

To: Management
Kentucky Health Benefit Exchange

We have examined the assertion of compliance of Kentucky Health Benefit Exchange d/b/a KHBE or the Exchange, a function within the State of Kentucky, with the requirements in Title 45, Code of Federal Regulations Part 155 (45 CFR 155), Subparts C, D, E, K, and M for the year ended June 30, 2022. We noted the matters below for your consideration.

1. Lack of written policy regarding notifications to employers

BerryDunn reviewed the processes for notifying employers of required information related to their employees. Specifically, we reviewed the processes for notifying employers of:

- An employee's receipt of APTC and cost reductions
- Verified updates to an employee's enrollee information
- An employee's termination or disenrollment from QHP coverage

BerryDunn found no evidence of written policies in place to address these required processes. The relevant regulations regarding employer notices are as follows:

155.310(h)

(h) Notice of an employee's receipt of advance payments of the premium tax credit and cost-sharing reductions to an employer. The Exchange must notify an employer that an employee has been determined eligible for advance payments of the premium tax credit and cost-sharing reductions has enrolled in a qualified health plan through the Exchange within a reasonable timeframe following a determination that the employee is eligible for advance payments of the premium tax credit and cost-sharing reductions in accordance with §155.305(g) or §155.350(a) and enrollment by the employee in a qualified health plan through the Exchange. Such notice must:

- (1) Identify the employee.*
- (2) Indicate that the employee has been determined eligible advance payments of the premium tax credit and cost-sharing reductions and has enrolled in a qualified health plan through the Exchange.*
- (3) Indicate that, if the employer has 50 or more full-time employees, the employer may be liable for the payment assessed under section 4980H of the Code; and*
- (4) Notify the employer of the right to appeal the determination.*

155.330(e)(1)(iii)

(1) Enrollee-reported data. If the Exchange verifies updated information reported by an enrollee, the Exchange must— [...]

- (iii) Notify the enrollee's employer, as applicable, in accordance with the requirements specified in §155.310(h).*

§155.340(3)(ii)

(3) In the event that an individual for whom advance payments of the premium tax credit are made or who is receiving cost-sharing reductions terminates coverage from a QHP through the Exchange during a benefit year, the Exchange must:

(ii) Transmit the individual's name and the effective date of the termination of coverage to his or her employer.

BerryDunn recommends that KHBE develop and document procedures to provide employers with the required information.

Management's Response

KHBE received verbal guidance from CMS regarding the Federally Facilitated Marketplace's decision to not issue employer notifications of this kind. KHBE, as a State-Based Marketplace, is mirroring federal practices regarding 155.310(h). KHBE will begin issuing notices to employers should the FFM change its procedure or offer further guidance.

2. Verification document not uploaded to Worker Portal

BerryDunn tested a sample of 95 cases for proper verification data. In one instance it was identified that the verification document submitted by the applicant was not uploaded to the KHBE Worker Portal. The caseworker reviewed the verification document and updated the customer's case; however, they did not upload the document to the Worker Portal.

The relevant procedure from the KHBE Eligibility and Enrollment Standard Operating Procedures document is as follows:

2.0 Eligibility Determination Process

"Applicants will be able to either upload these verification document(s) directly to KHBE via SSP or mail/fax the document(s) to the Mail and Fax Facility, where the document(s) will be opened, sorted, and uploaded onto the Worker Portal."

KHBE identified this as a human error by a caseworker and not a systematic error that could have impacted a wider population. BerryDunn recommends that KHBE establish a tool or process to identify when a verification item has not been uploaded to the Worker Portal.

Management's Response

KHBE agrees that this was a human error by a caseworker and the functional team verified that this was not a systematic error that would have impacted a wider population. KHBE will develop and implement increased warning messaging and/or a failsafe functionality that will prevent a task of this type from being cleared if there are no documents present in the electronic case file. Training to caseworkers on this functionality will then be delivered as appropriate.

3. Unnecessary verification item included in Request for Information (RFI) notice

BerryDunn tested a sample of 95 cases for proper verification data. In one instance we noted that citizenship was included in a RFI notice when the customer had already provided verifiable support for lawful presence. KHBE identified that the RFI notice was populated with citizenship verification because the caseworker incorrectly recorded the customer as a citizen when assisting them with their application. The caseworker corrected this error after the notice was sent and removed the RFI from the customer's case. However, because the customer should have been recorded as lawfully present, the initial notice should not have included citizenship verification.

KHBE identified that this was a human error by a caseworker and was not a systematic error that would have impacted a wider population. BerryDunn recommends that KHBE establish a review process to identify any cases where caseworkers incorrectly record customer information.

Management's Response

KHBE agrees that this was a human error by a caseworker and the functional team verified that this was not a systematic error that would have impacted a wider population. The Department for Community Bases Services currently reviews random cases for Quality Assurance. This is a type of error that would be routinely flagged by the Quality Assurance process and the caseworker given additional training and coaching.

We sincerely appreciate the cooperation and courtesy provided to our personnel by management and the employees of KHBE during the engagement. We have previously discussed the comments and suggestions contained herein with management, and we will be pleased to discuss them further at your request.

This report is intended solely for the information and use of management and is not intended to be, and should not be, used by anyone other than this specified party.

Berry Dunn McNeil & Parker, LLC

Portland, Maine
June 21, 2023