

Navigator Accountability and Oversight

Background

The Affordable Care Act requires health insurance exchanges to be operational in every state by October 1, 2013, and the law requires every exchange – whether state-based or federally-run – to satisfy certain requirements and incorporate particular features. One of these mandatory elements is the establishment of a so-called “navigator” program by each exchange.

Need for Action

There are many reasons why legislative action is needed to license, regulate, and establish jurisdiction over navigators. Several of these are highlighted below:

- States have always been responsible for overseeing those who engage in insurance consulting, placement, and enrollment activities. Those who carry out such activities are subject to the authority of state officials, and state licensing and regulatory frameworks constitute the primary mechanism by which regulators can stop unqualified and unscrupulous actors and intervene to protect the public. Adopting a similar approach for navigators is good public policy.
- In order to help ensure that these navigators act appropriately and that consumers are protected, statutory authority must be established to define navigator activity and require navigators to complete initial and refresher training, pass a competency exam, comply with applicable state law, remain accountable for their actions, demonstrate financial responsibility, etc.
- The failure of the state to establish a licensing and oversight mechanism for navigators will result in a regulatory vacuum that leaves them outside of the jurisdiction of state officials and the state code, and Missouri will lack the authority to take appropriate action when navigators engage in intentional or unintentional wrongful acts.
- Many potential navigators will lack basic insurance knowledge and relevant experience yet will be charged with performing a series of significant and sensitive duties. It is therefore critical to ensure their competence and to implement appropriate consumer protections. Consumers will be at risk unless the state defines the activities that navigators may engage in, ensures that they are properly trained, subjects them to the oversight of state regulators, and holds them accountable for their actions.
- The fact that navigators will be selected and compensated by distant federal officials and will operate under the cloak of government authority and sponsorship further supports the need for proper scrutiny and oversight at the state level.
- All states – including those with a federally-operated exchange – possess the authority to oversee and regulate navigators.