



# Health Insurance Agents and Brokers and Exchange Open Enrollment 2015

*Opportunities and Challenges Ahead*

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# Agents and Brokers—The Basics

- Nearly half a million independent agents and brokers help American individual and business health care consumers find the right health plan and navigate the health care system throughout the life of their policy.
- Independent agents do not work for health insurance carriers, but instead run their own businesses.
- Agents are hired by individual consumers and employers to represent them before all of the insurance carriers with which the agent is affiliated. Only the individual consumer or employer can decide whether or not to keep their agent.
- The law requires that a consumer's health insurance premium is the same, whether a person goes direct to a health insurance company or works with a professional agent.
- State laws prohibit agents from charging separate fees for services provided to individual health insurance consumers, as well as to most traditional employer group plans.
- Agents are paid by small commissions included as a pass-through fee in every single health insurance policy premium payment. This payment structure has existed for over 100 years and is a consumer convenience, but it is also required by a myriad of state-level licensing, consumer-protection and tax laws.
- The big difference between an agent and other assisters is that agents work on enrollment, but they are also on the case to solve the consumer's problems for the whole plan year.



# Value of the Agent

- Consumers working with a Health Insurance Broker gain a professional advisor who:
  - Understands all the coverage details in the plans available in the Marketplace
  - Knows about key differences between one company and another, such as provider networks, formularies, disease management programs, etc.
  - Knows which companies are easy to work with and which tend to be sticklers on all the details.
  - Will be available throughout the year to answer questions and fix problems that may develop.
- Since it is the professional agent's job to maintain client satisfaction throughout the life of each insurance policy, insurance research dating back decades continually shows that policies where there is an agent of record have better client satisfaction and retention rates, as well as fewer issues with health insurance claims.
- Consumers do not have to be limited to working with one type of assister! Agents and brokers can, and do, work in great partnership with navigators and other community-based assister. These beneficial partnerships could be better supported by key public policy changes.



# Professional Distinctions of Agents and Brokers

- **Agents and Brokers are licensed by each state.**
  - There is a long-established system of non-resident licensing for those that operate in multiple states and a national database to track the licenses they hold and their conduct.
  - State departments of insurance regulate marketing practices of insurers and insurance producers through regular market-conduct examinations and other means.
  - In addition to any exchange-stipulated annual training or certification, agents and brokers are subject to extensive and separate state-level continuing education requirements.
- **In addition to any exchange-stipulated privacy requirements, Health insurance agents and brokers must abide by significant federal and state privacy and data security requirements. These include:**
  - The Gramm Leach Bliley Act (GLBA) financial privacy requirements
  - The Health Insurance Portability and Accountability Act's (HIPAA) health privacy requirements
  - Data security requirements in the federal Health Insurance Technology for Economic and Clinical Health (HITECH) rules
  - The federal Do Not Call requirements
  - State-specific privacy laws and regulations.
- **Health insurance agents are required by the insurers they do business with and state laws to carry professional liability insurance to protect consumers, which is known as “errors and omissions” insurance.**
- **Health insurance agents and brokers have a personal legal and financial liability to follow all of these laws and requirements.**



# Exchange Participation by Brokers in 2014

- There is no definitive data source for broker participation and enrollment assistance in the exchanges in 2014, but a variety of indicators show that broker interest was high and that client satisfaction was great.
  - Almost 75 percent of NAHU leaders surveyed in the summer of 2013 indicated they were obtaining marketplace certification.
  - Former HHS Secretary Kathleen Sebelius testified that approximately 70K agents were certified by the FFM.
  - State exchange data shows the certification of at least 30k more agents and brokers.
- A recent Urban Institute Study shows that at about half of all exchange enrollees used sources other than the websites to enroll in coverage.
  - One-third (29.1 percent) used other sources in addition to a website, and one-fifth (20.6 percent) used other sources instead of a website.
  - Certain groups preferred direct assistance more than others. Hispanic and low-income adults, for example, were less likely to rely on a website and more likely to rely on direct assistance.
- Of those who used other assistance for exchange coverage, insurance agents and brokers had the highest rating; 83.9 percent of adults who used them found them very or somewhat helpful.



# Obstacles to Agent and Broker Exchange Engagement in 2014

- With the FFM:
  - Lack of an broker portal or other effective pathway for brokers to fully and easily assist clients and manage cases year-round
  - Lack of fields to record multiple assisters numbers on applications which hinders broker interaction with other assisters and raises consumer protection concerns
  - Inability to edit enrollment records to add NPN (broker identifier necessary for payment) to cases once the client/call center has advanced passed certain screen, including after the subsidy determination is completed, which also hinders interaction with other assisters
  - Lack of a complete listing of certified broker contact information on healthcare.gov which hinders both individual consumers and other assisters
  - Lack of concierge service for agents to answer detailed questions, report problems and obtain follow-up for clients
  - Direct enrollment/web broker challenges
- Many state-based exchanges were designed with better broker participation mechanisms than the federal marketplace. State-exchanges were also more nimble in making changes to improve broker assistance to clients throughout the 2014 open enrollment period. However, even those with great services for brokers experienced some technological challenges at times, particularly concerning payments to brokers and the recording of broker identifiers.

# Broker Exchange Participation in 2015

- Broker participation in 2015 is unknown at this time.
- Concerns brokers have expressed about participating in 2015 include:
  - Challenges and much greater than anticipated time spent physically enrolling individual through all approved means last year.
  - Ongoing authorization issues to act on a client's behalf with the marketplace.
  - Payment difficulties
  - Liability concerns because lack of payment/client relationship means that they are not covered by their errors and omissions insurance policies but are still legally liable for advice given
  - Lack of improvements to many broker needs planned for 2015 for the FFM
- Broker recertification for the exchanges is ongoing now, and despite the challenges from last year, HHS indicates that early interest is high.
- A June survey of NAHU leaders indicated that 69 percent plan to sell and service individual exchange policies in 2015, which is only a slight decrease from June 2013

# Potential Solutions and Improvements Moving Forward

- Senator Landrieu has introduced S. 2175, The Enhancing Access for Agents and Brokers Act, with original co-sponsors Senators Jeanne Shaheen (D-NH), Joe Manchin (D-WV), Mark Warner (D-VA), Mark Begich (D-AK) and Heidi Heitkamp (D-ND).
- S. 2175 would:
  - Establish a toll-free concierge hotline for broker enrollment and policy questions,
  - Require a listing of all certified agents on healthcare.gov,
  - Fix the NPN issues that have caused broker payment issues and have hindered broker interactions with other assisters
  - Require HHS to notify the in-person assistance community of all policy changes relative to QHPS and exchange enrollment within five business days in layperson's language, including specific information about how agents and brokers can best help their clients take advantage of any policy or regulatory changes in a timely manner.
- A second bill introduced by Senator Landrieu, S. 2173, the CHOICE Act, will make improvements to the direct enrollment process for independent agents, including making improvements that will allow independent agents better access to web-based entities.
- Representatives John Carney (D-DE) and Charlie Dent (R-PA) sent a bipartisan letter to Secretary Sebelius urging her to address many of the same issues that was signed by a broad-based bipartisan group of 75 house members.



# Opportunities and Challenges with Open Enrollment 2015

- Agents and brokers see many opportunities with the health insurance marketplaces ahead, but also remain concerned about potential challenges.
- Opportunities include:
  - Online availability of the FF SHOP
  - Increased broker services for the FF SHOP
  - Technological improvements to federal and state-based exchange websites and operations
  - New market entrants and new health insurance market exchange products for consumers
- Concerns include:
  - Reenrollment and redeterminations for existing consumers
  - Accuracy of health premium tax-credit determinations
  - Lack of improvements to many broker needs planned for 2015 for the Individual FFM

