



Performance Audit of Centers for Medicare and Medicaid
Services (CMS) Rule 9957 Requirements
For the Year Ending June 30, 2021
**Maine Department of Health and Human
Services Office of the Health Insurance
Marketplace**

Maine Department of Health and Human Services
Office of the Health Insurance Marketplace
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For the Year Ended June 30, 2021

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CPAs & BUSINESS ADVISORS

Performance Audit Report Transmittal Letter

February 27, 2023

Megan Garratt-Reed
Director, Office of the Health Insurance Marketplace
109 Capitol Street
Augusta, ME 04333-0011

This report presents the results of Eide Bailly LLP's (Eide Bailly) work conducted to address the performance audit (the Audit) objectives of our signed service contract dated July 25, 2022, related to the Maine Department of Health and Human Services Office of the Health Insurance Marketplace (OHIM) compliance with Centers for Medicare and Medicaid Services (CMS) Rule 9957 (45 C.F.R. §155) requirements. We conducted our test work during the period September 15, 2022, through December 15, 2022, and our results, reported herein, are for the period July 1, 2020 - June 30, 2021.

We conducted this Audit in accordance with auditing standards applicable to performance audits contained in *Government Auditing Standards (GAGAS)* issued by the Comptroller General of the United States. Those standards require that we plan and perform the Audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We are required to be independent of OHIM and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

We have evaluated GAGAS independence standards for the Audit and affirm that we are independent of OHIM and the relevant subject matter to perform this engagement.

Attached to this letter is our report detailing the background, objective, scope, approach, findings, and recommendations as they relate to the Audit.

Based upon the audit procedures performed and the results obtained, we have met our audit objectives. We did not note any findings that could increase OHIM's risk of ineffective oversight and program integrity practices.

This Audit did not constitute an audit of financial statements or an examination of internal controls in accordance with auditing standards or attestation standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Eide Bailly was not engaged to, and did not, render an opinion on the OHIM's internal controls over financial reporting or over financial management systems.

This report is intended solely for the information and use of the OHIM and CMS and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

A handwritten signature in cursive script that reads "Eide Bailly LLP".

Fargo, North Dakota

What inspires you, inspires us. | eidebailly.com

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Executive Summary

In this section, we provide a summary of the detailed report to follow on the Maine Department of Health and Human Services Office of the Health Insurance Marketplace's (OHIM) background, objective, scope, approach, and summary of results and findings related to this audit. The remainder of this document details the audit methodology as well as the findings and recommendations that resulted from our test work.

Background

The Patient Protection and Affordable Care Act (ACA) was enacted by the U.S. Congress on October 23, 2010 and established the framework for the operation of health insurance Exchanges. Specific regulations were further detailed in the Centers for Medicare and Medicaid Services (CMS) Final Rule 9957, published July 19, 2013 and incorporated into 45 C.F.R. §155. In accordance with general program integrity and oversight requirements, 45 C.F.R. §155.1200 requires entities operating as state-based marketplaces (SBMs) to engage an independent qualifying auditing entity that follows generally accepted government auditing standards to perform an annual independent external performance audit. The SBM must ensure that the audit addresses compliance with Rule 9957 generally and specifically with program integrity and oversight requirements, processes and procedures designed to prevent improper eligibility determinations and enrollment transactions, and identification of errors that have resulted in incorrect eligibility determinations. The SBM is required to provide the results of the performance audit to CMS and publish a public summary of the results.

OHIM was created in 2020 pursuant to Maine Revenue Service (MRS) Title 22, Chapter 1479 and is an independent public authority responsible for facilitating the availability, choice, and adoption of private health insurance plans to eligible individuals and groups. With major ACA provisions effective as of January 1, 2014, OHIM was designated as the State Based Exchange on the Federal Platform (SBE-FP) for Maine. OHIM as an SBE-FP administers ACA programs for Qualified Health Plans (QHPs) for eligible individuals but relies upon HHS services for performing certain Exchange functions, particularly eligibility and enrollment, while still retaining responsibility for performing certain Exchange functions such as implementation and oversight of a Navigator program providing grants to community organizations that assist individuals and small businesses with enrollment.

OHIM personnel perform various business administration, program oversight, and support functions (e.g., finance, legal, communications, coordination of outsourcing public policy and outreach, plan management, operations, and information technology (IT)). OHIM contracts portions of its operations to private vendors (e.g., navigator and marketing outreach activities, etc.) and relies on other public agencies and their private vendors to provide other key services relating to core IT systems.

Objective

The objective of this audit was to assess OHIM's compliance with 45 C.F.R. §155 regulations for the period July 1, 2020 - June 30, 2021.

Eide Bailly LLP (Eide Bailly) was responsible for performing the audit in accordance with auditing standards applicable to performance audits contained in *Government Auditing Standards* (GAGAS) issued by the Comptroller General of the United States and preparing a written report communicating the results of the audit, including relevant findings and recommendations. These results may include deficiencies in processes that are significant within the context of the objective of the Audit, any identified instances of fraud or potential illegal acts (unless they are inconsequential within the context of the audit objectives), significant violations of provisions of contracts and grant agreements, and significant abuse that may have been identified as a result of this engagement.

Scope

Program areas subject to audit included processes over:

- Subpart C – General Exchange Functions
- Subpart K – Certification of QHP's

Based on operations of the Exchange for the period, the following subsections of 45 C.F.R. §155 were deemed to be out of scope and not applicable for testing:

- 155.215(a)(2) – All assisters were part of the navigator group for the period ended June 30, 2021.
- 155.215(f) – No non-navigator entities or individuals were utilized by the exchange during the period ended June 30, 2021.
- 155.220 – The broker program was stated by Management to have been handled by the Federally Facilitated Marketplace (FFM) for the period ended June 30, 2021.
- 155.221 - The broker program was stated by Management to have been handled by the Federally Facilitated Marketplace (FFM) for the period ended June 30, 2021.
- 155.222 - The broker program was stated by Management to have been handled by the Federally Facilitated Marketplace (FFM) for the period ended June 30, 2021.
- 155.227 – Management stated the authorization of representatives was the responsibility of FFM for the period ended June 30, 2021.
- 155.260 – Eligibility and enrollment were handled on the FFM for the period ended June 30, 2021, resulting in the personally identifiable information being handled almost entirely outside of the state exchange.

Approach

The performance audit was conducted in the following phases: Planning, Fieldwork, and Verification and Reporting. Each phase is described below and in the following pages:

- **Planning:** Our performance audit planning included meeting with representatives of the OHIM to begin the project, introduce the core team, validate our understanding and the overall scope of the performance audit, confirm functional areas to be included in the performance audit, and develop a tailored performance audit program.
- **Fieldwork:** This phase consisted of reviewing and testing specific procedures to assess OHIM's compliance with regulatory criteria and design and operating effectiveness of select supporting processes within the General Exchange Functions and Certification of QHP's.
- **Verification and Reporting:** This phase consisted of developing draft findings and recommended improvements, validating the draft findings with OHIM process owners, and discussing OHIM's plans for corrective action.

Summary of Results and Findings

As a result of our procedures, Eide Bailly identified the following findings relating to specific processes and compliance. These are summarized on the following pages.

In addition, these findings are explained in greater detail and organized by condition, criteria, cause, effect, and recommendation in the Findings and Recommendations section of this report.

Finding #2021-01 **45 C.F.R. §155.205(c)(2)(iii) – Accessibility**

45 C.F.R. §155.205(c)(2)(iii) requires that Exchanges maintain an indication of availability of language services in at least the top 15 languages spoken by the limited English proficient population of the relevant state, as determined in guidance published by the Secretary on their web site. Based on review of the CoverME.gov web site, Eide Bailly was able to locate 9 languages, including English, specifically stated on the site. We were unable to locate reference to any additional languages in order to meet the minimum requirement of 15 outlined above.

Finding #2021-02 **PPACA Section 1313 – Financial Integrity**

An annual financial statement and programmatic audit of the Exchange is required to be completed and submitted. For the current period, these audits were not completed in accordance with the deadlines established by statute.

Finding #2021-03 **45 C.F.R. §155.1020(a) – Prominently Posting Rate Justifications**

45 CFR Section 155 Subpart K 155.1020(a) requires that the Exchange must ensure that the QHP issuer has prominently posted the rate justification on its website. While the rate justification was posted on the Bureau of Insurance (BOI) website, the QHP issuers did not appear to have rate justifications prominently posted on their respective websites, as required, and there was no clear reference on the Exchange's website referencing the justifications included on the BOI website.



Objective, Scope, and Approach

Objective

Eide Bailly was engaged to perform an audit in accordance with both 45 C.F.R. §155.1200(c) and GAGAS to assess the OHIM's compliance with 45 C.F.R. §155 regulations for specific subparts identified in the scope of this report for the fiscal year ended June 30, 2021.

Eide Bailly was responsible for preparing a written report communicating the results of the audit, including relevant findings and recommendations. These results should include any noted deficiencies in processes that are significant within the context of the objectives of the audit, any identified instances of fraud or potential illegal acts (unless they are inconsequential within the context of the audit objectives), and significant abuse that was identified as a result of this engagement.

In accordance with GAGAS, Eide Bailly was also required to report compliance with standards surrounding fraud, illegal acts, and violations of provisions of contracts or grant agreements, or abuse that we may detect as a result of this engagement, directly to parties outside the auditee.

Scope

Eide Bailly was engaged to assess OHIM’s compliance with 45 C.F.R. §155 regulation subparts for the fiscal year ended June 30, 2021 and our procedures were limited to the following areas:

| Audit Area | Representative Tasks | Documentation Obtained |
|----------------------------|---|---|
| General Exchange Functions | <ul style="list-style-type: none"> • Review process documentation for these functions. • Review of CoverME.gov website. • Review of Navigator contracts and contract requirements. • Observation and review of the Confidential Employee Handbook and State of Maine Employee Handbook. • Review and analysis of Data Privacy and Security policies and walkthroughs. | <ul style="list-style-type: none"> • Documentation and policies and procedures on general Exchange functions. • Navigator/Assister contracts as well as other applicable service contracts. |
| Certification of QHP’s | <ul style="list-style-type: none"> • Interview process owners of OHIM and obtain QHP Certification process memo from the Maine Bureau of Insurance (BOI) outlining the responsibilities for certification between the BOI and CMS. • Review other process documentation for these functions. • Review attestations and actuarial attestations for QHP’s and rate filings. • Review service area map and requirements to validate compliance with relevant requirements. | <ul style="list-style-type: none"> • Documentation and policies and procedures on certification of QHP’s. • QHP Attestations. • Actuarial Attestations for rate filings. • Service area map for each QHP. |

Maine Department of Health and Human Services
Office of the Health Insurance Marketplace
Objective, Scope, and Approach
For the Year Ended June 30, 2021

Eide Bailly reviewed documents, performed inquiries, reviewed applicable third-party reports and contracts, and held interviews with OHIM management who perform select program functions.

Eide Bailly identified processes through walk-throughs with OHIM process owners relating to applicable program requirements and identified gaps based on process objectives and associated risks. Eide Bailly considered tests of design to determine whether the processes, individually or in combination with others, are capable of effectively preventing or detecting and correcting noncompliance. We also performed substantive tests based on risk. We tested identified processes and oversight activities within the audit scope and identified findings indicating process deficiencies, noting none.

Specific to 45 C.F.R. §155.1200(c), the scope of work was designed to assess overall compliance with 45 C.F.R. §155 subparts C and K, and OHIM's processes and procedures designed to identify the functions of the exchange as defined within the statute.

Approach

The performance audit was conducted in the following phases: Planning, Fieldwork, and Verification and Reporting. Each phase is described below.

Planning

The first phase of this project involved embedding performance audit project management protocols to effectively conduct the audit, manage stakeholder expectations, and execute communications protocols from the outset.

A formal project kickoff meeting was held to introduce key OHIM stakeholders to the Eide Bailly engagement team and confirm our mutual understanding of the performance audit scope and objectives. During the course of the performance audit, regular status meetings were also conducted with the OHIM management.

Fieldwork

This phase consisted of finalizing our performance audit program and executing tests of OHIM's processes and compliance with regulatory requirements within 45 C.F.R. §155. This involved the following activities:

- Reviewing and testing specific procedures relating to oversight and financial integrity responsibilities of general Exchange functions, including call center operations and vendor management, governance activities, and navigator and assister programs.
- Reviewing and testing specific procedures relating to QHP certification and the responsibilities of OHIM compared to those handled by the BOI and CMS as an SBE-FP.

Verification and Reporting

This phase consisted of validating the draft report with OHIM management. Our detailed findings, if any, are documented below in the Results section.

Procedures and Methodology

We reviewed the requirements of 45 C.F.R. §155 subparts C and K to identify performance audit objectives relevant to OHIM's Exchange functions. We performed this engagement in accordance with GAGAS and developed performance audit programs and testing procedures in accordance with GAGAS and Eide Bailly performance audit methodologies. Our procedures performed were identified as part of the assessment of the sufficiency and appropriateness of information used as audit evidence.

Document Review, Interview, and Walk-Through Procedures

We reviewed CMS Final Rule 9957 and associated regulations under 45 C.F.R. §155 subparts C and K to identify compliance requirements subject to this performance audit. Eide Bailly worked with OHIM management to identify key activities and performed interviews and walk-throughs to document processes existing during the performance audit period. Based on this information, Eide Bailly requested supporting documentation to help confirm our understanding of the processes identified and developed audit procedures to test the design and operating effectiveness of selected processes.

Consideration of Fraud, Illegal Acts, Misconduct, and Abuse Compliance

In planning the performance audit, we had a responsibility to gather and review information to identify and assess the risk of fraud occurring that is significant within the context of the performance audit objectives. When fraud risk factors were identified that the engagement team believed were significant within the context of the performance audit objectives, we had the responsibility to design procedures to provide reasonable assurance of detecting if such fraud occurred or is likely to have occurred. Assessing the risk of fraud is an ongoing process throughout the performance audit and relates not only to planning the Audit but also to evaluating evidence obtained during the performance audit. We considered the risks of potential fraud, misconduct, and abuse within each testing area and adjusted testing procedures and sample sizes (when applicable) accordingly based on potential risks. Examples of approach modifications we applied for higher-risk testing areas included adjusting timing of testing procedures to focus on higher-risk periods and applying more precise tests and reviews of contracts.



Results – Findings and Recommendations

In accordance with GAGAS, Eide Bailly prepared this report communicating the results of the completed audit, including relevant findings and recommendations. The findings presented as part of this engagement are restricted to the use stipulated in our contract. We disclaim any intention or obligation to update or revise the findings whether as a result of new information, future events, or otherwise. Should additional documentation or other information become available that impacts the findings reached in our deliverable, we reserve the right to amend our findings and summary documents accordingly.

Summary of Findings

Our detailed findings are noted below. Please note that each finding is split into five areas:

1. **Condition:** Explains the issue found as part of the audit
2. **Criteria:** Explains the requirements related to the issue and a determination of how criteria and processes should be executed
3. **Cause:** Assessment of the source of the risk area
4. **Effect:** Potential result if the condition continues
5. **Recommendations:** A short discussion on what should be done to improve the identified condition

As a result of our audit procedures findings, if any, are detailed further below and organized by condition, criteria, cause, effect, and recommended corrective action.

CMS Rule 9957 generally requires state-based Exchanges to perform oversight and financial integrity activities over Exchange operations, keep an accurate accounting of receipts and expenditures, and perform monitoring and reporting activities on Exchange-related activities. Eide Bailly identified processes through our walk-throughs with OHIM process owners and identified gaps based on process objectives and associated risks, if any.

Finding #2021-01 **45 C.F.R. §155.205(c)(2)(iii) – Accessibility**

Condition: Based on review of the CoverME.gov web site, 9 languages, including English, were specifically stated on the site. OHIM was unable to locate reference to any additional languages or to evidence that the 9 languages covered all languages spoken by 10% or more of the population or the minimum requirement of 15 outlined by the statute.

Criteria: 45 C.F.R. §155.205(c)(2)(iii) requires that Exchanges maintain an indication of availability of language services in at least the top 15 languages spoken by the limited English proficient population of the relevant state, as determined in guidance published by the Secretary on their web site.

Effect: Users of web site who are members of the limited English proficient population may not be able to interpret the information necessary to enroll in coverage.

Recommendation: Management should perform a review of their web site in comparison to requirements of this specific statute and update the web site development to ensure inclusion of a sufficient number of languages to meet the requirements. Management should also review the quality assurance process to assure any potential changes to these requirements or new information are properly reflected on the web site.

OHIM Review of Responsible Officials: OHIM agrees with this finding, which was the result of an oversight in website management. OHIM will work with its website vendor to add additional translated taglines immediately.

Finding #2021-02 **PPACA Section 1313 – Financial Integrity**

Condition: An annual financial statement and programmatic audit of the Exchange is required to be completed and submitted by specified deadlines. For the current period, these audits were not completed in accordance with the deadlines established by statute and related rules.

Criteria: PPACA Section 1313 requires that the Exchange is subject to an annual audit. Statute requires that the annual financial statement and performance audit be completed by specific deadlines. For the current period, the audits were not completed by the identified deadlines.

Effect: Users of the audit information and results may not have access to timely information or filings to make appropriate evaluations surrounding the Exchange.

Recommendation: Management should continue to monitor deadlines to ensure all audit requirements are met and completed in compliance with filing requirements.

OHIM Review of Responsible Officials: OHIM understand the importance of timeliness in submitting required audits. Now that the Office has clarified internal expectations related to the audit, OHIM does not anticipate any issue meeting submission deadlines moving forward.

Finding #2021-03

45 C.F.R. §155.1020(a) – Prominently Posting Rate Justifications

Condition: The QHP issuers did not have rate justifications prominently posted on their websites and the Exchange did not make reference to the rate justifications posted on the Bureau of Insurance on their website.

Criteria: 45 CFR Section 155 Subpart K 155.1020(a) requires that the Exchange must ensure that the QHP issuer has prominently posted the rate justification on its website.

Effect: Users of the websites may not have access or struggle to locate rate justifications related to their coverage.

Recommendation: Adopt a process or delegate a new process to provide oversight of issuers compliance with rate filing justifications. Ensure links are implemented on OHIM website where rate justification can be found.

OHIM Review of Responsible Officials: OHIM agrees with this finding, and will add information regarding rate justifications and a link to the Bureau of Insurance page providing rate justifications to the CoverME.gov website.

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| ACA | Patient Protection and Affordable Care Act |
| APTC | Advance Premium Tax Credit |
| OHIM | Office of the Health Insurance Marketplace |
| CFR. | Code of Federal Regulations |
| CMS | Centers for Medicare and Medicaid Services |
| CSR | Cost Share Reduction |
| GAS | Government Auditing Standards |
| HHS | U.S. Department of Health and Human Services |
| QHP | Qualified Health Plan |
| SBE-FP | State Based Exchange on the Federal Platform |