

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 8. Enrollment Assistance

§ 6664. Roles and Responsibilities.

(a) Certified Enrollment Entities and Certified Enrollment Counselors shall perform the following functions:

(1) Maintain expertise in eligibility, enrollment, and program specifications.

Individuals and entities registered under the Navigator Program must also conduct outreach and education to raise awareness about the Exchange;

(2) Provide information and services in a fair, accurate and impartial manner, which includes providing information that assists consumers with submitting the eligibility application, clarifying the distinctions among health coverage options, including QHPs, and helping consumers make informed decisions during the health coverage selection process. Such information and services shall include assistance with all other insurance affordability programs (e.g., Medicaid and Children's Health Insurance 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 Public Health Service Act, 42 U.S.C. § 300gg-93, 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;

(5) Comply with the privacy and security requirements in 45 C.F.R. § 155.260;

(6) Prior to receiving access to any consumer's personally identifiable information as defined in Section 6650 of Article 8, the Certified Enrollment Counselor shall:

(A) Inform the consumer that the Certified Enrollment Counselor must obtain ~~his~~ or her, their authorization prior to accessing any personally identifiable information;

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(B) Inform each consumer of the roles and responsibilities of the Certified Enrollment Counselor as set forth in Section 6664, subdivisions (a)(1)-(5), (7);

(C) Obtain oral or written authorization from the consumer to access the consumer's personally identifiable information;

1. Written authorization shall contain a consumer's signature and a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:

i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;

ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

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iii. Obtained written authorization from the consumer consenting to the release of ~~his or her, their~~ personally identifiable information in order to fulfill the duties as described in Section 6664.

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2. Oral authorization shall be accompanied by a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:

i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;

ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

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iii. Obtained oral authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information in order to fulfill the duties as described in Section 6664.

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(D) Inform the consumer that the Certified Enrollment Counselor cannot choose a health insurance plan on the consumer's behalf;

(E) Inform the consumer that the Certified Enrollment Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which ~~he or she~~ they may be eligible;

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(F) Inform the consumer that ~~his or her~~ their personally identifiable information will be kept private and secure in accordance with 45 C.F.R. § 155.260;

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(G) Inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, ~~he or she~~ they will refer the consumer to another Certified Enrollment Counselor or the Covered California call center;

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(H) Inform the consumer that the Certified Enrollment Counselor will not charge a fee in exchange for performing the duties described in Section 6664;

(I) Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Enrollment Counselor may not be able to offer assistance;

(J) Inform the consumer that the authorization set forth in Section 6664, subdivision (a)(6)(C), may be revoked at any time; and

(K) Maintain a record of such authorization for a minimum of ten (10) years.

(7) Ensure that voter registration assistance is available in compliance with Chapter 6 of the California Elections Code;

(8) For Certified Enrollment Entities only, maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees;

(9) Provide information regarding the process of filing Exchange eligibility appeals;

(10) Provide referrals to licensed tax advisers, tax preparers, or other resources for assistance with tax preparation and tax advice related to consumer questions about the Exchange application and enrollment process, exemptions from the requirement to maintain minimum essential coverage and from the individual shared responsibility payment, and premium tax credit reconciliations;

(11) Inform each consumer that Certified Enrollment Entities and Certified Enrollment Counselors are not acting as tax advisers or attorneys when providing enrollment assistance and cannot provide tax or legal advice within their capacity as a Certified Enrollment Entity or Certified Enrollment Counselor;

(12) Provide targeted assistance to serve underserved or vulnerable populations, as identified by the Exchange, within the Exchange service area; and

(13) Comply with any applicable federal or state laws and regulations.

(b) To ensure that information provided as part of any Consumer Assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 C.F.R. §§

155.205(c)(2) and 155.210(e)(5), Certified Enrollment Entities and Certified Enrollment Counselors shall:

(1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;

(2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;

(3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;

(4) Provide oral and written notice to consumers with limited English proficiency informing them of their right to receive language assistance services and how to obtain them;

(5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and

(6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

(c) To ensure that Consumer Assistance is accessible to people with disabilities, Certified Enrollment Entities and Certified Enrollment Counselors shall:

(1) Ensure that any consumer education materials, websites, or other tools utilized for Consumer Assistance purposes are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;

(2) Provide auxiliary aids and services for individuals with disabilities, at no cost, where necessary for effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;

(3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;

(4) Ensure that legally authorized representatives are permitted to assist an individual with a disability to make informed decisions; and

(5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.

(d) To ensure that no consumer is discriminated against, Certified Enrollment Entities and Certified Enrollment Counselors 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.

(e) Certified Enrollment Counselors shall complete the Certified Enrollment Entity and Certified Enrollment Counselor section of a consumer's application to the Exchange, including the following:

(1) Name and certification number of the Certified Enrollment Counselor;

(2) Name of the Certified Enrollment Entity and the Certified Enrollment Entity Number; and

(3) Signature and date of signature by the Certified Enrollment Counselor;

(f) If any of the information listed in subdivision (e) of this Section is not included on the consumer's original application, it may not be added at a later time.

(g) Certified Enrollment Counselors shall wear the badge issued by the Exchange at all times when providing Consumer Assistance.

(h) The Certified Enrollment Entity and Certified Enrollment Counselor shall never:

(1) Have a conflict of interest as defined in Section 6666;

(2) Mail the paper application for the consumer;

(3) Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status and other eligibility rules;

(4) Coach or recommend one plan or provider over another;

(5) Accept any premium payments from the consumer;

(6) Input any premium payment information on behalf of the consumer;

(7) Pay any part of the premium or provide any other type of consideration to or on behalf of the consumer;

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(8) Induce or accept any type of direct or indirect remuneration from the consumer;

(9) Intentionally create multiple applications from the same household, as defined in 42 C.F.R. § 435.603(f);

(10) Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 U.S.C. § 36B(c)(2)(C)) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi), to separate from employer-based group health coverage;

(11) Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. The value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment must not exceed nominal value, either individually or in the aggregate, when provided to that individual during a single encounter. The nominal value is equal to or less than \$15. Gifts of nominal value may not include beer, wine, liquor, cigarettes, tobacco, or lottery tickets. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;

(12) Use Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee;

(13) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the consumer has a pre-existing relationship with the individual Certified Enrollment Counselor or Certified Enrollment Entity and other applicable State and Federal laws are otherwise complied with. Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer; or

(14) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Enrollment Counselor or Certified Enrollment Entity has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.

(15) Notwithstanding subdivisions (h)(5), (h)(6), and (h)(7) of this section, Certified Enrollment Entities and Certified Enrollment Counselors affiliated with Indian tribes, tribal organizations, or urban Indian organizations may accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer pursuant to 25 U.S.C. § 1642.

(i) Certified Enrollment Counselors shall report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance and criminal convictions, received by the Exchange in accordance with Section 6456, subdivision (c),

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and administrative actions taken by any other agency, within 30 calendar days of the date of each occurrence.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 1043, 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215 and 155.260.

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 11. Certified Application Counselor Program

§ 6864. Roles and Responsibilities.

(a) Certified Application Counselors shall perform the following functions:

(1) Provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process;

(2) Assist individuals and employees in applying for coverage in a QHP through the Exchange and for insurance affordability programs;

(3) Help to facilitate enrollment of eligible individuals into QHPs and insurance affordability programs;

(4) Comply with the privacy and security requirements in 45 C.F.R. § 155.260;

(5) Act in the best interest of the applicants assisted;

(6) Either directly or through an appropriate referral to assist personnel certified pursuant to Article 8 of this Chapter, provide information in a manner that is accessible to individuals with disabilities, as defined by the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq. and Section 504 of the Rehabilitation Act, as amended, 29 U.S.C. Section 794;

(7) Ensure that voter registration assistance is available in compliance with Section 6462 of Article 4 of this Chapter;

(8) Comply with any applicable federal or state laws and regulations;

(9) Provide referrals to any applicable office of health insurance Consumer Assistance or health insurance ombudsman established under Section 2793 of the Public Health Service Act, 42 U.S.C. § 300gg-93, 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

(10) Provide referrals to licensed tax advisers, tax preparers, or other resources for assistance with tax preparation and tax advice related to consumer questions about the Exchange application and enrollment process, exemptions from the requirement to maintain minimum essential coverage and from the individual shared responsibility payment, and premium tax credit reconciliations.

(b) Prior to receiving access to any consumer's personally identifiable information as defined in Section 6650 of Article 8, the Certified Application Counselor shall:

(1) Inform the consumer that the Certified Application Counselor must obtain ~~his~~ or her their authorization prior to accessing any personally identifiable information;

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(2) Inform each consumer of the roles and responsibilities of the Certified Application Counselor as set forth in this section;

(3) Inform each consumer that Certified Application Counselors are not acting as tax advisers or attorneys when providing assistance as Certified Application Counselors and cannot provide tax or legal advice within their capacity as Certified Application Counselors;

(4) Obtain oral or written authorization from the consumer to access the consumer's personally identifiable information;

(A) Written authorization shall contain a consumer's signature and a written attestation completed by the Certified Application Counselor affirming under penalty of perjury that the Certified Application Counselor:

1. Is a Certified Application Counselor affiliated with a Certified Application Entity;
2. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

3. Obtained written authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information as defined in Article 8 in order to fulfill the duties as described in this section.

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(B) Oral authorization shall be accompanied by a written attestation completed by the Certified Application Counselor affirming under penalty of perjury that the Certified Application Counselor:

1. Is a Certified Application Counselor affiliated with a Certified Application Entity;
2. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

3. Obtained oral authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information in order to fulfill the duties as described in this section.

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(5) Inform the consumer that the Certified Application Counselor cannot choose a health insurance plan on the consumer's behalf;

(6) Inform the consumer that the Certified Application Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which ~~he or she~~ they may be eligible;

(7) Inform the consumer that ~~his or her~~ their personally identifiable information will be kept private and secure in accordance with the standards set forth in 45 C.F.R. § 155.260;

(8) Inform the consumer that if the Certified Application Counselor cannot assist the consumer, ~~he or she~~ they will refer the consumer to another Certified Application Counselor or the Covered California Call Center;

(9) Inform the consumer that the Certified Application Counselor will not charge a fee in exchange for performing the duties described in this section;

(10) Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Application Counselor may not be able to offer assistance;

(11) Inform the consumer that the authorization set forth in subdivision (b)(4) of this section may be revoked at any time; and

(12) Maintain a record of such authorization for a minimum of ten (10) years.

(c) Certified Application Counselors shall include the following in a consumer's application to the Exchange:

(1) Name and certification number of the Certified Application Counselor;

(2) Name of the Certified Application Entity and the Certified Application Entity Number; and

(3) Signature and date of signature by the Certified Application Counselor.

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(d) If any of the information listed in subdivision (c) of this section is not included on the consumer's original application, it may not be added at a later time.

(e) Certified Application Counselors shall wear the badge issued by the Exchange at all times when performing duties under this section.

(f) Certified Application Entities must maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees.

(g) Certified Application Entities shall maintain a registration process and method to track the performance of Certified Application Counselors.

(h) To ensure that information provided as part of any Consumer Assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 C.F.R. §§ 155.205(c)(2) and 155.225, Certified Application Entities and Certified Application Counselors shall:

(1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;

(2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;

(3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically

appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;

(4) Provide oral and written notice to consumers with limited English proficiency informing them of their right to receive language assistance services and how to obtain them;

(5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and

(6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

(i) To ensure that Consumer Assistance is accessible to people with disabilities, Certified Application Entities and Certified Application Counselors shall:

(1) Ensure that any consumer education materials, web sites, or other tools utilized for Consumer Assistance purposes are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;

(2) Provide auxiliary aids and services for individuals with disabilities, at no cost, where necessary for effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;

(3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;

(4) Ensure that legally authorized representatives are permitted to assist an individual with a disability to make informed decisions; and

(5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.

(j) To ensure that no consumer is discriminated against, Certified Application Entities and Certified Application Counselors 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.

(k) Certified Application Entities and Certified Application Counselors may not:

(1) Impose or induce any fee, charge, or remuneration on applicants for application or other assistance related to the Exchange;

(2) Be a QHP;

(3) Receive any direct or indirect consideration from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals in a QHP or a non-QHP;

(4) Refer consumers to a specific insurance agent or specific set of insurance agents;

(5) Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. The value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment must not

exceed nominal value, either individually or in the aggregate, when provided to that individual during a single encounter. The nominal value is equal to or less than \$15. Gifts of nominal value may not include beer, wine, liquor, cigarettes, tobacco, or lottery tickets. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in an effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;

(6) Solicit any consumer for application or enrollment assistance by going door to door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the individual has a pre-existing relationship with the individual Certified Application Counselor or designated organization and other applicable state and federal laws are otherwise complied with. Outreach and education activities may be conducted by going door to door or through other unsolicited means of direct contact, including calling a consumer;

(7) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Application Counselor or designated organization has a relationship with the consumer and so long as other applicable state and federal laws are otherwise complied with;

(8) Mail the paper application for the consumer;

(9) Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status, and other eligibility criteria;

(10) Coach or recommend one plan or provider over another;

(11) Accept any premium payments from the consumer;

(12) Input any premium payment information on behalf of the consumer;

(13) Pay any part of the premium or provide any form of consideration to ~~the~~
~~consumer~~ or on behalf of the consumer;

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(14) Intentionally create multiple applications from the same household, as defined in 42 C.F.R. § 435.603(f) (November 30, 2016), hereby incorporated by reference; or

(15) Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 U.S.C. § 36B(c)(2)(C) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi) (July 26, 2017), hereby incorporated by reference, to separate from employer-based group health coverage.

(16) Notwithstanding subdivisions (k)(11), (k)(12), and (k)(13) of this section, Certified Application Entities and Certified Application Counselors affiliated with Indian tribes, tribal organizations, or urban Indian organizations may accept premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer pursuant to 25 U.S.C. § 1642.

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(l) Certified Application Counselors shall report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance, criminal convictions, and administrative actions taken by any other agency within 30 calendar days of the date of the arrest or final administrative action order.

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Note: Authority cited: Section 100504, Government Code. Reference: Section 100502, Government Code; 26 C.F.R. Section 1.36B-2; 42 C.F.R. Section 436.603; and 45 C.F.R. Sections 155.205, 155.215, 155.225 and 155.260.