

## § 155.222

(2) Adheres to HHS specifications for content, format, privacy, and security in the conduct of an operational readiness review, which includes ensuring that direct enrollment entities are in compliance with the applicable privacy and security standards and other applicable requirements;

(3) Collects, stores, and shares with HHS all data related to the third-party entity's audit of direct enrollment entities in a manner, format, and frequency specified by HHS until 10 years from the date of creation, and complies with the privacy and security standards HHS adopts for direct enrollment entities as required in accordance with § 155.260;

(4) Discloses to HHS any financial relationships between the entity and individuals who own or are employed by a direct enrollment entity for which it is conducting an operational readiness review;

(5) Complies with all applicable Federal and State requirements;

(6) Ensures, on an annual basis, that appropriate staff successfully complete operational readiness review training as established by HHS prior to conducting audits under paragraph (f) of this section;

(7) Permits access by the Secretary and the Office of the Inspector General or their designees in connection with their right to evaluate through audit, inspection, or other means, to the third-party entity's books, contracts, computers, or other electronic systems, relating to the third-party entity's audits of a direct enrollment entity's obligations in accordance with standards under paragraph (f) of this section until 10 years from the date of creation of a specific audit; and

(8) Complies with other minimum business criteria as specified in guidance by HHS.

(h) *Multiple auditors.* A direct enrollment entity may engage multiple third-party entities to conduct the audit under paragraph (f) of this section.

(i) *Application to State Exchanges using a Federal platform.* A direct enrollment entity that enrolls qualified individuals in coverage in a manner that constitutes enrollment through a State Exchange using the Federal platform,

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or assists individual market consumers with submission of applications for advance payments of the premium tax credit and cost-sharing reductions through a State Exchange using a Federal platform must comply with all applicable Federally-facilitated Exchange standards in this section.

[83 FR 17061, Apr. 17, 2018, as amended at 84 FR 17566, Apr. 25, 2019; 86 FR 6176, Jan. 19, 2021; 86 FR 24289, May 5, 2021; 86 FR 53503, Sept. 27, 2021]

### § 155.222 Standards for HHS-approved vendors of Federally-facilitated Exchange training for agents and brokers.

(a) *Application for approval.* (1) A vendor must be approved by HHS, in a form and manner to be determined by HHS, to have its training program recognized for agents and brokers assisting with or facilitating enrollment in individual market or SHOP coverage through the Federally-facilitated Exchanges consistent with § 155.220.

(2) As part of the training program, the vendor must require agents and brokers to provide identifying information and successfully complete the required curriculum.

(3) HHS will approve vendors on an annual basis for a given plan year, and each vendor must submit an application for each year that approval is sought.

(b) *Standards.* To be approved by HHS and maintain its status as an approved vendor for plan year 2016 and future plan years, a vendor must meet each of the following standards:

(1) Submit a complete and accurate application by the deadline established by HHS, which includes demonstration of prior experience with successfully conducting online training, as well as providing technical support to a large customer base.

(2) Adhere to HHS specifications for content, format, and delivery of training, which includes offering continuing education units (CEUs) for at least five States in which a Federally-facilitated Exchange or State-Based Exchange using a Federal platform is operating.

(3) Collect, store, and share with HHS training completion data from agent and broker users of the vendor's training in a manner, format, and frequency

specified by HHS, and protect all data from agent and broker users of the vendor's training in accordance with applicable privacy and security requirements.

(4) Execute an agreement with HHS, in a form and manner to be determined by HHS, which requires the vendor to comply with applicable HHS guidelines for implementing the training and interfacing with HHS data systems, and the use of all data collected.

(5) Permit any individual who holds a valid State license or equivalent State authority to sell health insurance products to access the vendor's training.

(6) Provide technical support to agent and broker users of the vendor's training as specified by HHS.

(c) *Approved list.* A list of approved vendors will be published on an HHS Web site.

(d) *Monitoring.* HHS may periodically monitor and audit vendors approved under this subpart, and their records related to the training functions described in this section, to ensure ongoing compliance with the standards in paragraph (b) of this section. If HHS determines that an HHS-approved vendor is not in compliance with the standards required in paragraph (b) of this section, the vendor may be removed from the approved list described in paragraph (c) of this section and may be required by HHS to cease performing the training functions described under this subpart.

(e) *Appeals.* A vendor that is not approved by HHS after submitting the application described in paragraph (a) of this section, or an approved vendor whose agreement is revoked under paragraph (d) of this section, may appeal HHS's decision by notifying HHS in writing within 15 days from receipt of the notification of not being approved and submitting additional documentation demonstrating how the vendor meets the standards in paragraph (b) of this section and (if applicable) the terms of its agreement with HHS. HHS will review the submitted documentation and make a final approval determination within 30 days from receipt of the additional documentation.

[80 FR 10865, Feb. 27, 2015, as amended at 81 FR 12340, Mar. 8, 2016]

#### § 155.225 Certified application counselors.

(a) *General rule.* The Exchange must have a certified application counselor program that complies with the requirements of this section.

(b) *Exchange designation of organizations.* (1) The Exchange may designate an organization, including an organization designated as a Medicaid certified application counselor organization by a state Medicaid or CHIP agency, to certify its staff members or volunteers to act as certified application counselors who perform the duties and meet the standards and requirements for certified application counselors in this section if the organization—

(i) Enters into an agreement with the Exchange to comply with the standards and requirements of this section including the standards specified in paragraphs (d)(3) through (d)(5) of this section; and

(ii) Maintains a registration process and method to track the performance of certified application counselors.

(iii) Provides data and information to the Exchange regarding the number and performance of its certified application counselors and regarding the consumer assistance provided by its certified application counselors, upon request, in the form and manner specified by the Exchange. Beginning for the third quarter of calendar year 2017, in a Federally-facilitated Exchange, organizations designated by the Exchange must submit quarterly reports that include, at a minimum, data regarding the number of individuals who have been certified by the organization; the total number of consumers who received application and enrollment assistance from the organization; and of that number, the number of consumers who received assistance in applying for and selecting a QHP, enrolling in a QHP, or applying for Medicaid or CHIP.

(2) An Exchange may comply with paragraph (a) of this section either by—

(i) Designating organizations to certify application counselors in compliance with paragraph (b)(1) of this section;

(ii) Directly certifying individual staff members or volunteers of Exchange designated organizations to