

**INDEPENDENT EXTERNAL AUDIT:
2021 AUDIT FINDINGS REPORT**

**PENNSYLVANIA
PENNSYLVANIA HEALTH INSURANCE EXCHANGE AUTHORITY (PHIEA)**



INDEPENDENT EXTERNAL AUDIT: 2021 FINDINGS REPORT

TO: CCIIO STATE EXCHANGE GROUP

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

DATE: MAY 27, 2022

SUBJECT: AUDIT FINDINGS REPORT FOR PENNSYLVANIA

AUDIT PERIOD: JULY 1, 2020 – JUNE 30, 2021

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), a 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 SBE: Pennsylvania Health Insurance Exchange Authority (PHIEA)

State of SBE: Pennsylvania

Name of Auditing Firm: BerryDunn

Our responsibility was to perform a programmatic audit to report on PHIEA's compliance with Title 45 Part 155 of the Code of Federal Regulations (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 was limited to an examination of PHIEA's compliance with the programmatic requirements under 45 CFR 155, Subparts C, D, E, K, and M. The engagement did not include an audit of the Statement of Appropriations and Expenditures, nor did it include an examination of PHIEA's financial controls and compliance with the financial accounting and reporting requirements of 45 CFR 155.

We conducted our audit in accordance with U.S. GAGAS contained in Government Auditing Standards, issued by the Comptroller General of the United States. We completed an examination of PHIEA's compliance with the programmatic requirements under 45 CFR 155 and issued our reports, dated May 27, 2022.

We reviewed processes and procedures, read pertinent documents, and performed inquiries, observations, testing, and staff interviews to obtain reasonable assurance regarding whether PHIEA is in compliance with 45 CFR 155, Subparts C, D, E, K, and M in all material respects. We also selected a sample of customers 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 46-year history. Today, BerryDunn employs 700+ personnel with headquarters in Portland, Maine—and office locations in Arizona, Connecticut, Massachusetts, New Hampshire, and West Virginia. 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.

Summary of Programmatic Audit Procedures:

Our audit consisted of specific procedures and objectives to evaluate instances of noncompliance and weakness, and to perform procedures to test PHIEA's compliance with and program effectiveness of certain requirements in 45 CFR 155, Subparts C, D, E, K, and M.

We reviewed the open issues from the previous year's audit to identify whether any of those issues remained open during the current year audit.

- 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 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
- 2021 Contracts, including Amendments and Updates to ongoing contracts.
- Application for Health Care Coverage
- Board Meeting Minutes
 - Meeting Minutes July 1, 2020 – June 31, 2021
 - Meeting Minutes July 1, 2021 – May 27, 2022
- Exchange Operations Guidelines, Policies, and Procedures:
 - Assister Application Requirements
 - Assister/Navigator Contract
 - Assister Requirements
 - Assister Training Materials
 - Authorized Representative Form
 - Conflict of Interest Standards
 - Contact Center SOP Manual
 - Contract Face Sheet
 - CWOPA Security and Acceptable Use
 - Eligibility and Enrollment Policy Manual
 - Exhibit B Proposal Submittal
 - Exhibit C Clarification Questions and Responses
 - Navigator Code of Ethics
 - SEP Quick Reference Guide
- Notices:
 - Additional Notices
 - ARPA Redetermination Notice
 - Broker and Assister Notices
 - Eligibility Decision Notices
 - Notice of Renewal sent to the Consumer
 - Verification Notices
- Privacy and Security:
 - Acceptable Use Agreements
 - Access Control Policy
 - Computer Matching Agreement
 - Data Sharing/Data Matching Agreements
 - Employee Handbook – PHIEA
 - Insurer Agreement
 - IRS Safeguard Security Report
 - IT Policy – PHIEA
 - Multi-Factor Authentication Standards

- Plan of Action and Milestones
- Privacy Impact Assessment
- Privacy Policy
- Security Monitoring Report – GetInsured
- System Health Dashboard – GetInsured
- Third-Party Independent Security Risk Assessment
- QHP:
 - Companion Guide and Supplemental Information – GetInsured
 - Insurer Agreement Form
 - QHP Certification Requirements
 - QHP Participation Manual

In order to understand management and staff responsibilities and processes as they relate to compliance with 45 CFR 155 Subparts C, D, E, and K, we performed walkthroughs of data systems and operations and interviewed the following PHIEA staff:

- Associate Counsel, Mark Kovalcin
- Call Center Business Analyst, Marie Ortiz
- Chief Operating Officer, Duane McKee
- Director of External Affairs, Charles ‘Chachi’ Angelo
- Director of Policy, David Thomsen
- Executive Sponsor and Acting Project Manager for the Cognosante Assister Services Contract, Karen Gage
- Insurer Specialist, Julian Seltzer
- Junior Production Support Analyst, Noah Stover
- Life/Health Insurance Policy Examiner, Lars Thorne
- Special Advisor to the Executive Director/Compliance Officer, Jennifer Lloyd
- Special Assistant to the COO, Hannah Turner

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

- A listing of 475,727 eligibility determination transactions completed between July 1, 2020 and June 30, 2021. This population excluded Medicaid determinations. We selected 95 cases to test for compliance with eligibility and enrollment rules. We selected 60 cases to test for compliance with verification rules.

CONFIDENTIAL INFORMATION OMITTED

N/A

II. AUDIT FINDINGS

FINDING #2021-001

Criteria

Subpart D – Eligibility, 45 C.F.R. § 155.305 Eligibility Standards stipulates that the Exchange must calculate advance payments of the premium tax credit in accordance with 26 C.F.R. § 1.36B-3.

26 C.F.R. § 1.36B-3 – Computing the premium assistance credit amount

- (a) In general. A taxpayer's premium assistance credit amount for a taxable year is the sum of the premium assistance amounts determined under paragraph (d) of this section for all coverage months for individuals in the taxpayer's family.

Condition

PHIEA performed batch eligibility redeterminations in June 2021 in order to implement changes required by the American Rescue Plan Act of 2021 (ARPA). PHIEA's policy was to provide its customers with the maximum APTC amount they were made eligible by ARPA for the entire plan year of 2021. The computation of the maximum APTC amount was performed as below:

1. Calculate the total amount of benchmark premium for the plan year 2021 by adding the following two amounts:
 - a. Pre-ARPA premium: Pre-ARPA monthly benchmark premium amount multiplied by the number of months a household had coverage between January and June, 2021
 - b. Post-ARPA premium: Post-ARPA monthly benchmark premium amount multiplied by six (from July to December, 2021)
2. Calculate the total amount of taxpayer's share of premium for the plan year 2021:
 - a. Calculate the total number of months the household had coverage from January to June and add six months for the remainder of the plan year.
 - b. Multiply the Post-ARPA monthly premium amount the household is responsible to pay by the total number of months.
3. Subtract #2 from #1 above to calculate the total amount of APTC available for the plan year 2021.
4. Subtract the APTC amount already used up to May 2021 and the same amount of APTC elected for the month of May as an expected amount to be used for June.
5. Divide the remainder by six and retroactively applied it from June to December.

Cause

PHIEA planned to implement the batch eligibility redeterminations for ARP in late May 2021 to be effective June 1, 2021 under normal system rules where eligibility redeterminations are effective 1st of the following month. However, due to operational concerns about processing batch eligibility redeterminations in late May, PHIEA decided to delay running the batch eligibility redetermination until early June 2021 with the intent to still apply the eligibility redetermination effective June 1, 2021. However, since the batch redetermination was delayed into June, the underlying system calculations followed normal system rules and processed the redeterminations as if they were effective July 1, 2021.

Effect

This defect resulted in awarding customers excess amounts of APTC. Out of the 30 households in our sample that were awarded excess APTC, 12 households in fact used excess APTC and therefore need to repay the excess amount to IRS when they file 2021 taxes. PHIEA reported that 42,522 households were affected by this defect.

FINDING #2021-002**Criteria**

Subpart D – Eligibility, 45 C.F.R. § 155.305 Eligibility Standards stipulates that the Exchange must calculate advance payments of the premium tax credit in accordance with 26 C.F.R. § 1.36B-3.

26 C.F.R. § 1.36B-3 – Computing the premium assistance credit amount

- (a) In general. A taxpayer's premium assistance credit amount for a taxable year is the sum of the premium assistance amounts determined under paragraph (d) of this section for all coverage months for individuals in the taxpayer's family.

Condition

PHIEA performed batch eligibility redeterminations in June 2021 in order to implement changes required by ARPA. PHIEA's policy was to provide its customers with the maximum APTC amount, for which they were made eligible by ARPA, for the entire plan year of 2021. The detailed computation of maximum APTC amount is described in Finding 2021-001.

Cause

The system incorrectly included the benchmark premium for the coverage that was retroactively canceled by customers in the calculation of APTC amount used-to-date. This resulted in overestimation of the benchmark premium amount and, consequently, underestimation of the eligible APTC amount.

Effect

One case out of our sample of 95 was awarded an APTC amount less than their eligible amount. PHIEA reported that 510 households were affected by this error. These households were not given an opportunity to utilize the maximum amount of APTC for which they were eligible.

FINDING #2021-003**Criteria**

Subpart D – Eligibility, 45 C.F.R. § 155.320 stipulates:

- (d) Verification related to enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan
 - (1) General requirement. The Exchange must verify whether an applicant reasonably expects to be enrolled in an eligible employer-sponsored plan or is eligible for qualifying

coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested.

(2) Data. The Exchange must:

- (i) Obtain data about enrollment in and eligibility for an eligible employer-sponsored plan from any electronic data sources that are available to the Exchange and which have been approved by HHS, based on evidence showing that such data sources are sufficiently current, accurate, and minimize administrative burden.

Condition

PHIEA awarded eligibility for APTC to those customers who had transitioned from HealthCare.gov and had indicated they had access to employer-sponsored coverage (ESC) without verifying that their ESC was not qualified for minimum essential coverage.

This issue does not apply to applicants who applied through PHIEA, as the application captures the information of ESC's qualification.

Cause

When PHIEA transitioned to a state-based marketplace in 2020, its customers' application data were migrated from HealthCare.gov. The data indicated whether the customers were eligible for ESC, but were missing customers' answers to whether their ESC met the affordability and minimum value standards specified in 26 C.F.R. § 1.36B-2(3). Notably, CMS did not inform PHIEA of this defect when it transferred the data from HealthCare.gov to PHIEA.

Effect

One case out of our 95 samples was determined eligible for APTC even though the data indicated the customer had access to ESC. PHIEA reported that there were 2,341 households who had access to ESC but were made eligible for APTC in the plan year 2021. Some of these households may not have been determined eligible for APTC if PHIEA had verified whether their ESC met the affordability and minimum value standards.

FINDING #2021-004

Criteria

In accordance with 45 C.F.R. § 155.305(a)(1), the exchange must check the federal data services hub (FDSH) to verify the citizenship status of its applicants. When there is a discrepancy between an applicant's attestation of citizenship and the response provided from FDSH, a data matching issue (DMI) must be created for the applicant. The applicant must then be provided 90 days to resolve the inconsistency. PHIEA provides the applicant a conditional eligibility status for 105 days (90-day reasonable opportunity period + 15 days administrative processing time) in which they must submit documentation verifying their citizenship status. Failure to submit documentation to verify this DMI results in loss of eligibility for coverage.

Condition

During the audit period, some customers with both income and citizenship DMIs were only informed about the income DMI on their eligibility determination notice. One out of 60 sample cases did not have the citizenship request on the initial 90-day notice. The applicants were notified in the 30-day, 60-day, and 75-day DMI reminder notices; however, they were not given the full 90-day notice for the citizenship DMI. As this issue was not discovered until late last year, PHIEA did not extend the reasonable opportunity period for those customers impacted.

PHIEA removed eligibility for the customers 75 days from the first formal notice indicating the citizenship DMI that was sent on the 30-day DMI reminder notice.

Cause

A system defect caused customers with both an income and citizenship DMI to only be informed about the income DMI on their eligibility determination notice and not citizenship.

Effect

Applicants that had data inconsistencies when verifying self-attested data with the federal hub were not provided with the full 90-day response time prior to having eligibility removed. 1,490 households were affected by the error.

AUDITOR'S OPINION

We have issued an Independent Auditor's Report on the financial statements for the year ended June 31, 2021, reflecting the following type of opinion: **N/A**

☐

QUALIFIED

☐

UNQUALIFIED

☐

ADVERSE

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DISCLAIMER

ADDITIONAL COMMENTS

N/A

I. RECOMMENDATIONS

FINDING #2021-001***Recommendation***

If PHIEA performs batch redeterminations again, we recommend that PHIEA work with the system integrator to perform test runs to verify that the system produces the intended results.

FINDING #2021-002***Recommendation***

If PHIEA performs batch redeterminations again, we recommend that PHIEA work with the system integrator to perform test runs to verify that the system produces the intended results.

FINDING #2021-003***Recommendation***

BerryDunn recommends that PHIEA send a notification to the applicable customers and ask them to submit a new application answering the question about the qualification of their ESC.

FINDING #2021-004***Recommendation***

BerryDunn recommends that PHIEA work to ensure citizenship is listed on the initial verification notice, in order to allow applicants a full 90-day period to respond to and resolve inconsistencies.

II. 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:**May 27, 2022