



**INDEPENDENT EXTERNAL AUDIT:  
2023 AUDIT FINDINGS REPORT  
KENTUCKY  
KENTUCKY HEALTH BENEFIT EXCHANGE**



# INDEPENDENT EXTERNAL AUDIT: 2023 FINDINGS REPORT

TO: CCIIO STATE EXCHANGE GROUP

FROM: BERRY, DUNN, MCNEIL & PARKER, LLC (BERRYDUNN)

DATE: JUNE 21, 2024

SUBJECT: AUDIT FINDINGS REPORT FOR KENTUCKY

AUDIT PERIOD: JULY 1, 2022 – JUNE 30, 2023

## I. EXECUTIVE SUMMARY

### PURPOSE

The purpose of this independent external audit is to assist the Commonwealth of Kentucky in determining whether the Office of the Kentucky Health Benefit Exchange, the Kentucky State-Based Marketplace (SBM), was in compliance with the financial and programmatic requirements set forth by the Centers for Medicare & Medicaid Services (CMS) during the audit period.

Name of SBM: Kentucky Health Benefit Exchange (KHBE)

State of SBM: Kentucky

Name of Auditing Firm: BerryDunn

Our responsibility was to perform a financial and programmatic audit to report on KHBE's compliance with Title 45, Code of Federal Regulations, Part 155 (45 CFR 155) as described in the CMS memo dated June 18, 2014, Frequently Asked Questions about the Annual Independent External Audit of SBMs. The Program Integrity Rule Part II ("PI, Reg."), 45 CFR 155.1200 (c), states, "The State Exchange must engage an independent qualified auditing entity which follows U.S. generally accepted governmental auditing standards (GAGAS) to perform an annual independent external programmatic audit and must make such information available to the United States (U.S.) Department of Health and Human Services for review."

### SCOPE

The scope of this engagement included an audit of the financial statements of KHBE, as well as an examination of KHBE's compliance with the programmatic requirements under 45 CFR 155, Subparts C, D, E, K, and M for the 12-month period July 1, 2022 through June 30, 2023. We conducted our audit in accordance with U.S. generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. We completed an examination of KHBE's

compliance with the applicable programmatic requirements under 45 CFR 155 and issued our reports dated June 21, 2024. We also performed an audit of its financial statements for the year ended June 30, 2023 and issued our report dated June 21, 2024.

We reviewed processes and procedures, read pertinent documents, and performed inquiries, observations, and staff interviews to obtain reasonable assurance regarding whether KHBE is in compliance with 45 CFR 155 in all material respects. We also selected a sample of KHBEs and tested for compliance with requirements under 45 CFR 155 for eligibility determination, verification of data, and enrollment with a Qualified Health Plan (QHP).

## **METHODOLOGY**

### **Audit Firm Background:**

BerryDunn is a national consulting and certified public accounting firm with a Government Consulting Group dedicated to serving state and local government agencies. BerryDunn was formed in 1974 and has experienced sustained growth throughout its 50-year history. Today, BerryDunn employs 900+ personnel with headquarters in Portland, Maine—and office locations in Arizona, Connecticut, Massachusetts, New Hampshire, West Virginia, and Puerto Rico. The firm has experienced professionals who provide a full range of services, including information technology (IT) consulting; management consulting; and audit, accounting, and tax services.

Those services include conducting Financial and/or Programmatic audits of multiple State Based Exchanges. We also have completed audits in accordance with Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, previously referred to as OMB Circular A-133) for several sizable healthcare organizations, many of which receive U.S. Department of Health and Human Services federal grants or funding. In addition, we provide audit services for higher education, social service, and economic development organizations, as well as other entities that receive federal grants and are subject to the Uniform Guidance.

### **Financial Statement Audit:**

We have audited, in accordance with U.S. generally accepted auditing standards (U.S. GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of KHBE, for the year ended June 30, 2023, and related notes to the statements, and have issued a report thereon dated June 21, 2024.

### **Programmatic Audit:**

We have examined KHBE's compliance with the programmatic requirements described in 45 CFR 155 for the year ended June 30, 2023, and have issued a report thereon dated June 21, 2024.

**Summary of Programmatic Audit Procedures:**

Our audit consisted of specific procedures and objectives to evaluate instances of noncompliance and to test KHBE's compliance with certain subparts of 45 CFR 155. BerryDunn examined compliance with the requirements under 45 CFR 155, in the following programmatic areas:

- General Functions (Subpart C)
- Eligibility Determinations (Subpart D)
- Enrollment Functions (Subpart E)
- Certification of Qualified Health Plans (Subpart K)
- Oversight and Program Integrity Standards (Subpart M)

We reviewed the processes and procedures under 45 CFR 155, in the following programmatic areas in order to determine whether they were in compliance with the requirements of the ACA:

- Assistors, Navigators, Certified Application Counselors, and Brokers
- Privacy and Security
- Eligibility and Enrollment Processes and Procedures
- Qualified Health Plan (QHP) Certification
- Compliance and Program Integrity
- Contact Center

We reviewed the following documentation, which was obtained directly from KHBE, or located on either the KHBE website or the CMS website:

- Contact Center:
  - Contact Center Training Manual
- Contracts and Amendments:
  - Agent Agreement
  - Certified Application Counselor Program Designated Organization Agreement
  - Community Action Council Region 5
  - Exchange Contracts for Provision of Services necessary for Exchange Operation
  - Kynect Program Binder
  - Operator Agreement
- Eligibility and Enrollment:
  - Consumer Facing Privacy Policy
  - Consumer Consent Form for Authorization to Verify FTI, Citizenship, etc.
  - Documentation of age out procedures for 26/65
  - Documentation of Processes for Manual System Overrides
  - Eligibility and Enrollment Guide for Contact Center Staff
  - Eligibility and Enrollment Standard Operating Procedures
  - Eligibility and Enrollment Policy Manuals
  - Eligibility and Enrollment Process Documents
  - Training Materials for Consumer Facing Staff Regarding the ACA (Metal Levels, APTC, CSR)
  - Verification Manual
  - 2023 Second Lowest Cost Silver Plan Data for Base Age

- Exchange Notices
  - Annual Automatic Plan Renewal Notice
  - Additional Notices sent by the Exchange.
  - Eligibility Determination Notice
  - Notice of Privacy Practices
- General Exchange Policies and Procedures:
  - Automatic Renewal Policy and Process Documentation
  - Application for Health Care Coverage
  - Eligibility and Enrollment Internal Process Policy or Manual
  - General Appeals Process Documentation
  - General Exchange Policy Manual or Handbook relevant to exchange employees
  - Income Information Authorization to Renew Coverage (FTI)
  - Onboarding Process for Employees who will have access to PII
- Human Resources and Training:
  - Agent and Navigator Oversight Standard Operating Procedures
  - Kynector Policy and Procedures Training Guide
  - Kynector Organization Administrator Training Guide
  - Plan Management Checklists
- Navigators:
  - Authorized Representative Consent Form
  - Confidential and Sensitive Information Agreement Form for External Vendors
  - Conflict of Interest Standards Agreement Form
  - Kynector List
- Organization Chart
  - Exchange Organizational Chart
- Privacy and Security:
  - Computer Matching Agreement
  - Data Sharing Agreement
  - Employee Privacy and Security Protected Health Confidential and Sensitive Information Agreement
  - Kentucky Health Benefit Exchange Internal Privacy Policy
  - Privacy and Security Guide
  - System Security Plan
- Qualified Health Plan (QHP)
  - Plan Management Standard Operating Procedures
  - Insurer Agreement (QHP)
  - Internal Plan Certification Process Materials
  - List of Insurers and Plan Offerings
  - QHP Complaint Process Documentation

To understand management and staff responsibilities and processes as they relate to compliance with 45 CFR 155, we interviewed the following KHBE staff:

- Assistant Director of Kentucky Health Benefit Exchange – David Verry
- Cabinet for Health Services Information Technology Manager of Audit and Compliance – Brian Lykins
- Chief Privacy Officer of the Cabinet – Kathleen Hines
- Division Director – Edith Slone
- General Counsel – Wesley Duke
- Human Services Program Branch Manager – Justin Shaw
- Kynect Program Manager – Mia Anderson
- Operations Manager from Conduent – Alecia Todd

We interviewed the following staff from agencies other than KHBE that are involved in functions related to the exchange:

- Acting Director of the Department of Insurance – Angela Raley

We analyzed the following information to assess KHBE's compliance with the requirements of 45 CFR 155:

- A listing of 241,223 eligibility determination transactions completed between July 1, 2022 and June 30, 2023. We selected 125 cases to test for compliance with eligibility and enrollment rules. We selected 60 cases to test for compliance with verification rules.

**CONFIDENTIAL INFORMATION OMITTED**

N/A

## II. AUDIT FINDINGS

### MATERIAL NONCOMPLIANCE:

#### Finding #2023-001

##### Criteria:

45 C.F.R. § 147.102 (a) (iii) stipulates:

Age, except that the rate may not vary by more than 3:1 for like individuals of different age who are age 21 and older and that the variation in rate must be actuarially justified for individuals under age 21, consistent with the uniform age rating curve under paragraph (e) of this section. For purposes of identifying the appropriate age adjustment under this paragraph and the age band under paragraph (d) of this section applicable to a specific enrollee, the enrollee's age as of the date of policy issuance or renewal must be used.

##### Condition and Context:

Out of 125 eligibility determinations tested, we identified one case where an applicant's age was incorrectly calculated as of January 1, 2023, when the coverage start date was April 1, 2023. Although the applicant turned 59 years old in January, this individual's benchmark premium was calculated for 58 years old.

##### Cause:

This is a repeat finding. The previous year's finding was that, for the applications processed outside the open enrollment period, applicants' age was calculated as of January 1, 2022, instead of the actual coverage start date. KHBE reported that a system change request to address this error was implemented on March 31, 2023. Therefore, the applications processed after the FY23 open enrollment period ended but before March 31, 2023, still had the same error where the benchmark premium amount was calculated using the applicant's age as of January 1, 2023, regardless of the coverage start date.

##### Effect:

Benchmark premium and APTC amount, when applicable, were calculated incorrectly for the applicants whose application was processed between January 1, 2023, and March 31, 2023, and whose birthday fell between January 1 and the coverage start date.

#### Finding #2023-002

##### Criteria:

45 CFR § 155.315(f)(2) stipulates:

If unable to resolve the inconsistency through the process described in paragraph (f)(1) of this section, must— (i) Provide notice to the applicant regarding the inconsistency; and (ii) Provide the applicant with a period of 90 days from the date on which the notice described in paragraph (f)(2)(i) of this section is sent to the applicant to either present satisfactory documentary evidence via the channels available for the submission of an application, as described in § 155.405(c), except for by telephone through a call center, or otherwise resolve the inconsistency.

**Condition and Context:**

BerryDunn reviewed conditional eligibility notices to determine whether applicants were provided the required period of 90 days to provide documentation to resolve a verification inconsistency. During the audit period, a population of applicants with citizenship inconsistencies were provided an additional 90 days to verify the inconsistency. A system defect was identified for households that had a Request for Information (RFI) due date that occurred on the same day as a change in household composition.

BerryDunn identified 1 out of 60 selected cases that had an RFI due date on the same day a new family member was added to the household. The system should have terminated QHP coverage due to the applicant’s failure to provide supporting documentation for citizenship. However, the system incorrectly triggered a new RFI notice and provided the applicant an additional 90 days. KHBE identified that 142 applicants were impacted by this system defect.

**Cause:**

The cause of this issue was a system defect. When the size of a household changed and an RFI due date occurred on the same day, the system automatically generated a new RFI with 90 days.

**Effect:**

Applicants with citizenship inconsistencies were not properly terminated and had QHP coverage for longer than they were eligible.

**MATERIAL WEAKNESS IN INTERNAL CONTROL OVER COMPLIANCE**

We identified certain deficiencies in internal control over compliance, described in Findings 2023-001 and 2023-002, that we consider to be material weaknesses.

**SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROL OVER COMPLIANCE**

N/A

**PROGRAMMATIC AUDITOR’S OPINION**

QUALIFIED       UNQUALIFIED       ADVERSE       DISCLAIMER

**ADDITIONAL COMMENTS**



### III. RECOMMENDATIONS

**Finding #2023-001****Recommendation:**

BerryDunn recommends KHBE to work with the system integrator to verify this system issue was fixed.

**Finding #2023-002****Recommendation:**

BerryDunn recommends that KHBE implement a system change to ensure that terminations occur for all applicants that do not provide supporting documentation within the RFI notice period.

**IV. FINANCIAL STATEMENT AUDITOR'S OPINON**

We have issued an Independent Auditor's Report on the financial statements for the year ended June 30, 2023, reflecting the following type of opinion:

 QUALIFIED UNQUALIFIED ADVERSE DISCLAIMER

**VI. CONCLUSION**

Based on a thorough review of the documentation required for this report, in our opinion, except for the material noncompliance described in the Audit Findings section of this report, KHBE complied with the requirements of 45 CFR 155, Subparts C, D, E, K, and M during the year ended June 30, 2023, in all material respects.

**SIGNATURE OF AUDIT FIRM:**

*Berry Dunn McNeil & Parker, LLC*

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**COMPLETION DATE OF AUDIT  
FINDINGS REPORT:**

June 21, 2024

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