



**INDEPENDENT EXTERNAL AUDIT:  
2022 AUDIT FINDINGS REPORT  
KENTUCKY HEALTH BENEFIT EXCHANGE (KHBE)**



# INDEPENDENT EXTERNAL AUDIT: 2022 FINDINGS REPORT

TO: CCIIO STATE EXCHANGE GROUP

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

DATE: JUNE 21, 2023

SUBJECT: AUDIT FINDINGS REPORT FOR KENTUCKY

AUDIT PERIOD: JULY 1, 2021 – JUNE 30, 2022

## I. EXECUTIVE SUMMARY

### PURPOSE

The purpose of this independent external audit is to assist the Commonwealth of Kentucky in determining whether the Kentucky Health Benefit Exchange (KHBE), a State-Based Exchange (SBM), was in compliance with the 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 programmatic audit to report on the Exchange's assertion that it operated 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 the Exchange, as well as an examination of the Exchange's compliance with the programmatic requirements under 45 CFR 155, Subparts C, D, E, K, and M for the 12-month period July 1, 2021 through June 30, 2022. 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 the Exchange's compliance with the applicable programmatic requirements under 45 CFR 155 and issued our reports dated June 21, 2023. We also performed an audit of its financial statements for the year ended June 30, 2022 and issued our report dated May 31, 2023.

We reviewed processes and procedures, read pertinent documents, and performed inquiries, observations, and staff interviews to obtain reasonable assurance regarding whether the Exchange is in compliance with 45 CFR 155 Subparts C, D, E, K, and M in all material respects. We also selected a sample of clients 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 commitment to serving state and local government agencies. BerryDunn was formed in 1974 and has experienced sustained growth throughout its 48-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 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 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 the Exchange, for the year ended June 30, 2022, and related notes to the statements, and have issued a report thereon dated May 31, 2023.

### **Programmatic Audit:**

We have examined the Exchange's compliance with the programmatic requirements described in 45 CFR 155 for the year ended June 30, 2022 and have issued a report thereon dated June 21, 2023.

**Summary of Programmatic Audit Procedures:**

Our audit consisted of specific procedures and objectives to evaluate instances of noncompliance and to test the Exchange'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 Processes and Procedures
- Qualified Health Plan (QHP) Certification
- Compliance and Program Integrity
- Contact Center

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

- Contact Center:
  - Contact Center Training Manual
- Contracts:
  - Audubon Area Community Services Region
  - Big Sandy Health Care
  - Blue Grass Community
  - Certified Application Counselor Program Designated Organization Agreement
  - Community Action Council Region 5
  - Community Action of Southern Kentucky
  - Gateway Community Action Agency Region 5
  - Grace Health, Corbin and Kentucky Primary Care Association, Inc.
  - Juniper Health, Inc. and Kentucky Primary Care Association, Inc.
  - Kentucky River Foothills Development Council and Community Action Kentucky
  - KHBE Issuer Participation Intent Form
  - Lake Cumberland Community Action Agency Region 4
  - Licking Valley Community Action Program Region 7
  - Memorandum of Understanding between Cabinet for Health and Family Services (CFHS), Kentucky Office of Health Data Analytics, Division of Health Benefit Exchange and Kentucky Public Protection Cabinet, Department of Insurance

- Memorandum of Agreement between CFHS, Department of Medicaid Services, and Division of Administrative Hearings
- Northeast Kentucky Community Action Agency Region 7
- Northern Kentucky Community Action Commission Region 6
- Primary Care Centers Eastern Kentucky and Primary Care Association, Inc.
- Pennyrile Allied Community Services Region 1
- Pennyrile Allied Community Services Region 2
- West Kentucky Allied Services and Community Action Kentucky
- Eligibility and Enrollment:
  - Computer Matching Agreement between KHBE and Department of Health and Human Services
  - Coverage Summary Notice
  - Eligibility Determination Notice
  - Enrollment Notice
  - Notice of Privacy Practices
  - Request for Information Notice
  - Language Tag Lines for Notices
  - Notices for Auto Renewals
  - Preliminary Eligibility Determination Notice
  - QHP Calculator
- Eligibility and Enrollment Policies:
  - Eligibility for Individual / Family Plan
  - Eligibility for Federal and State Financial Support for Individual / Family Plan
  - Enrollee Age-Out
  - Enrollment in Individual / Family Plan
  - Mid-year Life Events or Qualifying Events
  - Premium Billing and Payment
  - Premium Rating and Re-Rating of Health and Dental Plans
  - Redetermination During the Benefit Year
  - Renewal of Coverage
  - Termination of Coverage—Non-Payment of Premium
  - Termination of Coverage—Voluntary
- Human Resources and Training:
  - Acceptable Use Policy
  - Agent and Navigator Oversight Standard Operating Procedures
  - KHBE Benefits Application Training Guide
  - KHBE Policy and Procedures for Protection of Member Privacy Rights
  - KHBE Privacy and Security Training

- KHBE Security Incident Response Policy
- Kynector Policy and Procedures Training Guide
- Kynector Small Business Health Options (SHOP)
- Plan Management Checklists
- Role Management Guide for the Kentucky Online Gateway (KOG)
- CHFS Security Assessment and Authorization Procedure
- KHBE Training Courses
- KHBE Internal Policy
- Employee Privacy and Security Agreement
- Privacy and Security Training
- List of Stakeholder Organizations and Outreach Groups
- Navigators:
  - Confidential and Sensitive Information Agreement Form for External Vendors
  - Authorized Representative Consent Form
  - Kynector Agreement Template
  - Kynector Organization List
  - Kynector Personnel List
- Organization Chart
- Qualified Health Plan (QHP):
  - Internal Plan Certification Process Materials
  - QHP Rate Evaluation Process
  - List of Insurers and Plan Offerings for PY 2021 and PY 2022
  - Plan Management Standard Operating Procedures
  - Plan Management Companion Guide
  - QH Issuer Agreements

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

- Associate Director of Kentucky Health Benefit Exchange – David Verry
- Chief Privacy Officer – Kathleen Hines
- Contact Center Manager of Conduent – Alecia Todd
- Division Director of Certified Application Counselors – Edith Stone
- General Counsel of Office of Legal Services – Wesley Duke
- IT Manager of Audit and Compliance – Brian Lykins
- Program Branch Manager of Human Services – Justin Shaw

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

- Director of Department of Insurance – Angela Raley
- Program Manager for Kentuckiana Regional Planning & Development Agency (KIPDA)– Beth Mathis

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

- A listing of 115,569 eligibility determination transactions completed between July 1, 2021 and June 30, 2022. We selected 95 cases to test for compliance with eligibility and enrollment rules. We selected 95 cases to test for compliance with verification rules.

**CONFIDENTIAL INFORMATION OMITTED**

N/A

## II. AUDIT FINDINGS

### Finding #2022-001

#### Criteria:

Subpart D – Eligibility, 45 C.F.R. § 155.315 (c) (2) stipulates:

Verification with the records of the Department of Homeland Security. For an applicant who has documentation that can be verified through the Department of Homeland Security and who attests to lawful presence, or who attests to citizenship and for whom the Exchange cannot substantiate a claim of citizenship through the Social Security Administration, the Exchange must transmit information from the applicant's documentation and other identifying information to HHS, which will submit necessary information to the Department of Homeland Security for verification.

#### Condition and Context:

BerryDunn tested a sample of 95 eligibility determinations made during the fiscal year 2022. We identified one case out of the 95 where one applicant in a household had not been considered for Medicaid eligibility even though the household's income was under 138% of the Federal Poverty Level (FPL) because the individual's immigration status as a student had not been updated or verified since 2017. The rest of the family members including a spouse and four children were made eligible for Medicaid/CHIP.

#### Cause:

KHBE reported that this error was caused by missing an end date of the immigration status in the system. KHBE identified nine types of immigration verification documents that are expected to have an expiration date, which included an I-20 form, the Certificate of Eligibility for Nonimmigrant (F-1) Student Status that the sample had in 2017. Since a caseworker did not enter the expiration date of the form, the system assumed the sample's immigration status remained the same and renewed their eligibility based on the assumption.

#### Effect:

This error resulted in awarding APTC/QHP eligibility to consumers who might not have been eligible for APTC/QHP because of their immigration status.

KHBE reported that there were up to 350 applicants who uploaded one of the nine types of immigration documents listed above but the system did not have an expiration date.



**Finding #2022-001****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 95 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 June 1, 2023. Although one of the applicants turned 62 years old in February, this individual's benchmark premium was calculated for 61 years old.

**Cause:**

KHBE reported that there was a system error where the benchmark premium amount for the plan year 2023 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 coverage start date was after January 1, 2023, and whose birthday fell between January 1 and the coverage start date.

**AUDITOR'S OPINION**

We have issued an Independent Auditor's Report on the financial statements for the year ended June 30, 2022, reflecting the following type of opinion:

QUALIFIED       UNQUALIFIED       ADVERSE       DISCLAIMER

**ADDITIONAL COMMENTS**

N/A

### III. RECOMMENDATIONS

**FINDING #2022-001*****Recommendation***

BerryDunn recommends that KHBE reach out to the applicants impacted, verify their current immigration status, and make a redetermination of their eligibility accordingly. BerryDunn also recommends making the expiration date field a required field when a certain verification document is used, and/or reminding caseworkers to fill in the expiration date field.

**FINDING #2022-002*****Recommendation***

BerryDunn recommends KHBE to work with the system integrator to fix this error.

**IV. CONCLUSION**

We confirm to the best of our knowledge that the information included in this Audit Findings Report is accurate and based on a thorough review of the documentation required for this report.

**SIGNATURE OF AUDIT FIRM:***Berry Dunn McNeil & Parker, LLC***COMPLETION DATE OF AUDIT FINDINGS  
REPORT:****June 21, 2023**