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**Date:** November 21, 2011

**Subject:** State Consumer Assistance Program Participation in Exchange Core Area 10

Recently, HHS received inquiries from States related to Exchange Establishment Grant planning and implementation activities as they concern “Core Area 10: Core Area of Providing Assistance to Individuals and Small Businesses, Coverage Appeals, and Complaints” (Core Area 10). Core Area 10 is one of the core areas of Exchange functions for which grant funding is available to States. In light of these recent discussions, we would like to provide clarification and guidance to States on applying for Exchange Establishment Grant funds under Core Area 10.

In their Exchange Establishment Grant applications, some States proposed to fully fund all aspects of their Consumer Assistance Program (CAP), established under Section 2793 of the Public Health Service (PHS) Act, as added by Section 1002 of the Affordable Care Act (ACA). States were asked to revise their applications to demonstrate how the consumer assistance activities proposed under Core Area 10 are directly related to the planning and implementation of an Exchange. While the Funding Opportunity Announcement for the Exchange Establishment Grant explicitly allows consumer assistance functions and activities to be included as part of this funding, all such activities must be integral to an Exchange.

CAP grants were designed to provide assistance with a broader scope of health coverage options, not limited to Exchanges. For example, one of the minimum requirements under Section 2793 is for State consumer assistance programs to provide services such as counseling an individual and determining whether a complaint or appeal is valid, and helping the consumer file it.

Consumer assistance activities are critical to the integral function of an Exchange. To date, CCHIO has funded a number of consumer assistance activities through Exchange Establishment Grants. The following are examples of consumer assistance activities proposed by States:

- Assess current consumer assistance systems to determine how to leverage existing resources and expand capacity to support and incorporate consumer assistance functions of the Exchange.
- Conduct an environmental scan and key informant interviews to gather and analyze information about communicating with consumers and small businesses about the Exchange as it relates to the Exchange and Exchange establishment.
- Develop procedures for:
  - Assisting individuals with eligibility determination and enrollment;

- Helping consumers file grievances and appeals (i.e., providing the consumer with form(s) needing completion to begin the appeals process or referring/connecting the consumer to an appropriate person/entity responsible for grievances and appeals);
  - Providing information about consumer protections; and
  - Collecting data on inquiries, problems, and resolved consumer issues as it relates to qualified health plans, and assisting Exchange enrollees or potential Exchange enrollees.
- Assess communications, public education, marketing and outreach needs of the Exchange and develop a short-term (pre-operational) and long-term marketing, outreach, and communications plan aimed at securing and maintaining Exchange enrollment; conduct focus group tests with diverse consumers.
  - Work with small businesses to identify their assistance needs as it relates to the needs and assistance addressed by the SHOP.
  - Assess the current capacity of consumer assistance programs to determine the mechanisms for expanding existing resources in order to support the volume of complaints and appeals that will occur from Exchange consumers as it relates to the eventual function of the Exchange.
  - Analyze feedback from stakeholders and other individual and small business assistance programs, and data collected by consumer assistance programs, and report on plans for use of information to strengthen qualified health plan accountability and function of the Exchange.
  - Develop a comprehensive plan for outreach and education (awareness regarding the Exchange, Exchange benefits, and how to use the Exchange) – a two-tiered approach: build public awareness on the ACA health insurance reforms and how to buy health insurance (i.e. what is a co-pay, what is co-insurance, etc.), which will include op-eds, editorial boards, media relations and other outreach in the short term to highlight the Exchange and its benefits; and provide guidance on how to purchase health insurance through the Exchange.
  - Include in the design and implementation of the Exchange a targeted assistance and support to Native Americans regarding Exchange services – develop a Native American Service Center within the Exchange.
  - Assess the capabilities and capacities of current call centers; determine how best to organize and establish the call center; and prepare a plan to develop and implement the call center that serves the Exchange.
  - Develop Navigator program design (taking into account existing beneficiary support infrastructure) and funding options with input from key stakeholders and experts (including consumers and producers); and develop training and certification standards to ensure Navigators can provide knowledgeable consumer assistance. Note: Navigator grants may not be funded using federal grants under § 1311.

Furthermore, States may utilize the expertise of an existing entity and staff to conduct consumer assistance activities relating to an Exchange. For such proposals, States are required to provide a cost allocation for the utilization of an existing entity or resource (i.e., staff) that delineates the

portion of staff time allocated for Exchange related functions compared to existing duties and functions.

In addition to assuring that activities are integral to the Exchange, Exchange funds available under Section 1311 of the ACA must not supplant other grant funds, such as Section 2793 funds; therefore, Exchange funds cannot be used to support the entire current functionality or operation of the existing CAP (or any other grant) program.

In order to support robust consumer assistance activities in an Exchange and ensure that States are using grant funds appropriately, we suggest that States evaluate the work of their CAP to determine how the program's knowledge and experience assisting consumers can be leveraged to subcontract and provide services related to the establishment of an Exchange. The work of the CAP complements many of the consumer assistance activities that need to be undertaken to establish an Exchange.

HHS supports the work of States to create robust consumer assistance activities in Exchanges, and encourages States to leverage the existing consumer assistance expertise and experience, such as the CAPs, to plan and implement appropriate Exchange activities. Please contact your Exchanges Project Officer or your CAP Health Insurance Resource Specialists to discuss these issues in more detail.