

Attachment M: Q&A on the Certified Application Counselor Program

Q&A on the Certified Application Counselor Program: Tribal Premium Sponsorship Program (TPSP)¹

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This brief seeks to provide guidance to Tribes operating a Tribal Premium Sponsorship Program (TPSP) on the certified application counselor (CAC) program, an initiative authorized by the Affordable Care Act (ACA) to facilitate application and enrollment assistance related to health insurance or insurance affordability programs in the Health Insurance Marketplace (Marketplace). A series of questions and answers regarding the CAC program appears below.

Q1. What is the CAC program?

A1. In a final rule² issued on July 17, 2013, the Centers for Medicare and Medicare Services (CMS) established CACs as a type of assistance personnel available to provide information to consumers and help them enroll in qualified health plans (QHPs) and insurance affordability programs in the Marketplace. A Marketplace can designate organizations (CAC designated organizations, or CDOs) to certify staff or volunteers to perform the duties of CACs according to the standards set forth in the rule. This certification process provides consumers with assurance that they will receive assistance from individuals trained by the Marketplace and overseen by organizations required to protect personally identifiable information.

All Marketplaces must have a CAC program. On July 12, 2013, CMS issued guidance³ outlining the process for the Federally-Facilitated Marketplaces, including State Partnership Marketplaces (jointly, FFM), to designate CDOs and to withdraw designation from these organizations. State-Based Marketplaces (SBMs) (operating in other states) can follow this guidance or establish their own processes for their CAC programs.

Q2. Do Tribal representatives need to have certification as a CAC to assist with Marketplace enrollment?

A2. No. In FFM states, under federal rules, individuals and organizations that provide application and enrollment assistance related to health insurance or insurance affordability programs in the Marketplace do not need to have certification as application counselors, whether by the Marketplace or state Medicaid or CHIP agencies, or receive designation by the Marketplace to continue providing those services or communicating with consumers. **Individuals not certified as application counselors still can**

¹ This brief is for informational purposes only and is not intended as legal advice. For questions on this brief, please contact Doneg McDonough at DonegMcD@Outlook.com.

² See CMS CMS-9955-F/CMS-2334-F2, “Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel; Consumer Assistance Tools and Programs of an Exchange and Certified Application Counselors,” at <https://www.gpo.gov/fdsys/pkg/FR-2013-07-17/pdf/2013-17125.pdf>.

³ See “Guidance on Certified Application Counselor Program for the Federally-Facilitated Marketplace Including State Partnership Marketplaces” at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/CAC-guidance-7-12-2013.pdf>.

complete the CAC training modules.⁴ CMS expects to help many types of organizations and assistance personnel provide Marketplace-related education and application and enrollment assistance, and CMS does not mandate CAC certification for all individuals providing assistance. However, individuals without certification as a CAC cannot present themselves to the general public as a CAC.

Q3. What types of organizations can become CDOs?

A3. FFM will designate as CDOs only certain types of organizations that, based on the functions of the organization, (1) have processes in place to screen staff members and volunteers who will become CACs to ensure that they protect personally identifiable information, (2) engage in services that position them to help those they serve with health insurance issues, and (3) have experience providing social services to the community. The organizations might include community health centers, such as federally-qualified health centers (FQHCs); hospitals; health care providers (including the Indian Health Service, Tribes, and urban Indian organizations); Ryan White HIV/AIDS providers; behavioral health or mental health providers; agencies that have experience providing social services to the community; and other local governmental agencies that have similar processes and protections in place.

Q4. How does an organization become a CDO?

A4. To become a CDO in an FFM state, an organization first must submit an online application.⁵ The application will ask the organization to provide its name and contact information, the nature of its business, and whether it already has received designation by a state Medicaid or CHIP agency as an application assistance program. The application also will ask whether the organization is a governmental entity or organized under 501(c) of the Internal Revenue Code. In addition, the application will ask for information to indicate whether the organization screens the staff members and volunteers it intends to certify as CACs, whether the organization or the staff members and volunteers it intends to certify already handle personally identifiable information, and experience of the organization, if any, in assisting individuals applying for health insurance. The organization does not need to include supporting documentation in its application. However, FFM might ask the applying organization follow-up questions or seek additional information in support of the completed application.

In addition to completing the application, the organization must enter into an agreement with CMS, indicating that it and its CACs will comply with the applicable requirements, including the privacy and security standards established and implemented by FFM, disclosure of potential conflicts of interest, and successful training completion. An individual with authority to enter into an agreement on behalf of the organization must sign the agreement. Once an organization has entered into the agreement, it will appear on the FFM Web site as having CACs available to help consumers applying for and enrolling in health insurance through the Marketplace.

Q5. How do organizations benefit by becoming a CDO?

⁴ See Attachment J for more information on the steps needed to complete Marketplace assister training offered by CMS.

⁵ The application is available at <https://marketplace.cms.gov/technical-assistance-resources/assister-programs/cac-apply.html>.

A5. CMS identifies several benefits for organizations that become CDOs. These benefits include:

- Once an organization has received designation, it can indicate its status as a CDO to the consumers and the communities it wants to help.
- A CDO can certify its staff and volunteers as CACs, so that they can provide direct Marketplace application and enrollment assistance to consumers.
- The individual CACs at the CDO will complete CMS training to prepare them for their work as CACs and provide them with updated information about standards and requirements that apply to them.
- CMS will provide the CDO and its individual CACs with important information and updates via periodic calls and a newsletter.

Q6. What are the duties of CACs?

A6. Federal regulations⁶ outline the duties of CACs. CACs have the responsibility to:

- Provide information to consumers about the full range of QHP options and insurance affordability programs for which they qualify, including (1) providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; (2) clarifying the distinctions among health insurance options; and (3) helping consumers make informed decisions during the health insurance selection process;
- Assist consumers in applying for coverage in a QHP through the Marketplace and for insurance affordability programs; and
- Help facilitate enrollment of eligible individuals in QHPs and insurance affordability programs.

Q7. What standards must CACs meet?

A7. Individuals that a CDO intends to certify as a CAC must meet a number of standards. Under federal regulations,⁷ a CDO can certify a staff member or volunteer as a CDO only if the staff member or volunteer:

- Completes Marketplace-approved training regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, and completes and achieves a passing score on all Marketplace-approved certification examinations, prior to functioning as a CAC;
- Discloses to the organization and consumers any relationships with QHPs or insurance affordability programs, or other potential conflicts of interest;
- Complies with Marketplace privacy and security standards and applicable authentication and data security standards;
- Agrees to act in the best interest of the consumers assisted;
- Provides information in a manner accessible to individuals with disabilities;

⁶ See 45 CFR 155.225(c).

⁷ See 45 CFR 155.225(d).

- Enters into an agreement with the organization regarding compliance with applicable standards;⁸
- Obtains recertification on at least an annual basis; and
- Meets any licensing, certification, or other standards prescribed by the state or Marketplace, if applicable, as long as these standards do not prevent the application of the provisions of title I of ACA.

⁸ A model agreement between a CDO and a staff member or volunteer it intends to certify as a CAC is available at <https://marketplace.cms.gov/technical-assistance-resources/cdo-cac-model-agreement.PDF>.