



Kentucky Health Benefit Exchange (KHBE)

PROGRAMMATIC COMPLIANCE REPORT

Year Ended June 30, 2023

With Independent Accountant's Report



INDEPENDENT ACCOUNTANT'S REPORT

Advisory Board and Management
Kentucky Health Benefit Exchange

Report on Compliance

We have examined the Kentucky Health Benefit Exchange's (the Exchange), a component unit of the Commonwealth of Kentucky, assertion that the Exchange operated in compliance with the requirements in Title 45, Code of Federal Regulations, Part 155 (45 CFR 155), Subparts C, D, E, K, and M during the fiscal year July 1, 2022 to June 30, 2023. The Exchange's management is responsible for its assertion. Our responsibility is to express an opinion on the Exchange's assertion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Exchange's assertion is fairly stated, in all material respects. An examination involves performing procedures to obtain evidence about the Exchange's assertion. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Exchange's assertion, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the Exchange's compliance with specified requirements.

Our examination disclosed material noncompliance with 45 CFR Part 155, Subparts C, D, E, K, and M applicable to the Exchange during the year ended June 30, 2023, as disclosed in the accompanying schedule of findings as Findings 2023-01 and 2023-02.

In our opinion, except for the material noncompliance described in the accompanying schedule of findings, the Exchange 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.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated June 21, 2024, on our consideration of the Exchange's internal control over compliance with certain provisions of laws, regulations, contracts, and grant agreements. The purpose of that report is solely to describe the scope of our testing of internal control over compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Exchange's internal control over compliance. That report is an integral part of an examination performed in accordance with *Government Auditing Standards* in considering the Exchange's internal control over compliance.

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Intended Use

This report is intended to describe the scope of our examination of compliance and the results of the examination based on attestation standards established by the AICPA and *Government Auditing Standards* and it is not suitable for any other purpose.

Berry Dunn McNeil & Parker, LLC

Portland, Maine
June 21, 2024



**INDEPENDENT ACCOUNTANT'S REPORT ON INTERNAL CONTROL
OVER COMPLIANCE WITH REQUIREMENTS OF TITLE 45, PART 155,
SUBPARTS C, D, E, K, AND M OF THE CODE OF FEDERAL REGULATIONS**

Advisory Board and Management
Kentucky Health Benefit Exchange

We have examined, in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the assertion that the Kentucky Health Benefit Exchange (the Exchange), operated in compliance with the requirements in Title 45, Code of Federal Regulations, Part 155 (45 CFR 155), Subparts C, D, E, K, and M during the fiscal year July 1, 2022 to June 30, 2023. We have issued our report on the Exchange's assertion of compliance with the above stated requirements dated June 21, 2024, which contained a qualified opinion due to material noncompliance with the specified requirements.

Management of the Exchange is responsible for establishing and maintaining effective internal control over compliance with the compliance requirements described in 45 CFR 155, Subparts C, D, E, K, and M. In planning and performing our examination of the Exchange's assertion of compliance, we considered the Exchange's internal control over compliance with the requirements described above as a basis for designing examination procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance with those requirements, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Exchange's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the second paragraph and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We identified certain deficiencies in internal control over compliance, described in the accompanying schedule of findings as Findings 2023-01 and 2023-02, that we consider to be material weaknesses.

The Exchange's responses to the internal control over compliance findings identified in our examination are described in the accompanying schedule of findings. The Exchange's responses were not subjected to the procedures applied in the examination of compliance and, accordingly, we express no opinion on the responses.

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We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the examination engagement.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of *Government Auditing Standards*. Accordingly, this report is not suitable for any other purpose.

Berry Dunn McNeil & Parker, LLC

Portland, Maine
June 21, 2024

SCHEDULE OF FINDINGS YEAR ENDED JUNE 30, 2023

Finding #2023-001

Criteria:

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

(a) In general. With respect to the premium rate charged by a health insurance issuer in accordance with § 156.80 of this subchapter for health insurance coverage offered in the individual or small group market—

(1) The rate may vary with respect to the particular plan or coverage involved only by determining the following:

[...]

(iii) 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:

We identified one case, of 125 eligibility determinations tested, where an applicant's age was incorrectly calculated as of January 1, 2023, when it should have been calculated as of the coverage start date, which 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 based on a case where, for the application processed outside the open enrollment period, the applicants' age was calculated as of January 1, 2022, instead of the actual coverage start date. KHBE reported that a system change 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.

Recommendation:

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

Exchange Response:

A System Change Request was created, tested, and deployed to correct the discovered problem of calculating APTC based on the age of an individual on January 1 date instead of the age of an individual based on their birthdate. These system changes updated Maximum Advance Premium Tax Credit

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(APTC) and Second Lowest Cost Silver Plan (SLCSP) Calculation when consumers enroll outside Open Enrollment to accurately compute the age considered as of the coverage begin date. This functionality was deployed on March 31, 2023. This March implementation date meant that 759 individuals who enrolled in months other than January and had birthdays earlier in the year before the System Change had APTC calculated incorrectly.

Corrective Action Plan:

KHBE confirmed that this defect fix was successfully implemented and will continue to work closely with IT Vendor/System Integrator to ensure that behavior in system is correct in determinations ongoing.

Responsible Exchange Official:

David Verry, Assistant Director, Division of Health Plan Oversight

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 permitted the required period of 90 days to provide documentation to resolve a verification inconsistency. We identified through testing and interviews with KHBE leadership that during the examination 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 cases selected for testing 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 142 applicants 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 an additional 90 days.

Effect:

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

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.

Exchange Response:

This problem was identified as an issue and is tracked with defect number TFS554729. This defect was specific to scenarios where eligibility was run from a past month and the Eligibility Determination Group Advisory Board and Management Kentucky Health Benefit Exchange (household) size changed in the same transaction; this affected 142 individuals. The repair for this defect was deployed March 29, 2024.

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Corrective Action Plan:

KHBE confirmed that this defect fix was successfully implemented and will continue to work closely with IT Vendor/System Integrator to ensure that behavior in system is correct in determinations ongoing.

Responsible Exchange Official:

David Verry, Assistant Director, Division of Health Plan Oversight