STATEMENT OF

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ON

THE NAVIGATORS AND ASSISTERS PROGRAMS
BEFORE THE

U. S. HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEE ON ENERGY POLICY, HEALTH CARE AND ENTITLEMENTS
SUBCOMMITTEE ON ECONOMIC GROWTH, JOB CREATION AND
REGULATORY AFFAIRS

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U. S. House Committee on Oversight and Government Reform,
Subcommittee on Energy Policy, Health Care and the Subcommittee on Entitlements and Economic Growth, Job Creation and Regulatory Affairs
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Good morning, Chairmen Lankford and Jordan, Ranking Members Speier and Cartwright, and members of the Subcommittees. Thank you for the opportunity to discuss the Centers for Medicare & Medicaid Services' (CMS) Navigator program.

Almost 49 million Americans under the age of 65 do not currently have health insurance, sometimes because the cost of insurance is too high or because they have been locked out of the private insurance market because of pre-existing conditions. The percentage of non-elderly uninsured is over 20 percent of the population in many states. Those millions of our fellow citizens and neighbors live daily with the insecurity of not knowing how they will pay for the medical care they and their families need. The uninsured are often one medical diagnosis away from medical bankruptcy. Additionally, the uninsured often do not receive the preventive care and early diagnosis and treatment that are associated with better health outcomes. When the uninsured do seek treatment, it is all too often at the emergency room. American businesses and taxpayers help pay for the uncompensated care that is provided.

The new Health Insurance Marketplaces will fundamentally change that reality for these Americans. The Marketplaces are precisely what the name describes: a place where consumers and businesses can find affordable health coverage options they can rely on. Consumers will be able to easily compare costs, benefits, and cost-sharing in order to choose a plan that is right for them, their families, or their employees. If eligible, consumers and businesses will be able to receive help with the cost of coverage either through premium tax credits that lower the cost of premiums right away, cost-sharing reductions, or a Small Business Health Care Tax Credit.

Ensuring that consumers and businesses participate in the Marketplaces requires that they learn about the benefits that these Marketplaces have to offer and that they get the help they need in order to take advantage of those benefits. This is a significant undertaking. We know quite a bit

about the uninsured Americans we need to reach — many have never had health insurance, so the transaction of selecting, applying, and enrolling in health coverage will be unfamiliar to them. For example, according to a CMS analysis of the 2011 American Community Survey,[1] 20 percent of the uninsured have not completed high school. To effectively reach these populations about their new health insurance options, information must be provided by people connected to the community in an appropriate manner.

For that reason, the Affordable Care Act authorizes, and CMS is implementing, a variety of ways to provide outreach, education, and enrollment assistance to the uninsured. We are leveraging forms of assistance that exist in the insurance market today, like agents and brokers, as well as new forms of assistance provided by the Affordable Care Act. The Navigator and in-person assistance programs that are the subject of today's hearing are two of those programs, but it is important to consider them in the broader context in which consumers and businesses will be able to get help to enroll in affordable, high quality coverage beginning on October 1, 2013.

One way consumers get support today is through agents and brokers, who assist millions of Americans with their health insurance needs. Agents and brokers, including web-brokers, will play a significant role in educating consumers about Marketplaces and insurance affordability programs, and in helping consumers receive eligibility determinations, compare plans, and enroll in coverage. CMS anticipates that agents and brokers will also play a critical role in helping qualified employers and employees enroll in coverage through the Small Business Health Options Programs (SHOPs). We have worked closely with agents and brokers to enable them to assist their clients in obtaining coverage. Guidance released on May 1, 2013, indicates that where permitted under state law, CMS will work with agents and brokers to assist consumers in completing the eligibility application, comparing and selecting qualified health plans (QHPs), and enrolling consumers through the Marketplace, while meeting appropriate privacy standards. We are also working with web-brokers, who provide a valuable service in the market today, and we will make it possible for them to assist consumers and businesses in the new Marketplaces as well. Web-brokers, as well as traditional agents and brokers, will provide an important additional channel for the Marketplaces to reach consumers and to help them enroll in QHPs.

[1] Data set available: https://data.cms.gov/dataset/The-Percent-of-Estimated-Eligible-Uninsured-People/9hxb-n5xb

The HealthCare.gov website is the "go to" location for people to obtain information about the Marketplaces and to enroll online beginning in October. This summer, CMS will launch a 24-hour call center for the Marketplace where consumers can receive help with the eligibility and enrollment processes. Also this summer, the chat capabilities for HealthCare.gov will launch, which will enable consumers to chat in real-time with specialists who can help consumers identify and compare QHPs, check their eligibility for affordability programs to help them pay for coverage, and enroll in a QHP once open enrollment begins on October 1, 2013. Eligible consumers will be able to enroll in a QHP online, over the phone, or in person at certain locations. The site will add functionality over the summer so that by October 1, 2013, consumers will be able to create accounts, complete the single streamlined application online, and shop for coverage.

CMS is also working with Federal agencies to reach, engage, and assist potential enrollees. We have an inter-departmental working group that includes a wide range of Federal agencies that is developing ideas and plans to encourage enrollment and distribute information. Other Federal programs will, for example, post Marketplace information on agency websites.

While we are leveraging and creating new outreach initiatives, we know that we need to do more in order to provide information and assistance to reach all eligible consumers in their communities. That is the role of the Navigator and in-person assistance programs. These programs build on our vast experience in providing outreach and enrollment assistance in Medicaid, the Children's Health Insurance Program (CHIP), and Medicare, including Medicare Parts C and D. As a result, CMS designed Navigator and in-person assistance grant programs that will allow qualified and well-trained individuals and organizations help consumers find and enroll in health care coverage, while adhering to standards and requirements designed to ensure that taxpayer money is used appropriately. The Navigator program, its application process, its terms and conditions, and program integrity oversight are informed by the Department of Health and Human Services' (HHS) extensive experience. HHS awards grants for more than 300 programs, including consumer outreach and education programs, such as the State Health Insurance Assistance Program for Medicare Part D, the nationwide Senior Medicare Patrols

program, and the Connecting Kids to Coverage program. The Navigator program follows this tradition of responsible grant-making for consumer education for the newly developed Marketplaces.

The Navigator Program

The Affordable Care Act created the Navigator grant program and listed the duties Navigators must perform. The Exchange Final Rule, published on March 27, 2012,[2] interprets those duties to include:

- Maintaining expertise in eligibility, enrollment, and program specifications;
- Conducting public education activities to raise awareness about the Marketplace;
- Providing information and services in a fair, accurate, and impartial manner, including information that acknowledges other health programs such as Medicaid and CHIP;
- Facilitating selection of a QHP;
- Providing referrals for enrollees with questions, complaints, or grievances about their health plan, coverage, or a determination under such health plan or coverage to any applicable office of health insurance consumer assistance or health insurance ombudsman or any other appropriate state agency or agencies;
- Providing information in a culturally and linguistically appropriate manner, including to persons with limited English proficiency; and
- Ensuring accessibility and usability of Navigator tools and functions for persons with disabilities.

On April 9, 2013, CMS published a Funding Opportunity Announcement (FOA) for $54 million available in cooperative agreements to fund Navigators in Federally-facilitated or State Partnership Marketplaces, with a minimum amount of $600,000 available per Federally-facilitated or State Partnership Marketplace service area. Navigator cooperative agreement award applications are due on June 7, 2013.

[2] Codified at 45 CFR 155.210.

Eligible Applicants

In order to be eligible to receive a Navigator grant, as required in the Affordable Care Act, an applicant shall demonstrate that it has existing relationships or could readily establish relationships with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be qualified to enroll in a QHP. The funding opportunity is open to self-employed individuals and private and public entities. At least two types of entities must serve as Navigators in each Marketplace, and at least one Navigator must be a community and consumer-focused non-profit. Other entities that can serve as Navigators, as detailed in the Affordable Care Act, are trade, industry, and professional associations, commercial fishing industry organizations, ranching and farming organizations, chambers of commerce, unions, resource partners of the Small Business Administration, other licensed insurance agents and brokers who are not compensated from health insurance issuers, and other public or private entities or individuals that are capable of carrying out the duties of the Navigator. Ineligible entities include:

- Health insurance issuers;
- Subsidiaries of health insurance issuers;
- Associations that include members of, or lobby on behalf of, the insurance industry; or
- Recipients of any direct or indirect consideration from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.

In addition to rules set forth in the law, funding announcement, and regulations, like other entities and individuals seeking to conduct business with the Federal Government, recipients of Navigator grants will be subjected to a robust screening process before grants are awarded.[3]

[3] Entities and individuals are not eligible for a Federal grant, including a Navigator grant, if they are on the Excluded Parties List, which is a list of any entities or individuals who have been suspended or debarred by any Federal agency. Entities or individuals may be suspended from receiving Federal grant money for up to one year based on indictments, information, or adequate evidence involving environmental crimes, contract fraud, embezzlement, theft, forgery, bribery, poor performance, non-performance, or false statements. Entities or individuals may be debarred from receiving Federal grant money for a longer period of time based on convictions, civil judgment or fact-based cases involving environmental crimes, contract fraud, embezzlement, theft, forgery, bribery, poor performance, non-performance, or false statements as well as other causes. This careful screening will help to ensure that individuals or organizations that pose a risk to the Federal Government are not awarded Federal Navigator grants.

Application and Award Criteria

Grants will be awarded only to qualified applicants who are well positioned to serve as Navigators. Qualified, unbiased expert contractors will review all applications using an evaluation rubric developed by HHS. Applications will receive a "raw" score out of 100 points. The application will then be ranked using statistical techniques that account for any differences in scoring behaviors among different committees or panels. The CMS Office of Acquisitions and Grants Management oversees the review and evaluation of grant applications to ensure outside reviewers and agency personnel comply with management policies and regulations, and with sound business management practices. The review criteria for the Navigator applications are as follows:

- Type of entity (individual, organization, or consortium) and description of the communities or groups the applicant expects to serve and why the applicant expects to serve these communities.
- Scope of activities, which must demonstrate how the applicant will perform the statutory and regulatory duties of the Navigator, maintain and execute eligibility and enrollment expertise, remain free of conflicts of interest during the term of the grant, provide culturally and linguistically appropriate services, and comply with privacy and security standards, among other activities.
- Budget, which must be complete and reasonable, while ensuring that the funding will not be used for activities already funded through the Marketplace planning and establishment grants.
- Track record and accomplishments, which must demonstrate the applicant's experience developing and maintaining relationships with stakeholders, assisting consumers, conducting public education and outreach, and working with underserved and vulnerable populations, among other activities.
- Personnel expertise, which must demonstrate the applicant's expertise in the private health insurance market, program eligibility and enrollment, conducting public education and outreach, and working with underserved and vulnerable populations.

The selection criteria ensure that a highly scoring applicant will be experienced and knowledgeable about the health insurance market and community, and be prepared to perform

the services required of a Navigator. Applicants without relevant experience, responsible budgets, or the ability to perform the required duties of a Navigator will not receive high scores.

Terms and Conditions of the Award

Navigator awardees must complete a training program, including approximately 20 to 30 hours of an HHS-developed training program, and pass an exam prior to beginning to help consumers. The Notice of Proposed Rulemaking (NPRM) for Navigator Standards, [4] published on April 5, 2013, includes a detailed discussion of our proposed training standards for Navigators in the Federally-facilitated and State Partnership Exchanges. The proposed standards were designed to ensure that Federal Navigators will have expertise in eligibility and enrollment rules and procedures, the range of QHP options and insurance affordability programs, the needs of underserved and vulnerable populations, and privacy and security requirements applicable to personally identifiable information.[5] In addition, to receive a Federal Navigator grant, the awardee would be required to meet any licensing, certification, or other standards prescribed by the state or Marketplace, if applicable. The proposed rule would further clarify that this requirement applies so long as state Navigator standards do not prevent the application of title I of the Affordable Care Act.

CMS is designing specialized training suited to the particular role and duties of Navigators as set forth in the Affordable Care Act, Exchange Final Rule, and proposed Navigator rulemaking. For example, under the proposed rule, Navigators would receive instruction in, for example, the following areas:

- QHPs (including the coverage "metal" levels), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;
- Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;

[4] 45 CFR Part 155: http://www.gpo.gov/fdsys/pkg/FR-2013-04-05/pdf/2013-07951.pdf.
[5] The Exchange regulations, at 45 CFR 155.260(a), establish privacy and security standards for Exchanges, and § 155.260(b) provides that Exchanges must require Navigators and other non- Exchange entities to abide by the same or more stringent privacy and security standards as a condition of contract or agreement with such entities.

- Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;
- Understanding differences among health plans;
- Privacy and security standards for handling and safeguarding consumers' personally identifiable information;
- Working effectively with individuals with limited English proficiency, people with a full range of disabilities, and vulnerable, rural, and underserved populations;
- Applicable administrative rules, processes, and systems related to Marketplaces and QHPs.

Once a Navigator award is made, the funds will be posted in recipient accounts established by the HHS Payment Management System, which is run by the Division of Payment Management. The Division of Payment Management has over 30 years of experience providing grant and grant-like payments, cash management, and grant accounting support services to Federal agencies. The custom-developed Payment Management System provides the tools to manage grant payment requests and disbursement reporting activities by leveraging efficient business processes, state-of-the-art information technology, E-Government initiatives, and business expertise to build a critical link in the operation of Federal financial assistance programs. The system is fully automated to receive payment requests and reconcile the requests for accuracy and content.

Upon notification of award, recipients under this announcement will be able to draw down funds for approved start-up costs. The remaining funds will be available only upon meeting required milestones. HHS may terminate any award for material noncompliance, including, but not limited to, violation of the terms and conditions of the award, failure to perform award activities in a satisfactory manner, improper management or use of award funds, or fraud, waste, abuse, mismanagement, or criminal activity.

Additionally, awardees must agree to cooperate with any Federal evaluation of the program and must provide required quarterly and final progress reports. The reports will outline how cooperative agreement funds were used, describe program progress, describe any barriers

encountered including how potential conflicts of interest were mitigated and process for handling non-compliant staff or volunteers describe how the program ensured access to culturally and linguistically appropriate services, and detail measurable outcomes including how many staff and volunteers completed training and became certified Navigators and how many consumers were served. All grantees must submit the Federal Financial Report to report cash transaction data, and expenditures. Federal Navigator awardees will also be subject to the Federal Funding Accountability and Transparency Act Subaward Reporting Requirement, HHS Grants Policy Statement, applicable cost principle regulations, Office of Management and Budget audit requirements and circulars, and the reporting and certification requirements that will be provided with the Navigator Notice of Award and Terms and Conditions.

Along with these reporting requirements, CMS will have substantial oversight and involvement with the Navigators. CMS will host opportunities for additional training or networking, will facilitate coordination with other relevant Federal agencies, will work with the recipients to continuously improve the program, and will assign specific program officers who will monitor the progress of each recipient by the phone, document review, on-site visits, and other appropriate means. The HHS Grant Management Process reflects established grant policies and regulations and is designed to ensure that grants serve the American public's interest in well-managed grant programs.

State-Based Marketplaces and their Navigator/In-Person Assistance Programs

Many state-based Marketplaces have been hard at work planning their consumer outreach, including conducting statewide marketing research, holding focus groups and surveys, and creating reports that include the best messaging for outreach materials for their specific communities.

State-based Marketplaces must comply with the parameters of the law and implementing regulations on the Navigator program but have the flexibility to require more stringent training and exam standards for their Navigators, as well as the flexibility to create Navigator programs best suited to conditions in their states. For example, Vermont has designed its Navigator and in-person assistance programs so that a subset of organizations will do the majority of the

outreach and education, while up to 22 grantees that will provide more geographic and audience-specific outreach. Meanwhile, New York's Navigator program is modeled on successful community assistance programs in New York, and is designed to meet the needs of New Yorkers by providing assistance through community-based organizations. New York plans to provide grants to a diverse group of organizations that will provide high-quality enrollment assistance in all counties and boroughs of the state.

Conclusion

Beginning October 1, 2013, eligible consumers who need health coverage will be able to log on to HealthCare.gov to shop for affordable coverage or will be able to receive assistance in choosing the health coverage that best fits their needs. Navigators are just one part of a comprehensive outreach plan that includes agents and brokers and certified application assisters, as well as other Marketplace outreach activities that are being conducted by CMS and other Federal entities, state and local governments, and the private sector. Together, these important resources will help millions of uninsured Americans gain the security of being enrolled in health coverage. We are confident that the Navigator and in-person assistance programs will help provide consumers with the high quality help they need as they consider their health coverage options. Building on years of experience, CMS has designed a program that will fund only the top applicants, who are most qualified to serve their communities in this capacity, and ensure that they are well-trained, meeting objectives and using grant funding appropriately. I look forward to working with you and keeping you informed as we continue this important and intensive work to provide more affordable health coverage to more Americans.

Gary M. Cohen, Deputy Administrator and Director of the Center for Consumer Information and Insurance Oversight (CCIIO), Centers for Medicare & Medicaid Services, U.S. Department of Health and Human Services

Cohen recently served as General Counsel for the California Health Benefit Exchange and served as the Director of the Division of Insurance Oversight in CCIIO for two years prior to becoming the Deputy Administrator and Director of CCIIO. Prior to joining CCIIO, Cohen served as Chief of Staff to Congressman John Garamendi, and was General Counsel of the California Department of Insurance under Commissioners Garamendi and Steve Poizner. He also served as General Counsel of the California Public Utilities Commission and was a partner at the law firm Keker & Van Nest, LLP.