistent with this section through which it awards grants to eligible public or private entities or individuals described in paragraph (c) of this section.
- (b) *Standards.* The Exchange must develop and publicly disseminate—
- (1) A set of standards, to be met by all entities and individuals to be awarded Navigator grants, designed to prevent, minimize and mitigate any conflicts of interest, financial or otherwise, that may exist for an entity or individuals to be awarded a Navigator grant and to ensure that all entities and individuals carrying out Navigator functions have appropriate integrity; and
  - (2) A set of training standards, to be met by all entities and individuals carrying out Navigator functions under the terms of a Navigator grant, to ensure expertise in:
    - (i) The needs of underserved and vulnerable populations;
    - (ii) Eligibility and enrollment rules and procedures;
    - (iii) The range of QHP options and insurance affordability programs; and,
    - (iv) The privacy and security standards applicable under § 155.260.
- (c) *Entities and individuals eligible to be a Navigator.* (1) To receive a Navigator grant, an entity or individual must—
- (i) Be capable of carrying out at least those duties described in paragraph (e) of this section;
  - (ii) Demonstrate to the Exchange that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self employed individuals likely to be eligible for enrollment in a QHP;
  - (iii) Meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable;
  - (iv) Not have a conflict of interest during the term as Navigator; and,
  - (v) Comply with the privacy and security standards adopted by the Exchange as required in accordance with § 155.260.
- (2) The Exchange must include an entity as described in paragraph (c)(2)(i) of this section and an entity from at least one of the other following categories for receipt of a Navigator grant:
- (i) Community and consumer-focused nonprofit groups;
  - (ii) Trade, industry, and professional associations;

- (iii) Commercial fishing industry organizations, ranching and farming organizations;
  - (iv) Chambers of commerce;
  - (v) Unions;
  - (vi) Resource partners of the Small Business Administration;
  - (vii) Licensed agents and brokers; and
  - (viii) Other public or private entities or individuals that meet the requirements of this section. Other entities may include but are not limited to Indian tribes, tribal organizations, urban Indian organizations, and State or local human service agencies.
- (d) *Prohibition on Navigator conduct.* The Exchange must ensure that a Navigator must not—
- (1) Be a health insurance issuer;
  - (2) Be a subsidiary of a health insurance issuer;
  - (3) Be an association that includes members of, or lobbies on behalf of, the insurance industry; or,
  - (4) Receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.
- (e) *Duties of a Navigator.* An entity that serves as a Navigator must carry out at least the following duties:
- (1) Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange;
  - (2) Provide information and services in a fair, accurate and impartial manner. Such information must acknowledge other health programs;
  - (3) Facilitate selection of a QHP;
  - (4) Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the PHS 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
  - (5) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, 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.
- (f) *Funding for Navigator grants.* Funding for Navigator grants may not be from Federal funds received by the State to establish the Exchange.
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**Appendix B****45 CFR 155.220****Ability of states to permit agents and brokers to assist qualified individuals, qualified employers, or qualified employees enrolling in QHPs.**

## (a) General rule

A State may permit agents and brokers to—

- (1) Enroll individuals, employers or employees in any QHP in the individual or small group market as soon as
- (2) the QHP is offered through an Exchange in the State;

(2) Subject to paragraphs (c), (d), and (e) of this section, enroll qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange; and (3) Subject to paragraphs (d) and (e) of this section,

- assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs.

(b) *Web site disclosure.* The Exchange may elect to provide information regarding licensed agents and brokers on its Web site for the convenience of consumers seeking insurance through that Exchange.

(c) *Enrollment through the Exchange.*

A qualified individual may be enrolled in a QHP through the Exchange with the assistance of an agent or broker if—

- (1) The agent or broker ensures the applicant's completion of an eligibility verification and enrollment application through the Exchange Web site as described in § 155.405;
  - (2) The Exchange transmits enrollment information to the QHP issuer as provided in § 155.400
    - (a) to allow the issuer to effectuate enrollment of qualified individuals in the QHP.
  - (2) When an Internet Web site of the agent or broker is used to complete the QHP selection, at a
  - (3) minimum the Internet Web site must:
    - (i) Meet all standards for disclosure and display of QHP information contained in § 155.205(b)(1) and (c);
    - (ii) Provide consumers the ability to view all QHPs offered through the Exchange;
    - (iii) Not provide financial incentives, such as rebates or giveaways;
    - (iv) Display all QHP data provided by the Exchange;
    - (v) Maintain audit trails and records in an electronic format for a minimum of ten years; and
    - (vi) Provide consumers with the ability to withdraw from the process and use the Exchange Web site described in § 155.205(b) instead at any time.
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(d) *Agreement.* An agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with the terms of an agreement between the agent or broker and the Exchange under which the agent or broker at least:

- (1) Registers with the Exchange in advance of assisting qualified individuals enrolling in QHPs through the Exchange;
- (2) Receives training in the range of QHP options and insurance affordability programs; and
- (3) Complies with the Exchange's privacy and security standards adopted consistent with § 155.260.

(e) *Compliance with State law.* An agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with applicable State law related to agents and brokers, including applicable State law related to confidentiality and conflicts of interest.

## Appendix C

### Arkansas Navigator Program Goals and Principles

The Committee members recommend that the Arkansas Navigator Program have the following Principles and associated goals (ACA requirements in bold):

1. The Navigator Program will be Easy to Use:

The Navigator Program will:

- Be simple in design and understanding, where benefits are easily gleaned by consumers and insurers.

Navigators will:

- Use plain language, provide consumer with an understanding of Qualified Health Plans available, premium tax credits and cost sharing provisions, understanding of the differences in metal plans, eligibility and enrollment processes, and understanding of public programs and eligibility
- Ensure that information is relayed in a way that simplifies choices and considers the individual needs of each consumer and their families

2. The Navigator Program will Recruit and Maintain Trained Navigators:

The Navigator Program 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;**

Navigators will:

- Increase awareness of insurance options in a manner that does not stigmatize QHPs,
- Utilize different media to reach different populations; and;
- Utilize state data to target outreach and education efforts.

3. The Navigator Program will Facilitate Enrollment in QHPs and Public Programs

The Navigator Program will:

- **Facilitate enrollment in QHPs;**



- **Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the PHS 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;**

Navigators will:

- Be knowledgeable in both public program and private insurance,
- Be trusted sources with current experience working with populations,
- Follow-through and continue efforts to assist the individual in completing the process to obtain insurance, and assist with dispute resolution, post-enrollment.

#### 4. The Navigator Program will Increase and Improve Access

The Navigator Program will:

- **Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, 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**
- Increase insurance coverage for underserved, uninsured, and uninformed populations in Arkansas through multiple community strategies, including, but not limited to, the following:
  - a. For individuals:
    - i. Provider organizations (e.g., physicians, hospitals, pharmacies, and other points of care, etc.)
    - ii. Department of Health offices
    - iii. Schools
    - iv. Community sites
  - b. For small businesses:
    - i. Chambers of Commerce
    - ii. Small business associations
    - iii. Information placed on tax documents
    - iv. CPAs
- To improve geographical access statewide for individuals with different needs.

Navigators will:

- Demonstrate existing relationships or demonstrate ability to form existing relationships with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be qualified to enroll in a qualified health plan.

5. The Navigator Program will be Transparent and Accountable to the Public:

The Navigator Program will:

- Ensure that there are no conflicts of interest, and, where possible, remove the appearance of conflicts of interest,
- Ensure security and confidentiality of personal information,
- Ensure selected Navigators are trusted sources of health care coverage information in the communities they choose to serve,
- Provide health insurance options in a way that is fair and impartial and protects Protected Health Information.

Navigators will:

- Receive no financial consideration directly or indirectly from an insurance company or QHP,
- Demonstrate there is no conflict of interest in providing the full range of services,
- Provide resources or avenues to register complaints and grievances with any service provided through the exchange.