



**INDEPENDENT EXTERNAL AUDIT:
2023 AUDIT FINDINGS REPORT
PENNSYLVANIA
PENNSYLVANIA HEALTH INSURANCE EXCHANGE AUTHORITY (PHIEA)**



INDEPENDENT EXTERNAL AUDIT: 2023 FINDINGS REPORT

TO: CCIIO STATE EXCHANGE GROUP

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

DATE: APRIL 17, 2024

SUBJECT: AUDIT FINDINGS REPORT FOR PENNSYLVANIA

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 Pennsylvania in determining whether the Pennsylvania Health Insurance Exchange Authority (PHIEA), the Pennsylvania State-Based Exchange (SBE), was in compliance with the programmatic requirements set forth by the Centers for Medicare & Medicaid Services (CMS) during the audit period.

Name of SBM: Pennsylvania Health Insurance Exchange Authority

State of SBM: Pennsylvania

Name of Auditing Firm: BerryDunn

Our responsibility was to perform a programmatic audit to report on the Exchange's assertion that it operated in 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 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, 2022 through June 30, 2023. We conducted our examination in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We completed an examination of PHIEA's compliance with the applicable programmatic requirements under 45 CFR 155 and issued our reports dated April 17, 2024.

We reviewed processes and procedures, read pertinent documents, and performed inquiries, observations, and staff interviews to obtain reasonable assurance regarding whether PHIEA is in compliance with 45 CFR 155 in all material respects. We also selected a sample of eligibility and enrollment transactions 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 49-year history. Today, BerryDunn employs 800+ 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.

Programmatic Audit:

We have examined PHIEA'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 April 17, 2024.

Summary of Programmatic Audit Procedures:

Our audit consisted of specific procedures and objectives to examine PHIEA'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 assess 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
- QHP Certification
- Compliance and Program Integrity
- Contact Center

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

- 42 CFR Parts 431, 435, and 457, Medicaid Program Eligibility Changes Under the Affordable Care Act of 2010
- Application for Health Care Coverage
- Board Meeting Minutes
- Consumer Assistance Policies and Procedures
 - Assister Application Requirements
 - Assister/Navigator Contract
 - Assister Requirements
 - Assister Training Materials
 - Marketing and Outreach Materials
- Contracts and Amendments:
 - Fully Executed Contract for Navigator Services
 - Non-Exchange Entity Agreement
 - PHIEA Producer General Agreement
- Exchange Operations Guidelines, Policies and Procedures
 - Authorized Representative Form
 - Conflict of Interest Standards
 - Contact Center SOP Manual
 - Eligibility and Enrollment Policy Manual
 - GetInsured Training SOP
 - Navigator Code of Ethics
 - PHIEA Policy Manual
 - SEP Quick Reference Guide
- Notices:
 - Disenrollment Notice
 - Eligibility Determination Notice
 - Verification Notices
 - Renewal Notice
 - Special Enrollment Period Notice
- Organization Chart
- Privacy and Security:
 - Computer Matching Agreement
 - Privacy Impact Assessment (PIA)
 - Privacy Policy
 - Pennsylvania Health Insurance Exchange Security Plan (PA HIX Security Plan)
- QHP
 - Insurer Agreement (QHP)
 - QHP/QDP Certification Requirements
 - QHP Participation Manual

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

- Associate Counsel
- Call Center Business Analyst
- Contact Center Lead
- Chief Counsel (until January 16, 2023)
- Chief Counsel (effective January 17, 2023)
- Director of External Affairs
- Director of Information Technology
- Director of Policy
- Insurer Operations Specialist
- Insurer Specialist
- Information Technology/ Information Security Specialist
- Junior Production Support Analyst
- Outreach Manager
- Special Advisor to the Executive Director/Compliance Officer
- Special Advisor to the Chief Operations Officer (COO) and Marketplace & Insurer Operations Specialist

We tested the following to assess PHIEA's compliance with the requirements of 45 CFR 155:

- A listing of 677,321 eligibility determination transactions completed between July 1, 2022 and June 30, 2023. This population excluded Medicaid determinations. We selected 125 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. PROGRAMMATIC AUDIT FINDINGS

MATERIAL NONCOMPLIANCE:

Finding #2023-001

Criteria:

Subpart D – Eligibility, 45 C.F.R. § 155.310 (d) (3) stipulates:

Special rule relating to Medicaid and Children’s Health Insurance Program (CHIP). To the extent that the Exchange determines an applicant eligible for Medicaid or CHIP, the Exchange must notify the State Medicaid or CHIP agency and transmit all information from the records of the Exchange to the State Medicaid or CHIP agency, promptly and without undue delay, that is necessary for such agency to provide the applicant with coverage.

According to the 2023 Pennie Policy Manual, 4.3.3 Medical Assistance, CHIP, and Pennie: In some cases, PHIEA will review a person’s application and, based upon the information provided, assess the individual as potentially eligible for Medical Assistance (MA or Medicaid) or (CHIP). When that happens, PHIEA will electronically transfer that individual’s application to the Department of Human Services (DHS) for a final MA or CHIP eligibility determination. PHIEA will also send a notice to the applicant informing them that their application has been transferred to DHS for a final eligibility determination.

Condition and Context:

To assess applicants’ eligibility for Medicaid and/or CHIP, PHIEA relies on self-attestation by the applicants to assess whether their Medicaid/CHIP eligibility was denied within the previous 90 days prior to the application date. The applicants are asked to answer whether they were denied Medicaid and/or CHIP eligibility, and if they answer “Yes,” they are asked to enter the date of denial. The date of denial must be within 90 days from the application submission date in order to be valid.

BerryDunn tested a sample of 125 eligibility determinations that were made during fiscal year 2023. We identified two cases out of the 125 selections where household members were not assessed for their potential eligibility for Medicaid, even though the date of the denial was more than 90 days before the application date and the household’s income was under 138% of the Federal Poverty Level (FPL). We identified four cases out of the 125 where children under 19 years old were not assessed for their potential eligibility for Medicaid and/or CHIP, even though the date of the denial was more than 90 days before the application date and the household’s income was under 314% of FPL.

Cause:

PHIEA reported that for all six cases, the applicants attested that the household members/children were denied Medicaid and CHIP and provided a valid date of the denial in a previously submitted applications. When the same applicants submitted updated applications later, they provided the same dates of the denial which were over 90 days from the newly submitted application date. The system was supposed to reject the answer and transfer these cases to DHS for Medicaid or CHIP

eligibility determinations; however, the system incorrectly accepted the self-attestation and made the children eligible for a Qualified Health Plan (QHP) with Advanced Premium Tax Credit (APTC).

Effect:

This error resulted in awarding APTC to customers who may have been eligible for Medicaid or CHIP. If they were eligible for Medicaid or CHIP and received coverage under those programs, these households would have saved their share of the premium cost of the QHP. If they were eligible for Medicaid or CHIP but chose to enroll in a QHP, they should not have been eligible to receive APTC.

PHIEA estimated the number of individuals who might have been affected by this error were 6,341 individuals with the plan year 2023 coverage and 5,591 individuals with the plan year 2022 coverage.

Finding #2023-002**Criteria:**

In accordance with 45 C.F.R. § 155.310(g), the exchange must provide timely written notice to applicants regarding their eligibility determination.

Additionally, in accordance with 45 C.F.R. § 155.315(f), the exchange must provide notice to applicants regarding data matching inconsistencies (DMIs) between attested to eligibility data and the data in the external electronic data sources. If the exchange is unable to verify an applicant's citizenship, lawful presence, SSN, income, or incarceration, they must provide the applicant a notice and 90 days to provide supporting documentation.

Condition and Context:

During the audit period, on May 2, 2023, a system failure prevented all eligibility determination notices from being sent to applicants. Eligibility determination notices regarding coverage, as well as DMI notices, were suppressed on this day. Applicants that applied for health insurance coverage or reported a change by submitting an application on May 2, 2023, did not receive a notice alerting them of the status of their eligibility. This included applicants whose self-attested data did not match the data in the external electronic data sources; therefore, should have received DMIs which require the provision of documentation to resolve the inconsistency. The applicants with DMIs were provided 30-day, 60-day, and 75-day reminder notices. None of the 1,199 applications submitted on May 2, 2023, received notice of eligibility. One out of 95 cases tested included an application submitted on May 2, 2023, and that applicant did not receive an eligibility notice.

The system defect was identified near the end of August 2023, which was more than 90 days after the system failure on May 2, 2023. Thus, the due date for providing supporting documentation had expired and applicants that didn't respond should have been terminated. No remediation action was taken to make applicants aware of the issue, because the timeframe for applicants to take action on an inconsistency had passed. PHIEA reported this was an isolated incident and the issue only occurred on May 2, 2023. After the defect was identified, PHIEA asked the vendor to periodically monitor the system to ensure that all notices are sent on the appropriate date.

Cause:

A system failure prevented all eligibility determination notices, including notices containing requests for more information, from being sent on May 2, 2023. At the time, there was no control in place to identify when a system failure occurred, preventing notices from being sent.

Effect:

The applicants who applied for coverage on May 2, 2023, did not receive notification of what type of coverage they were eligible for or whether they needed to provide further documentation to clear a DMI.

Finding #2023-003**Criteria:**

In accordance with 45 C.F.R. § 155.315(f), the exchange must provide the applicant with 90 days to send documentation to resolve a DMI. The exchange must process this information timely and provide the applicant with an updated eligibility determination.

Condition and Context:

During the audit period, DMI documents that were mailed to the PHIEA mail room in Alabama were not processed timely. There was an issue with the connection to the mail room's document server that prevented documents submitted by applicants to resolve DMIs from being processed from August 18, 2022 – November 9, 2022. During the three months the mail room was not processing documents, the reasonable opportunity period (ROP) expired for 65 applicants who had submitted documentation. Due to the ROP expirations, PHIEA took adverse action to remove coverage. On November 11, 2022, PHIEA recognized that there was a backlog of 4,531 documents that had not been processed and that some of the applicants had submitted appropriate documentation to resolve the DMI. PHIEA called the 65 applicants and took appropriate action based on the documentation that was submitted. PHIEA identified an additional 71 households that were subject to adverse action due to the mailroom issue. However, PHIEA determined that for 71 households there was no change to the consumer's enrollment because the end of the ROP preceded the date when the document processing issue started, and no further action was needed when the issue was identified.

PHIEA subsequently adjusted mailroom operations so that documentation is processed timely.

Cause:

PHIEA stated that mailroom operations did not function in accordance with service level expectations, and that controls were not in place to identify documents that were not being processed timely.

Effect:

Applicants were subject to adverse action to remove coverage when they had submitted appropriate documentation to resolve the DMI, and some consumers temporarily lost their coverage.

Finding #2023-004**Criteria:**

In accordance with 45 C.F.R. § 155.315(f), the exchange must provide notice to applicants regarding DMIs between attested to eligibility data and what was returned from the federal data hub. If the exchange is unable to verify an applicant's citizenship, lawful presence, SSN, income, or incarceration, they must provide the applicant a notice and 90 days to provide supporting documentation.

Condition and Context:

During the audit period, PHIEA implemented two DMI extensions. The first extension extended all open DMIs in January 2023 for an extra 21 days due to a system issue preventing documentation uploads. The second extension extended income DMIs for 60 days from 90 days to 150 days due to PHE flexibilities established by CMS in February 2023. The system did not include functionality to develop and send reminder notices for the 150-day and 21-day extensions. Thus, the last reminder notice applicants received was the 75-day notice. With the 60 days extension, reminder notices were planned, but not required for income DMIs on day 106 and 136; however, the system did not deploy these notices. PHIEA took the position that it was inappropriate to discontinue coverage when the applicants did not receive the planned DMI reminders. Therefore, PHIEA waited to remove coverage for all applicants until batches on August 31, 2023, and September 1, 2023 were processed, regardless of the applicant's original notice due date.

BerryDunn tested a sample of 95 cases for proper verification data and identified four applicants for whom APTC was removed during the batch process on August 31 and September 1.

- Applicant 1: A final reminder notice was sent on February 11, 2023 with a due date of April 21, 2023. APTC was removed on August 31, 2023 which was four months after the ROP expired. The applicant was granted conditional eligibility for 202 days.
- Applicant 2: A final reminder notice was sent on February 11, 2023 with a due date of April 21, 2023. APTC was removed on September 1, 2023 which was four months after the ROP expired. The applicant was granted conditional eligibility for 203 days.
- Applicant 3: A final reminder notice was sent on March 4, 2023 with a due date of May 18, 2023. APTC was removed on September 1, 2023 which was three and a half months after the ROP expired. The applicant was granted conditional eligibility for 153 days.
- Applicant 4: A final reminder notice was sent on April 2, 2023 with a due date of June 16, 2023. The customer verbally attested to income on September 15, 2023 which was three months after the ROP expired. The applicant was granted conditional eligibility for 167 days.

Cause:

CMS provided exchanges, including state-based marketplaces, the ability to extend Income DMIs to a 150-day ROP. PHIEA planned to send one batch job which would terminate APTC at the end of August 2023. The eligibility system did not deploy the system functionality to send reminder

notices for the 150-day extension. PHIEA asserted that it developed and tested the necessary functionality to address the issue; however, it was never deployed to production.

Effect:

PHIEA did not provide all applicants an equal amount of time to respond to DMIs. Some applicants were given more than the allowable number of days to respond with no action taken.

MATERIAL WEAKNESS IN INTERNAL CONTROL OVER COMPLIANCE

We identified certain deficiencies in internal control over compliance, described in Findings 2023-001 through 2023-004, 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

N/A

III. RECOMMENDATIONS

Finding #2023-001**Recommendation:**

BerryDunn recommends that PHIEA work with the system integrator to identify the root cause of this error and develop a corrective action plan.

Finding #2023-002**Recommendation:**

BerryDunn recommends that PHIEA have a control in place to monitor the system on a daily basis to ensure that all notices are sent on the appropriate date.

Finding #2023-003**Recommendation:**

BerryDunn recommends that PHIEA continue to monitor mailroom operations to ensure that all documents are received and processed timely.

Finding #2023-004**Recommendation:**

BerryDunn recommends that PHIEA update the system functionality and process guides to ensure that all applicants receive the same amount of time to respond and resolve a DMI.

IV. FINANCIAL STATEMENT AUDITOR'S OPINON

N/A

V. CONCLUSION

Based on a 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, PHIEA 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

COMPLETION DATE OF AUDIT FINDINGS REPORT:

April 17, 2024