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New York State of Health

**Performance Audit of
Centers for Medicare and Medicaid Services
(CMS) Rule 9957 Requirements**

March 30, 2016

FINAL REPORT

For the Period January 1, 2015–December 31, 2015

KPMG LLP
515 Broadway
Albany, NY 12207

kpmg.com

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KPMG LLP
515 Broadway
Albany, NY 12207-2974

March 30, 2016

Donna Frescatore
Executive Director
New York State of Health
Corning Tower
Albany, New York 12207

Dear Ms. Frescatore:

This report presents the results of KPMG LLP's (KPMG) work conducted to address the performance audit objectives of Work Order 2014-02, related to New York State of Health's (NYSOH) compliance with the Centers for Medicare and Medicaid Services (CMS) Rule 9957 (45 C.F.R. §155) requirements. We conducted our test work during the period September 22, 2015 through March 30, 2016 and our results, reported herein, are as of the 12 month audit period ended December 31, 2015.

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

We have evaluated GAS independence standards for performance audits and affirm that we are independent of NYSOH 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 performance audit.

Based upon the audit procedures performed and the results obtained, we have met our audit objectives. Due to the exceptions noted in detail in this report, we documented findings which could increase NYSOH's risk of ineffective oversight and program integrity practices.

This audit did not constitute an audit of financial statements in accordance with GAS or U.S. Generally Accepted Auditing Standards. KPMG was not engaged to, and did not, render an opinion on NYSOH's internal controls over financial reporting or over financial management systems.

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

Sincerely,

KPMG LLP

Executive Summary

Executive Summary

In this Executive Summary, we provide the New York State of Health (NYSOH) with the background, objective, scope, approach, and summary of results related to this performance 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 (SBM) to engage an independent qualifying auditing entity which follows generally accepted governmental auditing standards to perform an annual independent external programmatic audit. The SBM must ensure that the programmatic 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 audit to CMS and publish a public summary of the results.

The New York State Health Benefit Exchange was established on April 12, 2012 when Governor Andrew Cuomo signed Executive Order 42. New York State Health Benefit Exchange is one of the few marketplaces to be established within a state agency.

NYSOH is responsible for facilitating enrollment in health coverage and the purchase and sale of Qualified Health Plans (QHPs) in the individual market in this state, 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 falls under the umbrella of the New York State Department of Health (DOH) and is therefore held to some of the same legislative actions that to which DOH is subjected. NYSOH is led by an Executive Director who in turn reports directly to the Commissioner of Health.

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

The objective of this audit was to assess NYSOH's compliance with 45 C.F.R. §155 regulations for the 12 month audit period ended December 31, 2015.

Executive Summary (continued)

KPMG LLP (KPMG) was responsible for performing the programmatic audit in accordance with Government Auditing Standards (GAS) and preparing a written report communicating the results of the audit, including relevant findings and recommendations. These results may include deficiencies in internal controls 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 and controls over:

- IT Privacy and Security
- Eligibility (including Appeals)
- Enrollment
- Financial Processing
- General Exchange functions, including:
 - Call center
 - Governance and oversight functions
 - Data and records management
 - QHP certification
 - Navigators and assisters.

Approach

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:** Our audit planning included meeting with representatives of NYSOH to begin the project, introduce the core team, validate our understanding and the overall scope of the audit, confirm functional areas to be included in the audit, and develop a tailored audit program.
- **Information Gathering and Analysis:** This phase included meeting with NYSOH process owners to initiate the audit; refine our understanding of NYSOH's activities, processes, and controls during the audit period; obtain supporting documentation; and conduct preliminary test work.
- **Audit Execution:** This phase consisted of reviewing and testing specific procedures to assess NYSOH's compliance with regulatory criteria and design and operating effectiveness of supporting controls within the IT Privacy and Security, Eligibility, Enrollment, Financial Processing, and General Exchange functions.
- **Validation and Reporting:** This phase consisted of developing draft findings and recommended improvements, validating the draft findings with NYSOH process owners, and discussing NYSOH's plans for corrective action.

Executive Summary (continued)

Summary of Results and Findings

As a result of our audit procedures, KPMG identified the following findings relating to specific controls and processes. These are summarized below. 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. NYSOH's response to each of these findings is found in the Management's Response section of the report.

Finding #2015-01 – CMS Reporting Data - NYSOH did not maintain documentation or provide access in support of the following:

- Formal evidence of senior management review and approval of periodic/ad-hoc CMS reports during the audit period, as such review is often performed in person with verbal approvals provided.
- Accuracy and completeness of supporting data used to compile weekly, monthly, quarterly, and ad-hoc reports submitted to CMS.

Finding #2015-02 – Appeals Decision Notifications - We noted an instance of a NYSOH member seeking to schedule an appeal hearing with the NYSOH Appeals Unit after normal business hours. The former NYSOH Appeals Unit Director (who retired in October 2015) assigned responsibility for this appeal hearing to herself to accommodate the appellant's request. The results of this member's appeal hearing were not mailed to the appellant prior to the departure of the retiring director. During a subsequent reconciliation of the Unit's appeals population, the incoming Unit Director discovered that the decision was not communicated timely instead releasing the hearing decision 292 days after the appeal request date.

Finding #2015-03 – Timely Appeal Resolution - As a result of our sample tests of appeals case management, we identified the following exceptions regarding timely resolution of appeals.

- There was 1 instance where the appeals resolution notice was sent between 91-99 days following receipt of the appeal request.
- There were 10 instances where the appeals resolution notice was sent between 101-150 days following receipt of the appeal request.
- There were 2 instances where the appeals resolution was sent between 151-199 days following receipt of the appeal request.

Finding #2015-04 – 90 Day Verification of Eligibility - KPMG observed several cases where an outstanding immigration status verification was not completed within 90 days. Following the re-running of eligibility, the outstanding verification for an applicant disappeared from the back office view.

Finding #2015-05 – Eligibility Determination - As a result of our sample tests of NYSOH's processes for eligibility determinations, we identified the following exceptions:

- As part of determining eligibility for Medicaid, NYSOH requested verification of an infant's household income. Although household income was provided, the eligibility determination for the child was delayed.
- An eligibility determination for an applicant was delayed, as the applicant's I-94 Departure record was not accepted as proof of immigration status.

Executive Summary (continued)

Finding #2015-06 – American Indian–Alaska Native Enrollment - During testing, KPMG observed cases where an applicant’s American Indian / Alaska Native (AI/AN) status was verified and the applicants were determined to be eligible for Child Health Plus (CHP) as well as and enrolled in a plan not requiring a premium to be paid by the applicant. However; NYSOH sent out a notification of eligibility which inconsistently reflected that a premium was due. Additionally, the CHP plan issuers were inappropriately notified that a premium was due.

Background

Background

The 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 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, Rule 9957 requires entities operating as SBMs to engage an independent qualifying auditing entity which follows generally accepted governmental auditing standards to perform an annual independent external programmatic audit. The SBM must ensure that the programmatic 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 annual programmatic audit to CMS; make public a summary of the results of the external audit; and develop and inform CMS of a corrective action plan is required to provide the results of the audit to CMS and publish a public summary of the results.

The New York State Health Benefit Exchange was established on April 12, 2012 when Governor Andrew Cuomo signed Executive Order 42. New York State Health Benefit Exchange is one of the few marketplaces to be established within a state agency. The order stipulates that DOH, in conjunction with the Department of Financial Services (DFS) and other state agencies, will take the required steps to effectuate the exchange and expedite its ability to perform all necessary functional requirements. Due to DOH's current structure as a state agency, there was no need to spend the time or resources to appoint a board of directors and related policies. NYSOH was able to leverage the existing processes and protocols for decision making of DOH to address the multifaceted needs of the exchange. DOH has years of experience managing the State's public health insurance programs and has strong working relationships with DFS and other important state agencies impacted by the implementation of the exchange. NYSOH was able to be created at a much faster rate due to the ability of the exchange to leverage the experience of both DOH and DFS.

NYSOH is responsible for facilitating enrollment in health coverage and the purchase and sale of QHPs in the individual market in this state, 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 enabling 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 QDPs for eligible individuals, performs eligibility determinations for federal and state subsidies, administers a SHOP for small businesses, and administers a Navigator program.

NYSOH falls under the umbrella of the DOH and is therefore held to some of the same legislative actions to which DOH is subjected. NYSOH is led by an Executive Director who in turn reports directly to the Commissioner of Health.

Objective, Scope, and Approach

Objective, Scope, and Approach

Objective

KPMG was engaged to perform a programmatic audit in accordance with both 45 C.F.R. §155.1200(c) and GAS to assess NYSOH's compliance with 45 C.F.R. §155 regulations for the 12 months ended December 31, 2015.

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 C.F.R. §155 regulations for the 12 months ended December 31, 2015 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 walkthroughs to identify and classify 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 and effectiveness of key controls and document any findings and recommendations. 	<ul style="list-style-type: none"> » Internal IT control documentation—such as relevant IT security policies, application business rules, and physical security provisions » Reports—incident reporting, user access, etc.

Objective, Scope, and Approach (continued)

Audit Area	Representative Tasks	Sample Documentation
Eligibility	<ul style="list-style-type: none"> » Interview process owners and review process control documentation. » Conduct process walkthroughs to identify and classify key controls for testing including verification of basic applicant data, MAGI eligibility, account update procedures, exemption requests, appeals, and reporting to federal and state agencies. » Select samples to test design and effectiveness of key controls and document any findings and recommendations. 	<ul style="list-style-type: none"> » Internal control documentation—such as policies and procedures for eligibility determinations, account updates and terminations, etc. » Management reports—applications and eligibility determinations activity » Member applications—paper, electronic
Enrollment	<ul style="list-style-type: none"> » Interview process owners and review process control documentation. » Conduct process walkthroughs 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 design and effectiveness of key controls and document any findings and recommendations. 	<ul style="list-style-type: none"> » Internal control documentation—such as policies and procedures for new members, terminations, status changes, etc. » Reconciliations with QHP issuers and CMS
Financial Processing	<ul style="list-style-type: none"> » Interview financial process owners and review process control documentation. » Conduct process walkthroughs to review and understand the calculations and reporting of QHP premiums and payments; federal and state Advanced Premium Tax Credit/Cost Sharing Reduction (APTC/CSR) calculations, payments and associated reconciliation activity, and related reporting. » Select samples to test design and effectiveness of key controls and document any findings and recommendations. 	<ul style="list-style-type: none"> » Internal financial policies and procedures » Financial reports—such as SHOP billing reports, CMS APTC/CSR reconciliations, etc.

Objective, Scope, and Approach (continued)

Audit Area	Representative Tasks	Sample Documentation
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, training, data/records maintenance. » Review process control documentation for these functions. » Conduct process walkthroughs to identify and classify key controls for testing. » Select samples to test design and effectiveness of key controls and document any findings and recommendations. 	<ul style="list-style-type: none"> » Internal control documentation—policies and procedures on general exchange functions » Customer Service Representative performance reports » NYSOH employee training records

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

KPMG identified controls through our walkthroughs with NYSOH process owners relating to applicable program requirements and identified gaps based on process objectives and associated risks. KPMG conducted Tests of Design to consider whether the control, individually or in combination with other controls, is capable of effectively preventing or detecting and correcting noncompliance as well as Tests of Operating Effectiveness to consider whether the control was implemented and operates in a manner appropriate to accomplish the control objective. We tested identified controls and oversight activities within the audit scope and identified several findings indicating deficiencies in internal control activities.

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

Approach

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 the KPMG engagement team and confirm our mutual understanding of the audit scope and objectives. During the course of the audit, regular status meetings were also conducted with the NYSOH Administrative Officer serving as the principal NYSOH liaison.

Objective, Scope, and Approach (continued)

- **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 control environment and control activities.
 - Conducted interviews, walkthroughs, 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 controls and compliance with regulatory requirements within 45 C.F.R. §155. This involved the following activities:
 - Reviewing and testing specific procedures to assess the processes around Financial Processing activities, including premium billing, member payment and refund processing, transaction reporting to health insurance carriers, management review and reconciliation procedures, and exchange sustainability protocols
 - Reviewing and testing specific procedures to assess the processes around high-risk IT Privacy and Security control areas following the Minimum Acceptable Risk Standards for Exchanges control catalog
 - Reviewing and testing safeguards over member eligibility determinations, and appeals
 - Reviewing and testing safeguards 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 SHOP program oversight.
- **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 below.

Procedures and Methodology

We reviewed the requirements of 45 C.F.R. §155 to identify performance 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.

Objective, Scope, and Approach (continued)

- **Document review, interview, and walkthrough procedures** – We reviewed CMS Final Rule 9957 and associated regulations under 45 C.F.R. §155 to identify compliance requirements subject to this performance audit. KPMG worked with NYSOH management to identify process owners for key activities and performed interviews and walkthroughs 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 support of testing the design and effectiveness of selected controls, KPMG made sample selections of transactions and other control activities to perform test procedures. One of the factors that one may consider necessary when determining the extent of evidence necessary to persuade us that the control is effective is the risk of failure of the control. As the risk of failure of the control decreases, the evidence that we obtain also decreases. Conversely, as the risk of failure of the control increases, the evidence we obtain also increases such that we might choose to obtain more persuasive audit evidence or otherwise adjust testing procedures. This allows us to vary the evidence obtained for each individual control based on the risk of failure of the individual control.
- **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 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 performance 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 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.

Results – Findings and Recommendations

Results – Findings and Recommendations

Introduction

In accordance with GAS, KPMG prepared this report communicating the results of the completed performance 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:

- **Condition** – Explains the issue found as part of the audit
- **Criteria** – This is an explanation of the requirements related to the issue and a determination of how criteria and processes should be executed
- **Cause** – This is the assessment of the source of the risk area
- **Effect** – Potential result if the condition continues
- **Recommendations** – 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 organized by condition, criteria, cause, effect, and recommended corrective action.

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 tested identified controls and oversight activities within the audit scope and identified several findings indicating deficiencies in internal control activities. These deficiencies could increase NYSOH's risks of ineffective oversight and program integrity practices.

Results – Findings and Recommendations (continued)

Finding #2015-01 – CMS Reporting Data

Condition: NYSOH did not maintain documentation or provide access in support of the following:

- Formal evidence of senior management review and approval of periodic/ad-hoc CMS reports during the audit period, as such review is often performed in person with verbal approvals provided.
- Accuracy and completeness of supporting data used to compile weekly, monthly, quarterly, and ad-hoc reports submitted to CMS.

Criteria: CMS reporting requirements as defined in 45 CFR 155.1200(b) require a State Exchange to collect and report to CMS performance monitoring data and per 45 C.F.R. § 155.1210, the Exchange must maintain documents, records, and other evidence which are sufficient to accommodate periodic auditing of the Exchange.

Cause: NYSOH did not retain evidence of formal management approval of CMS report submissions. Limitations with the current technology supporting the reporting function prevent KPMG's ability to test the completeness and accuracy of audit data when compiling CMS reports. NYSOH, through its technology vendor, does conduct testing of data to ensure reports are accurate.

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

Recommendation: Consider the following:

- Retain for audit purposes evidence of management review of CMS report submissions to demonstrate executive approval.
- Revise existing technology platform to allow capability to re-perform data aggregation and report compilation.

Finding #2015-02 – Appeals Decision Notifications

Condition: We noted an instance of a NYSOH member seeking to schedule an appeal hearing with the NYSOH Appeals Unit after normal business hours. The former NYSOH Appeals Unit Director (who retired in October 2015) assigned responsibility for this appeal hearing to herself to accommodate the appellant's request. The results of this member's appeal hearing were not mailed to the appellant prior to the departure of the retiring director. During a subsequent reconciliation of the Unit's appeals population, the incoming Unit Director discovered that the decision was not communicated timely instead releasing the hearing decision 292 days after the appeal request date.

Criteria: Under §155.520(b) - (c), the Exchange must issue written notice of appeal decisions to appellants within 90 days of the date of their appeal request, as administratively feasible.

Cause: The NYSOH Appeals Unit did not have an effective plan to transfer responsibilities from departing to employees to those unit members assuming new roles and responsibilities.

Effect: An appellant may not be aware of his/her appeal decision and may not have an opportunity to challenge the decision, potentially impacting his/her ability to obtain health insurance coverage.

Recommendation: Design and implement a sound internal transition plan to help manage the transfer of responsibilities among Appeals Unit employees upon changes to their roles and responsibilities.

Results – Findings and Recommendations (continued)

Finding #2015-03 – Timely Appeal Resolution

Condition: As a result of our sample tests of appeals case management, we identified the following exceptions regarding timely resolution of appeals.

- There was 1 instance where the appeals resolution notice was sent between 91-99 days following receipt of the appeal request.
- There were 10 instances where the appeals resolution notice was sent between 101-150 days following receipt of the appeal request.
- There were 2 instances where the appeals resolution was sent between 151-199 days following receipt of the appeal request.

Criteria: Under §155.520(b) - (c) the Exchange must issue written notice of appeals decisions to appellants within 90 days of the date of an appeal request, as administratively feasible.

Cause: Based on conversations with NYSOH, the Appeals Unit was short on staff during the audit period and was unable to process appeals cases on a timely basis within the scope of the regulation.

Effect: Appellants may not receive timely resolution to valid appeals of eligibility determinations, potentially resulting in extended periods of less favorable coverage or benefits than they may be eligible for. The lack of staff may also create customer service and satisfaction issues.

Recommendation: Consider hiring more Appeals Hearing Officers to ensure all appeals are resolved in 90 days.

Finding #2015-04 – 90 Day Verification of Eligibility

Condition: KPMG observed several cases where an outstanding immigration status verification was not completed within 90 days. Following the re-running of eligibility, the outstanding verification for an applicant disappeared from the back office view.

Criteria: 45 CFR §155.315 (f) requires the Exchange to provide applicants 90 days to verify inconsistencies between self-attested information and information obtained from automated data sources. If the Exchange is unable to resolve the inconsistency within 90 days it must determine the applicant's eligibility based on information obtained from automated data sources and notify the applicant of the failure to verify the attestation.

Cause: The issues were likely caused by a system defect. In the examples KPMG observed, the outstanding verification disappeared after a redetermination.

Effect: Applicants may receive incorrect eligibility determinations, based on inconsistent or inaccurate source data, incorrect notifications, or may not receive accurate eligibility determinations within the 90 day verification period.

Recommendation: KPMG recommends that for those instances where determination issues were caused by system defects that the system issue be identified and remedied. **(Note: the issue noted above is in the process of being remediated).**

Results – Findings and Recommendations (continued)

Finding #2015-05 – Eligibility Determination

Condition: As a result of our sample tests of NYSOH's processes for eligibility determinations, we identified the following exceptions:

- As part of determining eligibility for Medicaid, NYSOH requested verification of an infant's household income. Although household income was provided, the eligibility determination for the child was delayed.
- An eligibility determination for an applicant was delayed, as the applicant's I-94 Departure record was not accepted as proof of immigration status.

Criteria: 45 CFR §155.315 (f) requires the Exchange to provide applicants 90 days to verify inconsistencies between self-attested information and information obtained from automated data sources. If the Exchange is unable to resolve the inconsistency within 90 days, it must determine the applicant's eligibility based on information obtained from automated data sources and notify the applicant of the failure to verify the attestation.

Cause: In both instances, the issues appeared to be caused by customer service errors.

Effect: In both instances, eligibility was ultimately determined correctly. However, the verification issues resulted in a delay in the determination.

Recommendation: For those instances where determination issues were caused by human error, NYSOH should assess the significance of these errors and provide additional training to educate CSRs to potential issues.

Finding #2015-06 – American Indian–Alaska Native Enrollment

Condition: During testing, KPMG observed cases where an applicant's American Indian / Alaska Native (AI/AN) status was verified and the applicants were determined to be eligible for Child Health Plus (CHP), and enrolled in a plan not requiring a premium to be paid by the applicant. However; NYSOH sent out a notification of eligibility which inconsistently reflected that a premium was due. Additionally, the CHP plan issuers were inappropriately notified that a premium was due.

Criteria: 45 CFR §155.350 (b) The Exchange must determine an applicant eligible for the special cost-sharing rule described in section 1402(d)(2) of the Affordable Care Act if he or she is an Indian, without requiring the applicant to request an eligibility determination for insurance affordability programs in accordance with § 155.310(b) in order to qualify for this rule. Under section 1402 (d)(1) of the ACA, issuers of qualified health plans (QHPs) must eliminate all cost-sharing (co-pays and deductibles) for Indians, defined as members of federally recognized Indian tribes and shareholders in Alaska Native regional or village corporations who have household incomes less than 300 percent of the Federal Poverty Level (FPL), if they obtain insurance through Health Insurance Exchange (Exchange). The issuer may not reduce payment to providers as a result of the elimination of cost sharing.

Cause: Issue appears to be related to a system issue. NYSOH indicated to KPMG that this issue will be corrected as part of Change Request 254, which is scheduled to be completed April 18, 2016.

Effect: The CHP plan issuers were inappropriately notified to charge premiums to AI/AN members, and may have overcharged the consumers as a result.

Recommendation: KPMG recommends that for those instances where determination issues were caused by system defects that the system issue be identified and remedied (**Note: the issue noted above is in the process of being remediated**).

Management's Response and Corrective Action Plan

Management's Response and Corrective Action Plan

Finding #2015-01 – CMS Reporting Data

Report Recommendation: Consider the following:

- Retain for audit purposes evidence of management review of CMS report submissions to demonstrate executive approval.
- Revise existing technology platform to allow capability to re-perform data aggregation and report compilation.

Description of Remediation: Since inception, NYSOH Policy and Planning staff have met with Executive staff to review in detail the data contained in each report before it is submitted to CMS, and to secure executive approval of the submissions. Based on the audit's recommendation, a change in procedure has been put in place to document executive approval by electronic mail which will be retained and available to auditors.

NYSOH produces weekly, monthly and quarterly reports using CMS required templates. Data aggregation and report compilation is compliant with federal reporting requirements and the accuracy, and completeness of the reports is thoroughly tested by both NYSOH Policy & Planning staff, and NYSOH's IT vendor. 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 database and NYSOH uses COGNOS to generate reports from the database. The auditors report that they were able to observe NYSOH staff present a snapshot of weekly and monthly reports, but they were not able to independently run queries to access the source data supporting the report totals. IT enhancements planned for later in 2016 will permit access to source data for future audits.

Milestone, Target to Complete, Actual Completion Date: NYSOH instituted a process to retain written document of executive approval of CMS data submissions in February 2016.

NYSOH will develop functionality during 2016 that will enable manual recreation of quarterly reports.

Plans to Monitor and Validate: NYSOH Policy and Planning staff will work closely with the NY State of Health systems staff to monitor the development of functionality that will allow retrospective creation of quarterly reports.

Responsible Person/Entity: NYSOH Director of Policy and Planning

Finding #2015-02 – Appeals Decision Notifications

Report Recommendation: Design and implement a sound internal transition plan to help manage the transfer of responsibilities among Appeals Unit employees upon changes to their roles and responsibilities.

Description of Remediation: NYSOH has instituted procedures to ensure that all appeals are tracked from inception to completion and that all decisions are issued once final. All appeals assigned to the Appeals Unit are logged into a case tracker that is monitored and updated daily by Appeals Unit administrative staff. Staff maintain monthly reports of the status of all appeals. Reports are reviewed by the Unit Supervisor and Director. They are also reviewed by the Director for the Office of Marketplace Counsel. Additionally, staff track all final decisions to ensure that they are uploaded to appellant accounts and, pursuant to the appellant's designation, that notification is issued electronically or by regular mail to appellants and their representatives. These centralized tracking procedures will facilitate the transfer of responsibilities among Appeals Unit employees upon changes to their roles and responsibilities.

Management's Response and Corrective Action Plan (continued)

Milestone, Target to Complete, Actual Completion Date: The described procedures were implemented in November 2015.

Plans to Monitor and Validate: As described above, the case tracker is monitored and updated daily and reports are validated monthly.

Responsible Person/Entity: Appeals Unit Director

Finding #2015-03 – Timely Appeal Resolution

Report Recommendation: Consider hiring more Appeals Hearing Officers to ensure all appeals are resolved in 90 days.

Description of Remediation: Appeals Unit Hearing Officers have increased from four to six since the review period. The Unit is currently in the process of hiring additional Hearing Officers.

Milestone, Target to Complete, Actual Completion Date: Two Hearing Officers were hired in the fall of 2015. NYSOH must follow Civil Service procedures to hire additional Hearing Officers. We expect that four additional hearing officers will be hired by June 2016. The hiring of a final four Hearing Officers is expected by August 2016.

Plans to Monitor and Validate: The Appeals Unit Director is working closely with the Department of Health's Human Resources office, the Department of Civil Service and the Director of the Office of Marketplace Counsel to ensure that qualified applicants are interviewed, evaluated, and processed efficiently.

Responsible Person/Entity: Director, Office of Marketplace Counsel.

Finding #2015-04 – 90 Day Verification of Eligibility

Report Recommendation: KPMG recommends that for those instances where determination issues were caused by system defects that the system issue be identified and remedied. **(Note: the issue noted above is in the process of being remediated).**

Description of Remediation: The disappearance of immigration clocks is related to system defects (55330 and 55333).

Milestone, Target to Complete, Actual Completion Date: Remediation of defects 55330 and 55333 is targeted for deployment in May 2016.

Plans to Monitor and Validate: Validation of the successful remediation of defects 55330 and 55333 will be conducted by NYSOH Systems staff. Validation of proper system functionality post-deployment will be conducted by Quality Assurance staff via an end-to-end integrated review process.

Responsible Person/Entity: Operations Manager, Division of Systems

Management's Response and Corrective Action Plan (continued)

Finding #2015-05 – Eligibility Determination

Report Recommendation: For those instances where determination issues were caused by human error, NYSOH should assess the significance of these errors and provide additional training to educate CSRs to potential issues.

Description of Remediation: Verification of household income: Review the existing work instructions and make updates, if necessary, to ensure they address this scenario. Send a reminder about proper procedures to all applicable customer service staff.

Verification of I-94 documentation: Discuss issue with employee, including a review of work instructions to ensure she/he understands proper procedures. Send a reminder about proper procedures to all applicable customer service staff.

Milestone, Target to Complete, Actual Completion Date: DOH will review work instructions and follow up with Customer Service in April 2016.

Plans to Monitor and Validate: DOH monitors Customer Service's validation of verification documentation on a monthly basis as part of its quality assurance oversight.

Responsible Person/Entity: Director, Bureau of Eligibility Operations, Oversight, and Support.

Finding #2015-06 – American Indian–Alaska Native Enrollment

Report Recommendation: KPMG recommends that for those instances where determination issues were caused by system defects that the system should be identified as remedied.

Description of Remediation: The issue will be corrected with the deployment of system Change Request 254. Prior to the system deployment, instances of the error were manually corrected.

Milestone, Target to Complete, Actual Completion Date: Change Request 245 will be deployed on April 18, 2016.

Plans to Monitor and Validate: Validation of the successful deployment of Change Request 254 will be conducted by NYSOH Systems staff. Validation of proper system functionality post-deployment will be conducted by Quality Assurance staff via an end-to-end integrated review process.

Responsible Person/Entity: Release Manager, Division of Systems.

Appendix A – List of Interviewed Personnel

Appendix A – List of Interviewed Personnel

Name	Title
Lisa Allison	Director of Quality Management and Change Control
Piper Allport	Outreach Coordinator
Gabrielle Armenia	Director, Bureau of CHPlus Policy and Marketplace Consumer Assistance
Judith Arnold	Director, Division of Eligibility and Marketplace Integration
Alan Ball	Finance Director
Ruchika Bajaj	Project Coordinator
Sue Bannen	Administrative Officer
Kym Bond	Human Resources Manager
Beckie Briggs	Maximus, Director, Call Center
Cheryl Dieter	Accounting Manager
Nils Ekberg	NYSTEC, Principal Consultant – Security
Bill Emery	Project Coordinator
Donna Frescatore	Executive Director
Craig Gallagher	Supervising Hearing Officer
Amy Grabek	Regional Director, SHOP
Erica Heintz	Project Coordinator
Danielle Holahan	Deputy Director
Mark Irlando	Hearing Officer
Margo Janack	Chief Marketing and Outreach Officer
Kathleen Johnson	Director, Bureau of Community Enrollment and WMS Eligibility Processing
Bill Kerr	Director, NYSOH System Development
Kelly Lamendola	Associate Counsel, Office of Exchange Counsel
John Matthews	Principal Accountant, DOH
Mara McCoy	Project Coordinator
Michelle Micheli	Associate Internal Auditor
Marguerite Montysko	Health Program Administrator 2
Joe Muldoon	Director, SHOP
Sara Oberst	Eligibility Program Manager 2
Beth Ostheimer	Director, Requirements, Validation and Quality Assurance
David Pitaneilo	Regional Director, SHOP
Paul Romeo	Security Consultant, NYSOH
Sara Rothstein	Director, Policy and Planning
Jeremy Russell	Chief Budgeting Analyst, Bureau of Budget Management
Lisa Sbrana	Director, Associate Counsel
Ron Schrimp	CSC ISO – NYSOH Marketplace Security, Compliance and Privacy
Sonia Sekhar	Assistant Director, Policy and Planning
Rahul Simarapu	PeopleSoft Specialist
Stephanie Sparhawk	Contract Manager Specialist
Ann Volpel	Director, Bureau of Eligibility Operations Oversight and Support
Daniel Washington	Project Coordinator
PJ Weiner	Assistant Director, Plan Management
Beverly Wojtaszek	Maximus, Senior Director, Operations

Appendix B – Glossary of Terms

Appendix B – Glossary of Terms

ACA	Patient Protection and Affordable Care Act
AI/AN	American Indian / Alaska Native
APTC	Advanced Premium Tax Credit
C.F.R.	Code of Federal Regulations
CHP	Child Health Plus
CMS	Centers for Medicare and Medicaid Services
CSR	Cost Sharing Reduction
DFS	Department of Financial Services
DOH	New York State Department of Health
GAS	Government Auditing Standards
IT	Information Technology
NYSOH	New York State of Health
QDP	Qualified Dental Plan
QHP	Qualified Health Plan
SBM	State-based Marketplace
SHOP	Small Business Health Options Program