Disclaimer

This presentation summarizes current policy and operations as of the date it was posted. Links to certain source documents have been provided for your reference. The Centers for Medicare & Medicaid Services (CMS) encourages readers to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information about the requirements that apply to them.

This presentation applies to agents, brokers, and web-brokers in states with a State-based Exchange that uses the federal platform (i.e., HealthCare.gov) for eligibility and enrollment functions, known as State-based Exchanges on the federal platform, or SBE-FPs. The information presented does not apply to agents and brokers who participate in the State-based Exchanges that do not use the federal platform. Please review the guidance on our Agents and Brokers Resources webpage (http://go.cms.gov/CCIIOAB) and Marketplace.CMS.gov to learn more.

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Note: Unless indicated otherwise, references to the FFEs, "Exchange," "Exchanges," "FFM," Marketplace," or "Marketplaces" in this presentation include FFEs where the states perform plan management functions, as well as State-based Exchanges on the federal platform (SBE-FPs).

Resource Focus

- This presentation reviews the registration process and operational requirements for web-brokers to operate in the Federally-facilitated Individual Exchanges.

- There will be no information provided on the Small Business Health Options Program (SHOP).

Processes and Guidelines for Becoming a Web-broker in the Federally-facilitated Exchanges

Definition of a Web-broker

Definition of a Web-broker

CMS uses the terms "web-broker" or "web-based entity" (WBE) to describe an individual agent or broker, group of agents and brokers, or company that provides a non-FFE website to assist consumers in the selection and enrollment in qualified health plans (QHPs) offered through the Exchanges as described in 45 CFR § 155.220(c)(3).

Processes and Guidelines for Becoming a Web-broker in the Federally-facilitated Exchanges

The Role of Web-brokers in the FFEs

Role of Web-brokers in the FFEs

- Licensed agents and brokers who are registered with the FFEs may use a web-broker's Internet website to assist consumers with applying for insurance affordability programs, including selecting QHPs through the FFEs and applying for the premium tax credit and cost-sharing reductions (CSRs).

- In addition to the FFE website (HealthCare.gov), QHP issuer websites, and the Exchange Call Center, web-brokers provide alternative means to enroll in coverage through the Exchanges.

- Web-brokers can also offer additional decision support tools that the consumer can use to navigate or refine the display of QHPs.

Steps to Become an FFE Web-broker

To become a web-broker for the FFEs, agents and/or brokers must meet both regulatory and technical requirements.

Regulatory Requirements	Technical Requirements
1. Provide evidence of completion of the FFE agent and broker registration and training requirements for the current plan year on the CMS Enterprise Portal at https://portal.cms.gov. 2. Provide the National Producer Number(s) (NPN) associated with the prospective web-broker. 3. Provide the state licensure information for the states in which the prospective web-broker plans to assist consumers with selecting and enrolling in QHPs through the FFEs.	1. Understand how to create and digitally sign a Security Assertion Markup Language (SAML) response. 2. Understand how to invoke Simple Object Access Protocol (SOAP) services.

For more information on the registration and training requirements, review materials posted on the Agents and Brokers Resources webpage at: http://go.cms.gov/CCIIOAB.

Steps to Become an FFE Web-broker (Continued)

The steps to complete the process and become a web-broker for the FFEs are as follows:

1. The prospective web-broker contacts CMS via email at directenrollment@cms.hhs.gov to express interest in becoming a web-broker for the FFEs.

2. CMS requests evidence of completion of all regulatory requirements, as well as contact information, from the prospective web-broker. The prospective web-broker then sends the requested information to CMS.

3. The prospective web-broker participates in an informational interview with CMS representatives. During this interview, CMS reviews the general regulatory requirements and duties of an FFE web-broker, as well as the technical requirements and onboarding process steps.

Steps to Become an FFE Web-broker (Continued)

4. CMS provides the prospective web-broker with the current plan year's "Agreement Between Web-based Entity and the Centers for Medicare & Medicaid Services for the Federally-facilitated Exchange and the State-Based Exchange on the Federal Platform Individual Market" (Web-broker Agreement).

5. The prospective web-broker signs the Web-broker Agreement, thereby agreeing to comply with all applicable privacy and security terms, as well as standards for connecting to the Federal Data Services Hub (DSH).

6. CMS leadership countersigns the Web-broker Agreement and CMS sends the fully-executed Web-broker Agreement back to the prospective web-broker.

7. When applicable, the prospective web-broker agrees to maintain the confidentiality of the FFE testing process by signing the "Confidentiality of the FFE Testing Process Agreement." This Agreement is required when testing involves access to data that is not publicly available.

Steps to Become an FFE Web-broker (Continued)

Once the Web-broker Agreement is fully-executed (i.e., signed by both the web-broker and CMS), CMS considers the prospective web-broker to be an official web-broker.

Steps to Become an FFE Web-broker (Continued)

After the web-broker has completed the regulatory requirements and has received the countersigned Web-broker Agreement from CMS, CMS refers the web-broker to the DSH support team. The DSH support team will send an email to the web-broker to begin the technical onboarding process.

- The web-broker must provide the DSH support team with a descriptive name and URL of its website and two CA X.509 (SSL) certificates. One of the certificates must be signed by an authorized certificate authority company.

- The DSH support team then configures the web-broker's certificates in its key store and provides the web-broker with a Partner ID and password, as well as the public keys required to access the federal DSH and the FFE website.

- The web-broker can then begin developing and testing the Direct Enrollment (DE) services for its website.

Steps to Become an FFE Web-broker (Continued)

- Once the web-broker completes the technical onboarding process, receives its Partner ID, and successfully establishes a connection to the DE production environment, CMS will add the web-broker's name to the Public FFE Web-broker List (Public List) upon the next update.

- The Public List contains the names of all active web-brokers operating within the FFEs.

Steps to Become an FFE Web-broker (Continued)

- The purpose of the Public List is to:
  - Confirm that a web-broker has signed a Web-broker Agreement and successfully completed the FFE agent and broker registration and training requirements for the current plan year; and
  - Allow states, issuers, and other stakeholders to conduct oversight, monitoring, and enforcement activities related to web-brokers, and to educate consumers about web-brokers qualified to provide assistance to consumers who are interested in obtaining health care coverage through the FFE in their state.
- Web-brokers can access the latest Public List on the Resources for Web-brokers on the Health Insurance Marketplace webpage at:
  - https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Web-brokers-in-the-Health-Insurance-Marketplace.html

Agent/Broker DE Pathway (Issuer-based Pathway)
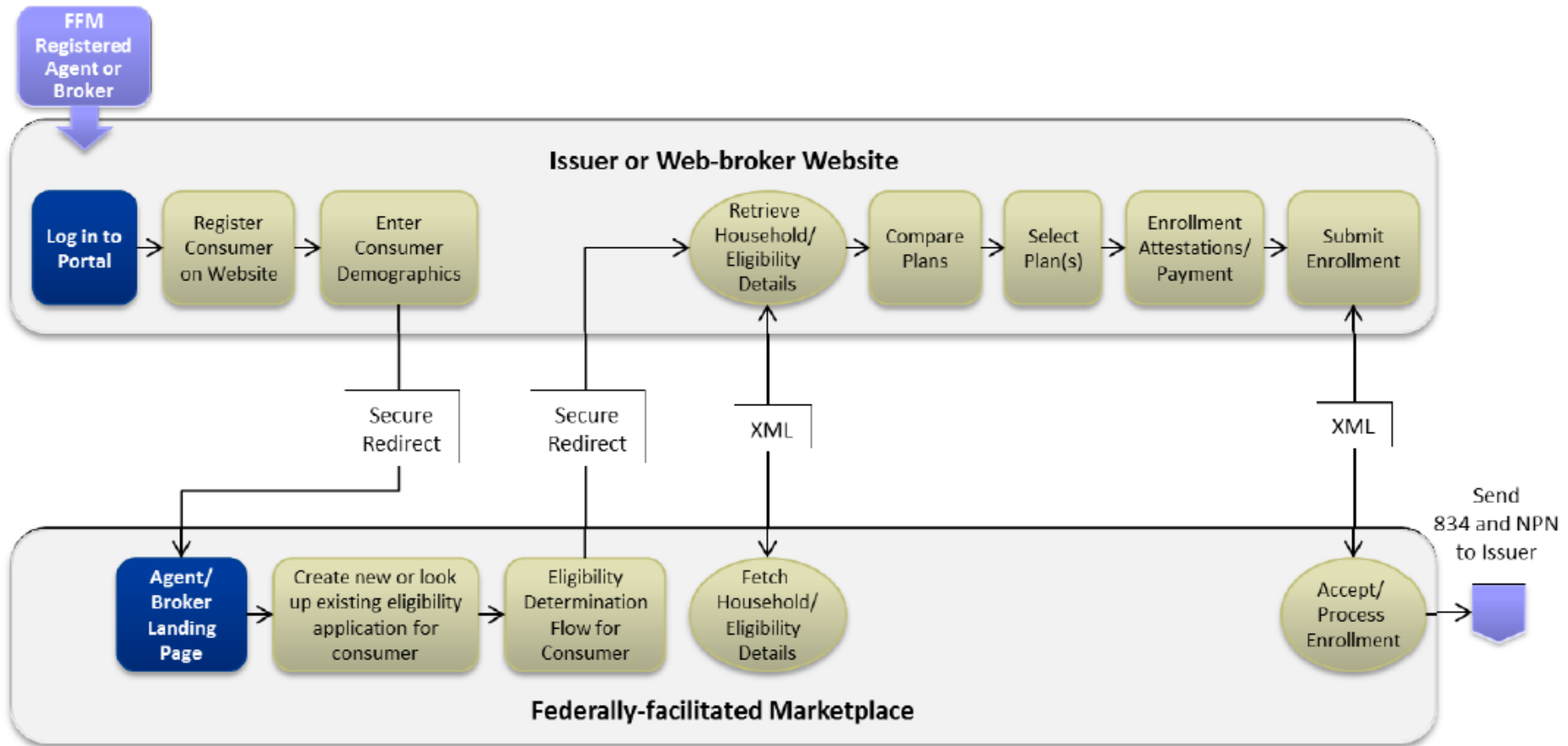
Consumer DE Pathway
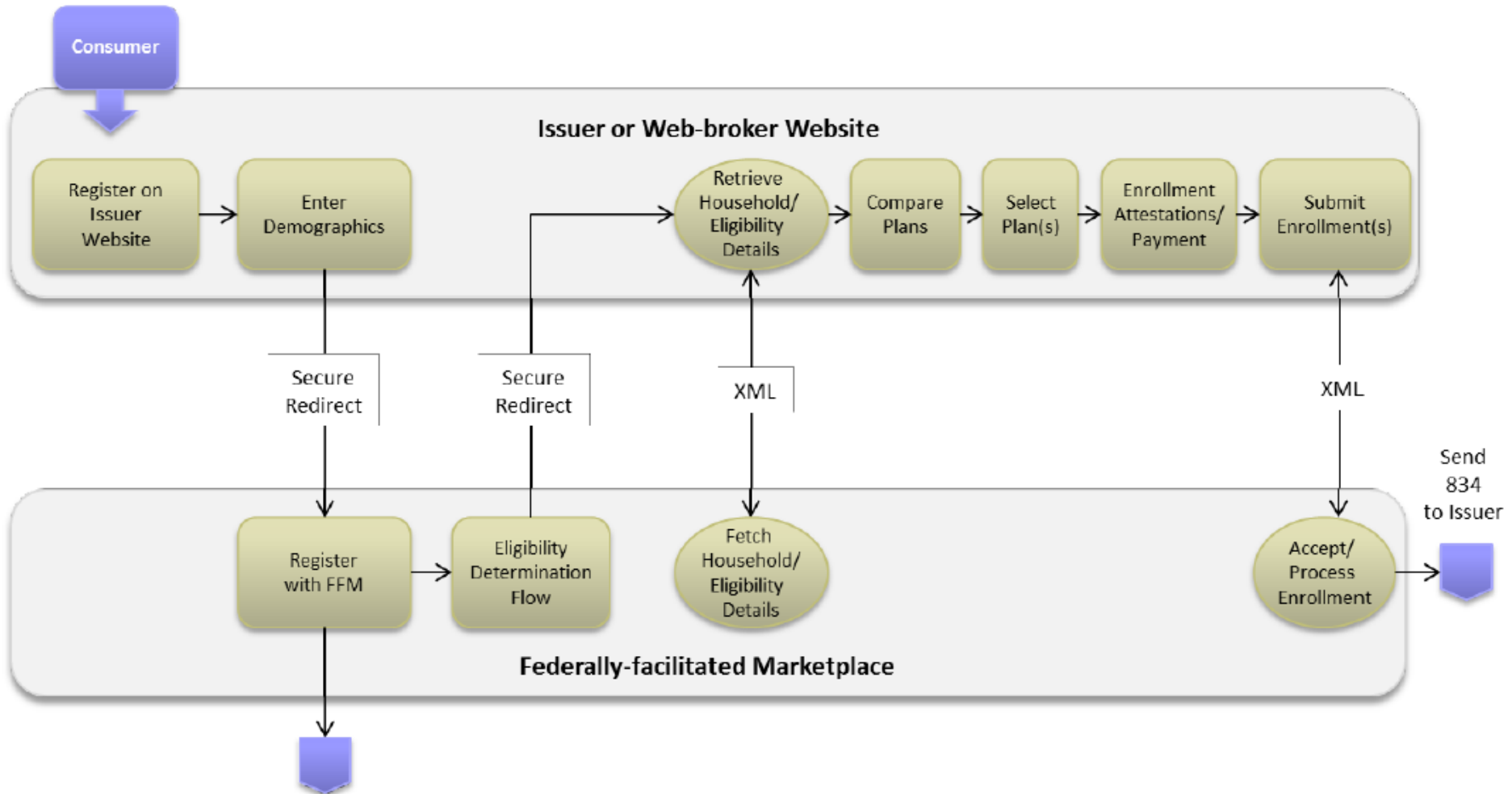
Proxy Direct Enrollment Basics

- **Direct Enrollment (DE)** allows a consumer, or an issuer, agent or broker assisting a consumer, to shop for coverage on a third-party website to encourage innovative ways to provide an improved customer experience and easier access to enroll in individual market Exchange coverage offered through HealthCare.gov.

- **On May 17, 2017** CMS announced that it will no longer require the consumer-facing redirect with Security Assertion Markup Language (SAML) for all individual market enrollment transactions for coverage offered through the FFEs and SBE-FPs that rely on HealthCare.gov for individual market eligibility and enrollment functions.

- **What does this mean?** Beginning with the plan year 2018 Open Enrollment period, CMS will allow DE entities to collect consumer information on their websites and input that information into HealthCare.gov.

- **Announcement of New Proxy DE Program:** https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-for-the-Proxy-Direct-Enrollment-Pathway-for-2018-Individual-Market-Open-Enrollment-Period.pdf

Proxy Direct Enrollment Pathway Resources

- *Proxy-Direct Enrollment Pathway for 2018 Individual Market Open Enrollment Period Guidance (May 17, 2017) is available at* https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-for-the-Proxy-Direct-Enrollment-Pathway-for-2018-Individual-Market-Open-Enrollment-Period.pdf

- *Guidelines for Third-party Auditor Operational Readiness Reviews for the Proxy Direct Enrollment Pathway (June 16, 2017) are available at* https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Third-party_Auditor_Operational_Readiness.pdf

- *Third-party Auditor Operational Readiness Review for the Proxy Direct Enrollment Pathway FAQs (July 18, 2017) are available at* https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Operational-Reviews.pdf

- *Registration for Technical Assistance Portal (REGTAP) is available at* https://www.regtap.info/

Requirements and Best Practices for FFE Web-brokers

Key regulatory requirements and best practices for web-brokers in the FFEs focus on:

- Website display requirements and best practices
- Additional plan type display requirements and best practices
- Consumer protection requirements and best practices
- FFE privacy and security requirements
- Website use by third-party agents and brokers requirements and best practices
- Preventing and detecting fraudulent enrollments
- Additional best practices for FFE web-brokers

Requirements and Best Practices for FFE Web-brokers (Continued)

Website Display Requirements and Best Practices

Website Display Requirements and Best Practices

As part of the display requirements, web-brokers must prominently display the following standardized disclaimers on their websites:

1. A "General Non-FFM Disclaimer" pursuant to 45 CFR § 155.220(c)(3)(vii) on the initial consumer landing page and QHP selection page

2. A "Plan Detail Disclaimer" pursuant to 45 CFR § 155.205(b)(1) if the web-broker does not display additional required comparative plan information for a specific QHP offered by an FFE on the QHP selection page

General Non-FFM Disclaimer Requirements

All web-brokers must prominently display the following General Non-FFM Disclaimer on their websites:

Attention: This website is operated by [Name of Company] and is not the Health Insurance Marketplace[SM] website. In offering this website, [Name of Company] is required to comply with all applicable federal laws, including the standards established under 45 CFR § 155.220(c) and (d) and standards established under 45 CFR § 155.260 to protect the privacy and security of personally identifiable information. This website may not display all data on Qualified Health Plans (QHPs) being offered in your state through the Health Insurance Marketplace[SM] website. To see all available data on QHP options in your state, go to the Health Insurance Marketplace[SM] website at HealthCare.gov.

General Non-FFM Disclaimer Requirements (Continued)

The disclaimer must:

- Be prominently displayed on both the initial consumer landing page and on the landing page displaying QHP options that appears before the applicant makes a decision to purchase coverage (i.e., the "QHP selection page")

- Include a functioning web link to the Health Insurance Marketplace website (HealthCare.gov)

- Use the exact language provided by CMS

General Non-FFM Disclaimer Best Practices

CMS encourages web-brokers who do not offer certain services to also include in the General Non-FFM Disclaimer the parts of the following additional disclaimer language information corresponding to the products or services that the web-broker does not offer:

[Also, you should visit the Health Insurance Marketplace[SM] website at HealthCare.gov if:

- You want to select a catastrophic health plan.

- You want to enroll members of your household in separate QHPs.

- The plans offered here don't offer pediatric dental coverage and you want to choose a QHP that covers pediatric dental services or a separate dental plan with pediatric coverage. Pediatric dental services are an essential health benefit.]

QHP Information Display Requirements

Before describing the Plan Detail Disclaimer requirements, it is critical to understand what information web-brokers are required to display.

QHP Information Display Requirements (Continued)

- Web-brokers must disclose and display on their websites all QHP standardized comparative information provided by CMS or directly by QHP issuers with whom the web-broker has a contractual relationship consistent with 45 CFR §155.205(b)(1) and (c).

- Currently, this information includes:
  – All QHPs offered through the Individual Exchanges (i.e., listed at HealthCare.gov)
  – Standardized comparative information for each of these QHPs

- Upon receipt of the eligibility determination for the Exchanges, web-brokers should limit the display of QHPs and stand-alone dental plans (SADPs) to those for which the consumer is eligible to avoid confusion.

QHP Information Display Requirements (Continued)

- Web-brokers must include the following information provided by CMS for each QHP:

Information	Example of Information
Complete QHP Issuer Marketing Name	ABC Issuer
Plan Marketing Name	Silver XYZ Plan
Plan Type	Indemnity, Health Maintenance Organization (HMO), or Exclusive Provider Organization (EPO)
Level of Coverage	Catastrophic, Platinum, Gold, Silver, or Bronze

- Web-brokers may choose to provide additional information to aid consumer choice.

QHP Listing Information Requirements

- CMS makes detailed QHP information available to web-brokers through the release of the:
  - "Health Insurance Marketplace Public Use File (PUF)" (available at http://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html)
  - "QHP Landscape File" (available at https://www.healthcare.gov/health-and-dental-plan-datasets-for-researchers-and-issuers/)
- CMS recommends that web-brokers use these files, in addition to information obtained directly from issuers with which the web-broker has a contractual relationship.

Display of QHPs Offered Through the FFEs and Off-Exchange Plans

- CMS expects that web-brokers will display QHPs offered through the applicable Exchange separately or in a manner that clearly distinguishes the QHPs from other available coverage options (e. g., off-Exchange plans).

- If a web-broker offers assistance with both Exchange plans and off-Exchange plans, the web-broker should display QHPs offered through the applicable Exchange on a separate plan selection page that does not include off-Exchange plan options.

- Alternatively, the web-broker might display Exchange plans on the same plan selection page as off-Exchange plans, but in a manner that clearly identifies which plans are Exchange plans under which advanced payments of the premium tax credit (APTC) and CSRs might be available.

- Pursuant to 45 CFR § 155.220(j)(2)(i), web-brokers should advise consumers that APTC and CSR are only available for QHPs offered through the Exchanges and must not reflect any estimated APTC or CSR amounts in the plan selection experience for off-Exchange coverage options.

Display of QHPs Offered Through the FFEs and Off-Exchange Plans (Continued)

- Web-brokers that choose to offer consumers assistance with other coverage options (e.g., off-Exchange plans) must prominently display the following additional language as part of the General Non-FFE Disclaimer on both the initial consumer landing page and QHP selection page:

> [Name of web-broker's website] offers the opportunity to enroll in either QHPs or off-Marketplace coverage. Please visit <u>HealthCare.gov</u> for information on the benefits of enrolling in a QHP. Off-Marketplace coverage is not eligible for the cost savings offered for coverage through the Marketplaces.

Display of QHPs Offered Through the FFEs and Off-Exchange Plans (Continued)

- Web-brokers should offer a QHP plan selection experience that is free from advertisements or information for other health insurance-related products and sponsored links promoting health insurance-related products (e.g., an advertisement for a QHP issuer).

- Once the consumer has completed the QHP plan selection and enrollment, the web-broker may offer the consumer the ability to search for additional products or services, if desired.

- CMS expects that such offers are made in a section of the web-broker's website that is separate from the QHP display and plan selection area.

QHP Comparative Information Requirements

Web-brokers must provide (or provide a link to) additional required standardized comparative information for each QHP, which includes:

- Premium and cost-sharing information

- Summary of Benefits and Coverage

- Provider Directory

- Medical Loss Ratio Information

Summary of Benefits and Coverage Example

- The standard Summary of Benefits and Coverage six-page template is available at http://www.cms.gov/CCIIO/Programs-and-Initiatives/Consumer-Support-and-Information/Summary-of-Benefits-and-Coverage-and-Uniform-Glossary.html.

- A completed sample Summary of Benefits and Coverage form is available at http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Sample-completed-sbc-12-19-14-FINAL.pdf

Machine-Readable Provider Directory and Formulary Drug List

- Provider directories and formulary drug list information must be in a machine-readable format specified by CMS to be user-friendly information sources.

- Machine-readable files increase transparency by allowing CMS and other software developers to access provider data and formulary data, and to create innovative and informative tools to assist consumers in understanding plans' provider networks and formularies.

    – With this information, CMS developed a provider directory lookup tool and formulary lookup tool on HealthCare.gov.

- These tools allow consumers to determine if a plan includes a specific provider in its network based on issuer-provided data, and if a plan covers a specific drug (or drugs). CMS will continue to consider options for improvements to these tools.

- For this reason, QHP issuers in an FFE must submit data in a manner that complies with the data requirements and specifications in the Information Collection for Machine Readable Data for Provider Network and Prescription Formulary Content for FFM QHPs (CMS-10558), update this information not less than monthly, and submit the machine readable link at https://marketplace.cms.gov/submission/.

Plan Detail Disclaimer Requirements

If not directly provided by CMS, a web-broker may obtain the additional required comparative information (e.g., summary of benefits, provider directory) on QHPs directly from those issuers with which it has a contractual relationship.

Plan Detail Disclaimer Requirements (Continued)

If web-brokers do not have access to the additional required comparative information for all QHPs offered through the Exchange, then they must prominently display the following standardized Plan Detail Disclaimer, which must:

- Use the exact language provided by CMS

- Include an operational link to HealthCare.gov

- Be provided separately for each QHP where this information is missing

- Be displayed prominently where information on the QHP would normally appear so it is noticeable to the consumer

[Name of Company] isn't able to display all required plan information about this Qualified Health Plan at this time. To get more information about this Qualified Health Plan, visit the Health Insurance Marketplace website at HealthCare.gov.

Prominent Display Requirements

- CMS requires both the General Non-FFM Disclaimer and the Plan Detail Disclaimer to be "prominently displayed."
- CMS considers the disclaimers to be "prominently displayed" if they are:
  - Present on both the initial consumer landing page and on the QHP selection page,
  - Viewable without requiring the user to select or "click on" an additional link,
  - Written in a font size no smaller than the majority of the text on the webpage,
  - Displayed in the same non-English language as any language(s) the web-broker maintains screens for on its website, and
  - Noticeable in the context of the website (i.e., in a font color that contrasts with the background of the webpage).

QHP Listing and Sort Requirements

- Pursuant to 45 CFR § 155.220(c)(3)(i)(B), if a consumer wants to shop or compare QHPs *before the completion of the Exchange application*, web-brokers should display the complete list of all QHPs offered through the FFEs as a default display without requiring consumers to perform additional steps (e.g., removing a pre-existing filter or checking a box to view all QHPs) to initially view the full list of all QHPs.

- Web-brokers must display all QHPs offered through the FFE, irrespective of the consumer's eligibility for the premium tax credit.

QHP Listing and Sort Best Practices (Continued)

CMS encourages, but does not require, the following web-broker best practices for listing and sorting QHPs:

- Provide a default QHP list that is sorted so as not to steer a consumer to a particular issuer or QHP based upon financial consideration to the web-broker (e.g., should not use a default that only displays QHPs offered by issuers with which the web-broker has a contractual relationship)

- Include the ability for consumers to sort plans by different categories (e.g., premium amount, metal level, issuer, plan type, deductible)

- Allow consumers to compare plan coverage options among a select number of plans

- Provide advanced plan selection criteria based on specific plan features (e.g., coverage for a certain prescription drug)

- Ensure that the QHP filter functionality does not exclude QHPs due to lack of information (e.g., if a web-broker does not have a link to the Summary of Benefits and Coverage, the web-broker must still display the QHP)

Requirements and Best Practices for FFE Web-brokers

Additional Plan Type Display Requirements

Stand-Alone Dental Plan Requirements

- As detailed in the March 2012 Exchange Establishment Final Rule (77 Federal Regulation 18315), with some limited exceptions, SADPs are considered a type of QHP.

- CMS expects all web-brokers to follow the same display requirements for SADPs as for QHPs offered through the Exchanges, including the display of all available information specific to each SADP on web-broker websites and inclusion of the Plan Detail Disclaimer (to the extent the web-broker's website does not display all required SADP standardized comparative information).

Stand Alone Dental Plan Requirements (Continued)

Web-brokers must:

- List all SADPs that are listed on HealthCare.gov, and available in the most recent QHP data file provided by CMS, for any consumers who are interested in separate dental coverage

- Provide additional required comparative information for (or provide a link to) each SADP's Standard Summary of Benefits and Coverage or Provider Directory

  – If web-brokers do not have access to the additional required comparative information, they must prominently display the standardized Plan Detail Disclaimer separately for each SADP.

  – The disclaimer must be displayed where this information is missing and where this detail would normally appear, so it is noticeable to the consumer.

QHP Information Display Requirements

- Web-brokers must also display the following plan information provided by CMS or directly by issuers for each SADP, including:

Information	Example of Information
Complete SADP Issuer Marketing Name	ABC Issuer
Plan Marketing Name	Silver XYZ Plan
Plan Type	Indemnity, Health Maintenance Organization (HMO), or Exclusive Provider Organization (EPO)
Level of Coverage	Catastrophic, Platinum, Gold, Silver, or Bronze

- In addition, web-brokers must offer any consumer the option to enroll in separate dental coverage offered through the Exchange if it is not included in the QHP the consumer selected.

Website Display Requirements and Best Practices

Web-brokers must provide consumers with the ability to withdraw from the web-broker website process and use the HealthCare.gov website instead at any time.

Quality Ratings Display Requirements

- Specifically related to 2017 quality rating information, only DE entities that use direct enrollment in one of the quality ratings display pilot States (i.e., Virginia and Wisconsin) may display the quality ratings calculated by CMS for the 2018 open enrollment period for QHPs offered through the Exchange in that State. DE entities that use direct enrollment in an SBE whose consumers do not use HealthCare.gov should confirm display requirements with the applicable SBE.

- CMS released the following FAQ document regarding the quality ratings display requirements for DE entities: https://www.regtap.info/uploads/library/QHP_UpdateEnrollmentPartnerFAQ_5CR_091917.pdf

Requirements and Best Practices for FFE Web-brokers

Consumer Protection Requirements and Best Practices

Consumer Estimate Tool Best Practices

Some web-brokers may choose to offer consumers tools to assist with the QHP comparison and shopping experience prior to completion of the Exchange application.

Note: Only the Exchanges can verify eligibility and make insurance affordability program determinations.

Consumer Estimate Tool Best Practices (Continued)

Web-brokers that choose to offer an estimation tool to the consumer prior to the official eligibility determination based on a completed Exchange eligibility application should prominently display the following disclaimer adjacent to the web-broker's tool:

> This tool provides a quick view of qualifications for different savings programs in your state. You'll find out exactly what you qualify for only when you fill out a Marketplace application and get your eligibility results from the Marketplace. Please visit HealthCare.gov for more information.

Consumer Estimate Tool Best Practices (Continued)

- If a web-broker offers an estimation tool prior to the FFE's official eligibility determination and the web-broker's estimate and the official Exchange eligibility determination are different with respect to eligibility for Medicaid, the Children's Health Insurance Program (CHIP), APTC, or CSRs, web-brokers should promptly inform the consumer of the changes and provide the consumer with an opportunity to reconsider his or her preliminary QHP selection.

- Web-brokers should not use "eligibility" when referring to this tool to clarify for consumers that only the Exchange can make an official eligibility determination.

Website Accessibility Requirements

As required under 45 CFR § 155.205(c), web-brokers must provide information to applicants and enrollees in plain language, and in a manner that is accessible and timely to:

- Individuals living with disabilities, including accessible websites and the provision of auxiliary aids and services at no cost to the individual

- Individuals who are limited English proficient through the provision of language services at no cost to the individual, including:
  - Oral interpretation/telephonic interpreter services in at least 150 languages
  - Written translations
  - Taglines on websites and critical documents in at least the top 15 non-English languages in the relevant state or states indicating the availability of language services
  - Website content intended for QHP enrollment to any non-English language spoken by at least 10% of the state's population

Additional Consumer Protection Requirements

Web-brokers must also:

- Inform individuals of the availability of the services described on the previous slide

- Prominently display oral interpretation services information or link to the information so it is easy for consumers to find
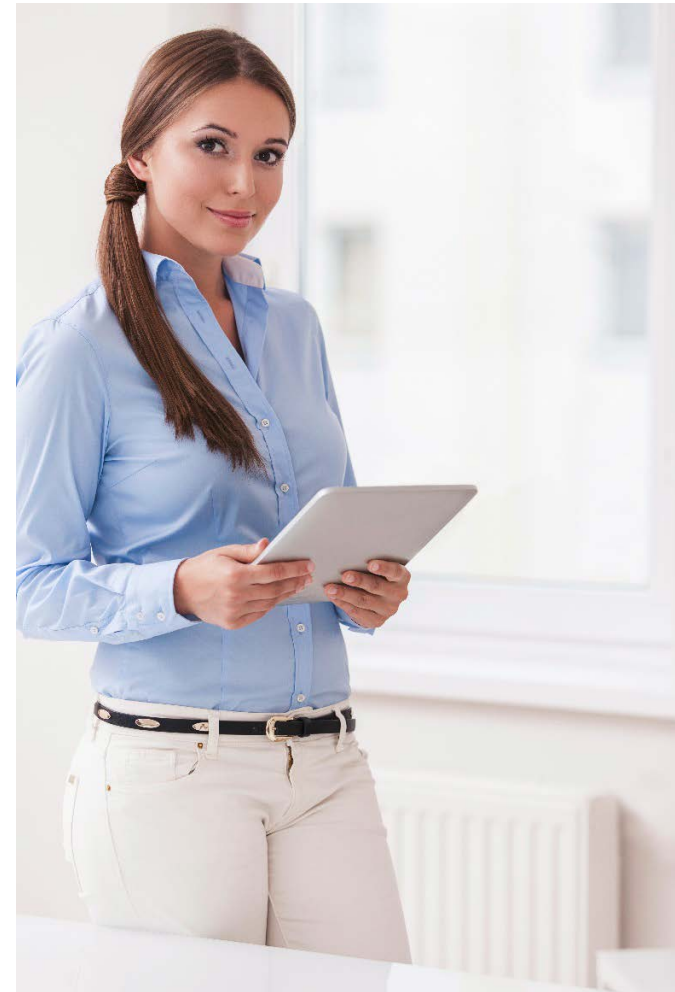
Additional Consumer Protection Requirements (Continued)

Additionally, web-brokers:

- May not offer financial incentives (e.g., rebates or giveaways)
- Should not charge consumers a separate transaction or service fee for enrolling in a QHP, unless:
  - Permitted under state law
  - The fee is reasonable and for a bona fide service of value that goes beyond the traditional assistance provided by an FFE-registered agent or broker

Additional Consumer Protection Requirements (Continued)

- Web-brokers who elect to charge a transaction or service fee to consumers for the additional bona fide service of value when selecting QHPs offered through a non-FFE website should provide a disclaimer to consumers that:
  - Clearly discloses the amount and reason for the fee
  - Informs the consumer that he or she can enroll in QHP coverage through the FFE website (HealthCare.gov) at no cost
- Once a consumer has completed QHP selection, the web-broker may offer the consumer the ability to search for additional products or services, if desired.
- CMS expects that such offers will be made in a section of the web-broker's website separate from the QHP display.

Additional Consumer Best Practices

- With a consumer's consent, the Exchanges send important coverage alerts and updates that the consumer may miss if the Exchanges are not able to send the notice directly to the consumer's email address.

- If requested, a web-broker should assist a consumer with establishing his or her own Exchange account at HealthCare.gov and should include the consumer's email address, on his or her Exchange application.

Requirements and Best Practices for FFE Web-brokers

FFE Privacy and Security Requirements

FFE Privacy and Security Requirements

- Web-brokers may not create, collect, disclose, access, maintain, store, or use personally identifiable information (PII) collected from consumers in the context of completing an Exchange application for anything other than the authorized functions described in Section II(a) of the Web-broker Agreement.

- Web-brokers agree to report any suspected or confirmed incident or breach of PII to the CMS IT Service Desk by telephone or email within one hour of discovery. Web-brokers must permit CMS to gather all information necessary to conduct all Incident response activities deemed necessary by CMS.

- Web-brokers must comply with the Exchange's privacy and security standards adopted consistent with 45 CFR § 155.260.

FFE Privacy and Security Requirements (Continued)

- The non-Exchange entity shall complete an Annual Security and Privacy Attestation (SPA) assessment as described in the Web-broker Agreement, including the following:
  - Documentation of existing security and privacy controls
  - Identification of potential security and privacy risks
  - Corrective action plan describing approach and timeline to implement security and privacy controls to mitigate potential security and privacy risks

Requirements and Best Practices for FFE Web-brokers

Website Use by Third-Party Agents and Brokers

Website Use by Third-Party Agents and Brokers

- Some agents and brokers registered with an FFE may enter into a contract or other arrangement to use the website of a web-broker to help consumers enroll in QHPs through the FFE.

- This web-broker must be registered with the FFE and the third-party agent or broker must abide by all conditions listed in 45 CFR § 155.220(c)(4)(i)(D).

Website Use by
Third-Party Agents and Brokers (Continued)

Web-brokers who make their websites available to third-party agents and brokers registered with an FFE must, if the third-party agent or broker is listed as the agent of record on the enrollment, prominently display the name and NPN of the web-broker:

- On every page of the website, even if the agent or broker registered with the FFE who is accessing the website is able to customize the appearance of the website; and

- On the cover or first page of all written materials containing QHP information that can be directly printed from the website.

  – This includes all files containing QHP information that can be directly downloaded from or viewed directly on the website.

  – Documents linked to from the site that a separate entity maintains are not included in this definition.

Website Use by Third-Party Agents and Brokers (Continued)

- CMS considers information to be "prominently displayed" if it is:
  - Viewable without requiring the user to select or "click on" an additional link
  - Written in a font size no smaller than the majority of the text on the webpage
  - Noticeable in the context of the webpage or other written materials (e.g., in a font color that contrasts with the background of the webpage or other written materials)

Website Use by Third-Party Agents and Brokers (Continued)

Web-brokers who make websites available to third-party agents and brokers registered with an FFE must also:

- Provide CMS with a list of all agents or brokers the web-broker has arrangements with, upon request by CMS. The list must be in the format provided by CMS and include the following information for each agent or broker:
  - Name
  - Primary contact information, including address, phone number, and email address
  - FFE User ID
  - NPN(s)
  - URL of agent's or broker's website
  - State(s) where the agent/broker is licensed

- Verify that any agent or broker it has a relationship with:
  - Is licensed in the state in which the agent or broker is assisting consumers with selecting QHPs
  - Has completed all applicable FFE agent and broker registration requirements

Website Use by
Third-Party Agents and Brokers (Continued)

Web-brokers who make websites available to third-party agents and brokers registered with an FFE must also:

- Terminate a third-party agent or broker's access to the web-broker's website if:
    - The Department of Health & Human Services (HHS) determines the agent or broker is in violation of the standards in 45 CFR § 155.220
    - HHS terminates any required agreement between the agent or broker and HHS
- Report to HHS and applicable state Departments of Insurance (DOIs) any potential material breach of standards described in 45 CFR § 155.220(c) and (d) or the Agreement entered into pursuant to 45 CFR § 155.260(b) by agents or brokers accessing the web-broker's website, should it become aware of any such potential breach

Processes and Guidelines for Becoming a Web-broker in the Federally-facilitated Exchanges

Preventing and Detecting Fraudulent Enrollments

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites

Responsibilities of CMS DE Entities and Agents and Brokers
(as stipulated in 45 CFR § 155.220 and agreements executed under 45 CFR § 155.260(b))

1. DE entities must verify that all agents or brokers using the website are licensed to sell health insurance and are in good standing in the states in which they will be enrolling consumers.

2. DE entities must verify Exchange registration for all agents and brokers enrolling consumers using the DE entity website.

3. DE entities and individual agents and brokers must comply with all federal and state laws and regulations.

4. Agents or brokers must obtain the consent of the consumer, preferably in a written letter or email, prior to facilitating the enrollment.

5. DE entities must protect consumers' PII and report any breaches to HHS and the DOIs in affected states.

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites (Continued)

Types of Fraud and Enrollment Complaints

1. **ID Theft:** Enrolling consumers without their knowledge or consent

   - Consumers may not receive bills from the issuer because their APTC covers 100% of premium payments.

   - Communications from the issuer or Exchange may not get to the enrollee because contact information is incorrect.

   - Enrollees may find out about enrollments when notified by the Internal Revenue Service (IRS) that the IRS will not release tax refunds until they reconcile their APTC using IRS Form 8962.

     – Enrollees who are victims of ID theft may end up owing thousands of dollars to the IRS for policies they did not want or need.

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites (Continued)

2. **A/B Misconduct:** Providing false or misleading information to the Exchange or not following consumers' wishes

   - Not providing enrollees with their account log in information or changing it after enrollment

   - Entering false income information to prevent a Medicaid determination or to increase APTC

   - Knowingly entering incorrect addresses, email addresses, phone numbers, or other contact information (e.g., entering contact information the agent or broker, instead of the consumer)

   - Cancelling or changing the plan the consumer chose without the consumer's knowledge or consent

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites (Continued)

Best Practices for CMS DE Entities

Implementing some or all of these best practices can help prevent and detect agent/broker misconduct and keep consumers from becoming victims of fraud.

- Conduct regular analytics to check for unusual patterns or anomalies (e.g., recurring addresses or email addresses, celebrity or fictitious names, APTC that are all 100%).

- If possible, block impossible data from being entered in the application (e.g., phone number (xxx)555-1212; SSN 999-99-9999) or add to analytics.

- Retain information on the agent or broker responsible for each enrollment (application ID #) so it can be provided to the Exchange, if requested.

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites (Continued)

Best Practices for CMS DE Entities (Continued)

- DE entities should confirm that they are in compliance with state statutes and regulations in all states in which their websites are used to enroll consumers.

  - Many states require the agent or broker of record for the enrollment to be the agent or broker who ***directly*** assisted the consumer with the enrollment.

- If a DE entity uses its corporate entity NPN or owner's name and NPN for enrollments through its DE platform, the DE entity may be at risk under state law and may wish to consider adjusting its operating procedure to include the agent's information, instead of the DE entity's corporate entity's or owner's name and NPN.

Preventing and Detecting Fraudulent Enrollments on DE Entity Websites (Continued)

Reporting Fraud

- If a DE entity suspects that fraud or misconduct is being committed through the DE entity website, the DE entity should report it to the DE Help Desk at: directenrollment@cms.hhs.gov immediately.

- For consumers, DE entities should consider including a "Report Fraud" notice on their websites. Information should include the following statement:

  "If you suspect you are the victim of fraud or ID Theft, call the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325) to report what happened. Your information will be handled appropriately."

- Consumers should also report ID theft to the Federal Trade Commission at 877-382-4357 or online at www.ftccomplaintassistant.gov.

Requirements and Best Practices for FFE Web-brokers

Additional Best Practices for FFE Web-brokers

Additional Best Practices for FFE Web-brokers

- Web-brokers should provide consumers with both their Web-broker Application ID and Exchange Application ID. In addition, as part of this communication, web-brokers should distinguish between the Web-broker Application ID and the Exchange Application ID, and indicate to consumers how and when each ID is used.

- The Web-broker Application ID and the Exchange Application ID serve different purposes, which might be unclear to the consumer.
  - The Web-broker Application ID is a unique identifier assigned by the web-broker to the consumer for interacting with the Exchanges. Consumers can use this information to access their enrollment information on the web-broker's website and complete various activities related to their enrollment (e.g., pay a premium, update demographic information).
  - The Exchange Application ID is generated by the Exchanges as soon as the system has sufficient information to create a basic account. The Exchange Application ID is the primary identifier for the web-broker to use in retrieving the consumer's information and Marketplace application. Consumers can use this information to access their Exchange account at HealthCare.gov and make changes or updates to their Exchange application. Consumers can also use their Exchange credentials (i.e., the consumer's Exchange User ID and password) to access their account and make changes to their Exchange application.

Additional Best Practices for FFE Web-brokers (Continued)

Web-brokers should prominently display language adjacent to the web-broker eligibility projection stating that the consumer should enter the ZIP Code or address where he or she is seeking QHP coverage (e.g., the consumer's home ZIP Code or address, not the consumer's work ZIP Code or address).

Additional Best Practices
for FFE Web-brokers (Continued)

Requirement to Prominently Display Advance Premium Tax Credit (APTC) and Cost-Sharing Reduction (CSR) Eligibility

- Pursuant to 45 CFR §§ 155.220(c)(3)(i)(I) and 155.220(c)(3)(i)(J), if a consumer is eligible to receive an APTC or CSRs, the web-broker must prominently display information provided by CMS pertaining to the consumer's eligibility for the APTC or CSRs and allow consumers to select an APTC amount, if applicable, and make related attestations in accordance with 45 CFR § 155.310(d)(2). Please refer to CMS' guidance document, *Guidance for Web-brokers on Displaying Mandatory Standardized Disclaimers*, for CMS' definition of "prominent display."

- Additionally, under 45 CFR § 155.310(d)(2) and the *Federally-facilitated Marketplace (FFM) and Federally-facilitated Small Business Health Options Program (FF-SHOP) Enrollment Manual* (Enrollment Manual), web-brokers are required to allow consumers to select the amount of APTC they want to apply towards their premiums in the plan selection process. Please refer to the Enrollment Manual for further information pertaining to consumer eligibility determination and QHP enrollment:

  - https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Guidance-Web-brokers-Displaying-Disclaimers.pdf
  - https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ENR_FFMSHOP_Manual_080916.pdf

Additional Best Practices for FFE Web-brokers (Continued)

Recommended Best Practice for Informing Consumers of a Change in Eligibility Status that Affects APTC Amount or CSR Eligibility and Displaying CSR Plan Variations

- In accordance with the <u>*Guidance for Web-brokers Registered with the Federally-Facilitated Marketplace*</u>, web-brokers whose estimated eligibility determination differs from the Exchange's official determination should inform the consumer of the inconsistency.

- CMS recommends web-brokers display the CSR plan variation for which an applicant is found eligible for Silver-level plans (or American Indian/Alaskan Native CSR variations, as appropriate). Web-brokers should display the CSR plan variations in accordance with these plans' premium adjustments for Silver-level and American Indian/Alaskan Native plans in addition to the QHPs for which the consumer is eligible.

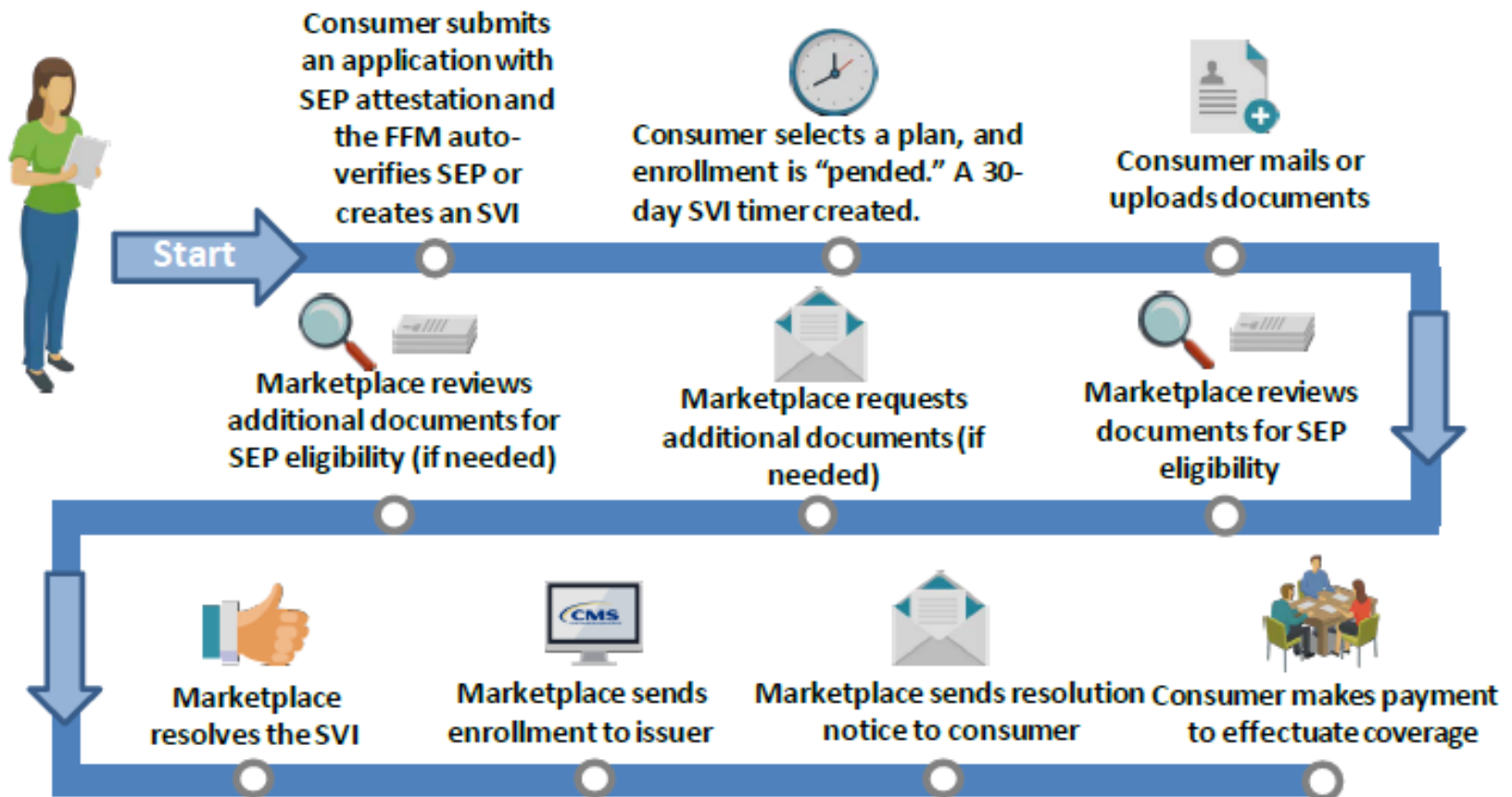# Additional Best Practices for FFE Web-brokers (Continued)

Recommended Best Practice for Using the Payment Redirect URLs

- Web-brokers may access the payment redirect URL links available in the Plan Attributes PUF located at the following link https://www.cms.gov/cciio/resources/data-resources/marketplace-puf.html for use for consumer payment redirects.

- Please note that this is an optional data collection field that will only appear if issuers have included it in their templates. Therefore, not all the links are accessible or functional.

- CMS recommends that web-brokers do not attempt to click the redirect URL links multiple times on the FFE as some links may not be functional and this activity could affect the stability of the FFE. Web-brokers may work with QHP Issuers to establish functional consumer payment redirects using these links. However, agents, brokers, and web-brokers may also access the payment redirect URL through the My Application tool on the FFE.

- For more information, web-brokers can refer to the bottom of pages 18 and 19 of the *Federally-facilitated Marketplace and Federally-facilitated Small Business Health Options Program Enrollment Manual* located at: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ENR_FFMSHOP_Manual_080916.pdf.

Special Enrollment Period Pre-Enrollment Verification (SEPV) Basics

- Beginning in summer 2017, new applicants (those who are not already enrolled in coverage in the FFEs) who attest to certain types of special enrollment period (SEP) qualifying events will be subject to the SEPV process of pre-enrollment verification. Eligible consumers must submit documents that confirm their SEP eligibility before they can enroll and start using their coverage.
- Phase 1: On June 23, 2017, pre-enrollment verification began for two SEP types:
  - Loss of coverage
  - Permanent move
- Phase 2: In August 2017, pre-enrollment verification started for three additional SEP types:
  - Marriage
  - Gaining or becoming a dependent through adoption, placement for adoption, placement in foster care, or a child support or other court order
  - Medicaid/CHIP denial
- For more information on SEPV, the document submission process, and outreach to affected consumers, see:
  - Resources for Agents and Brokers in the Health Insurance Marketplaces: https://www.cms.gov/cciio/programs-and-initiatives/health-insurance-marketplaces/a-b-resources.html
  - SEPV Overview Webinar: https://marketplace.cms.gov/technical-assistance-resources/sep-preenrollment-verification-overview.pdf
  - SEPV Fact Sheet: https://marketplace.cms.gov/technical-assistance-resources/5-things-about-svi.pdf

SEP Review: Process for Resolving an SVI

Start

Consumer submits an application with SEP attestation and the FFM auto-verifies SEP or creates an SVI

Consumer selects a plan, and enrollment is "pended." A 30-day SVI timer created.

Consumer mails or uploads documents

Marketplace reviews additional documents for SEP eligibility (if needed)

Marketplace requests additional documents (if needed)

Marketplace reviews documents for SEP eligibility

Marketplace resolves the SVI

Marketplace sends enrollment to issuer

Marketplace sends resolution notice to consumer

Consumer makes payment to effectuate coverage

Resources

- *Additional resources can be found on CCIIO's Agents and Brokers Resources webpage: http://go.cms.gov/CCIIOAB and on the Web-broker Resources webpage: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Web-brokers-in-the-Health-Insurance-Marketplace.html*

- *The Web-broker Public List can be viewed at https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/June_Public_2017_WBE_List_508.pdf*

- *The QHP Landscape File is available at https://www.healthcare.gov/health-and-dental-plan-datasets-for-researchers-and-issuers/.*

- *The Health Insurance Marketplace Public Use File (PUF)" is available at http://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html.*

- *Web-brokers can access the FFE agent and broker registration and training on the CMS Enterprise Portal at https://portal.cms.gov.*

Additional Resources

- *A completed sample Summary of Benefits and Coverage form is available at* https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/sample-completed-sbc-accessible.pdf.

- *Information regarding data resources is available at* https://www.cms.gov/CCIIO/Resources/Data-Resources/marketplace-puf.html.

- *Information regarding Plan Year 2018 direction is available at* https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2018-Letter-to-Issuers-in-the-Federally-facilitated-Marketplaces-and-February-17-Addendum.pdf.

- *"Role of Agents, Brokers, and Web-brokers in Health Insurance Marketplace" document (updated November 8, 2016) available at* https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Role-of-ABs-in-Marketplace_Nov-2016_Final.pdf.

- *FFE Enrollment Operational Policy & Guidance (updated July 19, 2016) available at* https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ENR_FFMSHOP_Manual_080916.pdf.

- *For the Marketplace privacy and security standards authority, review 45 CFR § 155.260.*

Questions?

For questions/comments about agent/broker participation in the FFEs:
FFMProducer-AssisterHelpDesk@cms.hhs.gov

For questions/comments on the Marketplace Learning Management System (MLMS):
MLMSHelpDesk@CMS.HHS.gov

For questions/comments about FFE application and enrollment:
1-800-318-2596 (TTY: 1-855-889-4325) available 7 days a week, 24 hours a day

For questions/comments about the FF-SHOP:
1-800-706-7893 (TTY: 711) available M-F 9:00 AM -7:00 PM ET

For questions/comments about web-broker participation in the FFEs:
directenrollment@cms.hhs.gov