

Audit Report

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**Maryland Health Benefit Exchange**

May 2021

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**OFFICE OF LEGISLATIVE AUDITS**  
DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber  
Executive Director

Gregory A. Hook, CPA  
Legislative Auditor

May 6, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee  
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee  
Members of Joint Audit and Evaluation Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Health Benefit Exchange (MHBE) for the period beginning July 1, 2017 and ending March 8, 2020. MHBE is primarily responsible for the establishment and operation of the Maryland state-based health insurance exchange, which is intended to provide a marketplace for individuals, families, and small businesses to purchase affordable health coverage as a means to reduce the number of Maryland residents who have no health insurance.

Our audit disclosed that MHBE did not adequately verify applicant income to determine eligibility for Medicaid. Specifically, MHBE's eligibility determination process was not as comprehensive as possible, as MHBE did not verify certain applicants' income against available federal tax information but instead, under certain conditions, limited the verification to State wage data which would not identify all potential applicant income, such as unemployment compensation payments. In addition, MHBE did not use available automated reports to ensure that manual overrides of eligibility status were subject to independent review and approval. We also noted insufficient controls over remote network connections.

As further explained on page 5 of this report, our audit scope was limited with respect to MHBE's Medicaid eligibility determination and redetermination processes because of restrictions imposed by the federal Internal Revenue Code on access to federal tax information as well as MHBE's application of those restrictions to applicant data.

Finally, our audit included a review to determine the status of the eight findings contained in our preceding audit report. We determined that MHBE satisfactorily addressed seven of these findings. The remaining finding, on the verification of applicant income, is repeated in this report.

MHBE's response to this audit is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all audit issues.

We wish to acknowledge the cooperation extended to us during the audit by MHBE and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, stylized initial 'G'.

Gregory A. Hook, CPA  
Legislative Auditor

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## **Background Information**

### **Agency Responsibilities**

Under the provisions of the Insurance Article of the Annotated Code of Maryland, the Maryland Health Benefit Exchange (MHBE) is a public corporation and independent unit of State government that was established to implement the federal Patient Protection and Affordable Care Act (ACA) in Maryland.

Consistent with the ACA, the primary purpose of MHBE is to reduce the number of Maryland residents who have no health insurance.

MHBE has a nine-member Board of Trustees (the MHBE Board) that includes the Secretary of the Maryland Department of Health (MDH), the Maryland Insurance Commissioner, the Executive Director of the Maryland Health Care Commission, and six other persons appointed by the Governor including three who represent employers and individual consumer interests. The MHBE Board is responsible for governing and managing MHBE. Under its enabling legislation, MHBE is exempt from a number of State laws and regulations, including procurement and inventory control. Consequently, the MHBE Board is responsible for establishing various policies and procedures governing MHBE operations.

MHBE established Maryland's state-based health insurance exchange, referred to as the Maryland Health Connection (MHC), to provide a marketplace for individuals, families, and small businesses to purchase affordable health coverage. The MHC was implemented in November 2014 and consists of several computer processing platforms that perform various functions. Acting together, these platforms enable Maryland residents to explore qualified health insurance plans, compare rates, and determine their eligibility for tax credits, cost sharing reductions, and public assistance programs such as Medical Assistance (Medicaid) and the Maryland Children's Health Insurance Program. Once an individual or family selects a qualified health plan or available program, they may use the MHC internet portal to enroll in that plan or program.

MDH has agreements with both MHBE and the Department of Human Services (DHS) delegating responsibility for Medicaid eligibility determinations and redeterminations. MHBE is responsible for processing income-based determinations via its automated system, and DHS is responsible for processing non-income based determinations (that is, for applicants applying for other DHS benefits such as disability or Temporary Cash Assistance). Applications that are rejected or flagged by the MHC are forwarded to DHS or MDH for additional processing and review.

Since April 1, 2014, small business owners have been able to enroll their employees in health insurance plans certified under the ACA Small Business Health Options Program. Employers with 1 to 50 employees may purchase insurance plans directly from a carrier, a third-party administrator, or a broker, and for those who are eligible, employers receive federal small business tax credits.

MHBE also administers the Connector Program, which provides grants to entities organized geographically in Maryland to provide outreach and enrollment services in their respective regions with the purpose of educating and assisting Maryland residents in obtaining health insurance.

## **Financial Activity**

According to the State's records, MHBE's fiscal year 2020 expenditures totaled approximately \$76.1 million. These expenditures were funded by State funds totaling \$31.5 million and federal funds totaling \$44.6 million. MHBE expenditures related primarily to information technology development, outreach and consumer assistance, reinsurance payments administered by MHBE, and agency operations necessary to maintain MHC. The healthcare costs associated with individuals enrolled in Medicaid via MHC are included in the budget of the Maryland Department of Health – Medical Care Programs Administration.

## **Audit Scope Limitation**

Our audit scope was limited with respect to MHBE's Medicaid eligibility determination and redetermination processes due to restrictions imposed by the federal Internal Revenue Code (IRC) on access to federal tax information (FTI) as well as MHBE's application of those restrictions to applicant data. According to the State Government Article, Section 2-1223 of the Annotated Code of Maryland, our access to records extends to all agency records except as prohibited by the federal IRC. Section 6103 of the IRC provides that FTI may be used by officers, employees, and contractors of the United States Department of Health and Human Services, an Exchange established under the Affordable Care Act, or a state agency for purposes of determining eligibility as it relates to health care options. Internal Revenue Service Publication 1075 further describes that the authority to receive federal tax return information does not extend to independent state audit agencies unless a contractual relationship is established which conforms to the disclosure requirements of IRC Section 6103.

To determine applicant eligibility, MHBE performs certain procedures including, as discussed further in Finding 1, matching certain applicant attested financial

information against FTI to verify the recorded income. MHBE management and legal counsel have asserted that the Office of Legislative Audits (OLA) is restricted from viewing FTI in accordance with the aforementioned federal and State laws. In addition, MHBE extended this restriction to information identifying whether applicant information was verified against the Maryland Automated Benefits System or FTI because it believed this information would constitute FTI as defined under the aforementioned IRC. As a result, during our audit, we could not review a key portion of the MHBE eligibility determination and redetermination processes or the related FTI information to assess whether proper determinations were being made. Legal counsel to the Maryland General Assembly concurred that OLA is limited in its access to FTI.

### **Potential Federal Fund Liability**

MHBE had a \$28.4 million potential liability to the federal government related to a previous audit finding by the federal Department of Health and Human Services – Office of the Inspector General (HHS – OIG) which sighted certain misallocated expenditures. This issue was also addressed in our reports on the *Statewide Review of Budget Closeout Transactions for Fiscal Year 2018* (dated January 15, 2019), *2019* (dated January 16, 2020), and *2020* (dated January 26, 2021). In a letter dated September 1, 2019 to the Chairs of the Senate Budget and Taxation and House Appropriations Committees, MHBE noted that the HHS – Office of General Counsel had recommended that MHBE rely on a previous determination by HHS’ Centers for Medicare and Medicaid Services (CMS) that MHBE followed CMS’ guidance when allocating establishment grant expenditures. According to MHBE personnel, there has been no resolution of this matter as of January 2021.

### **Status of Findings From Preceding Audit Report**

Our audit included a review to determine the status of the eight findings contained in our preceding audit report dated October 30, 2018. As disclosed in Figure 1 below, we determined that MHBE satisfactorily addressed seven of these findings. The remaining finding is repeated in this report.



**Figure 1  
Status of Preceding Findings**

<b>Preceding Finding</b>	<b>Finding Description</b>	<b>Implementation Status</b>
Finding 1	MHBE relied solely on the Maryland Automated Benefits System (MABS) to verify the income of certain applicants even though MABS excluded many types of applicant income.	<b>Repeated</b> (Current Finding 1)
Finding 2	MHBE did not properly restrict or document its review of user access to the Maryland Health Connection and did not use available reports to monitor critical changes to applicant eligibility information.	Not repeated
Finding 3	MHBE did not obtain Board approval for its Information Systems Master Contract and did not adequately document its evaluation of vendor task order proposals nor ensure that all vendors approved under the individual task orders were properly qualified.	Not repeated
Finding 4	MHBE's procurement policies and procedures did not establish a minimum period for submission of solicitations, and did not provide for adequate control over the bid submission and bid opening processes.	Not repeated
Finding 5	MHBE did not sufficiently verify the propriety of billings from its customer support vendor, which totaled \$25.6 million during fiscal year 2017, and ensure that the vendor met certain contract performance measures.	Not repeated
Finding 6	MHBE did not verify the propriety of payroll expenditures reported by one of the seven Connector Program grantees.	Not repeated
Finding 7	MHBE did not establish adequate application maintenance controls for documenting, approving, and moving program changes into production and lacked intrusion detection prevention system coverage for encrypted traffic entering the hosted Exchange System network.	Not repeated
Finding 8	MHBE lacked security assurances over critical data on servers hosted by contractors.	Not repeated

# Findings and Recommendations

## Medicaid Eligibility

### Background

As Maryland's administering agency for the Medical Assistance program (Medicaid), the Medical Care Programs Administration (MCPA) of the Maryland Department of Health (MDH) is responsible for establishing regulations, guidelines, and procedures for Medical Assistance applicant eligibility. Historically, eligibility determinations have been processed by local departments of health and local departments of social services located across the State. In April 2012, MDH and the Maryland Health Benefit Exchange (MHBE) originally entered into a memorandum of understanding, which was subsequently updated in August 2018, under which MHBE processes Medical Assistance eligibility determinations and redeterminations for income-based coverage groups. This includes certain categorically eligible or medically needy applicants with household income up to 138 percent of federal poverty guidelines – the dollar threshold of which is determined by family size.

Individuals may now apply for Medical Assistance or a Qualified Health Plan through the Maryland Health Connection (MHC), which is MHBE's consumer exchange system portal. Individuals may access MHC by phone via MHBE's consumer support contractor, directly through the MHC website, using the MHC mobile app, or in-person at various locations that are capable of providing personal assistance with eligibility determinations. These locations include local departments of health, local departments of social services, MHBE, and designated MHBE connector entities.

In accordance with MCPA's applicant data verification plan approved by the federal Centers for Medicare and Medicaid Services (CMS), MHBE matches applicant attested identification information (such as, date of birth and social security number) and citizenship or immigration status through the Federal Data Sharing Hub (FDSH). Simultaneously, MHBE matches applicant attested income to the Maryland Automated Benefit System (MABS) maintained by the Maryland Department of Labor's (MDL) Division of Unemployment Insurance (DUI). MABS is an electronic database that contains employer reported wages for most Maryland workers and unemployment insurance benefits paid. In certain situations (if no MABS records are located), applicant attested income is verified to federal tax information (FTI) on FDSH. Discrepancies are subject to a manual verification performed by designated Department of Human Services (DHS) or MDH employees. A similar process is used to verify Medicaid enrollee income during the annual redetermination process.

During calendar year 2019, individuals applying for health insurance coverage through MHC resulted in 1,076,175 individuals who were determined to be eligible for Medicaid and 156,963 individuals who were enrolled in a Qualified Health Plan as of December 15, 2019. According to State records, Medicaid-related payments made by MDH totaled approximately \$11.8 billion during fiscal year 2020.

**Finding 1 (Policy Issue)**

**MHBE continues to rely solely on MABS to verify the income of certain applicants even though MABS excluded many types of applicant income.**

**Analysis**

MHBE continues to rely solely on MABS to verify the income of certain applicants even though MABS excluded many types of income. As noted in our prior audit report, MHBE conducts income verifications using FTI only if no MABS record was located for the applicant. If the MABS wage data matched the applicant attested income within certain tolerance levels, no additional verification was performed using FTI. If the MABS wage data exceeded the applicant attested income beyond the tolerable level, a manual review was performed, which did not involve using FTI. A similar condition regarding the comprehensiveness of information used in determining Medicaid eligibility was commented upon in our preceding report.

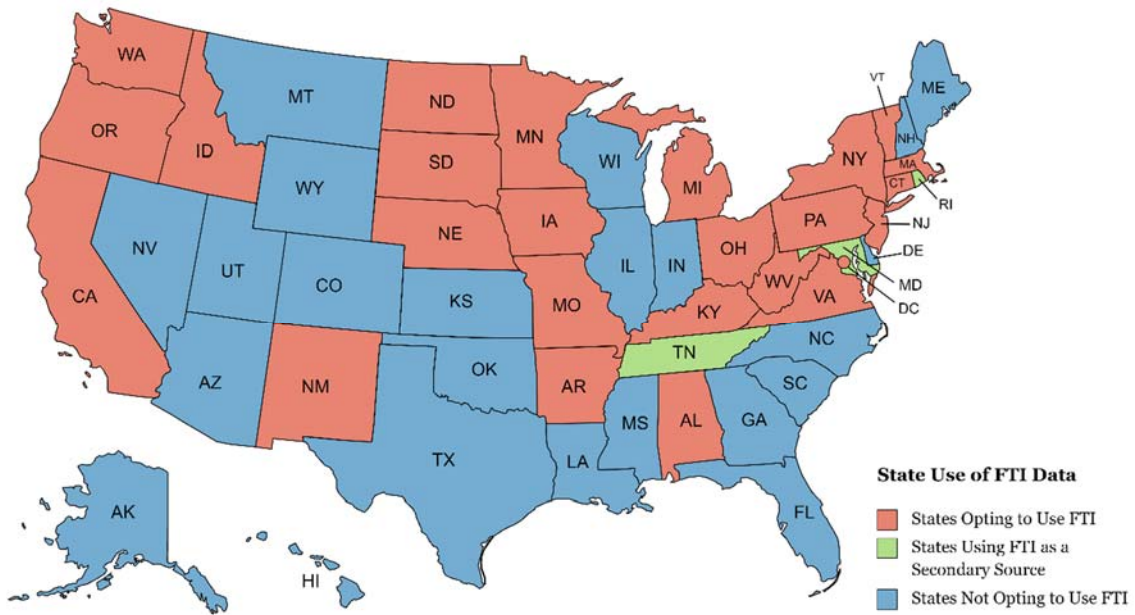
Using MABS data exclusively for income verification purposes has inherent limitations that restricts its effectiveness. MABS data does not include all types of income and, therefore, may not identify applicants who omit or underreport their income. For example, MHBE’s verification of applicant data to MABS data excluded available unemployment compensation data. Specifically, MHBE did not obtain MABS unemployment compensation data from DUI to use in its verification process and, as a result, the verification would not identify underreported or omitted unemployment compensation. We were advised by MHBE management, that subsequent to our prior report, clarification was requested from the Maryland Department of Labor (MDL) regarding whether this data could be provided. While MDL confirmed that unemployment data could be shared with MHBE, incorporating this into the new BEACON platform currently utilized by MDL that was not expected to be completed until March 2021.

Furthermore, there are additional limitations associated with relying solely on MABS, as MABS does not include interest, dividend, alimony, and rental income that is available from FTI – all of which must be considered for Medicaid eligibility. In addition, MABS would not identify wages earned from certain employers exempt from reporting to DUI, such as federal agencies and non-

Maryland-based employers, and would not identify any net earnings from self-employment

Federal regulations require state-based exchanges to request financial information from various state (for example, DUI) and federal agencies (for example, Internal Revenue Service data maintained in the FDSH) that is necessary to verify applicants' income. These regulations have permitted the development of varying income verification processes across the country. Specifically, according to the individual State and District of Columbia Medicaid/Children's Health Insurance Program eligibility verification plans, 24 states and the District of Columbia utilize FTI data to verify income eligibility, while other states have elected to not use FTI, see Figure 2.

**Figure 2**  
**States That Elected to Use FTI in Medicaid Eligibility Verifications**



Source: <https://www.medicaid.gov>

MHBE's income verification methodology is in accordance with Maryland MCPA's federally approved plan. However, based on the above noted income omissions, we believe there are opportunities for a more comprehensive income verification process. Unfortunately, due to the limitations imposed on us by the federal Internal Revenue Code and MHBE described in the Audit Scope

Limitation section of this report, we are unable to assess the significance of the failure to access additional FTI on the income verification process.

### **Recommendation 1**

**We recommend that MHBE obtain more complete information from State resources, including unemployment payments from MDL, and conduct a study using FTI data to assess the significance and usefulness of formally incorporating that data into its verification methodology (repeat).**

### **Finding 2**

**Manual overrides of applicant eligibility status were not subject to independent review and approval and, consequently, unauthorized changes could be made without detection.**

### **Analysis**

Manual overrides of applicant eligibility status were not subject to independent review and approval and consequently, unauthorized changes could be made without detection. Specifically, our review of 462 users with access to MHC as of May 1, 2020 disclosed that 23 individuals (20 MHBE employees and 3 contractor employees) had the ability to override an individual's eligibility determination in MHC and grant an applicant health insurance (such as Medicaid) without any independent review and approval.

MHBE did not review any overrides processed by the contractor employees, which processed 155 of the 287 overrides during the period from September 2019 through January 2020. In addition, MHBE monthly reviews of changes processed by MHBE employees were not independent since the reviews were conducted by an employee who also processed overrides. We were unable to test the propriety of the overrides due to the aforementioned restrictions to FTI information.

### **Recommendation 2**

**We recommend that MHBE use available system reports to ensure that overrides of all applicant eligibility statuses are subject to independent review and approval.**

## **Information Systems Security and Control**

### **Background**

Beginning in November 2014, MHBE utilized a vendor and associated subcontractors for the hosting of its Health Benefits Exchange system (HBX),

related disaster recovery services, server maintenance, operation of servers and network equipment, and wide area network and telecommunications management. MHBE personnel maintained the application programming code for multiple significant applications comprising HBX.

During our audit period, MHBE migrated HBX to reside within a dedicated segment of the shared MD THINK platform, which resides on a cloud platform, and is operated by the Maryland Department of Human Services (DHS) and the contractors responsible for the Maryland Think Project. MD THINK was created to eliminate redundancies in the benefit application process for individuals requiring services from multiple State agencies and to help ensure applicants receive all needed services regardless of which agency administers the program. Under this arrangement, the MD THINK project personnel provide necessary disaster recovery services, server maintenance, operation of servers and network equipment, and wide area network and telecommunications management for HBX. MHBE continues to have responsibility for defining the general security requirements over HBX, but MD THINK project personnel are responsible for implementation of these security measures.

HBX consists of a public consumer Internet portal (that is, the Maryland Health Connection) and an internal worker portal. The consumer portal allows for consumers to shop for healthcare plans, determine eligibility for various subsidies/tax credits, enroll (or renew enrollment) in a qualified health plan or Medicaid, and manage related information (for example, demographics, income, and health information). Brokers, navigators, and connector entities also have access to the consumer portal to assist consumers in enrolling in healthcare plans.

The worker portal provides State employees and contractors the ability to support the consumers' enrollment in healthcare plans or Medicaid, manage related case information, and manage the application process. Numerous State employees from MDH and DHS also assist in supporting MHBE by performing case worker services pertaining to consumers. MHBE personnel normally work from a Baltimore headquarters location on a shared local network; however, much of its workforce has worked remotely during the COVID-19 pandemic period. Additional State network connections exist to enable MHBE and the applicable MDH and DHS case workers to connect to the hosted HBX.

### **Finding 3**

**Remote access to the internal agency network by MHBE employees used a single authentication measure, and traffic from remote network connections by certain affiliated third parties was not filtered.**

#### **Analysis**

Remote access to the internal agency network by MHBE employees used a single authentication measure, and traffic from remote network connections by certain affiliated third parties was not filtered. The MHBE employees and the affiliated third parties obtained their remote access using a virtual private network (VPN) connection.

- Employees' remote connections to MHBE's internal network did not require Multi-factor Authentication (MFA) for establishing access. We noted that MHBE's employees' remote access to the headquarters network only required single factor authentication. We were advised that there were approximately 260 employees that use the VPN. MFA uses two or more separate credential factors to authenticate user network connections. Access to critical networks and resources requires layers of security protections which include use of MFA, to help prevent security risks tied to compromised user credentials. The State of Maryland *Information Technology Security Manual* requires that Maryland agencies ensure that MFA mechanisms are employed for all remote access to networks.
- Certain affiliated third parties' employees using VPN connections had unnecessary network-level access to the MHBE headquarters and server hosted resources, as well as certain connected MD THINK platform resources. Specifically, as of April 29, 2020, we identified 78 active MHBE network user accounts for affiliated third parties that had improper network-level access to the aforementioned network resources, versus having access to only required HBX application resources. We determined that MHBE's VPN device had access policies configured to filter remote access by user categories; however, the policies for these affiliated parties were temporarily disabled during MHBE's migration period to the MD THINK platform, but not re-enabled afterwards to limit the affiliated parties. MHBE personnel advised us that migration to MD THINK was completed as of August 13, 2019; however, we noted that the access policies were still disabled on May 1, 2020.

These affiliated parties included health care navigators who helped citizens use HBX and MDH and DHS employees who provided additional HBX support by acting as case workers. The State of Maryland *Information*

*Technology Security Manual* requires that information systems control information flows within systems and between interconnected systems using boundary protection devices that employ rule sets to provide a traffic filtering capability.

**Recommendation 3**

**We recommend that MHBE**

- a. implement multi-factor authentication for employees' remote connections into the MHBE network, and**
- b. limit its affiliated parties remote VPN connections access to only the MHBE network destination addresses required for their job responsibilities.**



## **Audit Scope, Objectives, and Methodology**

We have conducted a fiscal compliance audit of the Maryland Health Benefit Exchange (MHBE), for the period beginning July 1, 2017 and ending March 8, 2020. The audit was conducted in accordance with generally accepted government auditing standards except for certain requirements related to obtaining sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Specifically, as described on pages 5 and 6, our audit scope was limited with respect to assessing certain aspects of internal controls over the Medicaid eligibility process and the related compliance with State laws, rules, and regulations. This scope limitation was due to restrictions imposed by the federal Internal Revenue Code on access to federal tax information as well as MHBE's application of those restrictions to applicant data.

Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Except for the effects of the scope limitation described above, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MHBE's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included procurements and disbursements, the Medicaid eligibility process, federal fund reimbursements, monitoring of State-awarded grants, and information systems security. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services related to grant management provided by the Maryland Department of Health – Office of the Secretary. These services included drawdowns of federal funds including indirect cost allocations, reconciling grant revenue and expenditures, and recording payment transactions in the State's accounting system. Our audit also did not include an evaluation of internal controls for federal financial assistance programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MHBE.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of July 1, 2017 to March 8, 2020, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of MHBE's operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from MHBE's Maryland Health Connection system for the purpose of reviewing MHBE's procedures and related system controls. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MHBE's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for

improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect MHBE's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to MHBE that that did not warrant inclusion in this report.

MHBE's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MHBE regarding the results of our review of its response.

**APPENDIX**

750 EAST PRATT STREET, 6TH FLOOR  
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Gregory A. Hook, CPA  
Legislative Auditor  
Office of Legislative Audits  
301 West Preston Street, Room 1202  
Baltimore, MD 21201

May 3, 2021

Dear Mr. Hook:

Enclosed please find responses and corrective actions with timeframes which address the recommendations from OLA's finance performance audit of Maryland Health Benefit Exchange (MHBE) for period of July 1, 2017 through March 8, 2020.

MHBE's executive leadership team has promptly addressed the audit recommendations. In addition, MHBE's chief compliance and privacy officer will follow-up on the corrective actions to ensure ongoing compliance. Our team takes great strides to improve MHBE's overall operations, accountability, security and transparency and will continue to do so into the future.

I want to thank the OLA audit team for their professionalism, thoroughness and collegiality during their on-site review. If you have any questions or require additional information, please do not hesitate to contact me at 410-547-1270.

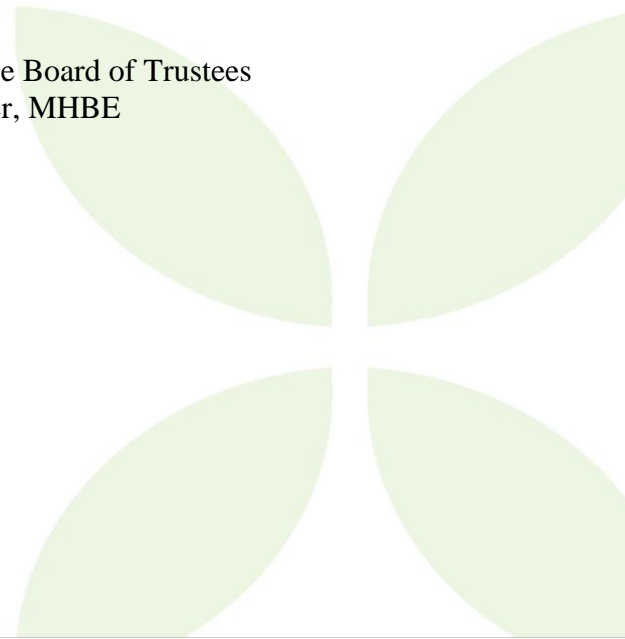
Sincerely,

A handwritten signature in black ink that reads "Michele Eberle".

Michele Eberle,  
Executive Director

Enclosure

Cc: Dennis Schrader, Chair, Maryland Health Benefit Exchange Board of Trustees  
Caterina Pañgilinan, Chief Compliance and Privacy Officer, MHBE



# Maryland Health Benefit Exchange

## Agency Response Form

### Medicaid Eligibility

#### Finding 1 (Policy Issue)

**MHBE continues to rely solely on MABS to verify the income of certain applicants even though MABS excluded many types of applicant income.**

**We recommend that MHBE obtain more complete information from State resources, including unemployment payments from MDL, and conduct a study using FTI data to assess the significance and usefulness of formally incorporating that data into its verification methodology (repeat).**

Agency Response	
Background / Analysis	Factually Accurate
Please provide additional comments as deemed necessary.	<p>MHBE met with the Department of Labor (LABOR) in June 2018 to initiate the process to receive unemployment compensation (UC) information. At that time, LABOR representatives informed MHBE of its code freeze for MABS due to resource allocations being dedicated to the pending implementation of BEACON, LABOR’s new cloud-based platform. That delay has been compounded by LABOR’s rightful focus on its implementation of the Pandemic Unemployment Assistance Program under the CARES Act. The code freeze resulted in MHBE not being able to obtain UC to date.</p> <p>MHBE is positioned to begin the requisite testing of the new cloud-based data exchange, now expected to begin in May. These actions will allow HBX to make MA eligibility determinations using the most current electronic wage income and UC data available.</p> <p>Pursuant to the OLA’s 2014 – 2017 triennial audit of MHBE and its recommendation that MHBE “in conjunction with the Medical Care Program Administration (MCPA) amend the [State Verification Plan] with CMS to require” income verification using FTI as a primary source, MHBE and MCPA met with representatives from Centers for Medicare &amp; Medicaid Services’ (CMS’) Center for Consumer Information and Consumer Oversight (CCIIO), the body that oversees State-based Exchanges, and Internal Revenue Service representatives in February 2019 to discuss the finding and recommendation and to receive CMS’ feedback.</p>

# Maryland Health Benefit Exchange

## Agency Response Form

We discussed the Maryland Verification Plan and validated that CMS approved Maryland's use of MABS data as primary and FTI as secondary data sources, respectively. Maryland is one of three states that use FTI as a secondary income source. Further, we sought CMS' guidance on the seeming contradiction found between OLA's recommendation to use income tax data, which reflects previous tax years' income, as a primary income source and the federal statute that requires Medicaid eligibility to be determined based on "an individual's income as of the point in time at which an application for medical assistance...is processed[.]" Social Security Act §1902(e)(14)(H); 42 U.S.C. §1396a(e)(14)(H).

Excerpts from CMS' May 2019 formal response to our meeting included "While use of federal tax data is permitted to verify eligibility for Medicaid (and CHIP) applications, renewals and other periodic data matching, *federal authority does not require the state to use federal tax information (FTI) in any of these circumstances.*" Further, "states have flexibility in how they verify other factors of eligibility such as household size and tax filer status. For income, states must request information related to wages, self-employment earnings, and unearned income from specific state and federal data sources to the extent the state determines the information is useful for verifying financial eligibility of an individual."

In that IRS data is not current data and many Medicaid eligible individuals do not earn enough income to file income taxes, when designing its Verification Plan, MCPA concluded FTI use as a primary data source for all Medicaid applicants did not support Maryland's goal of providing accurate, consumer-friendly, and timely determinations. The implementation of the health exchange offers a one-door approach for consumers to access MA determinations in a resource efficient and effective manner. When developing the Verification Plan, MCPA sought to mitigate significant disruption in determining applicants' eligibility, increased costs and delays caused by inaccurate determinations, and the need for case worker intervention to perform additional, manual verifications.

Under current system functionality, if the difference between the FTI amount and the applicant's attested income is greater than 10%, MHBE sends a notification to request the applicant provide an explanation or supporting documentation. 42 CFR §435.952(c)(2). A reasonable explanation of the difference between the current month's income and the prior year's tax return, or valid documentation of actual current income, are substituted for the attestation and verified. Due to the time

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difference between the FTI and the current income *required* for Medicaid eligibility, testing all applicants' income against FTI is likely to increase the number of verifications caseworkers must process via the Verification Check List ("VCL") procedure, without resolving significantly more cases. In essence, MCPA chose to not use FTI as a primary data source because doing so provides minimal additional value over the use of much more current MABS data.

While OLA points out that 24 states and the District of Columbia use FTI as a primary data source, or in combination with state quarterly wage and other data sources, there is no consistency in the manner or the extent to which they rely on FTI data in the overall eligibility determination processes. Each uses its own algorithms to determine eligibility within its state, district and/or federal regulatory frameworks. Significantly, the information returned from the Federal Data Services Hub (FDSH) only indicates whether the applicant's bottom-line income amount from their last tax filing is or is not within the 10% FFP tolerance range. That is to say, no actual dollar amount of earned or unearned income is garnered that could be used to project an applicant's income at the time of their application. There was thus no basis for expecting improved outcomes from implementing OLA's recommendation, which would have significant administrative and systems costs, put additional pressure on the Office of Administrative Hearings, and result in undue delays to consumers in receiving healthcare coverage.

MHBE strives to continuously improve its eligibility and enrollment processes. To these ends, MHBE volunteered to participate in CMS' Office of Financial Management, Payment Accuracy and Reporting Groups' Eligibility Improper Payment Measurement (EIPM) pilot study. The purpose of the EIPM pilot is to test the design of an annual review program to reduce and recover improper payments as required under Improper Payments Information and Recovery Act of 2002, as amended, Improper Payments Elimination and Recovery Acts of 2010 and 2012. MHBE will undergo a review that tests processes intended to identify programs susceptible to significant improper payments, estimate the amount of any improper payments and describe the actions an agency takes to reduce improper payments. The scrutiny and due diligence MHBE will undergo to evaluate the accuracy and effectiveness of the HBX in making proper QHP determinations may better inform MHBE in ways that impact data quality and algorithms which also benefit MA eligibility determinations.

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<b>Recommendation 1</b>	Agree	<b>Estimated Completion Date:</b>	06.30.22
<b>Please provide details of corrective action or explain disagreement.</b>	<p>MHBE agrees that an applicant’s wage and unemployment income compensation should be obtained from MABS for use in the eligibility determination process.</p> <p>a) LABOR and MHBE have negotiated a fourth data use agreement modification which awaits execution and will enable MHBE to ping to obtain the most current wage income data and reports from BEACON. Projected: May 31, 2021.</p> <p>b) MHBE will negotiate a modified data use agreement with LABOR to ping BEACON for real time UC data as well as receive aggregated monthly data files. Projected: September 1, 2021.</p> <p>MHBE is open to considering methods to capture and validate consumer income data and mitigate the potential for underreporting of income. The balance of capturing additional current income information will be weighed against the need to meet regulatory constraints and mandates, primary of which is to verify an applicant’s income as of the time of their application in a consumer-focused, efficient manner.</p> <p>MHBE will collaborate with MCPA to assess various methods, including the usefulness of using FTI data, to obtain at the point in time income information from consumers and other electronic sources. Projected: June 30, 2022.</p>		



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**Finding 2**

**Manual overrides of applicant eligibility status were not subject to independent review and approval and consequently, unauthorized changes could be made without detection.**

**Recommendation 2**

**We recommend that MHBE use available system reports to ensure that overrides of all applicant eligibility statuses are subject to independent review and approval.**

<b>Agency Response</b>			
<b>Background / Analysis</b>	<b>Factually Accurate</b>		
<b>Please explain any concerns with factual accuracy.</b>	<p>All overrides are documented in the consumers' record audit trail and captured in monthly override reports. The Appeals &amp; Grievances, Constituent Services and Consumer Resolutions Program Manager, uses these reports to review the overrides performed by her ten (10) employees and documents said reviews in MHBE's Metrics Dashboard. While being captured in the audit logs and monthly override reports, the overrides she performed did not have independent review.</p> <p>It is important to note that supervisors in the IT Policy, Operations and Quality Testing department, including the Program Manager QA, IT Systems Technical Specialist QA, and Data Informatics Manager, review their respective supervisees' overrides as part of a quality check process flow. All EDI overrides are performed in the HBX staging environment, reviewed, and, if approved by supervisors, are then deployed in the HBX production environment.</p>		
<b>Recommendation</b>	<b>Agree</b>	<b>Estimated Completion Date:</b>	December 31, 2021
<b>Please provide details of corrective action or explain disagreement.</b>	<p>MHBE will ensure 100% of overrides are reviewed by supervisory staff to validate the accuracy of overrides and then, after a period, will review a statistically valid sample of overrides. MHBE believes the very knowledge that overrides are under supervisor scrutiny will dissuade any malfeasance and prompt supervisees to perform their work process more conscientiously.</p> <p>Corrective Action Steps to be taken include:</p> <p>A) MHBE's Director, Consumer Assistance, Eligibility Policy &amp; Business Integration and Director of IT Policy, Operations &amp; Quality will oversee the development of an override validation policy and procedure. Projected: July 1, 2021.</p>		

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	<p>B) Supervisors who oversee the validity of overrides will not have override capability. Completed: February 28, 2021.</p> <p>C) The Consolidated Services Center Special Projects Team, the IT Policy, Operations and Quality Testing departments, and Appeals &amp; Grievances, Constituent Services and Consumer Resolutions Program supervisors will receive monthly override reports to perform independent reviews of their supervisees' overrides. Initially, a supervisor will perform oversight on all overrides, correct as necessary, and promulgate results to staff. Projected: July 1, 2021.</p> <p>D) After a period in which the quality of output is verified and normalized, the supervisor will use the monthly override report to perform oversight on a statistically valid sample size of overrides, correct as necessary, and promulgate results to staff. Projected: December 31, 2021.</p>
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### Information Systems Security and Control

**Finding 3**  
**Remote access to the internal agency network by MHBE employees used a single authentication measure, and traffic from remote network connections by certain affiliated third parties was not filtered.**

We recommend that MHBE

- a. **implement multi-factor authentication for employees' remote connections into the MHBE network; and**
- b. **limit its affiliated parties' remote VPN connections access to only the MHBE network destination addresses required for their job responsibilities.**

Agency Response			
<b>Background / Analysis</b>	<b>Factually Accurate</b>		
<b>Please provide additional comments as deemed necessary.</b>	Prior to the OLA audit, MHBE tracked the milestones in its POA&M and planned to implement multi-factor authentication by August 31, 2020.		
<b>Recommendation 3a</b>	Agree	<b>Estimated Completion Date:</b>	8/31/20
<b>Please provide details of corrective action or explain disagreement.</b>	Completed. MHBE enforced multi-factor authentication for all VPN users on August 31, 2020.		
<b>Recommendation 3b</b>	Agree	<b>Estimated Completion Date:</b>	4/30/21
<b>Please provide details of corrective action or explain disagreement.</b>	MHBE will limit VPN network connections using access control entry software on aforementioned VPN groups and users. MHBE will incorporate review of the access control entry software into the quarterly Firewall review and remediation process.		
	Completed. MHBE successfully applied the required ACL to limit the remote VPN connections to its network. The solution was implemented and validated on 4/29/2021.		

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