

**INDEPENDENT EXTERNAL AUDIT**

**2019 AUDIT FINDINGS REPORT**  
**COMMONWEALTH OF KENTUCKY**  
**HEALTH BENEFIT EXCHANGE**



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To: Kentucky Health Benefit Exchange  
From: Kentucky Auditor of Public Accounts  
Date: March 20, 2020

Subject: Audit Findings Report for Kentucky

**I. EXECUTIVE SUMMARY**

**PURPOSE**

The purpose of this independent external audit is to ensure that the Commonwealth of Kentucky is in compliance with the financial and programmatic requirements set forth by the Centers for Medicare and Medicaid Services (CMS). Kentucky Health Benefit Exchange (KHBE), is administered by the Kentucky Cabinet for Health and Family Services (CHFS), which requested an external audit from the Kentucky Auditor of Public Accounts (APA) to comply with the audit requirements for State-based Marketplaces on the Federal Platform (SBE-FP) contained in the Program Integrity Rule Part II, 45 C.F.R. Part 155.

The APA is responsible for expressing an opinion about whether the financial statements of KHBE are fairly presented in all material respects, in conformity with U.S. generally accepted accounting principles (GAAP) and with generally accepted government auditing standards (GAGAS) as required by 45 C.F.R. 155.1200(c). Additionally, to meet the programmatic requirements established by CMS, the audit follows requirements set forth for SBE-FPs in 45 C.F.R. Part 155.

**SCOPE**

The scope of the engagement is to audit KHBE financial and programmatic compliance activity as of and for the year ended June 30, 2019. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Therefore, our audit involved judgment about the number of transactions to be examined and the areas to be tested. Also, we planned and performed the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from errors, fraudulent



financial reporting, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Draft financial statements, including Statement of Net Position; Statement of Revenues, Expenses and Changes in Net Position; Statement of Cash Flows; and related note disclosures, were compiled by KHBE with the assistance of the Kentucky Finance and Administration Cabinet based on activity recorded in the Commonwealth's financial accounting system, eMARS. To arrive at an opinion on KHBE's financial statements, the audit consisted of testing financial records to support amounts reported in KHBE's draft financial statements.

These records included tests of receipts, expenses, including payroll expenses, and assets and liabilities and related accrual information, which included the following types of information:

- eMARS documentation to record receipt/expense transactions and the underlying supporting information
- Summary reporting documentation
- Vendor invoices
- Reviews of contractual arrangements
- Timesheets and related documents

We performed this audit as of and for the year ended June 30, 2019, in accordance with the requirements of 45 C.F.R. Part 155 as directed by CMS. Because Kentucky utilizes the federal platform for enrollment and eligibility, our scope was limited to verifying compliance with sections of 45 C.F.R. Part 155 applicable to the structure of KHBE as a SBE-FP as follows:

- Subpart C – General Functions of an Exchange
- Subpart K – Exchange Functions: Certification of Qualified Health Plans
- Subpart M – Oversight and Program Integrity Standards for State Exchanges

In prior years, compliance requirements were also tested in the areas of Eligibility Determinations for Exchange Participation, Subpart D and Enrollment in Qualified Health Plans, Subpart E. However, as of January 1, 2017 KHBE no longer enrolls participants, or determines eligibility and therefore these areas were not applicable.

Additionally, we obtained an understanding of the entity and its environment, as well as obtained an understanding of the internal control and the design of those controls. Our procedures included a review of policies and procedures for the accurate accounting of receipts, expenditures, including payroll expenditures, grants and contracts to ensure compliance with applicable compliance requirements. These tests also included KHBE's oversight and monitoring policies and procedures.

The results of our audit include an unmodified opinion on the financial statements.

Our consideration of KHBE's internal control over financial reporting disclosed one material weakness. In addition, our consideration of KHBE's compliance disclosed one material noncompliance. These findings and the agency's corrective action plan are fully described in the audit report of the Kentucky Health Benefit Exchange.

## **METHODOLOGY**

### Background of Kentucky Auditor of Public Accounts

The Auditor of Public Accounts (APA) was established by the Kentucky Legislature on June 22, 1792 and became an elected office on June 11, 1850. The Kentucky Auditor of Public Accounts is an independent office charged with auditing the accounts and financial transactions of all state and local public accounts within the Commonwealth of Kentucky. The APA conducts and oversees more than 600 external financial audits, single audits, and special examinations annually, including the:

- Commonwealth's Comprehensive Annual Financial Report (CAFR);
- Commonwealth's Statewide Single Audit (SSWAK);
- Annual financial statement audits and single audits of local government offices, including the audits of fiscal courts, sheriffs, county clerks, and others.

The APA participates in the peer review program of the National State Auditor's Association (NSAA). In its most recent peer review conducted in 2019, the APA received a "pass" rating.

### Standards Followed During the External Audit

The audit of KHBE was conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to the financial audits contained in *Government Auditing Standards* (GAGAS), issued by the Comptroller General of the United States. The APA complies with these auditing standards, as identified in the independent auditor's letter included in KHBE's audit report.

Additionally, as noted in the independent auditor's letter in KHBE's audit report, KHBE's financial statements were presented in accordance with generally accepted accounting principles (GAAP). The APA believes the audit evidence obtained is sufficient and appropriate to provide a basis for an audit opinion in accordance with GAAP.

### Interviews with Key Employees

As part of our audit of KHBE, the APA interviewed key employees within the KHBE program and CHFS, who assisted in the preparation of the financial statements. Those officials included:

- Edith Slone – Director, Kentucky Office of Health Data and Analytics, Division of Health Benefit Exchange, CHFS
- Melea Rivera – Assistant Director, Kentucky Office of Health Data and Analytics, Division of Health Benefit Exchange, CHFS

- Kim Minter – Staff Assistant, Kentucky Office of Health Data and Analytics, CHFS
- Hannah Peck – System Consultant IT, Division of General Accounting, CHFS

Procedures for this audit included additional interviews with KHBE and CHFS staff to gain an understanding of the internal controls in place for receipts, payroll, and expenditures. In addition, the APA documented compliance with SBE-FP requirements contained in 45 C.F.R. Part 155. Further, we requested and examined various records and information that included, but was not limited to, organizational charts, certain expense reimbursements, vendor payments, contracts, policies, procedures, data system configuration settings, and other information.

### Sampling Methodology

Audit testing generally includes both tests of internal controls and substantive tests of details, including tests of compliance. Audit sampling is the application of an audit procedure to less than 100 percent of the items within an account balance or class of transactions for the purpose of evaluating some characteristic of the balance or class. The APA used sampling techniques during internal control and substantive testing.

The APA sampling is a nonstatistical sampling methodology that utilizes certain statistical features to assess the sufficiency of sample sizes in the population. This sampling methodology meets documentation requirements in auditing standards, including *Codification of Statements on Auditing Standards* Section AU-C 530. Included in this methodology are:

- Considerations of the relationship of the sample to the relevant audit objective,
- Preliminary estimates of materiality levels,
- Determination of the auditor's allowable risk,
- Consideration of the characteristics of the population,
- Evaluation of the sample results, and
- Projection of the results into the population, when applicable.

## II. AUDIT FINDINGS

### KEY FINDINGS

#### **2019-KHBE-001: The Kentucky Health Benefit Exchange Incorrectly Reported Expenditures**

During the fiscal year 2019 audit of the Kentucky Health Benefit Exchange (KHBE), expenditures were coded to the agency in error. The accounting system assigns specific accounting codes to each state agency; however, internal controls were not in place to identify that expenditures were erroneously coded to KHBE. KHBE initially reported expenditures of \$58,997; however, upon the auditor's inquiry, KHBE investigated and determined this amount should have been recorded to a different department.

KHBE personnel were unaware of the additional expenditures coded to their department.

The financial statement expenditure amount was decreased by \$58,997 as a result of the error. Failure to record expenditures in the correct department could result in misstated expenditures in the financial statements.

45 CFR § 155.1200 states in part:

(a) General Requirement. A State Exchange must:

- (1) Keep an accurate accounting of Exchange receipts and expenditures in accordance with generally accepted accounting principles (GAAP).

Proper internal controls require management to have sufficient procedures to ensure accurate accounting. Control activities should ensure the prevention, detection, and correction of errors and/or misstatements.

#### **Recommendation**

We recommend KHBE strengthen its internal control procedures to ensure errors are detected timely.

#### **Management's Response and Planned Corrective Action**

*In late 2017, the Office of Administrative Services (OAS) staff worked with former KHBE Director to find new workspace in CHR for Exchange staff. This space was located on the 2<sup>nd</sup> floor of the CHR building. The area was designed to accommodate the offices needed for the 9 staff members of KHBE along with a conference room, storage room, breakroom etc. Installation of the furniture took place in May 2018, also during this time a reorganization moved KHBE into the Office of Health Data and Analytics (OHDA), thus the newly planned space on the 2<sup>nd</sup> floor could no longer accommodate all employees in OHDA.*

**2019-KHBE-001: The Kentucky Health Benefit Exchange Incorrectly Reported Expenditures (Continued)**

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**Management's Response and Planned Corrective Action (Continued)**

*Due to over ordering of materials by the vendor, OAS facility team along with Finance procurement delayed payment of invoice until vendor corrected their mistake. Once the corrected invoice was received, OAS facilities group should have notified procurement to remove KHBE funding from the original purchase request/delivery order. This error was discovered and JV 721 20\*3328 was completed on 12/5/19 to return the money to KHBE.*

*Corrective Action: Prior to submission of invoices for payment on behalf of agencies, OAS Facilities team will verify with the agencies that funding is still accurate. This process will be in place for future orders.*

*Also, KHBE will work with OAS and the Budget Office to provide monthly expenditure reports for review in an effort to identify any unnecessary expenditures in a more timely manner.*



**2019-KHBE-002: The Kentucky Health Benefit Exchange Does Not Monitor DOI To Ensure Compliance With 45 CFR 155 Subpart K**

The Kentucky Health Benefit Exchange (KHBE) is established under KRS § 194A.099 to administer the provisions of the Patient Protection and Affordable Care Act (ACA) of 2010. KHBE is responsible for ensuring compliance with 45 Code of Federal Regulations (CFR) Part 155, the regulation establishing the “exchange” and other standards under the ACA. KHBE, as the exchange for the Commonwealth, has the ultimate responsibility for compliance with the 45 CFR Part 155. However, KHBE deferred responsibility to the Department of Insurance (DOI) for performing key functions of 45 CFR Part 155 Subpart K (Exchange Functions: Certification of Qualified Health Plans) and did not monitor DOI’s performance to ensure compliance.

There is no memorandum of understanding or contract in place between KHBE and DOI to allow KHBE to monitor DOI’s internal controls or procedures to ensure compliance with the CFR.

KHBE indicated they do not have authority over DOI and therefore cannot monitor DOI in any manner due to 900 KAR 10:200 Section 7 and KRS Chapter 304, which establish the responsibilities of DOI. However, KHBE has the responsibility to ensure compliance with the federal regulations, regardless of state statutes and regulations.

The sections within subpart K establish requirements for the exchange, in summary:

- 45 CFR § 155.1000 provides criteria for the exchange to offer certified health plans or plans deemed Qualified Health Plans (QHP),
- 45 CFR § 155.1010 requires the exchange to establish procedures for certification of QHPs and monitor the QHPs for ongoing compliance,
- 45 CFR § 155.1030 establishes QHP certification standards the exchange must ensure are met,
- 45 CFR § 155.1040 requires the exchange to collect transparency information and monitor if a QHP issuer has made cost sharing information available,
- 45 CFR § 155.1050 requires the exchange to ensure provider network adequacy of each QHP,
- 45 CFR § 155.1055 requires the exchange to have a process to evaluate the service areas of QHPs, and
- 45 CFR § 155.1065 requires the exchange to allow the offering of dental plans that meet certain requirements.

Without monitoring procedures over DOI activities related to the CFR, KHBE cannot verify compliance with all sections of Subpart K. Relying on DOI to perform the functions required by the Federal regulations is allowable as long as that reliance is appropriate and documented, and the scope of what DOI is doing fits the requirements imposed on the exchange by federal law. However, without a memorandum of understanding and monitoring procedures in place, KHBE cannot ensure compliance with subpart K.

As a general requirement, 45 CFR 155.1000 (b) states “The Exchange must offer only health plans which have in effect a certification issued or are recognized as plans deemed certified for participation in an Exchange as a QHP, unless specifically provided for otherwise,” and (c) continues with, “The Exchange may certify a health plan as a QHP in the Exchange if....” The requirements for certification are the responsibility of KHBE.

**2019-KHBE-002: The Kentucky Health Benefit Exchange Does Not Monitor DOI To Ensure Compliance With 45 CFR 155 Subpart K (Continued)**

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KRS § 194A.099 (3) states, “The office may enter into contracts and other agreements with appropriate entities, including but not limited to federal, state, and local agencies, as permitted under 45 CFR 155.110 to the extent necessary to carry out the duties and responsibilities of the office, provided that the agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.”

900 KAR 10:200 assigns KHBE certain responsibilities, based on various requirements in federal law. KHBE could meet those responsibilities through direct administration, or it could, given the exigencies of efficiency or expertise, use the authority granted in 194A.099 (3) to contract with another agency, such as DOI, to meet some of those requirements. From a federal perspective, however KHBE performs its responsibilities, it is the ultimate responsibility of KHBE to see that those responsibilities are met.

**Recommendation**

We recommend KHBE develop:

- Monitoring procedures to ensure compliance with 45 CFR Part 155 and
- A memorandum of understanding or contract with DOI for services related to compliance.

**Management’s Response and Planned Corrective Action**

*KHBE and DOI will enter a Memorandum of Understanding (MOU) stating that the DOI will review, approve, and certify a Qualified Health Plan application (QHP) only if the QHP complies with state law and 45 CFR 155 subpart K. DOI and KHBE will continue to have calls and discussions during the certification review period as in the past to inform both parties of any concerns or issues relating to QHP applications. DOI will provide documentation to KHBE annually regarding the review and certification of QHPs in accordance with the MOU.*

**AUDITOR'S OPINION**

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Based on the Key Findings above, it is the Auditor of Public Accounts' opinion that the accounting practices and financial statements reviewed during the 2019 independent external audit are:

MODIFIED     UNMODIFIED     ADVERSE     DISCLAIMER

**III. RECOMMENDATIONS**

Recommendations made by the APA are included with the Key Audit Findings in Section II above.

KHBE's management responses to audit findings identify its corrective action plan and are also included with the Key Audit Findings in Section II above.

**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: 

Completion Date of Audit Findings Report: March 20, 2020