

# Agent and Broker Overview

**April 29, 2019**

**Qualified Health Plan (QHP)  
Issuer Conference**

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# Agenda

- Agent and Broker Requirements
- Exchange Standards for Agents and Brokers
- Issuer Oversight of Affiliated Agents and Brokers
- Help on Demand
- Resources

*Note: References to the Federally-facilitated Exchange (“FFE” or “Exchange”) include Exchanges where States perform plan management functions, as well as State-Based Exchanges that use the Federal Platform (SBE-FP), as described in 45 CFR §155.220(l).*

# Agent and Broker Requirements



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# Agent and Broker Registration and Training

## FFE Agent/Broker Role:

Identity Management System (IDM)  
CMS Enterprise Portal

- Create an FFE User Account
- Complete identity proofing

Must be completed once by  
Individual Market and Small  
Business Health Options Program  
(SHOP) agent/broker

## Training:

Marketplace Learning Management System  
(MLMS) or HHS-Approved Vendor

- Courses and exams: Basics, Privacy & Security, Individual Marketplace, SHOP
- Returning agent/broker can participate in the Refresher Training option
- HHS-approved vendors must offer continuing education unit credits and may charge a fee

Must be completed annually by  
Individual Market agent/broker (not  
required for SHOP)

## Agreements and Profile Information:

MLMS

- General Agreement (Individual Market)
- Privacy and Security Agreement(s) (Individual Market and SHOP)
- Create profile and choose display options for Find Local Help and Help On Demand
- Update “Spoken Languages”

Must be executed annually by  
Individual Market and SHOP  
agent/broker

# National Insurance Producer Registry Name and NPN Validation

- CMS validates agent/broker provided names and National Producer Numbers (NPNs) against data stored in the National Insurance Producer Registry (NIPR) Public Database.
  - Results of this NIPR validation appear on the Registration Completion List.
  - The Registration Completion List is updated daily and available to issuers and the public at:  
[https://data.healthcare.gov/ffm\\_ab\\_registration\\_lists](https://data.healthcare.gov/ffm_ab_registration_lists).
- NPN validation occurs during the annual registration process and anytime a profile update is made in the MLMS system.
- On a weekly basis, CMS ensures that a registered agent/broker has:
  - A valid state license
  - A health-related line of authority (LOA), additional information can be found at:  
<https://data.healthcare.gov/dataset/NIPR-Valid-Lines-of-Authority-List/wk5a-kdpd/data>
  - An active status for his or her health-related LOA.

# Planned Updates for Plan Year 2021

- **Training Updates**

- CMS is incorporating policy and operational updates to its curriculum for new agents and brokers for plan year 2021.
- The curriculum for returning agents and brokers will consist of two parts: 1) a mandatory “What’s New” module that focuses on policy and operational updates for plan year 2021 and 2) optional review modules for Basics, Individual Marketplace, and Privacy & Security.

- **MLMS Enhancements**

- CMS will be posting a PDF version of its annual training curriculum as reference material for agents and brokers. These reference materials will be available once refresher or new agent/broker training has been completed.

# Exchange Standards for Agents and Brokers



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# Agent and Broker Standards of Conduct

## 45 CFR § 155.220(j)(2)

### Must provide consumers with correct information

- Must provide correct information, without omission of material fact, regarding the FFE, qualified health plans (QHPs) and qualified dental plans offered through the FFEs, Medicaid, Children's Health Insurance Program (CHIP), a State Basic Health Program, advance payments of the premium tax credit, and cost-sharing reductions

### Refrain from marketing or conduct that is misleading or discriminatory

- Must not discriminate on basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation
- Refrain from using "Marketplace" or "Exchange" in business name or website

### Provide the FFE with correct information

- Good faith exception at 45 CFR § 155.220(j)(3)

### Obtain consent prior to assisting with enrollment

- Can be consent signed by an individual, employer, or employee
- Can also be verbal, via email, or in-person consent

### Protect Consumer Personally Identifiable Information (PII)

- General Requirements can be found at 45 CFR § 155.260
- Specific requirements can be found in the applicable Privacy and Security Agreement



# Agent/Broker Oversight and Enforcement

## 45 CFR § 155.220(g)

90-Day Suspension	Termination for Cause with 30-day Notice	Termination for Cause without 30-day Notice
The Department of Health & Human Services (HHS) reasonably suspects fraud or abusive conduct that may cause imminent or ongoing consumer harm, using PII of an Exchange enrollee or applicant or in connection with an FFE enrollment or application	A specific finding of noncompliance or pattern of noncompliance is sufficiently severe	A federal or state entity's finding or determination of fraud, or abusive conduct that may result in imminent or ongoing consumer harm, using PII of an Exchange enrollee or applicant or in connection with an FFE enrollment or application
<p>May submit evidence to rebut allegation(s); if no evidence submitted, or if evidence submitted is not persuasive, HHS may terminate</p> <p>May submit a request for reconsideration within 30 calendar days of the date of the written termination notice from HHS</p>	<p>May submit rebuttal evidence or otherwise remedy noncompliance within 30 days, if no evidence submitted or the matter is not satisfactorily resolved, HHS may finalize termination</p> <p>May submit a request for reconsideration within 30 calendar days of the date of the final termination notice from HHS</p>	<p>May submit a request for reconsideration within 30 calendar days of the date of the written termination notice from HHS</p>

**During suspensions or terminations, agents and brokers are no longer registered and may not assist consumers with FFE transactions. However, they must continue to meet ongoing privacy and security requirements and record retention obligations. In addition to termination, other penalties may apply for failure to meet applicable requirements.**

Agent and Broker FFE Registration Termination List: [https://data.healthcare.gov/ffm\\_ab\\_registration\\_lists](https://data.healthcare.gov/ffm_ab_registration_lists)

# FFE Agent and Broker Compensation

- Commissions are a contractual matter between the agent/broker and the issuer.
- Agents/brokers should work with their affiliated issuers to determine how commissions will be paid based on the NPN included on the FFE enrollment transaction (834).
- Issuers should only compensate agents/brokers who are compliant with applicable state and federal requirements including (but not limited to) applicable FFE registration standards (e.g. ensure that the NPN was on the Registration Completion List at the time of policy creation).
- CMS expects an issuer would pay commissions to an agent/broker who is compliant with state and federal standards, according to the terms of the compensation arrangement, if the agent/broker's NPN is included on the 834, or if it is determined from the issuer's or agent/broker's records that the agent/broker did in fact assist the consumer with an FFE enrollment but the NPN was erroneously left off of the 834.

# FFE Agent and Broker Compensation

- Federal regulations require QHP issuers to provide the same compensation to agents and brokers for QHPs offered through the FFEs as they do for similar health plans offered in the states outside the Exchanges (45 CFR § 156.200(f)).
- A commission arrangement or other agent/broker compensation that is structured to discourage agents and brokers from marketing to or enrolling consumers with significant health needs constitutes a discriminatory marketing practice and is prohibited under 45 CFR § 147.104(e) and §156.225(b). For example, a QHP issuer should not vary commissions based on plan metal level.

**For more information about how an agent or broker (or the consumer) should enter an NPN on an FFE application to get credit for assisting with an enrollment, see Compensation Tips slide deck from the 2019 Agent/Broker Summit at:**

**: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/AB-Summit-Compensation-Tips.pdf>.**

# Issuer Oversight of Affiliated Agents and Brokers



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# Issuer Oversight of Affiliated Agents and Brokers

- 45 CFR § 156.340(a)(3): QHP issuers must ensure compliance by their affiliated agents and brokers (who are downstream/delegated entities) in the following areas:
  - Satisfying applicable FFE registration and training requirements prior to assisting consumers with enrollments through the FFE.
  - Maintaining licensure and good standing in each state in which the agent or broker operates.
  - Executing the FFE Privacy/Security Agreement(s) and General Agreement as applicable.
- 45 CFR § 156.340(b): QHP issuers must ensure that the agent/broker affiliated agreement includes applicable FFE-required language.

# FFE Compliance Reviews

- CMS may include a review of the issuer's oversight of its affiliated agents and brokers during the FFE compliance review.
- The FFE compliance review may include review of the issuer's policy and procedures for oversight of affiliated agents and brokers, such as:
  - Does it include verifying that the NPN is checked against the Registration Completion List?  
(available at: [https://data.healthcare.gov/ffm\\_ab\\_registration\\_lists](https://data.healthcare.gov/ffm_ab_registration_lists))
  - Does it include language that FFE registration is an annual requirement and that registration must be completed prior to affiliated agents assisting consumers?
  - Does it describe all oversight activities, including verifying state license?

# FFE Compliance Reviews

The FFE compliance review may also cover the following:

- Verification that the affiliated agents/brokers have completed FFE registration requirements:
  - Does each compensated NPN appear on the Registration Completion List?
  - Is the date of the first policy sold after the registration completion date?
- Review of the QHP issuer's Agent/Broker agreement:
  - Does it include all applicable FFE-required language?
  - Is it clear that the agreement covers FFE products?
  - Are the compensation rates the same for similar health plans on/off Exchange?

# Reconciling Agent/Broker Information

- As a reminder, Enrollment Reconciliation is the proper method for Issuers to ensure the FFM has the correct Agent/Broker attribution for their enrollments
- This is necessary so that proper attribution is reflected on any FFM enrollment channel and carries forward to any future enrollment actions including auto-renewal for the following plan year
- Issuers are expected to send the proper NPN and name of the Agent/Broker on record for each enrollment record on the RCNI File
  - Records sent with only an NPN or name but not both will not be updated



# Reconciling Agent/Broker Information

If the information submitted by the Issuer is different from the information currently stored on the FFM for that enrollment it will be changed on the FFM, with the following caveats:

- The record match must be even-sided (i.e. the same number of records for the enrollment group on both the Issuer and FFM side)
- There is a current limitation that only one Agent/Broker can be attributed to an FFM policy, as defined by Exchange-Assigned Policy ID; sending different Agent/Broker information on different records for the same policy will prohibit any update to that information via automated reconciliation

# Reconciling Agent/Broker Information

**Please Note:** Agent/Broker information cannot be removed entirely (i.e. changing from an Agent/Broker attribution on a policy to no Agent/Broker) through automated reconciliation; removal of this information must be done via an ER&R Enrollment Dispute

**Issuers should not attempt to circumvent this requirement by submitting dummy agent/broker information on the RCNI file**

In a recent reconciliation cycle (June 2019), nearly 40,000 records were submitted across the FFM with what appeared to be a dummy NPN – usually a series of 9s – and a name that indicated an internal Issuer group or that made clear it was not an actual agent or broker

Agent/Broker information should always stay on the policy/app unless the consumer is directing the carrier to remove the agent/broker or change it to someone else because they have an updated Broker of Record letter

In addition to removing/changing data inappropriately from a Federal system, this action makes it difficult for CMS to run accurate data analysis and conduct program integrity efforts

# Help On Demand

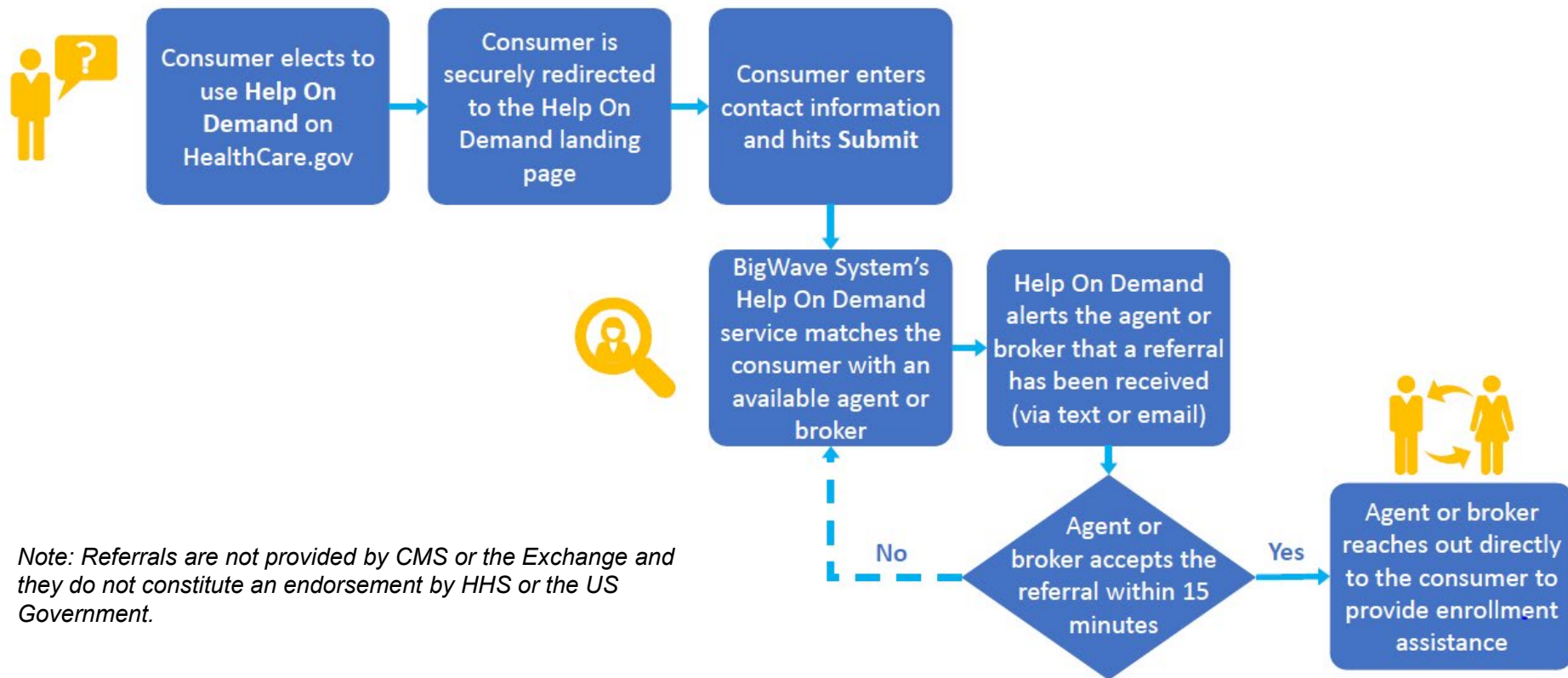


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# What is Help On Demand?

- Help On Demand is a consumer assistance service that connects Exchange consumers seeking application assistance with FFE-registered, state-licensed agent/broker in their area who can provide assistance with Exchange plans and enrollments.
- The Help On Demand service is currently hosted by BigWave Systems.
- Only licensed agents and brokers with a valid health line of authority who have completed FFE registration and training, and signed the applicable Agreements with CMS, are eligible to participate in the service.

# How does Help On Demand work?



# How do agents and brokers participate in Help On Demand?

- In order to participate in Help On Demand, the agent/broker must first:
  - Complete FFE registration and training for the applicable plan year on <http://portal.cms.gov>.
  - Have an active state license and health line of authority for the state(s) where they plan to sell coverage.
  - Confirm that their NPNs are listed on the Agent and Broker FFE Registration Completion List ([https://data.healthcare.gov/ffm\\_ab\\_registration\\_lists](https://data.healthcare.gov/ffm_ab_registration_lists)).
  - Complete the self-paced Help On Demand training and certify completion by providing name, email address, and NPN at the end of the training at <http://training-help-on-demand.ardx.us>.

# How do agents and brokers participate in Help On Demand?

- After successfully completing Help On Demand training, agents and brokers:
  - Receive a secure link from BigWave Systems to activate their accounts
  - Complete their profiles
  - Begin receiving consumer requests for assistance
- Requests must be accepted within **15 minutes** or they are automatically reassigned to the next available agent/broker in the queue.

**Tip!** CMS recommends that agents and brokers select “**Email and Text**” or “**Email and App Notification**” as their Preferred Contact Method on their Help On Demand profiles. Selecting “Email Only” puts agents and brokers at risk for missing requests.

# Benefits of Help On Demand

- **Consumers can connect quickly with available FFE-registered agents and brokers.** Consumers who request assistance through Help On Demand are matched with an FFE-registered agent or broker who can reach out and help them.
- **Agents and brokers can maintain a flexible schedule.** Agents and brokers can set standard operating hours on Help On Demand, or sign on whenever they are available to help consumers anytime.
- **Agents and brokers can help more consumers while avoiding unnecessary costs.** Unlike other industry services, Help On Demand referrals are provided to consumers and agents and brokers at no cost.



# Help On Demand Resources

- Available resources can be found on the Agent Broker Resources website:  
<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Help-On-Demand-for-Agents-and-Brokers.html>
  - Help On Demand Overview
  - Tips for Maximizing Your Participation in Help On Demand
  - Help On Demand Training and Registration Guide
  - Help On Demand: Update Your Profile
  - Managing Help On Demand Referrals
  - Help On Demand for Agents and Brokers: Webinar Slides
  - Help On Demand: New Help On Demand Features for Plan Year 2019

# Resources



[HTTPS://WWW.REGTAP.INFO](https://www.regtap.info)

# Issuer Resources

- Key Priorities for FFE Compliance Reviews for the 2017 Benefit Year  
[https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Compliance\\_Review\\_Table-KeyPriorities\\_2017Final.pdf](https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/Compliance_Review_Table-KeyPriorities_2017Final.pdf)
- Regulations
  - Agent and broker standards: 45 C.F.R. § 155.220
  - HHS-approved vendors of FFE training: 45 C.F.R. § 155.222
  - Privacy and security standards: 45 C.F.R. § 155.260
  - Standards for Downstream and Delegated Entities: 45 C.F.R. § 156.340
  - Standards for compensation: 45 C.F.R. § 156.200(f)
  - Standards for non-discrimination in marketing: 45 C.F.R. §§ 147.104(e), 156.200(e), 156.225(b)

# Agent and Broker Resources

Resource	Link
Agents and Brokers Resources Webpage	<a href="http://go.cms.gov/CCIIIOAB">http://go.cms.gov/CCIIIOAB</a>
Agent and Broker FFM Registration Completion List	<a href="https://data.healthcare.gov/ffm_ab_registration_lists">https://data.healthcare.gov/ffm_ab_registration_lists</a>
Agent and Broker Marketplace Registration Tracker	<a href="https://data.healthcare.gov/ab-registration-tracker/">https://data.healthcare.gov/ab-registration-tracker/</a>
Find Local Help Tool	<a href="https://localhelp.healthcare.gov/">https://localhelp.healthcare.gov/</a>
Help On Demand	<a href="https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Help-On-Demand-for-Agents-and-Brokers.html">https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Help-On-Demand-for-Agents-and-Brokers.html</a>
Agent and Broker NPN Search Tool	<a href="http://www.nipr.com/PacNpnSearch.htm">www.nipr.com/PacNpnSearch.htm</a>
Issuer & Direct Enrollment Partner Directory	<a href="https://data.healthcare.gov/issuer-partner-lookup">https://data.healthcare.gov/issuer-partner-lookup</a>

# Recent Posts/Resources on Agents and Brokers Resources Webpage

Resource	Date
January Marketplace Agent and Broker Resource Catalog ( <a href="https://www.cms.gov/files/document/january-marketplace-agent-broker-resource-catalog.pdf">https://www.cms.gov/files/document/january-marketplace-agent-broker-resource-catalog.pdf</a> )	January 2020
APTC and CSR Basics Webinar Slides ( <a href="https://marketplace.cms.gov/technical-assistance-resources/aptc-csr-basics.pdf">https://marketplace.cms.gov/technical-assistance-resources/aptc-csr-basics.pdf</a> )	January 2020
Income Eligibility Using Modified Adjusted Gross Income (MAGI) Rules Webinar Slides ( <a href="https://marketplace.cms.gov/technical-assistance-resources/income-eligibility-using-magi-rules.pdf">https://marketplace.cms.gov/technical-assistance-resources/income-eligibility-using-magi-rules.pdf</a> )	January 2020
Marketplace Learning Management System Language Selection Tip Sheet ( <a href="https://www.cms.gov/files/document/marketplace-learning-management-system-language-selection.pdf">https://www.cms.gov/files/document/marketplace-learning-management-system-language-selection.pdf</a> )	December 2019
Individual Coverage HRAs and the Marketplace Webinar Slides ( <a href="https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Individual-Coverage-Health-Reimbursement-Arrangements-and-the-Marketplace.pdf">https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Individual-Coverage-Health-Reimbursement-Arrangements-and-the-Marketplace.pdf</a> )	November 2019
Help On Demand Webinar Slides ( <a href="https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Help-On-Demand-Marketplace-Updates.pdf">https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Help-On-Demand-Marketplace-Updates.pdf</a> )	November 2019

# Agent/Broker Marketplace Help Desks and Call Centers

Name	Phone # and/or Email Address	Types of Inquiries Handled	Hours (Closed Holidays)
Marketplace Service Desk	1-855-CMS-1515 1-855-267-1515	<ul style="list-style-type: none"> <li>• CMS Enterprise Portal password resets and account lockouts</li> <li>• Other CMS Enterprise Portal account issues or error messages</li> <li>• General registration and training questions (not related to a specific training platform)</li> <li>• Login issues on the Direct Enrollment agent/broker landing page</li> <li>• Technical or system-specific issues related to the Marketplace Learning Management System (MLMS)</li> <li>• User-specific questions about maneuvering in the MLMS site, or accessing training and exams</li> </ul>	Mon-Fri 8:00 AM–8:00 PM ET
Agent/Broker Email Help Desk	<a href="mailto:FFMProducer-AssisterHelpDesk@cms.hhs.gov">FFMProducer-AssisterHelpDesk@cms.hhs.gov</a>	<ul style="list-style-type: none"> <li>• General enrollment and compensation questions</li> <li>• Manual identity proofing/Experian issues</li> <li>• Escalated general registration and training questions (not related to a specific training platform)</li> <li>• Agent/Broker Registration Completion List issues</li> <li>• Find Local Help listing issues</li> <li>• Help On Demand participation instructions or questions</li> <li>• Report concerns that a consumer or another agent or broker has engaged in fraud or abusive conduct</li> </ul>	Mon-Fri 8:00 AM–6:00 PM ET
Marketplace Call Center Agent/Broker Partner Line	1-855-788-6275 Note: Enter your NPN to access this line. TTY users 1-855-889-4325	Specific consumer application questions related to: <ul style="list-style-type: none"> <li>• Password reset for a consumer HealthCare.gov account,</li> <li>• Special enrollment period not available on the consumer application, or</li> <li>• Consumer specific eligibility and enrollment questions</li> </ul>	Mon–Sun 24 hours/day



# Questions?

- To Submit or Withdraw Questions by Phone:
  - *If you are listening through your computer speakers and want to submit a question by phone, dial 1-866-391-5945 and enter your unique six-digit PIN, then dial “star(\*) pound(#)” on your phone’s keypad.*
  - *If you are already dialed in by phone and want to submit a question, then dial “star(\*) pound(#)” on your phone’s keypad.*
  - *If you would like to withdraw a question and you are dialed in by phone, then dial “star(\*) pound(#)” on your phone’s keypad.*
- To submit questions by webinar:

– *Type your question in the text box under the “Q&A” tab and click “Send.”*