



New York State of Health

Performance Audit of Centers for Medicare and Medicaid Services
Rule 9957 Requirements

For the period January 1, 2021–December 31, 2021

May 31, 2022



KPMG LLP
515 Broadway
Albany, NY 12207-2974

May 31, 2022

Danielle L Holahan
Executive Director
New York State of Health
Corning Tower
Albany, New York 12237

Dear Ms. Holahan:

This report presents the results of our work conducted to address the performance audit objectives relative to New York State of Health's (NYSOH) compliance with the Centers for Medicare and Medicaid Services (CMS) Rule 9957 (45 CFR §155) requirements. Our work was performed during the period of December 13, 2021 through May 27, 2022, and our results are as of the 12-month audit period ended December 31, 2021.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). 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 believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

In addition to GAGAS, we conducted this performance audit in accordance with Consulting Services Standards established by the American Institute of Certified Public Accountants (AICPA). This performance audit did not constitute an audit of financial statements or an attestation-level report as defined under GAGAS and the AICPA standards for attestation engagements.

The audit objective of our work was to assess NYSOH's compliance with 45 CFR §155 regulations for the 12-month audit period ended December 31, 2021.

KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate.

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

Very truly yours,

KPMG LLP

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Background

The Patient Protection and Affordable Care Act of 2010 (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 CFR §155. In accordance with general program integrity and oversight requirements, 45 CFR §155.1200 requires entities operating as state-based marketplaces (SBMs) to engage an independent qualifying auditing entity, which 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 to identify errors that have resulted in incorrect eligibility determinations. The SBM is required to provide the results of the audit to CMS and publish a public summary of the results.

New York State of Health (NYSOH), the official health plan marketplace of New York State (the State), authorized by the ACA, was established in April 2012 by Governor Cuomo's Executive Order 42, and codified in Article 2, Title VII of the New York Public Health Law in 2019.

NYSOH is responsible for facilitating enrollment in health coverage and the purchase and sale of Qualified Health Plans (QHPs) in the State's individual market and enrolling individuals in health coverage for which they are eligible in accordance with federal law. NYSOH is responsible for enabling eligible individuals to receive premium tax credits and cost-sharing reductions and to enable eligible small businesses to receive tax credits, in compliance with all applicable federal and state laws and regulations. NYSOH administers ACA programs for QHPs and Qualified Dental Plans (QDPs) for eligible individuals, performs eligibility determinations for federal and state subsidies, administers a Small Business Health Options Program (SHOP) for small businesses, and administers a Navigator program.

NYSOH personnel perform various business administration, program oversight, and support functions, such as finance, legal, communications, public policy and outreach, plan management, operations and information technology (IT), and member appeals. NYSOH contracts a significant amount of its operations to private vendors (e.g., customer service and call center operations, select financial processing activities, and some IT development and maintenance) and relies on other public agencies and their private vendors to provide other key services relating to core IT systems.

Objective,
scope,
methodology,
and procedures

Objective

KPMG LLP (KPMG) was engaged to perform a performance audit in accordance with both 45 CFR §155.1200(c) and Government Auditing Standards (GAS) to assess NYSOH’s compliance with 45 CFR §155 regulations for the 12 months ended December 31, 2021.

KPMG was responsible for preparing a written report communicating the results of the audit, including relevant findings and recommendations. These results should include deficiencies in internal controls 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 GAS, KPMG was also required in certain circumstances to report 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

KPMG was engaged to assess NYSOH’s compliance with 45 CFR §155 regulations for the 12 months ended December 31, 2021, and our procedures were limited to the following:

| Audit area | Representative tasks | Sample documentation |
|---------------------------------|---|---|
| IT privacy and security | <ul style="list-style-type: none"> — Interview IT privacy and security process owners and review process control documentation. — Conduct process walk-throughs to identify and classify certain key controls for testing, including: <ul style="list-style-type: none"> • Personally identifiable information and the confidentiality, disclosure, maintenance, and use of information • Incident management/reporting procedures • Data loss and security breach incidents. — Select samples to test design of certain key controls and document any findings and recommendations. | <ul style="list-style-type: none"> — Documentation such as relevant IT security policies, application business rules, and physical security provisions — Reports – Incident reporting, user access, etc. |
| Eligibility (including appeals) | <ul style="list-style-type: none"> — Interview process owners and review process control documentation. — Conduct process walk-throughs to identify and classify certain key controls for testing, including verification of basic applicant data, Modified Adjusted Gross Income (MAGI) eligibility, account update procedures, appeals, and reporting to federal and state agencies. — Select samples to test design and effectiveness of certain key controls and document any findings and recommendations. | <ul style="list-style-type: none"> — Documentation such as support for eligibility determinations, account updates and terminations, etc. — Management reports – Applications and eligibility determinations activity — Member applications – Electronic |

| Audit area | Representative tasks | Sample documentation |
|----------------------------|---|---|
| Enrollment | <ul style="list-style-type: none"> — Interview process owners and review process control documentation. — Conduct process walk-throughs to identify safeguards over enrollment actions, such as: <ul style="list-style-type: none"> • Enrolling individuals in QHP offerings • Generating and correctly populating Forms 834 • Reporting. — Select samples to test compliance and document any findings and recommendations. | <ul style="list-style-type: none"> — Documentation such as policies and procedures for new members, terminations, status changes, etc. — Enrollment activity reports |
| General exchange functions | <ul style="list-style-type: none"> — Interview process owners of key roles in the target general exchange functions, e.g., call center, compliance management, data/records maintenance, and small business exchange. — Review process/control documentation for these functions. — Conduct process walk-throughs to identify/confirm controls for testing. — Select samples to test for compliance and document any findings and recommendations. | <ul style="list-style-type: none"> — Documentation – Policies and procedures on general exchange functions — Customer service representative reports — Navigator/Assister contract and payment information — Issuer QHP application documents |

KPMG reviewed documents, performed inquiries, observed processes, conducted walk-throughs, and held interviews with NYSOH management and key process owners who perform select program functions.

KPMG identified controls through our walk-throughs with NYSOH process owners and reviewed applicable third-party reports relating to applicable compliance requirements and identified gaps based on process objectives and associated risks. KPMG conducted compliance tests to consider whether NYSOH’s processes and associated controls were capable of effectively preventing or detecting and correcting noncompliance.¹ We tested processes and identified certain controls and oversight activities within the audit scope and identified three findings.

Specific to 45 CFR §155.1200(c), our scope of work was designed to assess overall compliance with 45 CFR §155, NYSOH’s processes and procedures designed to prevent improper eligibility determinations and enrollment transactions and identify errors that may have resulted in incorrect eligibility determinations.

Methodology

The audit was conducted in the following phases: Audit Planning, Information Gathering and Analysis, Audit Execution, and Validation and Reporting. Each phase is described below:

- **Audit 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 NYSOH stakeholders to

¹ For the IT privacy and security area, we performed limited tests of design to consider whether the control was implemented and operates in a manner appropriate to accomplish the control objective.

the KPMG engagement team and confirm our mutual understanding of the audit scope and objectives for the CY 2020 audit. In addition, individual kickoff meetings were held to discuss the audit timeline, scope, preliminary risks, and document request lists for each work stream. During the course of the audit, regular status meetings were conducted with the NYSOH Administrative Officer serving as the principal NYSOH liaison.

- **Information Gathering and Analysis:** Following Audit Planning, this phase involved further developing our understanding of NYSOH’s activities, processes, and controls for the audit period and developing our audit approach. Specifically, we performed the following tasks:
 - Reviewed existing documentation: We obtained background documentation from NYSOH process owners, including, where applicable, policies and procedures, process flows, sample management reports, and other background documentation. We reviewed this documentation to augment and refine our team’s understanding of NYSOH’s compliance with 45 CFR 155.1200(c).
 - Conducted interviews, walk-throughs, and high-level process reviews: We met with relevant NYSOH process owners, line management, and staff to expand our understanding of the specific and general exchange functions identified in our audit scope. We sought to develop our understanding of the interactions, respective duties, and responsibilities of key roles in targeted general function areas and corresponding key procedures.
- **Audit Execution:** This phase consisted of finalizing our audit program and executing tests of NYSOH’s compliance with regulatory requirements within 45 CFR §155. This involved the following activities:
 - Reviewing and testing select procedures to assess compliance processes around high-risk IT privacy and security control areas following the Minimum Acceptable Risk Standards for Exchanges control catalog
 - Reviewing and testing procedures over member eligibility determinations and appeals
 - Reviewing and testing procedures over enrollment actions, such as enrolling individuals in QHP offerings and generating enrollment reporting forms
 - 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, navigator and assister programs, QHP/QDP certification, and the SHOP.
- **Validation and Reporting:** This phase consisted of validating the draft findings with NYSOH process owners, developing findings and recommendations for improvement, and obtaining NYSOH’s plans for corrective action. Our detailed findings are documented further in the Findings section.

Procedures

We reviewed the requirements of 45 CFR §155 to identify audit objectives relevant to NYSOH's exchange functions. We performed this engagement in accordance with GAS and developed audit programs and testing procedures in accordance with GAS and KPMG audit methodologies:

- **Document review, interview, and walk-through procedures:** We reviewed CMS Final Rule 9957 and associated regulations under 45 CFR §155 to identify compliance requirements subject to this audit.

KPMG worked with NYSOH management to identify process owners for key activities and performed interviews and walk-throughs to document processes and control activities existing during the audit period. Based on this information, KPMG requested supporting documentation to help confirm our understanding of the process activities and controls identified and developed audit procedures to test the design and operating effectiveness of identified controls.

- **Sample testing approach:** In addition to testing select controls related to compliance requirements, our audit effort included reviews of representative transactions and other operational activities. We reviewed system-generated transactional outputs and summary reports from key supporting applications to substantiate oversight activity on the part of NYSOH stakeholders.
- **Consideration of fraud, illegal acts, misconduct, and abuse:** In planning the 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 audit objectives. When fraud risk factors were identified that the engagement team believed were significant within the context of the 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 audit and relates not only to planning the audit but also to evaluating evidence obtained during the audit. We considered the risks of potential fraud, misconduct, and abuse within each testing area and adjusted testing procedures and sample sizes accordingly based on potential risks. Examples of approach modifications we applied for higher-risk testing areas included increasing sample size, adjusting timing of testing procedures to focus on higher-risk periods, applying judgmental selection of samples, applying analytic procedures, and applying more precise tests. We also conducted specific discussions with the executive director regarding potential exposures for fraud risk.

Findings

Introduction

In accordance with GAS, KPMG 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.

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

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

As a result of our audit procedures, we identified findings relating to specific controls and processes that were subject to review. These findings are detailed further below and on the following page.

CMS Rule 9957 generally requires state 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. GAS further defines internal controls to include the processes and procedures for planning, organizing, directing, and controlling program operations and management's system for measuring, reporting, and monitoring program performance. KPMG identified controls through our walk-throughs with NYSOH process owners and identified gaps based on process objectives and associated risks. We identified processes and certain key oversight activities within the audit scope and noted findings indicating deficiencies in compliance. These deficiencies could increase NYSOH's risks of ineffective oversight and program integrity practices.

Finding #2021-01 – CMS Reporting (Repeat)

Condition: NYSOH did not maintain documentation supporting the accuracy and completeness of supporting data used to compile weekly, monthly, and ad hoc reports submitted to CMS.

Criteria: CMS reporting requirements as defined in 45 CFR 155.1200(b) require that a state exchange must collect and report to the U.S. Department of Health and Human Services performance monitoring data and, per 45 CFR § 155.1210, the exchange must maintain documents, records, and other evidence, which is sufficient to accommodate periodic auditing of the exchange.

Cause: Limitations with the current technology supporting the reporting function prevent the ability to test the completeness and accuracy of audit data when compiling CMS reports.

Effect: Inability to provide evidence and supporting data sufficient for audits puts NYSOH at risk of noncompliance with federal health benefit exchange regulations.

Recommendation: Consider revising the existing technology platform to allow capability to reperform data aggregation and report compilation.

Finding #2021-02 – Employee Financial Disclosure (Repeat)

Condition: There were two instances where a NYSOH employee did not file the Financial Disclosure Statement (FDS) with the Joint Commission on Public Ethics (JCOPE) by the due date of May 17, 2021.

Criteria: According to 45 CFR §155.110 (d), the exchange must have in place and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest. For NYSOH employees, FDSs are submitted to JCOPE.

Cause: The NYSOH employees did not adequately monitor the communications associated with annual financial disclosure requirements, and thus did not file the FDSs by the required due date.

Effect: Failure to promptly file FDSs could result in NYSOH employees being unable to demonstrate compliance with state and federal financial interest and conflict of interest requirements.

Recommendation: Revisit and, if necessary, revise the current procedures for notifying NYSOH employees of upcoming FDS due dates. Consider sending out urgent email reminders as due date approaches.

Finding #2021-03 – Navigator/Assistor Decertification (Repeat)

Condition: NYSOH is not providing proper oversight and monitoring of Navigator/Assistor agency contractual obligations related to the requirement that Navigator Decertification Reports must be submitted to NYSOH within 48 business hours of a staff change.

Criteria: Under 45 CFR §155.210(c)(1)(iii), a Navigator agency must “meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act.” According to the contractual clauses with the State Department of Health (DOH), Navigator agencies are required to submit a Navigator Decertification Report to DOH within 48 business hours of a staff change at the agency.

Cause: The DOH Assistor Administrative Unit did not fully enforce Navigator/Assistor agency compliance with this contractual obligation. In the instances where noncompliance was identified, the DOH Assistor Administrative Unit provided the agency with a written reminder and supervisory training reinforcing that staff changes needed to be reported to DOH in a timely manner.

Effect: Failure to promptly decertify Navigator/Assistor personnel could result in these individuals inappropriately accessing customer information.

Recommendation: In addition to existing oversight and monitoring efforts, and as part of the reporting and/or invoicing process, NYSOH should consider implementing a requirement that Navigator agencies certify/attest that they have promptly notified NYSOH of all decertification requests within 48 business hours of the staff change at the agency.

Finding #2021-04 – Member Self-Attestation Verification

Condition: Members insurance coverage was not modified from “Advanced Premium Tax Credit (APTC) + Cost Sharing Reduction (CSR)” to “APTC only” when the member, after self-attestation, failed to provide satisfactory American Indian or Alaskan Native (AI/AN) documentation support within 90 days.

Criteria: Per the guidance in 155.310(k), if an applicant submits an application that does not include sufficient information for the exchange to conduct an eligibility determination for enrollment in a QHP through the exchange or for insurance affordability programs, then the exchange must provide the applicant with a period of no less than 10 days and no more than 90 days from the date on which the notice is sent to the applicant to provide the information needed to complete the application to the exchange.

Cause: This appears to be caused by a lack of proper oversight and monitoring over self-attestation of AI/AN members in the servicing eligibility IT application.

Effect: NYSOH provided unsupported cost sharing reduction assistance to one NYSOH member from June 30, 2021 through August 31, 2021 based on their 2021 eligibility determination action. Coverage was terminated on August 31, 2021 due to a plan termination for failure to pay premium, while the verification clock was still open.

Recommendation: NYSOH should review and update as necessary the current manual review of the verification clock's due date (AI/AN Overdue Outstanding Clocks Work Instruction) processes to ensure the users are following the processes, so that timely and appropriate action is taken for consumers who do not provide proof of their AI/AN status at the of the 90-day reasonable opportunity period. In addition, NYSOH should explore the cost/benefit, and necessity, of adding/updating automated system controls to address this issue.

Management's
response and
corrective
action plan

Finding #2021-01 – CMS Reporting (Repeat)

Recommendation: Consider revising the existing technology platform to allow capability to reperform data aggregation and report compilation.

Description of remediation: NYSOH continues to produce weekly, monthly, and ad hoc reports using CMS-required templates while remaining compliant with federal reporting requirements related to data aggregation and report compilation. Reporting and data maintenance is subject to thorough accuracy and completeness checks by both NYSOH Policy & Evaluation staff and NYSOH's IT vendor. Additionally, NYSOH's eligibility and enrollment data is stored in compliance with Federal Maintenance of Records requirements.

Data used to generate the reports is contained in a relational database that is updated frequently to maintain the most current, accurate information for reporting, and NYSOH uses Cognos to retrieve these reports. The auditors sought to independently recreate past reports and were not able to because there is currently no platform for them to access and manipulate the data. Ongoing IT enhancements planned in the coming years will permit auditors to create past reports.

Milestone, target to complete, actual completion date: NYSOH will continue to explore snapshot functionality in a limited capacity in 2022 that will enable some manual recreation of the CMS metrics submissions.

Plans to monitor and validate: NYSOH Policy & Evaluation staff will continue to work closely with NY State systems staff to monitor the development of snapshot functionality that will allow limited retrospective creation of some of the CMS metrics submissions. Please note CMS has never indicated our current solution is not in compliance with this requirement and that this finding may be a result of the requirement being interpreted differently by the auditor.

Responsible person/entity: NYSOH Director of Policy & Evaluation

Finding #2021-02 – Employee Financial Disclosure (Repeat)

Recommendation: Revisit and if necessary revise the current procedures for notifying NYSOH employees of upcoming Financial Disclosure Statement due dates. Consider sending out urgent reminders as due date approaches.

Description of remediation: Under the New York State law, certain state officers and employees are required to file annual Financial Disclosure Statements. The FDS system is administered by the Joint Commission on Public Ethics (JCOPE). In this capacity, JCOPE notified staff that were required to file a FDS for the year 2020 that the due date to file was May 17, 2021. JCOPE is responsible for sending reminders to staff of filing due dates, not NYSOH HR.

Milestone, target to complete, actual completion date: NYSOH HR has sent out reminder all staff emails (NYSOH does not know who has/has not filed the FDS since has no access to FDS system in JCOPE and through inquiry of NYSOH, JCOPE cannot run an outstanding report). NYSOH HR will coordinate with JCOPE to the best degree to ensure all NYSOH staff complete their FDS in a timely manner.

Plans to monitor and validate: NYSOH will continue to send reminder all staff emails of the due dates of the FDS.

Responsible person: NYSOH HR/JCOPE

Finding #2021-03 – Navigator / Assistor Decertification (Repeat)

Recommendation: In addition to existing oversight and monitoring efforts, and as part of the reporting and/or invoicing process, NYSOH should consider implementing a requirement that Navigator agencies certify/attest that they have promptly notified NYSOH of all decertification requests within 48 business hours of the staff change at the agency.

Description of remediation: The Bureau of Child Health Plus and Marketplace Consumer Assistance implemented a requirement at the beginning of the third quarter of 2021 that assistor agencies certify that they have promptly notified NYS DOH of all decertification requests within 48 business hours of a staff change at the agency. This requirement was implemented according to the remediation target dates outlined in our response to finding #2020-06 – Navigator / Assistor decertification. Please note, the test period for 2021 was prior to the milestone dates outlined in 2020 finding response. In addition, it is important to note, when an Assistor leaves employment at an agency, their business email address is deactivated by the agency. Since Assistors must receive a soft token by email each time before accessing NY State of Health, they will no longer be able to access their dashboard using their business email once they are not employed by the agency.

This remediation was implemented with the following measures:

- Increased frequency of communication with assistors about requirement to report staff changes:
 - Provided Assistor Admin staff with language to use when communicating with assistor agencies about requirement to report staff changes:
 - Tag Line is being utilized when routinely communicating with assistor agencies about staff changes:
 - “As a reminder, assistor agencies are required to inform the NYS Department of Health of changes in an assistor’s employment status within 48 business hours of such change. Assistor agencies must report these changes by email to: Assistor.Admin@health.ny.gov.”
 - Sample language being used when assistor agencies are delinquent in notifying the Department of Health of changes in an assistor’s employment status:
 - “Please note, it is extremely important that if any Assistor no longer needs access to their assistor account for any reason throughout the year, please let us know within 48 business hours so we can take the appropriate steps needed to remove their access to NY State of Health.”
 - Implementation: Second quarter 2021.
 - Outcome: All Assistor Admin staff are aware of language available to them to use on communication with assistor agencies from DOH assistor.admin mailbox regarding staff changes, or when an assistor agency is delinquent in notifying the Department of Health of changes in an assistor’s employment status, either temporary or permanent, within 48 business hours of such change.
 - Included reminders in several assistor newsletter regarding the requirement to notify the Department of Health when an assistor’s employment status changes:
 - Language from Assistor Newsletters: “Reporting Staff Changes: Assistor agencies are required to inform the Department of Health of changes in an assistor’s employment status, either temporary or permanent, within 48 business hours of such change. Assistor agency supervisors must report these changes to Assistor.Admin@health.ny.gov.”
 - Implementation: Third and fourth quarter of 2021 and first quarter of 2022.
 - Outcome: All assistors are frequently reminded of requirement to report staff changes to the Department of Health within 48 business hours of such change.
- Updated Language in Monthly Navigator Progress Report Requirement:
 - Updated Language:
 - “Please note, if there have been any staff changes (retired, resigned, terminated, maternity leave, extended absence, etc.), please indicate the name of staff and effective date of change. By doing so, Agency attest they have promptly notified <Assistor.admin@health.ny.gov> of all decertification requests within 48 business hours of the staff change at the agency.”
 - Implementation Date: Third quarter 2021.
 - Outcome: All Monthly Navigator Progress Reports received for 8/1/2021 forward included updated attestation language.

- Implemented New Supervisor Training:
 - New Training Requirement: One supervisor must complete new Assistor Supervisor Training as part of assistor annual recertification process.
 - Implementation Date: Third quarter 2021.
 - Outcome: All assistor agencies had one supervisor at their agency complete the new supervisor training and associated attestation as part of the 2021 Assistor Recertification.

Milestone, target to complete, actual completion date: In addition to the remediation measures outlined above, additional measures are being taken by the Department to support enforcement of navigator agency compliance with this contractual obligation. Implementation will begin before the end of the second calendar quarter of 2022. All activities will be fully implemented before the end of the third calendar quarter of 2022.

Plans to monitor and validate: The Bureau of Child Health Plus and Marketplace Consumer Assistance Management Staff will add language to the annual navigator agency work plan template about this contractual requirement. Additionally, the Bureau will expand the supervisory training requirement to include every individual named as a primary contact at each assistor agency to watch the training and certify/attest to the assistor supervisor requirements during our annual review of agency contact information for 2022. Navigator Contract Mangers and Assistor Admin Unit Staff will continue to monitor assistor agency compliance of certified assistor decertification reporting to the Bureau within 48 business hours.

Responsible person/entity: Director, Bureau of Child Health Plus and Marketplace Consumer Assistance

Finding #2021-04 – Member Self-Attestation Verification

Recommendation: NYSOH should review and update as necessary the current manual review of the verification clock's due date (AI/AN Overdue Outstanding Clocks Work Instruction) processes to ensure the users are following the processes, so that timely and appropriate action is taken for consumers who do not provide proof of their AI/AN status at the of the 90-day reasonable opportunity period. In addition, NYSOH should explore the cost/benefit, and necessity, of adding/updating automated system controls to address this issue.

Description of remediation: NY State of Health has expanded its current manual process of monitoring the due date of the verification clocks to include consumers with Federal Poverty Levels(FPL) between 100% and 249%. As with the current process of monitoring consumers with FPLs between 250% - 300%, upon expiration of the verification clock due date, manual eligibility overrides will be performed for consumers who have not provided satisfactory proof of their attested American Indian or Alaskan Native status. Consumers whose status remains unverified will no longer be eligible for enhanced CSR but will remain eligible for Advance Premium Tax Credits.

NY State of Health has evaluated the cost benefit and necessity of updating the automated system controls versus continuing to conduct a manual process. The number of American Indian or Alaskan Native consumers who are eligible for enhanced CSR averages 150 per year. The manual review process obviates the need to implement costly changes to system functionality when considering the very small percentage of overall NY State of Health consumers who may require manual verification of their American Indian or Alaskan Native status.

Milestone, target to complete, actual completion date: The review criteria was changed in March 2022 to include consumers with FPLs between 100% - 249%. Manual reviews of these accounts began in April 2022 and will be performed on an ongoing basis.

Plans to monitor and validate: Bureau of Exchange and Application Support supervisory staff will monitor the manual review process to ensure timely and appropriate action is taken upon expiration of the verification clock.

Responsible person/entity: Director, Bureau of Exchange and Application Support

Appendix A – List of interviewed personnel

| Title |
|--|
| Associate Counsel |
| Administrative Officer |
| Assistant Director, Plan Management |
| Bureau Director, CHPlus Policy and Exchange Customer Assistance |
| Business Analyst/Quality Analyst |
| Counsel |
| Chief Information Security Officer |
| Deputy Director, NYSOH |
| Director, Bureau of Quality Management and Change Control |
| Director, Bureau of External Audit |
| Director, Bureau of Exchange Application Support |
| Director, Bureau of Eligibility Operations Oversight and Support |
| Director, Division of Quality Measurement |
| Director of Communications, Marketing, and Outreach |
| Director, Marketplace Counsel |
| Director of Plan Management |
| Eligibility Program Manager II |
| Executive Director, NYSOH |
| Health Program Administrator II |
| Hearing Officer Supervisor |
| Regional Director for Small Business Marketplace |
| Security Privacy Compliance, GDIT |
| Senior Systems Analyst Technical Architect, GDIT |
| Supervising Hearing Officer |

Appendix B – Glossary of terms

| | |
|----------------|--|
| (PP)ACA | Patient Protection and Affordable Care Act |
| AI/AN | American Indian or Alaskan Native |
| AICPA | American Institute of Certified Public Accountants |
| APTC | Advance Premium Tax Credit |
| CCIIO | Consumer Information and Insurance Oversight |
| CFR | Code of Federal Regulations |
| CHPlus | Child Health Plus |
| CMS | Centers for Medicare and Medicaid Services |
| CSR | Cost Sharing Reduction |
| DOH | New York State Department of Health |
| FDS | Financial Disclosure Statements |
| FPL | Federal Poverty Level |
| GAGAS | Generally Accepted Government Accounting Standards |
| GAS | Government Auditing Standards |
| GDIT | General Dynamics Information Technology |
| HHS | Health and Human Services |
| IT | Information Technology |
| JCOPE | Joint Commission on Public Ethics |
| MAGI | Modified Adjusted Gross Income |
| NYSOH | New York State of Health |
| QDP | Qualified Dental Plan |
| QHP | Qualified Health Plan |
| QRS | Quality Reporting Standards |
| SBM | State-Based Marketplace |
| SHOP | Small Business Health Options Program |

Contact us

Rory Costello

Principal

518-729-7159

rcostello@kpmg.com

David Gmelich

Senior Manager

347-628-2601

dgmelich@kpmg.com

www.kpmg.com

kpmg.com/socialmedia



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