



## **District of Columbia Health Benefit Exchange Authority**

### **Certified Application Counselor Program Designated Organization Agreement**

**Recipient:**

**DC HBX Program:** DC Health Link Certified Application Counselor Program

**Designation Period:**

\*A Designation is issued under the condition that the terms and conditions of this designated organization agreement have been accepted by both the District of Columbia Health Benefit Exchange Authority and the Designee.

## Terms of Agreement

This Agreement is entered into between the \_\_\_\_\_ (Designee), whose address is \_\_\_\_\_, (hereinafter referred to as the “Designee”) and the District of Columbia Health Benefit Exchange Authority, whose address is 1225 I St. NW, Suite 400, Washington, DC 20005 (hereinafter referred to as “DC HBX, Agency and/or Designator”), to supervise Certified Application Counselors as part of DC HBX’s efforts to serve residents and small businesses of the District by providing application assistance to enroll in health insurance coverage through the DC HBX’s web portal, “DC Health Link.”

### **Section 1. Designation and Authority.**

Subject to the terms of this Agreement, DC HBX hereby designates and authorizes Designee to assist customers with applications for insurance affordability programs and insurance offered on or through DC HBX’s insurance marketplace. The scope of this Agreement is limited to the designation of Designee by DC HBX and does not create an agency or any other legal relationship between the parties.

### **Section 2. Designee Representations.**

A. Compliance with DC HBX Policies and Applicable Laws. Designee shall comply with all DC HBX policies and procedures now in effect, or hereafter adopted, all instructions as given to Designee by DC HBX, and all applicable federal and state laws and regulations including, but not limited to, as applicable, the Affordable Care Act (ACA), the Health Insurance Portability and Accountability Act (HIPAA), the District of Columbia Insurance Code, and the regulations promulgated thereunder.

B. No Prior or Ongoing Disciplinary Action. Neither the Designee, nor any of its officers, directors, employees nor any other person substantially involved in the contracting or fundraising activities of the Designee is currently on the “List of Excluded Individuals/Entities” (LEIE) maintained by the Office of Inspector General of the United States Department of Health and Human Services. Designee further represents that it is not currently the subject of any disciplinary proceeding or other action by any federal or state governmental authority. Designee agrees that it has a continuing obligation to notify DC HBX in writing within seven (7) business days if it becomes subject to such disciplinary action.

C. Services at No Charge. Designee shall provide application assistance without charging customers or making assistance conditional on any other relationship, purchase, or direct or indirect consideration. If the Designee has an identified client base, it is permissible for the Designee to provide application assistance only to its clients.

### **Section 3. Liability and Indemnification**

Designee will be liable for the conduct of the Certified Application Counselors under its supervision, whether employed or volunteer, including (but not limited to) compliance with the roles and responsibilities set out in the District of Columbia Certified Application Counselor Program Announcement and RFA and this District of Columbia Certified Application Counselor Program Agreement, and processes and procedures developed by DC HBX. Designee will be required to hold DC HBX harmless for any legal claims or damages resulting from the actions of their Certified Application Counselors including, but not limited to, misuse of private information.

- A. Indemnification. Designee agrees to indemnify, defend and hold DC HBX harmless for any and all legal claims or damages resulting from Designee's breach of any representations or requirements or from Designee's negligent acts or omissions under this Agreement.
- B. Liability Insurance. Designee agrees it will have appropriate liability insurance but at a minimum include \$2,000,000 aggregate General Liability insurance.

**Section 4. Advertising and Marketing.**

Designee acknowledges and agrees to comply with any DC HBX advertising, marketing, and branding requirements, as determined by DC HBX and communicated to Designee from time to time. Designee may advertise or refer to itself as a "DC Health Link Designated Organization," but shall not represent itself as an agent or other representative of, or otherwise licensed or approved by DC HBX. DC HBX reserves the right to terminate a Designee under Section 10.B of this Agreement for acts of misrepresentation or false and misleading advertising, as solely determined by DC HBX.

**Section 5. Failure to perform and corrective action.**

If DC HBX becomes aware that Designee has failed or is failing to meet its representations or requirements under this Agreement, DC HBX will provide notice of the identified failure to the Designee. DC HBX may provide the Designee with an opportunity to establish a corrective action plan approved by DC HBX including a period to cure the failure; provided, however, that the provision of the opportunity is within the sole discretion of DC HBX.

**Section 6. Duty to Customer.**

Designee agrees to act in the best interest of the customer and provide full and impartial information to customers seeking their services in connection with application assistance for insurance affordability programs and qualified health and dental plans offered through DC HBX.

**Section 7. Non-Discrimination.**

The Designee may not discriminate against any employee, applicant for employment, or customer because of race, color, religion, sex, national origin, sexual orientation, or any other characteristic forbidden as a basis for discrimination by applicable laws.

**Section 8. Title VI and ADA Compliance.**

The Designee, its agents and employees shall seek to provide information in a culturally and linguistically appropriate manner in compliance with Title VI of the Civil Rights Act of 1964 and shall ensure accessibility and usability for individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act.

**Section 9. Confidentiality of Information/Privacy and Security.**

A. Confidentiality. Designee may use confidential client and DC HBX information to carry out its requirements under this Agreement or as required by applicable law. Designee agrees to comply with applicable law including the District of Columbia Insurance Code, ACA, HIPAA, and any applicable District of Columbia law regarding the confidentiality of personal information.

B. DC HBX Privacy and Security Standards. The Designee shall comply with DC HBX's privacy and security policies and standards found on the DC HBX website and federal standards set forth at 45 CFR 155.260 including the reporting of any suspected or actual privacy-related incidents to [dchbx.privacy@dc.gov](mailto:dchbx.privacy@dc.gov).

**Section 10. Term and Termination.**

A. Term. This Agreement is effective upon its execution by the parties and shall be in effect for not longer than twelve (12) months with the possibility of renewal for a subsequent term upon DC HBX and the Designee’s continuing satisfaction of the terms of designation.

B. Termination.

A. Either party may terminate this Agreement upon thirty (30) days advance written notice.

B. DC HBX may terminate this Agreement for Designee’s failure to meet any requirement of the Agreement.

C. DC HBX may terminate this Agreement without advance notice if the CAC program is discontinued.

D. DC HBX may terminate this Agreement without advance notice if DC HBX takes steps towards dissolution, liquidation or termination of DC HBX.

E. DC HBX may terminate this Agreement if it at any time determines that such termination is in the public’s and DC HBX’s best interest, provided that such termination shall be in writing and be provided to Designee at least fifteen (15) days in advance of the effective date of termination.

**Section 11. Program Administration**

The Designee will directly administer the program as set forth in the application submitted in response to the District of Columbia Certified Application Counselor Program Announcement.

A. Designation. The Designee must meet program requirements as defined by DC HBX.

B. Conduct, Roles and Responsibilities.

- i. Designee agrees to ensure that the employees and volunteers under its supervision pursuant to this Agreement will adhere to requirements as set forth at 45 CFR § 155.225 and the role as defined in the District of Columbia Certified Application Counselor Program Announcement.
- ii. Designee will ensure that employees and volunteers under its supervision pursuant to this Agreement will not represent or conduct themselves in such a way that violates District of Columbia law governing the licensing and appointment of Insurance Producers, D.C. Official Code 31-1131 et seq.

C. CAC Certification. Designee must ensure all Certified Application Counselors under its supervision meet the requirements for certification or recertification annually, as defined by DC HBX and listed below, and obtain certification prior to assisting customers. A Certified Application Counselor certification plan shall be presented to DC HBX prior to execution of this agreement and shall require at a minimum:

- i. Background Check Standards
  - a. Designee agrees to ensure that all staff and volunteers it certifies as Certified Application Counselors will have undergone and passed three background checks:
    - FBI fingerprint-based background check which shows they are free of conviction of any felonies and of financial crimes, crimes against children or vulnerable adults, and violent offenses.
    - DC Metropolitan Police Department – for more information, go to <http://mpdc.dc.gov/page/police-clearances-arrest-and-criminal-history-section..>

- National Sex Offender Public Website (NSOPW), US Department of Justice available at [www.nsopr.gov](http://www.nsopr.gov).
- b. If the background checks pursuant to subparagraph a. result in the disclosure of any criminal history years (a “hit”), designee agrees to investigate further to determine the exact criminal charge and its disposition, and to ensure the staff or volunteer is free of convictions of any felony, or financial crimes, crimes against children or vulnerable adults, and violent offenses. DC HBX attorneys are available to consult on background check results.
  - c. The background checks in subparagraph a. must have been conducted within the six (6) months prior to the granting of the certification.
  - d. The background checks in subparagraph a must be re-performed for individual CACs every three (3) years.
  - e. Designee is required to immediately report any disqualifying criminal history it learns about for a certified CAC.
  - f. DC HBX retains the right to overturn any designee’s certification of a CAC.
  - g. Designee hereby agrees to perform the background checks in subparagraph a. on every potential CAC, and attests that it will not certify any CAC that does not meet the requirements of subparagraph a.
- ii. Training Requirements. Designee agrees to ensure all staff and volunteers it certifies as Certified Application Counselors meet the initial training requirements on marketplace overview, privacy and security standards, qualified health and dental plans, and insurance affordability programs. Designee agrees to meet additional training requirements as a condition of continued certification under the Agreement as designated by DC HBX from time to time.
  - iii. Privacy and Security Attestation. Designee agrees to ensure that all staff and volunteers it intends to certify as Certified Application Counselors sign the Privacy and Security Attestation, and to provide a copy of this attestation for each of its current CACs upon DC HBX request.
  - iv. Health Insurance Attestation. Designee agrees to ensure that all staff and volunteers it intends to certify as Certified Application Counselors sign the Health Insurance Self-Attestation Form, and to provide a copy of this form for each of its current CACs upon DC HBX request.
  - v. Conflict of Interest Attestation. Designee agrees to ensure that all staff and volunteers it intends to certify as Certified Application Counselors sign the Conflict of Interest Attestation Form, and to provide a copy of this form for each of its current CACs upon DC HBX request.
  - vi. Compliance with Federal Regulation. Duties and Standards of Certification must be in compliance with 45 CFR § 155.225 (c) and (d).

D. CAC Decertification. If for any reason a CAC no longer meets any requirement of Section 10 C, Designee shall decertify the CAC and inform HBX of the decertification within one (1) business day.

## **Section 12. Audit and Reporting Requirements**

The Designee agrees to submit a upon HBX request with information including but not limited to the

names of all current CACs and the numbers served per the instructions provided by DC HBX. Designee will bear all costs associated with copying and submitting requested reports.

A. Evaluation. The Designee agrees to participate in an evaluation of DC HBX's program, including assisting with any data collection and information gathering, such as participation in surveys, site visits, meetings, and interviews with evaluators.

B. Audit. The Designee agrees to participate in any audits of practices required by DC HBX or its federal partners, including but not limited to the U.S. Department of Health and Human Services.

### **Section 13. Conflict of Interest**

A. Designee affirms that Designee and its employees and volunteers agree to act at all times in the best interest of the applicants assisted, as required under 45 CFR 155.225(c)(4).

B. Designee affirms that Designee and its employees and volunteers will make full disclosure in writing to DC HBX any conflicts of interest and make disclosure of conflicts of interest to all customers prior to the provision of application assistance.

### **Section 14. General Requirements**

A. Compliance. The Designee shall comply with terms and conditions as set forth in the District of Columbia Certified Application Counselor Program Announcement and RFA, the Designee's application including any subsequently submitted revisions incorporated as Attachment 1, and the terms of this Agreement.

B. Venue and Jurisdiction. The laws of the District of Columbia shall govern the interpretation and enforcement of this Agreement. Any claim, action, suit or proceeding relating to this Agreement shall be brought in the applicable State or Federal courts for the District of Columbia.

C. Nonassignment. The Designee may not sell, transfer, or otherwise assign its designation or any of its obligations under this Agreement, or its rights, title, or interest in this Agreement, without the prior written consent of DC HBX. This Agreement shall bind any respective successors and assigns of the parties.

D. Amendments. No amendment to this Agreement is binding unless it is in writing and signed by both parties.

E. Incorporation by Reference. The following items are incorporated by reference and made a part of this Agreement: the Designee's submitted Application (Attachment 1), the District of Columbia Certified Application Counselor Program Announcement and RFA, including any subsequently submitted revisions.

### **Section 15. Acceptance of Terms and Conditions**

This document shall be signed by an individual legally authorized to execute agreements on behalf of the Designee, signifying agreement to comply with all the terms and conditions specified above.

Government of the District of Columbia  
District of Columbia Health Benefit Exchange Authority



**Designated Organization Agreement**

The signatures below indicate mutual acceptance of this Certified Application Counselor Program Designated Organization Agreement.

For the District of Columbia Health Benefit Exchange Authority:

Accepted by: **Mila Kofman, J.D**  
**Executive Director**  
**District of Columbia Health Benefit Exchange Authority**

Signature:

Date:

For Designee: **Designee**

Accepted by: **Name**  
**Title**

Signature:

Date:

Attachment 1  
Designee's Application