

**Payments to Navigators and Agents Inside and Outside an Exchange
Draft 7-24-11**

Entity	In Exchange Activities	Out of Exchange Activities
Navigator ONLY Entities	<ul style="list-style-type: none"> • <u>Exchange Grants</u>: Collects grant funding from Exchange • <u>Health Plan Commission</u>: Cannot accept commission from insurer in connection with enrolling qualified individuals or employees in a QHP. 	<ul style="list-style-type: none"> • Unclear to be able to operate outside exchange assuming Navigator only entity would not be licensed to sell insurance products outside exchange. • <u>Health Plan Commission</u>: Navigator only entity could not accept commission from insurer in connection with enrolling qualified individuals or employees of a qualified employer in a QHP even if allowed to enroll individual or group outside exchange. (See below for issues with dual Navigator/Agent).
Agent / Broker Only (non-Navigator)	<ul style="list-style-type: none"> • States may allow agents and brokers to enroll any individual or small employer in a QHP, (NPRM Section 155.220(a) and ACA Section 1312(e)) • QHP premiums must be the same inside and outside of exchanges without regard to whether the plan is offered directly from the issuer or through an agent. (NPRM Section 156.255(a)) • <u>Commissions</u>: Who should pay non-navigator agents/brokers allowed to enroll individuals or groups in the exchange, an exchange or health plans? Should agents and brokers be paid the same rate for enrolling individuals or groups in the exchange? If not, how do insurers price the product differently to reflect the different distribution costs and the requirement that QHP be priced the same on and off the exchange? 	<ul style="list-style-type: none"> • Allowed to continue selling coverage outside an exchange. • Not all health plans outside exchange will be QHPs. • QHP premiums must be the same inside and outside of exchanges without regard to whether the plan is offered directly from the issuer or through an agent. (NPRM Section 156.255(a)) <ul style="list-style-type: none"> ◦ Channel mix (i.e. sales by type of distribution channel such as agent, direct, internet, etc.) and distribution costs for each channel will be different inside and outside the exchange so issuers must project both channel mix and mix in and outside the exchange for pricing • <u>Commission</u>: Presumably paid by health plan since outside an exchange. Commissions might be higher for non-QHP than for off exchange QHP.
Dual Entities: Licensed Agent/Broker, also designated as a Navigator	<ul style="list-style-type: none"> • Any entity serving as a Navigator, including an agent or broker, may not receive any financial compensation from an issuer for helping an individual or small group select a QHP (NPRM Section 155.210(c)) and (ACA Section 1311(i)(4)) • Rule also says a Navigator must not “receive any “consideration” directly or indirectly from any health insurance issuer in connection with the enrollment of any qualified individuals or qualified employees in a QHP,” (Section 155.210 (c)(2)) HHS notes that such “consideration” includes, without limitation, any monetary or non-monetary commission, kick-back, salary, hourly-wage or payment made directly or indirectly to the entity or individual from the QHP issuer. • Navigators cannot have a conflict of interest (Section 155.210 (b)(I)(iv)) • <u>Commissions</u>: <ul style="list-style-type: none"> • It seems they cannot be a Navigator and accept commission from insurer in connection with enrolling qualified individuals or employees in 	<ul style="list-style-type: none"> • HHS notes that requirements in Section 155.210(c) would not preclude a Navigator from receiving compensation from health insurance issuers in connection with enrollment into non-QHPs. • <u>Commission</u>: It seems Navigator employees could not accept commission from insurer for enrollment in a QHP outside an exchange (even though licensed as an agent). <ul style="list-style-type: none"> • NPRM says a Navigator must not “receive any “consideration” directly or indirectly from any health insurance issuer in connection with the enrollment of any qualified individuals or qualified employees in a QHP,” (Section 155.210 (c)(2))

	<p>a QHP.</p> <ul style="list-style-type: none">• If an exchange pays, would they pay them as an “agent” or a “Navigator” (with the source of exchange funding presumably coming from plan user fees)?	
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