



Weekly Checkup

Navigator Program's Shortcomings Prompt State Action

AUGUST 15, 2013

With enrollment in the Affordable Care Act's (ACA) health insurance exchanges slated to begin in 47 days, the Administration is scrambling to ensure resources are available to help consumers understand their coverage options. The ACA requires all insurance exchanges to hire "navigators" to aid the uninsured in the selection of insurance. Federally selected navigators will be present in the 34 states where the federal government is running an exchange or have entered into a partnership with the state. In those states, the program is funded by [\\$54 million](#) in federal grants scheduled to be awarded tomorrow to thousands of newly hired navigators, individuals representing public and private entities. According to HHS, navigators are to impart "[fair, accurate, and impartial information](#)" [PDF] to help consumers enroll in coverage.

The CMS and HHS rules governing the program, however, raise a number of concerns as they leave room for potential fraud and abuse. The biggest areas of concern lie in the training and expertise of the navigators and the lack of a sophisticated vetting process for candidates.

The administration requires navigators to receive [30 hours of training](#) and pass a test as prerequisites for the position. Beyond those minimal requirements, potential navigators need not have any background in health care or insurance. In fact, experts are essentially excluded from the process, as agents and brokers are disqualified unless they forego receiving commissions from health insurance companies, even on sales outside exchanges. Given the complex nature of the ACA, 30 hours of training may prove insufficient, leaving navigators with a limited knowledge base. The timeframe for adequate training also poses a challenge, as training materials remain [incomplete](#) less than two months before launch.

Privacy and security risks also pose significant challenges to the program. Currently, the CMS and HHS rules do not require a criminal background check on potential navigators. This raises serious concerns as to the security of the information citizens provide to the exchanges. Navigators will have access to sensitive personal information via the [Data Hub](#), including tax information and social security numbers. In combination, these two factors establish a system ripe for misuse and these positions may be attractive to would-be identity thieves.

In response to these relatively low standards, a growing number of states have passed legislation making the hiring of navigators more stringent. Commonalities amongst the laws include requiring background checks, instituting additional training, and prohibiting navigators from endorsing products. [Critics](#) suggest these laws will reduce the effectiveness of the navigators, limiting the information they can provide. While increasing the standards required of navigators may decrease the number of qualified candidates, potentially slowing the enrollment process, consumer protection and confidence may increase. However, these states may not be able to enforce these laws, as the federal government may consider them contradictory to federal law and thus invalid.

To date, this sort of legislation has passed in 18 states and is pending in another five. Whether these supplemental laws will ultimately help the uninsured, by providing highly qualified navigators, or hurt exchange enrollment, by prohibiting navigators from making recommendations, is difficult to predict. We do know there is a lot at stake with these particular states given their high rates of uninsurance.