

INDEPENDENT EXTERNAL AUDIT

2020 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 5, 2021

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 (SBM-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 SBM-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, 2020. 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 the 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

We performed this audit as of and for the year ended June 30, 2020, 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 SBM-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 no material weaknesses. In addition, our consideration of KHBE's compliance disclosed one material noncompliance. This finding and the agency's corrective action plan are fully described in the audit report of KHBE.

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:

- Melea Rivera – Assistant Director, Office of Health Data and Analytics, Division of Health Benefit Exchange, CHFS
- Kelli Hill, Division Director, Office of Administrative Services, Division of General Accounting, 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 SBM-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 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

2020-KHBE-001: The Kentucky Health Benefit Exchange Does Not Monitor The Department Of Insurance To Ensure Compliance With 45 CFR 155 Subpart K

This is a repeat of finding 2019-KHBE-002 as reported in the fiscal year (FY) 2019 audit of the Kentucky Health Benefit Exchange (KHBE).

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) 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 155. However, KHBE deferred responsibility to the Department of Insurance (DOI) for performing key functions of 45 CFR 155 Subpart K (Exchange Functions: Certification of Qualified Health Plans) and did not monitor DOI’s performance to ensure compliance.

There was no memorandum of understanding (MOU) or contract in place between KHBE and DOI during FY 2020 to allow KHBE to monitor DOI’s internal controls or procedures to ensure compliance with the CFR. However, KHBE and DOI entered into an MOU effective July 1, 2020 through June 30, 2021.

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 155.1020 requires the exchange to establish procedures to ensure the QHP issuer submits a justification for rate increases and posts to the website,
- 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 155.1045 requires the exchange to establish an accreditation timeline for QHP issuers who are not already accredited,
- 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.

2020-KHBE-001: The Kentucky Health Benefit Exchange Does Not Monitor The Department Of Insurance To Ensure Compliance With 45 CFR 155 Subpart K (Continued)

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 MOU and monitoring procedures in place during FY 2020, KHBE could not 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.

KRS 194A.099 (3) state “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 KRS 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 155; and,
- A MOU or contract with DOI for services related to compliance with 45 CFR 155.

Management’s Response and Planned Corrective Action

KHBE received this finding from the auditors last year with less than three months remaining in the fiscal year. KHBE immediately began discussions with the Department of Insurance (DOI) and crafted a Memorandum of Understanding (MOU) agreeable to both parties that addressed the auditor’s concerns. Since the MOU contracting process and signatures began with only days remaining in FY 2020, the MOU was entered for FY 2021. This MOU states 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. During the year DOI and KHBE had calls and discussions during the certification review period for any concerns or issues relating to QHP applications. DOI has agreed to provide documentation to KHBE annually regarding the review and certification of QHPs. KHBE staff have already begun revising the MOU for FY 2022. KHBE will continue to have a MOU in place going forward.

AUDITOR'S OPINION

Based on the Key Findings above, it is the Auditor of Public Accounts' opinion that the accounting practices and financial statements reviewed during the 2020 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 5, 2021