



# MNSure Certified Application Counselor Services Agreement Attachment A

State of Minnesota

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## 1. MNSure Duties

### 1.1 Certified Application Counselor (CAC) Program Duties

- (a) Develop and administer a certification and recertification training program and maintain documentation of certification and recertification completion;
- (b) Provide technical assistance to the CAC;
- (c) Provide MNSure's policies and procedures to the CAC as new or updated policies and procedures are released;
- (d) Provide current versions of MNSure marketing and communications materials;
- (e) Monitor the CAC utilizing qualitative and quantitative evaluation tools; and
- (f) Provide notification within ten (10) business days of any proposed and final changes to Minnesota Rules Chapter 7700.

### 1.2 Information Sharing Duties

- (a) Only release or disclose information which it is authorized by law or regulation to share with or disclose to the CAC;
- (b) Obtain any required consents, authorizations, or other permissions that may be necessary for it to share information with or disclose information to the CAC;
- (c) Notify the CAC of limitations, restrictions, changes, or revocation of permission by an individual to use or disclose protected information, to the extent that such limitations, restrictions, changes or revocation may affect the CAC's use or disclosure of protected information;
- (d) Not request the CAC use or disclose protected information in any manner that would not be permitted under law if done by MNSure;
- (e) Comply with all the CAC information security policies and standards as applicable to MNSure in accordance with Minn. Stat. § 16E.03, subd. 7; and
- (f) Identify the classification of any data shared with the CAC, and specify any applicable laws, rules, and regulations and any unique handling requirements.

## 2. Certified Application Counselor Duties. The CAC, who is not a State employee, shall:

### 2.1 Facilitate enrollment in health plans offered through MNSure by providing the following services:

- a) Inform consumers of health insurance options and the value of coverage, in addition to reviewing insurance options available through MNSure;
- b) Inform individuals of application and renewal processes, required documentation, mandated requirements, and any exemption criteria;

- c) Gauge eligibility through the Minnesota Eligibility Technology System (METS) by assisting applicants with the entry of information and provide referrals to such applicants to appropriate support services or programs for further assistance, such as free health clinics;
- d) Explain program eligibility rules to applicants and provide them application assistance for Medicaid/Childrens' Health Insurance Plan (CHIP), MinnesotaCare, premium tax credits, cost-sharing reductions, and qualified health plans;
- e) Assist consumers in complying with their responsibility to report changes that could impact program eligibility, including assisting with the renewal process;
- f) Provide nonmedical referrals, to the extent possible, according to referral guidance provided through certification;
- g) Facilitate referrals to community organizations, counties, or other appropriate nonprofit or public entities when individuals and families require technical expertise and assistance beyond the scope of this Agreement;
- h) Advise American Indians and Alaskan Natives on benefits specified by the Affordable Care Act, such as cost-sharing reductions, income exclusions, special open enrollment periods, and exemption from the minimum health care coverage mandate;
- i) Answer questions regarding the submission of eligibility verification documentation.

**2.2** Facilitate the enrollment in qualified health plans (QHPs) offered through MNsure for individual eligible to purchase a QHP by providing the following services:

- a) Explain, discuss, and interpret coverage and policies with consumers to facilitate plan selection;
- b) Assist with plan comparisons based upon individual priorities, including but not limited to metal tier levels, quality ranges, providers including, but not limited to, specialty care, pharmaceutical, dental and eye care, and total cost estimation including utilization and health status;
- c) Assist with the entry of information into enrollment tools and resources, including final submission of information;
- d) Facilitate referrals to brokers for individuals and families enrolling in QHPs through MNsure and request plan enrollment assistance beyond the scope of this Contract; and
- e) If available, provide information and referrals to small employers on enrollment in the Small Business Health Options Program (SHOP) and any tax provisions, including credits and penalties, potentially affecting small employers.

**2.3** Maintain a physical presence in the MNsure service area so that face-to-face assistance can be provided to applicants and enrollees.

**2.4** Maintain a roster of all employees, agents and volunteers who require certification to perform the services outlined in this Agreement in a form and manner as determined by MNsure. Provide notification to MNsure without delay and no later than five (5) business days when an individual on the Contractor's roster is terminated, separates, or otherwise ceases to perform services under this Agreement.

**2.5** Provide oversight of all of the CAC's employees, agents and volunteers engaged in this process, ensuring that they:

- a) Successfully complete the certification program prior to providing services under this Agreement, including training and background check completion;
- b) Complete any background check or background study process in the time frame and manner prescribed by MNsure or the Department of Human Services (this may include an additional background study for currently certified navigators, in-person assisters, and certified application counselors upon State's determination that an additional background study using

- the online NETStudy 2.0 system operated by the Department of Human Services is required);
- c) Successfully complete the annual recertification process required for continuing to provide services under this Agreement;
  - d) Are informed of and comply with all procedures as outlined in MNSure's policy and procedures; and
  - e) Are informed of and comply with the information privacy and security requirements in Attachment B.

**2.5.1** If additional costs are incurred due to a background check or background study process that is not timely completed by the CAC employees, agents or volunteers after such background check or background study process has been initiated, the CAC will be responsible for paying the costs of any subsequent or additional background study process (i.e., if first background study is not timely completed and another background study is required). State will not pay for additional background studies if a first background study is not timely completed. The State will not pay any additional fees for fingerprinting and photographing that is not completed at an approved Minnesota fingerprint and photo service location.

**2.6** Disclose to MNSure all affiliations that may present an actual conflict of interest or a potential conflict of interest (including any individual conflict of interest or organizational conflict of interest). The CAC remains under a continuing obligation to notify MNSure's Authorized Representative identified in Clause 4.1 of the Agreement and disclose a potential conflict of interest at any time it may arise but in no case later than five (5) business days of discovery of the conflict.

**2.6.1** The CAC certifies that it does not have any conflicts of interest related to this Contract as defined by State of Minnesota OGM policy [08-01](#).

**2.7 "Conflict of interest review."** When adding a new individual to the CAC's roster in the AMP, review the CAC's conflict of interest policy and this Agreement with the new individual. The CAC shall also review this Agreement (and Attachments) to ensure that the CAC does not have any conflicts of interest related to this AGREEMENT, as defined by State of Minnesota OGM Policy [08-01](#) or as defined by this Agreement or other relevant law. The CAC shall immediately notify STATE if a conflict of interest arises but in no case later than five (5) business days of discovery of the conflict.

**2.8** If none exists, create and enforce a policy that no compensation, benefit or gift is received directly or indirectly by the Contractor, its employees, subcontractors, agents and volunteers from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a qualified health plan or a nonqualified health plan as specified in the 45 C.F.R. § 155.225(g)(2);

**2.9** Maintain expertise in eligibility, enrollment, and program specifications;

**2.10** Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act, or any other appropriate state agency or agencies for any enrollee with a grievance, complaint, or question regarding an enrollee's health plan, coverage, or a determination under such plan or coverage;

**2.11** Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by MNSure including individuals with limited English proficiency; and ensure accessibility and usability of tools and functions for individuals with limited English proficiency or disabilities according to the Americans with Disabilities Act and section 504 of the Rehabilitation Act;

**2.12** Provide information and services in a fair, accurate and impartial manner.

**2.13** Comply with Title VI of the Civil Rights Act of 1964, section 1557 of the Americans with Disabilities Act, and other applicable federal laws and regulations;

**2.14** Report any actual or suspected instances of fraudulent activity discovered in the course of conducting business with MNSure to the MNSure fraud and ethics anonymous hotline 1-844-466-7873

or email address ([mnsurecompliancehotline@mnsure.org](mailto:mnsurecompliancehotline@mnsure.org)) immediately and in no case later than seven (7) business days from discovery;

**2.15** Use the most current versions of State-provided applications, forms and outreach materials, and adhere to the publicity guidelines in Clause 8 of this Attachment for distribution of any outreach or other materials not provided by MNSure;

**2.16** Ensure that consumers are informed, prior to receiving assistance, of the functions and responsibilities of certified application counselors (CACs), including that CACs are not acting as tax advisors or attorneys when providing assistance as a CAC and cannot provide tax or legal advice within their capacity as CACs in accordance with 45 C.F.R. § 155.225(f)(1).

**2.17** Provide authorization in a form and manner as determined by MNSure prior to obtaining access to an applicant's personally identifiable information, and maintain a record of the authorization provided in a form and manner as determined by MNSure in accordance with 45 C.F.R. § 155.225(f)(2).

**2.18** Provide MNSure data and information regarding the number and performance of its CACs and regarding the consumer assistance provided by its CACs, upon request, in the form and manner specified by MNSure in accordance with 45 C.F.R. § 155.225(b)(1)(iii).

**2.19** The CAC is prohibited from performing the following activities:

- a) Performance of services which require licensure under Minnesota Statutes, chapter 60K;
- b) Charging of any applicant or enrollee for application or other assistance related to duties as a CAC in accordance with 45 C.F.R. § 155.225(g)(1);
- c) Providing gifts of any value as an inducement for enrollment to an applicant or potential enrollee in accordance with 45 C.F.R. § 155.225(g)(4);
- d) Soliciting any consumer for application or enrollment assistance by initiating any telephone call going door-to-door, using an automatic dialing system, or through other unsolicited means of direct contract, unless the individual has a pre-existing relationship with the individual CAC or CAC entity in accordance with 45 C.F.R. §§ 155.225(g)(5), 155.225(g)(6); and,
- e) Providing choice counseling or enrollment services as defined in 42 C.F.R. § 438.810 to individuals who have been determined eligible for Medical Assistance or MinnesotaCare.

### **3. Third Party Beneficiary**

Both parties agree that the Minnesota Department of Human Services ("DHS") shall be, and is hereby, named as an express third-party beneficiary of this Agreement, with full rights as such. The Parties specifically acknowledge and agree that DHS has standing to and may take any appropriate action for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of this Agreement. DHS is entitled to and may recover reasonable attorney's fees and costs and disbursements associated with any action taken under this Section that is successfully maintained.

### **4. Amendments**

Except where otherwise addressed in Clause 2.1(b) of Attachment B and within this Clause 4, any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors. The State reserves the right to modify Attachment A and/or Attachment B without amendment as necessary to comply with federal or state law or regulation not addressed within Clause 2.1(b) of Attachment B. The State must provide the CAC notice of the need to update Attachment A and/or Attachment B within a reasonable time prior to the update being completed. All necessary updates will be posted on the MNSure.org website.

### **5. Indemnification**

The CAC agrees to indemnify, save and hold MNSure, DHS and the State, its representatives and

employees harmless from any and all claims or causes of action, including all attorneys' fees incurred by MNSure, or DHS, and/or the State arising from the performance of this Agreement by the CAC or the CAC's agents or employees. This clause will not be construed to bar any legal remedies that the CAC may have for MNSure's failure to fulfill its obligations pursuant to this contract. MNSure's and DHS' liability, if any, are governed by Minn. Stat. § 3.736.

## **6. State Audits**

Under Minn. Stat. § 16C.05, subd. 5, the CAC's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by MNSure and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement.

Upon request, the CAC must provide the State with any documentation necessary to maintain certification requirements.

The CAC will make its staff available to the State during audits and allow state observation of the CAC's MNSure-related activities and training.

## **7. Workers Compensation**

The CAC certifies that it is in compliance with Minn. Stat. §176.181, Subd. 2, pertaining to workers' compensation insurance coverage. The CAC's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

## **8. Publicity and Endorsement**

**8.1 Publicity.** The CAC may use MNSure and State-created materials. MNSure provides its express approval for the CAC to use the MNSure Partner Badge in relation to activities arising out of the Agreement and in accordance with MNSure's policies and procedures. The MNSure Partner Badge is provided to the CAC by MNSure upon request.

**8.2 Endorsement.** The State will publicly identify the CAC as a MNSure Consumer Assistance Partner, but does not endorse CAC's products or services. The CAC must not claim any endorsement by the State.

## **9. Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

## **10. Data Disclosure**

Under Minn. Stat. §§ 270B.09, 270C.65, subd. 3, 270C.66 and other applicable law, the CAC consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number. Identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the CAC to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

## **11. Termination**

Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the other party.

## **12. Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.