

**SUPPORTING STATEMENT - PART A**  
**AGENT/BROKER DATA COLLECTION IN FEDERALLY FACILITATED**  
**HEALTH INSURANCE EXCHANGES– CMS-10464**

**A. Background**

On March 23, 2010 and March 30, 2010, respectively, the President signed into law the Patient Protection and Affordable Care Act (P.L. 111-148), and the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152). Collectively, these two laws are referred to as the Affordable Care Act. The Affordable Care Act expands access to health insurance coverage through the establishment of Affordable Insurance Exchanges (Exchanges), improvements to Medicaid and the Children's Health Insurance Programs, and the assurance of coordination between Medicaid, CHIP, and Exchanges. The Exchanges, new competitive private health insurance markets available to qualified individuals through the individual Exchange and small business employers/employees through the Small Business Health Options Program (SHOP) Exchange, will give millions of Americans and small businesses access to affordable, quality insurance options. By providing a place for one-stop shopping, Exchanges will make purchasing health insurance easier, more transparent, and will put greater control and choice in the hands of individuals and small businesses. Each state may establish its own Exchange, and States that do not opt to establish their own Exchange will have a Federally-facilitated Exchange (FFE).

The Exchanges established by the Affordable Care Act will facilitate the enrollment of qualified individuals into Qualified Health Plans (QHPs). The Exchanges will begin accepting applications for coverage when open enrollment begins on October 1, 2013 for coverage that will begin on January 1, 2014. Section 1401 of the Affordable Care Act creates a new section 36B of the Internal Revenue Code (the Code), which provides for an advanced premium tax credit (APTC) to reduce the monthly insurance costs for eligible individuals who enroll in a QHP through an Exchange. In addition, section 1402 of the Affordable Care Act provides cost-sharing reductions (CSRs), including co-pays and deductibles, for eligible individuals enrolled in a QHP offered through an Exchange.

The Center for Consumer Information and Insurance Oversight (CCIIO), the agency within the Centers for Medicare & Medicaid Services (CMS) charged with implementing many provisions of the Affordable Care Act, including the establishment of FFEs, recognizes the longstanding role that agent/brokers have played in connecting individuals and small businesses with health insurance products. Section 1312(e) of the Affordable Care Act and 45 C.F.R. §155.220(a)(1) expand the role of agent/brokers by permitting them to enroll qualified individuals or small employers/employees in QHPs through the Exchanges, and assist individuals in applying for APTCs and CSRs. To participate as facilitators to enrollment, the final rule requires agent/brokers to register with the FFE, complete a training course covering eligibility and enrollment criteria for assisting in QHP enrollment, and sign an agreement that formalizes their understanding and commitment to adhere to the rules of the program. This requirement is specific to the FFE and does not automatically apply to state-based Exchanges.

## **B. Justification**

### **1. Need and Legal Basis**

Both section 1312(e) of the Affordable Care Act and 45 C.F.R §155.220 permit states to allow agent/brokers to enroll qualified individuals, employers, and employees in QHPs, including through the Exchange; and assist individuals in applying for APTCs and CSRs. Agent/brokers will serve as additional access points to the Exchange for individuals or SHOP employers/employees requiring or desiring agent/broker assistance. Agent/brokers must establish an account through the Exchange Portal in order to interface with the FFE. Additionally, agent/brokers must register for, and successfully complete, Exchange-specific training, which enforces their understanding of eligibility and enrollment requirements in Exchanges. Agent/brokers must also apply this understanding to the development of any non-Exchange Web site used as a tool for enrollment.

Finally, agent/brokers must sign an agreement that documents their commitment to the FFE requirements, their willingness to periodically update the information collected at their initial enrollment, and their recognition that for the purposes of compliance monitoring they may be asked to make their records available to the FFE when required.

### **Necessary Data for Agent/Broker FFE Registration and Training Access**

The data collection described in detail below is necessary for agent/brokers to register and complete training with the FFE. The following appendices contain the statutes referenced within this Supporting Statement, and the data elements agent/brokers will need to submit for registration and training purposes:

- **Appendix A: Data Elements for Agent/Broker Registration**
  - *Personal Identifying Information/Contact Information:* These categories include basic information required for agent/brokers to create user accounts on the Exchange Portal, and facilitate communications with clients. The data elements will include the agent/broker's first and last name, date of birth, email address, phone number(s), fax number(s), and business mailing address. (Social Security Numbers will be obtained from all FFE users, but are previously covered by a separate PRA package through CMS Office of Information Services).
  - *Professional Information:* This category includes the agent/broker's affiliated company name, national producer number (NPN), market type selection, and appointment data. This information is necessary for agent/brokers to identify which Exchange market they intend to serve. Additionally, as part of the registration process, CMS must verify agent/brokers carry valid state licenses to sell insurance, as required by state law. Therefore, verifying an agent/broker's licensure status will be a critical part of the registration process, and will require agent/brokers to submit their NPNs. Additionally, certified agent/brokers will submit certain data, such as affiliated

insurance companies, that will be displayed in a searchable profile for consumers' benefit.

- **Appendix B: Agent/Broker Data Elements Required for Access to CMS Training Learning Management System, Training Curriculum Outline, and Sample Exam Question**
  - *Personal and Professional Information:* Agent/brokers may access a CMS Training Learning Management System (LMS) through the Exchange Portal after they initiate registration on the Exchange Portal. Access to CMS LMS requires that agent/brokers provide log-in credentials by creating a user name, and submitting basic personal information, including first and last name, email address, title/position, address, and telephone number.
  - *Exam Responses:* To confirm each agent/broker's competency, each applicant will need to enter responses for a multiple choice exam for each course module in the CMS LMS. Because the success on this competency exam determines whether each agent/broker may participate in the FFE, one sample question is included in Appendix C, rather than publishing all the exam questions.

## **2. Information Users**

CMS will collect data, including licensure and personally identifiable information, from agent/brokers to register them with the FFE through the Exchange Portal. A key component of the registration process requiring data collection is verifying the agent/broker's licensure status. Agent/brokers will enter basic identifying information on the Exchange Portal during the initial phase of registration. See Appendix A. After their account is established in the initial phase of registration, agent/brokers will be routed to CMS' LMS to access and complete required training and exams. See Appendix B. The user names and zip codes that agent/brokers provided during training will be used to record their training history through CMS LMS, and to communicate training results with the Exchange Portal. As the accompanying appendices demonstrate, the training and exams will ensure agent/brokers possess the basic knowledge required to enroll individuals and SHOP employers/employees through the Exchange.

Additionally, CMS will use the collected data for oversight and monitoring of agent/brokers, and to ensure compliance with the Affordable Care Act provisions under 45 C.F.R. §155.220. If CMS detects anomalies, the CMS division with primary responsibility for overseeing agent/broker oversight will follow-up to resolve issues, as necessary.

## **3. Use of Information Technology**

Agent/brokers that wish to participate in the enrollment of individual or SHOP employer/employees through the FFE will use the Exchange Portal to enter identifying information and register with the FFE. Following registration, agent/brokers will be provided with credentials to access and complete an online training course through CMS's LMS. Agent/brokers will confirm completion and comprehension of the material by completing exams

administered online. All aspects of registration and training will be conducted through an electronic platform. The decision to make online, electronic submission of materials required is the result of (a) the geographic distribution of the population providing information to a centralized source, and (b) the existing expectation that agent/brokers will need to have and use online, electronic means to fulfill FFE enrollment functions with consumers. Upon completion of their application and training requirements, agent/brokers will be required to electronically sign an agreement with the Exchange.

#### **4. Duplication of Efforts**

This information collection does not duplicate any other effort and the information cannot be obtained from any other source.

#### **5. Small Businesses**

By their nature, many agent/brokers are small businesses. The streamlined data collection and training approach employed in this process was tailored to meet their needs and to minimize burden to this group. There are no unique impacts that would affect small businesses any more than larger ones.

#### **6. Less Frequent Collection**

Annual registration and training are required for agent/brokers to update their knowledge and maintain the ability to enroll individuals or SHOP employer/employees in QHPs through the FFE. CMS/CCIIO requires annual registration and training to ensure agent/brokers are operating under the most current CMS/CCIIO guidelines and with knowledge of the most up to date market information. From time to time agent/brokers may be asked to make their records available for oversight and compliance purposes. This is the minimum collection necessary for agent/brokers to meet the registration requirements required by the Exchange final rule and regulations, 45. C.F.R. §155.220(d)-(e).

#### **7. Special Circumstances**

Not applicable.

#### **8. Federal Register/Outside Consultation**

CMS has collaborated with several independent contractors, the National Association of Insurance Commissioners (NAIC), and CMS' Office of Information Systems, to pursue the most efficient and technologically-streamlined means for registering and training. This includes collaborating with the NAIC, states, industry membership groups, and issuers to determine the categories of data necessary for enabling agent/brokers to register with the FFE, access training, and assist individuals in enrolling in QHPs. CMS has sought to leverage information already available in databases with the NAIC and state departments of insurance, and will not request any data from agent/brokers it will not already receive from existing sources. CMS will continue to maintain collaboration with these stakeholders during future years. We have taken into

consideration all proposed suggestions from industry stakeholders and the public, and have made necessary changes to this information collection. The 60-day FR Notice published on February 7, 2013.

#### **9. Payments/Gifts to Respondents**

There are no payments/gifts to respondents associated with this information collection request.

#### **10. Confidentiality**

All information obtained by CMS for this data collection will be kept private pursuant to applicable laws/regulations, including the Freedom of Information Act (FOIA), 45 C.F.R §5.65.

#### **11. Sensitive Questions**

There are no sensitive questions.

#### **12. Burden Estimates (Hours & Wages)**

Burden was based on a three part methodology. We first estimated the cost per hour for current insurance brokers. We then estimated the number of hours it takes to complete the registration process. We then estimated the population of agent/brokers expected to register for this program. Finally, we applied to that estimated population the hourly wage and the number of hours needed to register, to arrive at an average annual cost of \$152.59 per broker and \$38,772,165 nationwide. The following discussion and charts explain how this estimate was derived.

Based on data obtained from the Bureau of Labor Statistics (BLS) on insurance broker wages and from the National Association of Insurance Companies (NAIC) as well as consultation with the subject matter experts developing the training curriculum, we have developed an estimate of the burden to agent/brokers in lost hours and wages as a result of registering and training for this program.

The Bureau of Labor and Statistics (May 2011) indicates that for its labor category, Insurance Sales Agent, the average individual wage was \$30.28 per hour. Trending this wage up by 3% for each of two years results in an expected hourly wage for agent/brokers of \$32.12.

Screen shots of the registration process are included as Appendix A. We expect that gathering the necessary information, completing the screens, and reading and signing the agreement will take less than forty five minutes. In addition, agent/brokers will have to complete an online training curriculum and pass a short exam at the end. It is estimated that the training and exam process will take four hours. Thus the total burden per agent/broker to complete training, take the exam, and register will be 4.75 hours.

We used data provided by the NAIC to estimate the number of agent/brokers who would be affected by this collection. The NAIC indicates that there are between 600,000 and 700,000 total licensed brokers selling health insurance at any point in time in the United States. We selected

the midpoint, 650,000 as our starting point for calculating burden. According to NAIC, 37% of these agent/brokers are in State-based Exchange states, which would fall outside of this data collection. An estimate of 409,500 remain in FFE states. NAIC indicates that 27% of agent/brokers are captive to only one issuing company. We assume that they will not enroll through the registration process, but will work with their issuer. That leaves 298,935 remaining agent/brokers. It is unlikely that every remaining agent/broker will register with the FFE. We estimate that 85% will register. This results in an estimate of 254,095 expected registrants.

As the Bureau of Labor Statistics indicates that agent/brokers earn approximately \$32.12 per hour, the cost of 4.75 hours will be \$152.59 for each broker. Applied across the 254,095 expected agent/brokers, this results in a total cost estimate of \$38,772,165.

For years two and three we made two important changes. Re-registration will not be as complicated an undertaking as the initial registration. Similarly, in the first year for training and testing, extra time has been built in to allow for test failings and the re-taking of the curriculum. For these reasons, in years two and three the time for registration has been reduced from 45 minutes to 15 minutes and the time for taking the training curriculum and exam has been reduced from four hours to three hours. We have also built in a 3% annual cost of living increase for agent/broker wages. Thus, the year two and three costs are reduced to \$107.54 and \$110.76 per broker and \$27.3M and \$28.1 M overall.

Year	Hours per agent	Average wage/hr	Cost per agent	Total Hours All Respondents	Total Cost All Respondents
1	4.75	\$ 32.12	\$ 152.59	1,206,951	\$ 38,772,165
2	3.25	\$ 33.09	\$ 107.54	825,809	\$ 27,324,173
3	3.25	\$ 34.08	\$ 110.76	825,809	\$ 28,143,898
<b>Total for all years</b>					<b>94,240,236</b>

### **13. Capital Costs**

No capital costs are estimated for agent/brokers to interact with the Exchange Portal, register, participate in training, and confirm material comprehension. The purchase of applicable equipment or services is considered part of customary and usual business or private practices.

### **14. Cost to Federal Government**

There are four broad categories of cost to the Federal Government for implementing and maintaining the agent/broker program:

- 1) The first cost category is the computer costs associated with the development, implementation, and maintenance of the Exchange Portal in the CMS data warehouse. This cost has been included in the CMS Office of Information Systems' budget and PRA. In years two and three, the Federal Government will incur additional information technology costs to administer and maintain the Exchange Portal. These costs have also been covered in the Office of Information Systems budget and included in their PRA. For that reason these costs will not be included for the purposes of this PRA or cost analysis.
- 2) The second cost category is for the development and maintenance of a training curricula. This curriculum is being developed by a contractor with an approved budget of 4,803 hours at an average loaded cost per hour of \$130.08, weighted by the various kinds of staff needed for this task. Thus, the first year cost of developing the learning modules are \$624,772. This cost will not recur in years two or three of the contract.
- 3) The third cost category is for actually training and registering the agents and brokers, including data transfers of training results from the CMS LMS back to the FFE portal, and other CMS LMS workload to offer the online training. It has been estimated that this will take 2,089 hours with a blended, fully loaded, staff cost rate of \$136.89 for a total of \$285,963. This cost will recur for years two and three of the contract and will be increased by 3% each year for inflation.
- 4) The fourth cost category is for a CMS Contracting Officer's Representative (COR) to oversee the project. CMS expects to hire a full time GS-13 employee to fulfill this responsibility. The current salary of a 13 Grade/Step 1 employee in the Washington, D.C. area is \$89,033 in year one. The cost for the COR will continue in years two and three but as no cost inflator is currently known, none will be applied.

Year	Category	Hours	Cost	Total Cost
1	Training Curriculum	4,803	\$130.08	\$624,774
	Agent/broker training and registration	2,089	\$136.89	\$285,963
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$999,770</b>
2	Agent/broker training and registration	2,089	\$141.00	\$294,542
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$383,575</b>
3	Agent/broker training and registration	2,089	\$136.89	\$285,963
	CMS Contract Officer			\$89,033
	<b>Total</b>			<b>\$374,996</b>
<b>Total for all years</b>				<b>\$1,758,342</b>

### **15. Changes to Burden**

This is a new collection. Therefore, there are no changes to burden.

### **16. Publication/Tabulation Dates**

Agent/broker FFE registration and completion of the required training will begin on or around July 1, 2013. Select data elements submitted to CMS may be made public to facilitate individual or SHOP employer/employee access to a list of registered agent/brokers. A listing of agent/brokers who have successfully registered with the FFE through the Exchange Portal will be made available on the Exchange website, so that consumers may identify an agent/broker to assist them with enrollment. This information will be available on an ongoing basis, and will include the name and contact information for the agent/broker. This will include their name, address, telephone numbers, and email address provided during the registration process. Initial publication of this material is expected to occur in or around August 2013 (individual Exchange) and September 2013 (SHOP Exchange) for availability during open enrollment.

### **17. Expiration Date**

CMS would like an exemption from displaying the expiration date as these forms are expected to be used on a continuing basis.

**Excerpts from Proposed Rule:**

**Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing.**

**January 2013**

**§155.205 Consumer assistance tools and programs of an Exchange.**

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(d) Consumer assistance. (1) The Exchange must have a consumer assistance function that meets the standards in paragraph (c) of this section, including the Navigator program described in §155.210. Any individual providing such consumer assistance must be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to providing such assistance.

(2) The Exchange must refer consumers to consumer assistance programs in the state when available and appropriate.

**148. Section 155.225 is added to read as follows:**

**§155.225 Certified application counselors.**

(a) General rule. The Exchange must certify staff and volunteers of Exchange-designated organizations and organizations designated by state Medicaid and CHIP agencies pursuant to 42 CFR 435.908 to act as application counselors to-

- (1) Provide information about insurance affordability programs and coverage options;
- (2) Assist individuals and employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs; and
- (3) Help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs.

(b) Standards of certification. The Exchange must certify an individual to become an application counselor if he or she:

- (1) Registers with the Exchange;
- (2) Is trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to functioning as an application counselor;
- (3) Discloses to the Exchange and potential applicants any relationships the application assister or sponsoring agency has with QHPs or insurance affordability programs, or other potential conflicts of interest;
- (4) Complies with the Exchange's privacy and security standards adopted consistent with 45 CFR 155.260, and applicable authentication and data security standards;
- (5) Agrees to act in the best interest of the applicants assisted;
- (6) Complies with applicable state law related to application counselors, including but not limited to state law related to conflicts of interest;

- (7) Provides information with reasonable accommodations for those with disabilities, as defined by the Americans with Disabilities Act, if providing in-person assistance; and
- (8) Enters into an agreement with the Exchange regarding compliance with the standards specified in this paragraph.
- (c) Withdrawal of certification. The Exchange must establish procedures to withdraw certification from individual application counselors, or from all application counselors associated with a particular organization, when it finds noncompliance with the terms and conditions of the application counselor agreement.
- (d) Availability of information; authorization. The Exchange must establish procedures to ensure that applicants –
  - (1) Are informed of the functions and responsibilities of certified application counselors; and
  - (2) Provide authorization for the disclosure of applicant information to an application counselor prior to a counselor helping the applicant with submitting an application.
- (e) Fees. Certified application counselors may not impose any charge on applicants for application assistance.

**From Preamble:**

(a) Certified Application Counselors (§435.908 and §457.330) Some individuals require assistance with completing an application, enrolling in coverage or with ongoing communications with the agency once determined eligible. While many may seek informal assistance with applications from friends or relatives, others may seek assistance from trusted community-based organizations, providers, or other organizations with expertise in social service programs. Staff and volunteers from such organizations provide important assistance in completing application and renewal forms, and in explaining and helping individuals to meet any documentation requirements, but do not sign forms, receive notices or other communications, or otherwise act on behalf of the individual being assisted. Individuals able to perform those types of functions (often a family member, legal guardian, or attorney) are referred to as “authorized representatives” and are discussed in the next section, below.

Many state Medicaid and CHIP agencies have a long history of enabling providers and other organizations to serve as “application assisters,” which we refer to in this proposed rulemaking as “application counselors” to provide such direct assistance to individuals seeking coverage, and these counselors play a key role in promoting enrollment among low-income individuals. These proposed regulations seek to ensure that application counselors, who we expect to continue to play an essential role in many states, will have the training and skills necessary to provide reliable, effective assistance to consumers, and that they will meet the confidentiality requirements that apply to the data they will be able to access in their role as assisters, including those established in accordance with section 6103 of the Internal Revenue Code and section 1902(a)(7) of the Act.

We anticipate that, beginning with the initial open enrollment period, an increasing number of individuals will seek to apply for coverage on line, and while some states already have web infrastructure which allows application counselors to track their clients’ applications and manage caseloads, we expect that practice to increase as states improve their electronic application

systems. Other applicants may still submit applications on paper. The proposed regulation recognizes the role that may be played by application counselors in helping individuals with the process through either the paper or online channels.

To effectively provide application assistance, counselors may have access to personal data, including tax data from the Internal Revenue Service that is subject to the confidentiality rules established under section 6103 of the Internal Revenue Code (“Code”). State Medicaid agencies will need to ensure that their application counselors, and any web infrastructure used by them, comply with applicable privacy and security rules associated with the disclosure and receipt of this data and other personal information as well as with the overall eligibility and enrollment process. Accordingly, we propose to add a new paragraph (c) to §435.908, as published in the Medicaid eligibility final rule, to establish standards for authorizing application counselors to assist individuals with the application and renewal process, including use of a dedicated web portal, as well as with managing their case between the eligibility determination and regularly scheduled renewals. We apply these provisions to state CHIP agencies through the addition of a cross-reference in §457.340, and propose similar regulations for certification of application counselors for the Exchange (see proposed §155.225 and section III.B.4 of this rulemaking). As recipients of federal financial participation, state Medicaid and CHIP agencies are reminded of their obligation to ensure that their programs, including their application counselor programs, provide equal access to individuals with limited English proficiency and individuals with disabilities under applicable federal civil rights laws. As part of this obligation, state Medicaid and CHIP agencies should ensure the availability and provision of appropriate application assistance services, such as language assistance services and auxiliary aids and services, to meet the needs of these populations. Sometimes this obligation can be met by referral of individuals with limited English proficiency or individuals with disabilities to appropriate counselors participating in the agency’s program. Many people applying for coverage also seek informal help from family, friends and local community-based organizations not identified on the application or authorized to communicate with the agency about the application. The proposed regulations do not pertain to such informal assistance.

We note that similar regulations for certified application counselors are proposed for the Exchange at §155.225. See discussion in section III.B.4. of the preamble. Application counselors would not need to go through two different certification processes. State Medicaid and CHIP agencies and the Exchange generally are charged under the §435.1200 and §457.348 of the Medicaid eligibility final rule and §155.345 of the Exchange final rule to work together to create a seamless and coordinated application and enrollment process for individuals applying for all insurance affordability programs. To achieve this in the case of certified application counselors, states could elect, for example, to create a single certification process for all insurance affordability programs, or each program could accept application counselors certified by another program.

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#### 5. Certified Application Counselors (§155.225)

Section 1413 of the Affordable Care Act directs the Secretary to establish, subject to minimum requirements, a streamlined enrollment system for QHPs and all insurance affordability

programs. State Medicaid and CHIP agencies have a long history of offering application assistance programs through which application counselors have had a key role in promoting enrollment for low-income individuals seeking coverage, and we believe that making such assistance available for the Exchange will be critical to achieving a high rate of enrollment. Accordingly, the proposed regulation seeks to ensure that application counselors will also be available in the Exchange to help individuals and employees apply for enrollment in a QHP and for insurance affordability programs by adding §155.225 to establish the standards for Exchange certification of such application counselors. This language specifies that each Exchange will establish an application counselor program. The proposed standards closely track those for Medicaid application counselors so that the training can be streamlined.

In essence, application counselors will provide the same core application assistance service that is also available directly through the Exchange, as well as through Navigators and licensed agents and brokers; the distinction between these entities is that application counselors are not funded through the Exchange, through grants or directly, or licensed by states as agents or brokers. We believe that this separate class of application counselors is important to ensure that skilled application assistance is available from entities like community health centers and community-based organizations that may not fit in to the other categories. We are proposing a certification process so that individuals and employees will have assurance of the quality and privacy and security of the assistance available through these certified application counselors understanding that individuals may receive some level of informal assistance from family members and others who are not officially certified by the Exchange. We are proposing that certified application counselors would have a relationship with the Exchange so that they could officially support the process while ensuring the privacy and security of personal information. Given the overlap in the scope of responsibilities between application counselors, Navigators, agents and brokers, and other entities that provide help to consumers, we believe a state can develop a single set of core training materials that can be utilized by Navigators, agents and brokers, and application counselors. Additionally, we plan to make selected federal training and support materials available that can be used by states, without the need to develop their own, to the extent that the state uses the model application established by HHS.

In paragraph (a), we propose that staff and volunteers of both Exchange-designated organizations and organizations designated by state Medicaid and CHIP agencies as it is defined in proposed §435.908 will be certified by the Exchange to act as application counselors, subject to the conditions in paragraphs (b) and (c). The Exchange will certify employees and volunteers of organizations as application counselors, which may include health care providers and entities, as well as community-based organizations, among other organizations. The designation of organizations by state Medicaid and CHIP agencies is subject to proposed §435.908.

We propose that certified application counselors: (1) Provide information to individuals and employees on insurance affordability programs and coverage options; (2) assist individuals and employees in applying for coverage in a QHP through the Exchange and for insurance affordability programs; and (3) help facilitate enrollment in QHPs and insurance affordability programs. We acknowledge that certified application counselors will not be able to sign the application or make any attestations on behalf of the individual. In contrast, we propose in §155.227 that an authorized representative can perform that function.

In paragraph (b), we propose standards for certification of individuals seeking to become application counselors. These standards will serve to ensure that application counselors will have the training and skills necessary to provide reliable assistance to consumers, that they disclose to the Exchange and applicant any financial or other relationships (either of the application counselor personally or of the sponsoring organization), that they will comply with the confidentiality requirements that apply to the data they will access in their role as application counselors, including section 6103 of the Internal Revenue Code and section 1902(a)(7) of the Act. Accordingly, we propose that the Exchange will certify as an application counselor any individual who: registers with Exchange; is trained prior to providing application assistance; complies with applicable authentication and data security standards, and with the Exchange's privacy and security standards adopted consistent with 45 CFR 155.260; provides application assistance in the best interest of applicants; complies with any applicable state law related to application counselors, including state law related to conflicts of interests; provides information with reasonable accommodations for those with disabilities, if providing in-person assistance; and enters into an agreement with the Exchange. We seek comment on whether the Exchange should have the authority to create additional standards for certification or otherwise limit eligibility of certified application counselors beyond what is proposed here.

In paragraph (c) we provide that the Exchange will establish procedures to withdraw certification from individual application counselors, or from all application counselors associated with a particular organization, when it finds noncompliance with the terms and conditions of the application counselor agreement.

In paragraph (d), we propose that the Exchange establish procedures that ensure that applicants are informed of the functions and responsibilities of certified application counselors and provide authorization for the disclosure of his or her information to an application counselor prior to a counselor helping the applicant with submitting an application.

In paragraph (e), we propose that certified application counselors may not impose any charge on applicants for application assistance in order to support access for low-income individuals.



## Appendix B: Agent/Broker Data Elements Required for Access to CMS Training Learning Management System, Training Curriculum Outline, and Sample Exam Question

### 1. Data Elements Required for Access to CMS Training Learning Management System (LMS)

Agent/Broker LMS Registrant Information
<b>Personal Identifying Information</b> <ul style="list-style-type: none"> <li>• First name, Last name</li> </ul>
<b>Contact Information</b> <ul style="list-style-type: none"> <li>• Email address</li> <li>• Business address</li> <li>• Telephone number</li> </ul>
<b>Professional Information</b> <ul style="list-style-type: none"> <li>• Title/Position</li> <li>• Health Care Provider or Facility Type (pull-down menu)</li> </ul>
<b>Market Type Selection</b> <ul style="list-style-type: none"> <li>• Individual and/or small business health options program (SHOP) market</li> </ul>

### 2. Training Curriculum Outline

Content for Agent/Broker training with the FFE has been grouped into the following four courses (working titles<sup>1</sup>):

- **FFE and ACA Basics** (core course for all target audiences)
- **Individual Market** (for Agents, Brokers, and Web Brokers)
- **SHOP Market** (for Agents and Brokers only)
- **API Access to the Exchange<sup>2</sup>** (core course for API users including web brokers)

#### **Course: FFE and ACA Basics**

Module/Topic	Estimated Duration (minutes)
Module 1: Introduction	3
Module 2: Operating in the Exchange Marketplace	4
Module 3: Overview of Individual and SHOP Markets	8

<sup>1</sup> At this juncture, titles are purposely short with acronyms left as-is for CCIIO approval.

<sup>2</sup> Accessing the Exchange is currently expected to be the final course participants would launch and may only become viewable, along with Individual Market and SHOP, once a participant completes Basics.

Module/Topic	Estimated Duration (minutes)
Module 4: Overview of Affordability Programs	15
Module 5: The Four Levels of Coverage: Metals	5
Module 6: Allowable Premium Variations	3
Module 7: Eligibility and Enrollment	10
Module 8: Privacy Standards and Issues	15
Module 9: Tools and Technical Assistance	5
<b>Total Minutes</b>	<b>68</b>

**Course: Individual Market**

Module/Topic	Estimated Duration (minutes)
Module 10: Introduction	1
Module 11: Individual Market Reforms	5
Module 12: Eligibility for State Medicaid, CHIP and Basic Health Programs	15
Module 13: Eligibility for QHPs, the Advance Premium Tax Credits (APTC) and Cost-Sharing Reductions (CSR)	15
Module 14: The Application Process	5
Module 15: The Enrollment Process	5
Module 16: Privacy Issues for the Individual Market	5
<b>Total Minutes</b>	<b>51</b>

**Course: SHOP Market**

Module/Topic	Estimated Duration (minutes)
Module 17: Introduction	1

Module/Topic	Estimated Duration (minutes)
Module 18: SHOP Market Reforms	5
Module 19: The SHOP Purchasing Experience	20
Module 20: Small Business Tax Credit and Employer Responsibility Penalties	10
Module 21: Privacy Issues for the SHOP Market	5
Module 22: SHOP Broker Tools	10
Module 23: Annual Renewal Information	5
<b>Total Minutes</b>	<b>56</b>

**Course: API Access to the Exchange**

Module/Topic	Estimated Duration (minutes)
Module 24: Introduction	1
Module 25: Navigating the API	20
Module 26: Enrollment in a Quality Health Plan (QHP)	10
Module 27: Requirements that Apply to Agents/Brokers Accessing the API	20
<b>Total Minutes</b>	<b>51</b>

**3. Sample Exam Question**

**Module 7: Eligibility and Enrollment**

A 66 year old woman with an income equal to 200% of the poverty level meets with you. She also has \$25,000 in assets in the bank. She wants to know if she is eligible for any premium or cost sharing assistance:

- 1) No, because her income is too high
- 2) No, because her assets are too high
- 3) She might be, but it depends on which level of coverage she selects (bronze, silver, gold, or platinum)
- 4) No because she is over the maximum age requirement.

