

Recommended Consumer Protections for Web-based Agents and Brokers offering Exchange Coverage

Many states and the Federal government contemplate allowing web-based agents and brokers (hereinafter “web-based brokers”) to list and sell exchange-offered health plans. Federal exchange rules require that such web-based brokers enter into an agreement with the exchange. Per Federal rules, the internet website of an agent or broker must meet certain standards for display. However, these rules are general and provide leeway for manipulative displays by web-based brokers that might steer consumers towards high-commission plans, emphasize ancillary products over exchange products, or function as vehicles to collect information about consumers for resale or downstream marketing.

In order to avoid the potential pitfalls described below, policymakers should:

- (1) Require web-based brokers to display all qualified health plan (QHP) information and data provided by the exchange, *in a manner consistent with the display at the exchange*, such that a consumer is able to access all of the same information as at the exchange.
- (2) Require prior approval before web-based brokers use any display *features* or *tools* that vary from those available on the exchange website.
- (3) Prohibit web-based brokers from including sponsored links.
- (4) Prohibit web-based brokers from offering non-exchange plans along-side exchange offered plans, so as to streamline consumer shopping.
- (5) Prevent web-based brokers from marketing non-QHP ancillary products (like adult dental) that are not exchange-offered products so as not to interfere with the consumers’ examination of exchange QHP information. If such marketing is permitted, it is critical that the federal prohibition regarding use or disclosure of consumers’ information for non-exchange purposes (Section 155.260(a)) must be included in brokers’ contracts and/or agreements with exchanges.
- (6) Require that the primary function of the web-based broker site is as a fully functional shopping tool for exchange products. The primary function may not be to collect consumer contact information.
- (7) Require that web-based broker sites prominently display all consumer choice tools that the exchange website makes available (such as the required premium calculator or the ability to filter by whether a particular physician is in a plan’s network).
- (8) Require that web-based broker sites provide the default sort order for QHP choices that is the same default sort order from the exchange website and that consumers can easily alter the sort order by the same options available at the exchange. When the consumer hides or filters out choices, there must be a clear indicator that not all choices are currently displayed.
- (9) Prohibit web-based brokers from using proprietary data or methods to sort health plans or as a basis for providing additional information about health plans. A clear, plain language explanation for all aspects of the displays “choice architecture” must be readily available.
- (10) Hold web-based brokers accountable for the accuracy and timeliness of information provided at its site, ensuring, for example, that a provider search tool is accurate, updated regularly and any limitations are clear to consumers.

- (11) Prohibit web-based brokers from utilizing confusing, look-alike data elements such as “customer reviews” or “best seller” designations that are less robust than similar items found on the exchange website (such as the results from user experience surveys and other data that exchanges are required by statute to provide).
- (12) Require web-based brokers to provide consumers with the ability to anonymously explore or search the website to learn more about the health coverage programs and plans available to them, including insurance affordability programs. Consumers should be able to explore the website without being required or cajoled into sharing information beyond the minimum information needed to generate a premium: ZIP code, age (or age band) and tobacco use (if permitted by state law) for each family member seeking coverage.
- (13) Prior to requesting personal information, require that web-based brokers inform consumers how individually identifiable information is collected, used and disclosed; for how long it is retained; and whether and how they can exercise choice over such collection, use, and disclosure. Further, no information regarding such browsers or explorers (including her/his internet provider address) should be collected or saved (a.k.a. “cached”) without the person affirmatively consenting to begin the enrollment process.
- (14) Require that web-based brokers enter into uniform, detailed agreements with exchanges as to the nature, timing and use of personal information collected about the consumer. For example, “help me shop” tools cannot be fronts for collecting information about health status that could be used for improper steering. Like other exchange vendors, web-based brokers, must adhere to the same or more stringent privacy and confidentiality requirements imposed upon the exchange (See section 155.265(b)).
- (15) Undertake active oversight of web-based brokers offering exchange products to avoid any problems (described below) with steering that might occur, given that no set of rules will anticipate all the ways in which web-based brokers might engage in steering.
- (16) Display a "Good Housekeeping"-type seal of approval on web-based broker sites, indicating that they have entered into a formal agreement with the exchange and are adhering to its requirements. Ideally, this logo will be a national design, better enabling consumers to learn its function. In addition, state exchange websites should have easily identifiable logos and trademarks or other protections to distinguish them from both exchange-sanctioned web-based brokers and unregistered web entities. The fact that the brokers' web sites are private and not the same as the exchange should be conveyed clearly and prominently to the consumer.
- (17) Require that web-based broker websites have a clear and prominent statement on every page that indicates to consumers that they may return to the exchange's website at any time to complete enrollment.

Problems we are seeking to avoid:

Consumer Unfriendly Ways of Complying With the Requirement to Display All Plans

Exhibit 1 is the first screenful of results from a web-based broker ([Joppel](#)) selling Medicare plans. Written in the smallest type is the information that not all available plans are included in the “results.” In order to see all plans, the user would have to:

- Notice the information indicating not all plans are in results.
- Click on “Modify Your Results” (not as intuitive as “See All Plans”)
- On the resulting page, scroll down to find the check box “Include plans that are not contracted with Joppel” – the least prominent item on the page.
- Avoid selecting the prominent buttons on the top of the page (“Go Back” and “Close”) – choosing either of these would not save the user’s selection.
- Instead, scroll down some more to find the “I want to SAVE and view my plans now” button.

Approaches such as this one are not sufficient to meet the requirement that all plans be displayed. Confusing navigation and other design elements are structured so that selected plans continue to be prominently displayed – even though no information has yet been provided to suggest these are the best ones for the consumer.

Exhibit 1: Joppel screen shot after age and ZIP code provided

Compare Medicare Insurance Plans with Joppel - Windows Internet Explorer
http://www.joppel.com/Plans/SearchResults#NavMenu

Joppel. by HealthCompare. Contact Us Common Questions Glossary
Talk with a licensed agent today! Call us at 888-956-7735 TTY 711

Home Find A Plan About Joppel Medicare Info Articles & Info Search

We found 37 out of 75 Medicare-approved plans for you to review.
You are currently only viewing plans that contract with Joppel. To view all plans, click on "Include plans not contracted with Joppel" from the **Modify Your Results** screen.

Modify Your Results Compare

Plan #1	Plan #2	Plan #3
UnitedHealthcare AARP MedicareComplete Plan 1 (HMO) (MA) ★★★★☆	HUMANA Humana Gold Plus H2012-002 (HMO) (MA) ★★★★☆	HUMANA HumanaChoice R5826-065 (Regional PPO) (MA) ★★★★☆
DR Copay: \$10 RX Copay: \$3 - \$92 RX Deductible: \$0 OOP Maximum: \$1,400	DR Copay: \$10 RX Copay: \$6 - \$80 RX Deductible: \$0 OOP Maximum: \$1,000	DR Copay: \$10 RX Copay: N/A RX Deductible: N/A OOP Maximum: \$5,100
RX Match: Yes Gap Coverage: No Plan Type: HMO	RX Match: Yes Gap Coverage: Yes Plan Type: HMO	RX Match: Yes Gap Coverage: No Plan Type: RPPO

Talk with a licensed agent today! Click to Call
Call us at 888-956-7735 TTY 711

Agents are standing by. Click to Begin
Chat with us!

Customer ID#
CL-8143-5354

Accessed 8/14/2012 using: ZIP code 35201, female and birth date 11/13/1937.

When the same ZIP Code and age criteria are entered into [Ehealthinsurance](#), the results include just four Medicare Advantage plans. Near the top of the screen, the page says “4 plans found.” If the user scrolls to the bottom, there is a message saying “We offer more Medicare health plans by phone.” Again, the fact that there are more plan options is not sufficiently prominent and getting to other options requires a disproportionate amount of work for user (see discussion of “tolls” below).

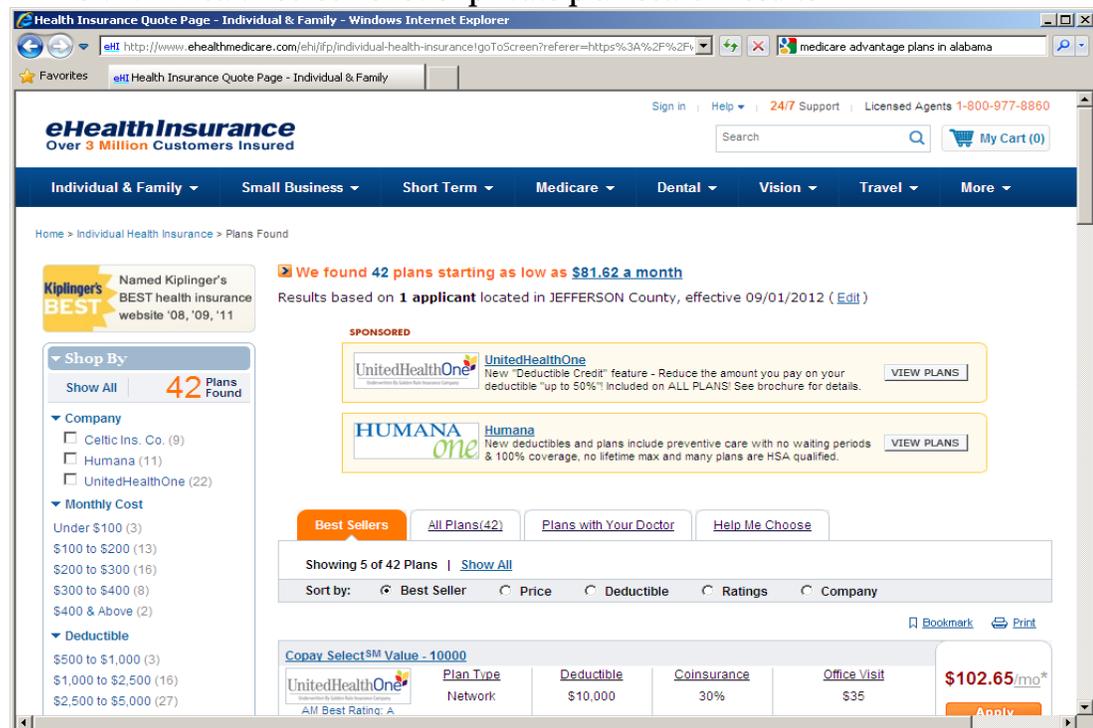
Hiding Rationale for Plan Display Order

The plans in **Exhibit 1** are designated as #1, #2 and #3 – why? There is no telling. Yet the plans listed first will have a profound effect on the selection made by the consumer.¹ Perhaps companies pay for this placement. As a consumer, I would want to know. Similarly, when Ehealthinsurance provides its default display of health plans (both private and Medicare), there is no way to ascertain the criteria used to sort the plans. However, in both cases the display seems to imply that the top plans are “better.”

Sponsored Links

Even if labeled “sponsored,” links that look like search results will be selected by consumers (see **Exhibit 2**).² This has the result of directing consumers to a limited set of plans that is inconsistent with the goals of the Exchange.

Exhibit 2: E-health screen shot of private plan search results



Accessed 8/14/2012 using: ZIP code 35201, female, birth date 11/13/1965, no tobacco use, not a college student.

¹ Kleimann Communications Group, Inc and Consumers Union. *Choice Architecture: Design Decisions that Affect Consumers Health Plan Selections*, July 2012.

² Ibid.

Inappropriately Emphasizing Some Health Plan Data over Other Data

Ehealthinsurance's display of private health coverage results provides prominent display of key plan features like premium, deductible, coinsurance and copay (**Exhibit 3**). You can even sort by premium or deductible. But it is less convenient to compare plans based on the maximum out-of-pocket – a key aspect of the overall protection provided. To see this plan attribute (if the consumer even realizes that they should take this into consideration), the consumer must select a few plans to compare and then scroll down.

Exhibit 3: E-health screen shot of private plan search results – after scrolling down

The screenshot shows a web browser window with the URL http://www.ehealthmedicare.com/ehi/lfp/best-sellers?sortOption=BEST_SELLER. The page title is "Health Insurance Quote Page - Individual & Family". The main content area displays search results for "Best Sellers" (42 plans total). The results are sorted by "Best Seller". The first three plans are:

Plan Name	Plan Type	Deductible	Coinsurance	Office Visit	Premium
Copay Select SM Value - 10000	Network	\$10,000	30%	\$35	\$102.65/mo*
Copay Select 70 - 10000	Network	\$10,000	30%	\$35	\$117.40/mo*
Copay Select 80 - 2500	Network	\$2,500	20%	\$35	\$236.85/mo*

The sidebar on the left includes filters for "Monthly Cost" (Under \$100 (3), \$100 to \$200 (13), \$200 to \$300 (16), \$300 to \$400 (8), \$400 & Above (2)) and "Deductible" (\$500 to \$1,000 (3), \$1,000 to \$2,500 (16), \$2,500 to \$5,000 (27), \$5,000 to \$10,000 (19), \$10,000 & Above (4)). There is also a "Support" section with "CLICK TO CHAT" and "CLICK TO TALK" options.

Accessed 8/14/2012 using: ZIP code 35201, female, birth date 11/13/1965, no tobacco use, not a college student.

Alternatively, the consumer can click on “Plan Details” from the results page but the subsequent webpage actually includes no new details but an opportunity to buy high profit ancillary products (**Exhibit 4**). Only if the consumer *again* selects “Show All Plan Details” is this information provided.

Exhibit 4: E-health screen shot of private plan search results – after selecting “Plan Details”

The screenshot shows a web browser window with the URL <http://www.ehealthmedicare.com/ehi/lf/p/plan-details?planKey=3506:97014&productLine=IFF&fpUIState.plant>. The page title is "UnitedHealthOne Copay Select 70 - 10000 AL Health Insurance Plan Details". The main content area features the UnitedHealthOne logo, the plan name "Copay Select 70 - 10000", and a "MONTHLY COST" of \$117.40. Plan highlights include "Prescription Included" and "Deductible Credit". Plan details show a Network Plan Type, \$10,000 Deductible, 30% Coinsurance, and \$35 Office Visit. A "Show All Plan Details" button is present. On the right, the "Order Summary" table lists benefits: Dental (None), Vision (None), Accident (None), Accidental Death (None), Life Insurance (None), Mental Illness (None), Office Visit (None), Prescription Drug (None), and Supplemental Accident (None). The estimated total is \$117.40/mo*, with an "Apply" button. Below this, there is a section "Add additional benefits to your order" with options: "Dental Premier (UnitedHealthOne) [Add \$37.51/mo*] View Benefits" (RECOMMENDED), "Dental Value (UnitedHealthOne) [Add \$27.72/mo*] View Benefits", and "Preventive Plus (Humana) [Add \$17.24/mo*] View Benefits". A "Quote Profile" section shows applicant information: Female/46, State / Zip Code: AL / 35201, County: JEFFERSON, Coverage Start Date: 09/01/2012. A "Need Help?" section includes a "CLICK TO TALK" button with the text "We'll call you now".

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Inappropriate Marketing of Ancillary Products

As **Exhibit 4** illustrates, the “plan details” link is misleading because it leads to high profit add-on products instead of the information the consumer requested.³ The consumer must “get past” these marketing requests, in order to reach more detailed information about the plan – information critical to making an informed decision.

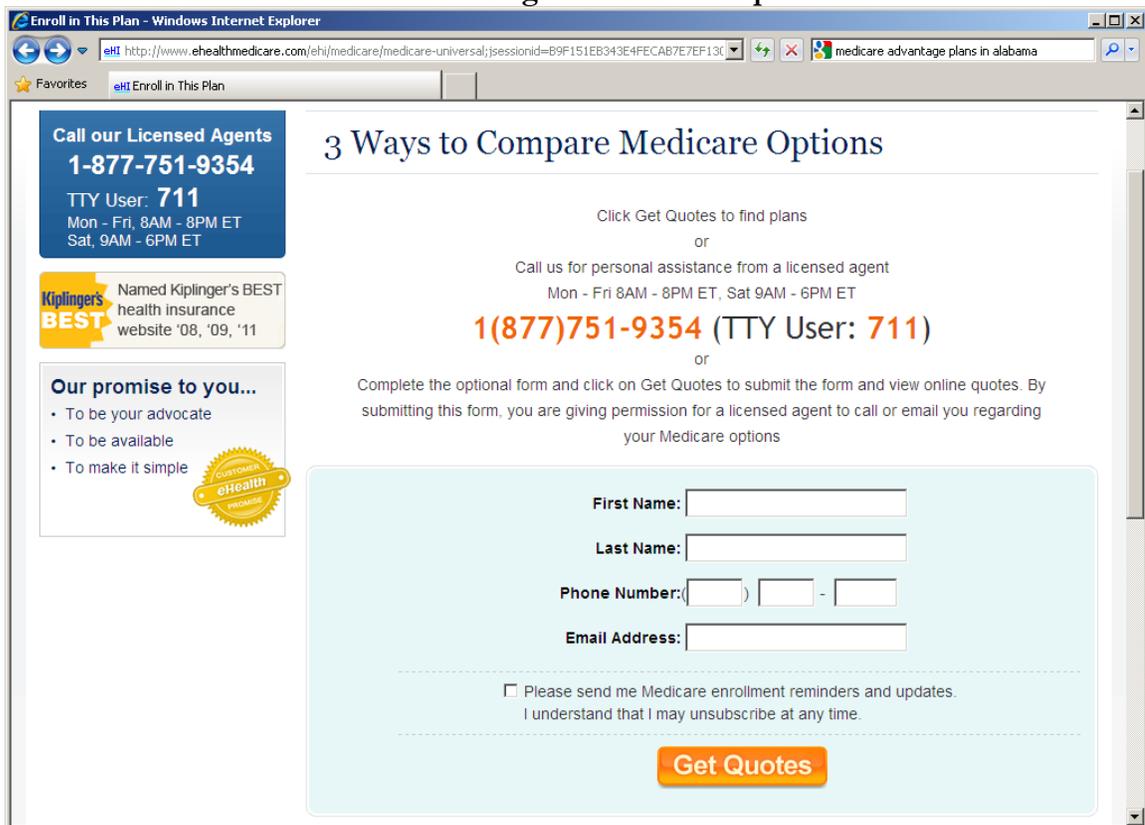
Collection of Fees or Non-critical Personal Information

Consumers should not be charged a fee for receiving services that they can get for free in the Exchange. Similarly, they should not have to give up their contact information in order to browse the options available to them. In **Exhibit 5**, after providing the information necessary to generate an eHealthinsurance Medicare Advantage price quote (ZIP code, gender and age), the user is taken to an intermediary screen that strongly steers the consumer towards calling the brokerage or at least providing contact information. Only if you read the smallest print very carefully it is clear that the user can just click on “get quotes” without providing any other information. The design of the page obscures this fact. Requiring (or appearing to require) contact information from shoppers in the early stage of

³ Ibid

their shopping is a form of “toll” and should not be allowed. Recall above that the user could not see *all* Medicare Advantage plans unless they called the brokerage.

Exhibit 5: E-health screen shot after age and ZIP code provided in Medicare Search



Accessed 8/14/2012 using: ZIP code 35201, female and birth date 11/13/1937

Fraudulent Websites

Websites seeking to leverage the concept of an exchange already are ubiquitous. Consumers should not have to sort through confusing lookalikes. Some have disclaimers – “a private health insurance exchange” – but this information is not nearly as prominent as other information. Examples include:

<http://mdhealthexchange.com/Home.html>

<http://oregon-health-insurance-exchange.com/>

<http://washingtonhealthexchange.com/>

(The final two sites have lookalike sites in other states)