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# Enrollment Assistance Program

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# Enrollment Assistance Program Guiding Principles

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- Promote **maximum enrollment** of individuals into coverage;
- **Build on and leverage existing resources, networks and channels** to maximize enrollment into health care coverage, including close collaboration with state and local agencies, community organizations, businesses and other stakeholders with common missions and visions;
- Consider where eligible populations **live, work, and play**. Select tactics and channels that are based on research and evidence of how **different populations can best be reached** and encouraged to enroll and, once enrolled, retain coverage;
- Marketing and outreach strategies will reflect and target the **mix and diversity of those eligible for coverage**;
- Establish a **trusted statewide Enrollment Assistance Program that reflects the cultural and linguistic diversity of the target audiences and results in successful relationship and partnerships**;
- Ensure that **Certified Enrollment Counselors are knowledgeable** of both subsidized and non-subsidized health coverage and qualified health plans and that Certified Enrollment Counselors are **equipped with the information and expertise needed to successfully enroll individuals into coverage**; and
- Continue to learn and adjust strategies and tactics based on input from our national partners, California stakeholders, on-going research, **evaluation and measurement of the programs' impact on awareness and enrollment**.



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# **ENROLLMENT ASSISTANCE PROGRAM**

## **Final Draft Proposed State Regulations**



# Enrollment Assistance Program Draft Proposed State Regulations Board Action

## Article 8: Enrollment Assistance

Final Draft Regulation Sections	Section Summary
<p><b>§ 6650</b> Definitions</p>	<ul style="list-style-type: none"> <li>• Certified Enrollment Entities: Entities or individuals registered by the Exchange to provide one-on-one consumer assistance. Certified Enrollment Entities shall be registered in the In-Person Assistance Program.</li> <li>• Certified Enrollment Counselor: An individual who is certified by the Exchange per Sections 6654 or 6656 to provide one-on-one-consumer assistance.</li> </ul>
<p><b>§ 6652</b> Certified Enrollment Entities</p>	<ul style="list-style-type: none"> <li>• Identifies organizations eligible to be Certified Enrollment Entities (e.g., American Indian Tribes or Tribal Organization, Chambers of Commerce, City Government Agencies, Faith-Based Organization, School Districts, Trade, Industry, and Professional Organizations etc.)</li> <li>• References to Agents as Certified Enrollment Counselors have been removed since the Exchange will develop Agent Regulations to identify roles and responsibilities within the Exchange’s subsidized and non-subsidized programs.</li> </ul>
<p><b>§ 6654</b> In-Person Assistance Program Application</p>	<ul style="list-style-type: none"> <li>• An entity or individual that is eligible per Section 6652 may apply to register in the In-Person Assistance Program as Certified Enrollment Entity according to specific processes.</li> </ul>
<p><b>§ 6656</b> Navigator Program Application</p>	<b>Reserved</b>
<p><b>§ 6658</b> Certified Enrollment Counselor Fingerprinting and Criminal Record Checks</p>	<ul style="list-style-type: none"> <li>• An applicant to the In-Person Assistance Program to be a Certified Enrollment Counselor is required to undergo a fingerprinting and criminal record check. There is an interim fitness determination, appeal, and final determination process in place in the event that a Certified Enrollment Counselor is found to have a potential disqualifying record.</li> </ul>



# Enrollment Assistance Program Proposed Regulations (continued): Board Action

## Article 8: Enrollment Assistance

Final Draft Regulation Sections	Section Summary
<p>§ 6660 Training Standards</p>	<ul style="list-style-type: none"> <li>All individuals or entities who carry out consumer assistance functions, shall complete an Exchange-approved training prior to carrying out any consumer assistance functions.</li> </ul>
<p>§ 6662 Appeals Process</p>	<ul style="list-style-type: none"> <li>Other than a determination made pursuant to Section 6658, Certified Enrollment Counselor Fingerprinting and Criminal Record Checks, a decision that an individual or entity is not eligible or qualified to participate or continue to participate in a program under this Article may be appealed to the Exchange in accordance with the requirements of this section.</li> </ul>
<p>§ 6664 Roles &amp; Responsibilities</p>	<ul style="list-style-type: none"> <li>Certified Enrollment Entities and Certified Enrollment Counselors shall maintain expertise in Covered California eligibility, enrollment and program specifications. They are also required to provide fair, accurate, information in a manner that is culturally and linguistically appropriate manner, and help facilitate the selection of a Covered California Health Plan.</li> </ul>
<p>§ 6666 Conflict of Interest Standards</p>	<ul style="list-style-type: none"> <li>Certified Enrollment Entities and Certified Enrollment Counselors shall not employ, be employed by or be in partnership with, or receive any remuneration arising out of functions performed under this Article from any individual or entity currently licensed by the California Department of Insurance. individual or entity currently licensed by California Department of Insurance.</li> </ul>
<p>§ 6668 Compensation</p>	<ul style="list-style-type: none"> <li>Certified Enrollment Entities that are registered in the In-Person Assistance Program and do not have a conflict of interest shall be compensated for consumer assistance provided by an affiliated Certified Enrollment Counselor.</li> </ul>



# Stakeholders Providing Comments

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1. California Coverage & Health Initiatives
2. California Hospital Association
3. California Pan-Ethnic Health Network
4. California Primary Care Association
5. California School of Health Centers America
6. Children Defense Fund-California
7. Children Now
8. Consumers Union
9. Health Consumer Alliance
10. Local Health Plans of California
11. National Employment Law Project
12. Providence Little Company of Mary Foundation
13. San Francisco Community Clinic Consortium
14. San Luis Obispo County Public Health Department
15. State of California, Department of Insurance
16. The Children's Partnership
17. The Greenling Institute
18. United Way



# Enrollment Assistance Program Certified Enrollment Entities

## § 6652 Certified Enrollment Entities

### Summary Stakeholder Feedback:

1. Expand the prohibition on agents providing valuable consideration to Certified Enrollment Counselors. Valuable consideration should also be defined as, “office space at no cost or cost below actual costs, funding for travel expenses, marketing or co-marketing, and/or production of materials at no cost or below actual cost. Include this language in the contracts, training materials, and certification curriculum.
  
2. Prohibit co-locating Certified Enrollment Counselors in Agents’ offices or other in-kind contributions. Provide adequate budget and staffing resources to enable adequate monitoring and enforcement of this prohibition.
  
3. Delete all references to “brokers” and define “agent” by reference to provisions in the California Insurance Code, such as Sections 32, 1622, and/or 1626.

### Original Staff Recommendations:

Staff held two ( 2) Draft State Regulation Stakeholders webinars on May 3 and June 6 , 2013.

1. Staff agrees with recommendation to prohibit in-kind compensation between agents and Certified Enrollment Counselors. Staff to further define “in-kind support” and “valuable consideration” to provide clarity to the program’s intent regarding this issue between Agents and Certified Enrollment Counselors.

Staff presented (at the May 7, 2013 Board Meeting) a Board Recommendation Brief titled, “Covered California Agent and Enrollment Entity Relationship Requirements.”

With regard to financial arrangements that could increase overall marketing and enrollment costs, at the May 27<sup>th</sup> Board Meeting, the Board adopted the following staff recommendations:

1. Prohibit grantees and Assisters from accepting payment or other valuable consideration from agents for referrals and/or enrollment services; and
  
2. Prohibit agents trained and certified by the Exchange from providing payment or other valuable consideration to grantees, Assisters and other community-based groups for referrals and/or enrollment services as a condition of program participation.

### Final Staff Recommendation incorporated into final State Regulations:

- Staff incorporated Stakeholder feedback and the Board’s May 27, 2013 adopted resolutions.
  
- Final Draft State Regulations read: “Certified Enrollment Counselors shall not employ, be employed by or be in partnership with, or receive any remuneration arising out of functions performed under this Article from any individual or entity currently licensed by the California Department of Insurance. “
  
- In addition, Agents as Certified Enrollment Counselors have been removed because Agents will have separate Agent Regulations to identify roles and responsibilities within the Exchange’s subsidized and non-subsidized programs.



# Enrollment Assistance Program In-Person Assistance Program Application

## § 6654 In-Person Assistance Program Application

Summary Stakeholder Feedback:	Original Staff Recommendations
<ol style="list-style-type: none"> <li>1. Process should be developed to allow organizations to change from participation in the In-Person Assistance Program vs. the Navigator Program.</li> <li>2. Consider and articulate how Certified Application Assistants (CAAs) can be active in the California market to supplement and complement DBAs, IPAs and Navigators.</li> <li>3. Revise eligible entities to include: Providers, including but not limited to, Hospitals, Clinics not designated as “community clinics”, and County Health Departments that provide health care services. Community Clinics are eligible for compensation by the Exchange for functions performed by Certified Enrollment Counselors.</li> <li>4. On the issue of Agents revise the regulations to read: Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. This exclusion does not apply to organizations that receive consideration from health insurance issuers or stop loss insurance issuers for functions other than enrollment, or are reimbursed by insurance issuers for services rendered.</li> <li>5. Include requirements to disclose criminal convictions upon application or subsequent conviction</li> </ol>	<ol style="list-style-type: none"> <li>1. Certified Enrollment Entities (CEEs) registered in the In-Person Assistance Program (IPA) may apply to become a Navigator; however, entities cannot concurrently be both an IPA and Navigator. Entities would have to withdraw their registration as an IPA Certified Enrollment Entity. Likewise, a Certified Enrollment Entity that was awarded a Navigator grant and wants to participate again in the IPA Program must re-register their organization after the term of the Navigator Grant is expired.</li> <li>2. The Exchange will recruit Enrollment Entities (EEs) and Certified Application Assistants (CAAs) because they are known resources in the community. Many of the EEs and CAAs are eligible to participate in the IPA program. EEs and CAAs need to apply and register their enrollment entity in the Exchange. And, the organizations will be required to complete the Exchange’s training to become registered Certified Enrollment Entities and Certified Enrollment Counselors in order to participate in the IPA program through the Exchange.</li> <li>3. Community clinics are identified as eligible organizations to receive compensation in the final draft State Regulations.</li> <li>4. Recommend the Exchange develop policy that non-enrollment related functions, including reimbursement for health care services, does not prevent otherwise eligible entities from receiving compensation from the Exchange for enrollment assistance activities.</li> </ol>

### Final Staff Recommendation incorporated into final State Regulations:

- Staff incorporated Stakeholder feedback from the May 7, and June 6, 2013 Stakeholder webinars.
- Certified Enrollment Entities shall be registered in the In-Person Assistance Program, or the Navigator Program [Reserved], but not both, in accordance to Section 6650.
- Community Clinics as defined in Health and Safety Code Section 1204(a)(1)(A) are compensated by the Exchange for any functions performed as Certified Enrollment Entities. Section 6668 (d) (1).
- Agents licensed by the California Department of Insurance cannot become Certified Enrollment Entities and Certified Enrollment Counselors, in accordance to Section 6666 (a).
- Include criminal conviction reporting requirements from Certified Enrollment Counselors.



# Enrollment Assistance Program Fingerprinting & Criminal Records Checks

## § 6658 Certified Enrollment Counselor Fingerprinting and Criminal Record Checks

### Summary Stakeholder Feedback:

1. When an applicant has identified incorrect information on the criminal record, the applicant should be able to direct correction of the information to the Exchange and not the Department of Justice or Federal Bureau of Investigation.
2. The regulations should incorporate additional indicia of mitigating circumstances and evidence of rehabilitation.
3. Provide copies to the individual if an issue arises that disqualifies them from participation as an IPA so they can appeal if necessary. Give 60 calendar days to dispute the record. the Exchange should take into account all mitigating circumstances.
4. Include a list of potentially disqualifying offenses

### Original Staff Recommendations

Staff presented (at March 21, 2013 Board Meeting) a Board Recommendation Brief titled, "Covered California Background Check Policy."

The Board adopted at the April 23, 2013 Meeting the following staff recommendations:

1. To require fingerprint-based criminal background checks ("background checks") for any employees, prospective employees, contractor, subcontractor, volunteer or vendor who will have access to personal information for Covered California applicants and enrollees.
2. The Exchange will pay the cost for the background checks for individuals applying to become Certified Enrollment Counselors for year one and then review the policy for the following year.

### Final Staff Recommendation incorporated into final State Regulations:

- Stakeholder feedback has been taken into consideration and incorporated into the Regulations.
- All Certified Enrollment Counselors will undergo a fingerprint-based background check.
- Appeals process for Fingerprinting incorporated in the Regulations. Section 6658 (b) – (c).



# Enrollment Assistance Program

## Appeals Process for Fingerprinting & Criminal Records Check

### § 6658 (b) – (c) : Appeals Process for Certified Enrollment Counselor Fingerprinting and Criminal Record Checks

#### Final Staff Recommendation incorporated into final State Regulations:

- If the Exchange finds that an individual has a potentially disqualifying criminal record, the Exchange shall promptly provide the individual with a copy of his or her criminal record, notify the individual of the specific disqualifying offense(s) for the interim determination, and provide the individual information on how to request a written appeal, including examples of the types of additional evidence the individual may provide, to dispute the accuracy and relevancy of the criminal record.
- If the individual believes that the potentially disqualifying offense in the Federal Bureau of Investigation response is inaccurate, the individual will have 60 calendar days from the date of the notice to seek correction or provide additional information to the Exchange. Upon receipt of such information, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.
- If the individual believes that the potentially disqualifying offense in the California Department of Justice (DOJ) response is inaccurate, the individual will have 60 calendar days from the date of the notice to seek correction or provide additional information to the Exchange. The fitness of determination is not final until the DOJ has corrected the state criminal response. Upon receipt of the DOJ corrected response, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.
- If the individual determines that his or her criminal record is accurate, within 60 calendar days from the date of the notice, the individual may dispute the interim determination by producing additional written evidence of rehabilitation and mitigating circumstances related to any potentially disqualifying offense. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.
  - For purposes of reevaluating the interim determination the Exchange shall take into account mitigating and rehabilitative considerations as outlined in Section 6658 (c) (2) (A).



# Enrollment Assistance Program Training Standards

## § 6660 Training Standards

### Summary Stakeholder Feedback:

1. Include Market Abuse issues arising from fraudulent practices from non-exchange certified persons and entities.
2. Provide on-going training support to address difficult issues for the Enrollment Assistance Program or on-going training mechanisms (e.g., Frequently Asked Questions or live person to help as issues arrive).
3. Baseline education on MAGI Medi-Cal and non-MAGI eligibility, rules and requirements associated with changes in circumstances, tax reconciliation, advanced tax premium credits, compatibility standards, informal resolution process, due process and appeals rights, including bifurcated appeals system, marketing and advertising rules and prohibitions, and Affordable Care Act non-discrimination provisions.
4. Inclusion of National Voter Registration Act of 1993 (NVRA) training for all Certified Enrollment Entities and Certified Enrollment Counselors. This training should commence with the first round of trainings this summer.

### Original Staff Recommendations

1. Staff presented at the February 7, 2013 In-Person Assistance and Navigator Programs Stakeholders webinar the Training Overview and Training Curriculum Overview.
  - Guided by Federal Regulations staff recommended ten (10) Primary Topics covering areas from eligibility requirements, handling consumers' protected and personal health information, plan options to the online portal training with many other areas covered.
2. The Exchange to develop a comprehensive 3-day training course to instruct on all information required for Certified Enrollment Entities and Certified Enrollment Counselors to perform their roles and duties associated with providing enrollment assistance activities to the consumer.

### Final Staff Recommendation incorporated into final State Regulations:

- Staff incorporated all the Training Standards and components promulgated in the proposed Federal Regulations.
- Final draft State Regulations identify sixteen (16) Primary Topics for the Training Program which is consistent with the proposed Federal Regulations.
- All entities or individuals who apply to become a Certified Enrollment Entity shall complete training for the management of Certified Enrollment Entities before an affiliated Certified Enrollment Counselor can perform his or her duties.
- All Certified Enrollment Entities and Certified Enrollment Counselors are required to complete training prescribed in Section 6660 (b) before providing enrollment assistance functions and shall recertify annually.



# Enrollment Assistance Program

## Appeals Process not relating to Fingerprinting & Criminal Record Checks

### § 6662 Appeals Process

#### Summary Stakeholder Feedback:

- Provide clear language for the reason for disqualification and the resources available to them for appeals.

#### Original Staff Recommendations

- Staff will review existing language and incorporate stakeholder feedback.

#### Final Staff Recommendation incorporated into final State Regulations:

- An applicant may request an appeal within sixty (60) calendar days of the date of the notice of eligibility determination.
- The first phase of the Appeals process shall include an informal review by the Exchange.
- The Exchange shall consider the information used to determine the appellant's eligibility and any additional relevant information provided during the course of the appeal.
- The Exchange will make an informal resolution decision with forty-five (45) calendar days from the receipt of the appeal. The Exchange shall notify the appellant in writing of the decision.
- If the appellant is satisfied with outcome of the informal resolution process, the appeal may be withdrawn.
- If the appeal does not advance to the second phase of the appeal and the, the informal resolution decision shall be final and binding.
- If the appeal is not withdrawn, the process is automatically escalated to the second phase of the Appeals process.
- An appellant's right to an appeal shall be preserved in any case in which the appellant remains dissatisfied with the outcome of the first phase informal resolution process.
- During the second phase, an independent unit within the Exchange that had no involvement in the original eligibility decision or informal resolution decision will review the eligibility or qualification of the appellant *de novo*.
- If the appeal advances to the second phase of the Appeals process, the appellant shall not be asked to provide duplicative information or documentation that he or she previously provided during the application or informal resolution process. The appellant shall be allowed to present additional information during the second phase.
- The Exchange shall consider all relevant evidence presented during the course of the appeal process and notify the appellant in writing of the final decisions within sixty (60) calendar days from the receipt of the appeal.



# Enrollment Assistance Program Roles & Responsibilities

## § 6664 Roles & Responsibilities

### Summary Stakeholder Feedback:

- Include Non-Discrimination language so Certified Enrollment Counselors are clear about the requirement of the Affordable Care Act. Cite Section 1557 which includes race, ethnicity, primary language, disability status, sexual orientation, and gender identity.
- Require Certified Enrollment Counselors to report subsequent convictions and actions taken by another agency within 30 days.

### Original Staff Recommendations

1. Staff will review existing language and incorporate stakeholder feedback.
2. Staff will include Non-Discrimination as part of their role.

### Final Staff Recommendation incorporated into final State Regulations:

- Stakeholder feedback has been taken into consideration and incorporated into the State Regulations.
- Final draft State Regulations read: “To ensure that no consumer is discriminated against, Certified Enrollment Entities and Certified Enrollment Entities shall provide the same level of service to all individuals regardless of age, disability, culture, sexual orientation, or gender identity and seek advice or experts when needed.”
- In addition, final draft State Regulations read: “Certified Enrollment Counselors shall report to Covered California any criminal convictions and administrative actions taken by any other agency within 30 calendar days of the date of the conviction or action.”



# Enrollment Assistance Program Suspension and Revocation

## § 6670 Suspension and Revocation

### Summary Stakeholder Feedback:

- Include language permitting the Exchange to suspend or revoke the certification of any Certified Enrollment Entity or Certified Enrollment Counselor in a case of misconduct.

### Original Staff Recommendations

- Staff will review existing language and incorporate stakeholder feedback.

### Final Staff Recommendation incorporated into final State Regulations:

- Stakeholder feedback has been taken into consideration and incorporated into the State Regulations.
- Final draft State Regulations permit the Exchange to suspend or revoke certification of a Certified Enrollment Entity or Certified Enrollment Counselor who:
  - Commit misconduct; or
  - Have potentially disqualifying criminal records.State Regulations provide the Certified Enrollment Entity or Certified Enrollment Counselors with appeal rights.



# Next Steps

Activity	Proposed Timeline
In-Person Assistance Program (IPA) Regulations for Board Approval and Action	June 20, 2013
Notice IPA Regulations	June 21, 2013
File IPA Regulations with Office of Administrative Law	June 28, 2013
Navigator Program 1st Stakeholder Webinar	Early-July
IPA Regulations Effective (Tentative)	July 8, 2013
IPA Certified Enrollment Entity Application Release (Tentative)	July 9, 2013
Navigator Program 2 <sup>nd</sup> Stakeholder Webinar	Early-August
Proposed Navigator Regulations for Board Approval and Action	August 22, 2013
Notice Navigator Regulations	August 23, 2013
File Navigator Regulations with Office of Administrative Law	August 30, 2013
Navigator Regulations Effective (Tentative)	September 9, 2013

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**QUESTIONS and/or COMMENTS?**

