

# Audit Report

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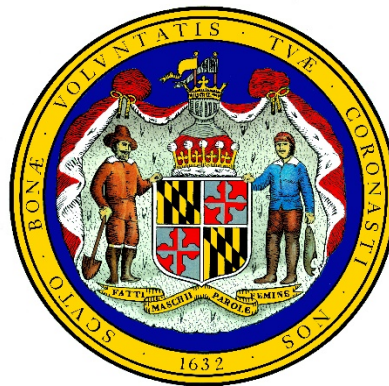
## Maryland Health Benefit Exchange

January 2025

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### Public Notice

**In compliance with the requirements of the State Government Article Section 2-1224(i), of the Annotated Code of Maryland, the Office of Legislative Audits has redacted cybersecurity findings and related auditee responses from this public report.**



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

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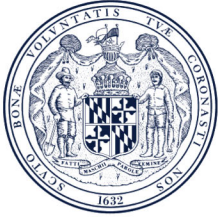
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber  
Executive Director

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Legislative Auditor

January 28, 2025

Senator Shelly L. Hettleman, Senate Chair, Joint Audit and Evaluation Committee  
Delegate Jared Solomon, 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 March 9, 2020 and ending June 30, 2023. 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 request supporting documentation from applicants who reported having zero income when State wage records indicated the applicant had income exceeding the Medicaid qualification threshold. Rather, MHBE only required these applicants to self-certify that they did in fact have zero income when they applied for benefits. Our analysis identified numerous individuals which State wage records indicated had income before, during, and subsequent to their application that exceeded the income thresholds. For example, one applicant self-certified zero income in February 2023 when State wage records indicated income totaling \$62,400 in each of the quarters ending December 2022, March 2023, and June 2023. Based on various factors, including the unreported income, the applicant did not qualify for Medicaid.

Our audit also disclosed that MHBE did not ensure that it used the most current income data to verify the reported income submitted by Medicaid applicants. Our

test of 30 Medicaid enrollees who submitted an application during our audit period identified 10 enrollees for which MHBE's verification did not use the most current income data available, including 2 enrollees that would not have qualified for Medicaid if the most current available income data had been used.

In addition, MHBE did not verify certain applicants' income against available federal tax information which would identify all potential applicant income, such as dividend and alimony payments. In addition, MHBE did not always ensure that manual overrides of applicant eligibility were independently reviewed and approved.

Furthermore, MHBE did not adequately pursue the collection of \$649 million in insurance provider fees collected by the Maryland Insurance Administration that should have been transferred into the MHBE Fund. In fiscal year 2023, MHBE did not transfer \$15 million to the Health Equity Resource Community Reserve Fund due to a lack of funds. We also noted that MHBE did not always publish contract awards and document bid proposal openings.

Our audit also disclosed cybersecurity-related findings. However, in accordance with the State Government Article, Section 2-1224(i) of the Annotated Code of Maryland, we have redacted the findings from this audit report. Specifically, State law requires the Office of Legislative Audits to redact cybersecurity findings in a manner consistent with auditing best practices before the report is made available to the public. The term "cybersecurity" is defined in the State Finance and Procurement Article, Section 3.5-301(b), and using our professional judgment we have determined that the redacted findings fall under the referenced definition. The specifics of the cybersecurity findings were previously communicated to those parties responsible for acting on our recommendations.

As further explained on page 9 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 three findings contained in our preceding audit report. For the non-cybersecurity-related findings, we determined that MHBE did not satisfactorily address those two findings which are repeated in this report.

MHBE's response to this audit is included as an appendix to this report. We have edited MHBE's response to remove certain vendor names or products and links to

websites and online documents, as allowed by our policy. Consistent with State law, we have redacted the elements of MHBE's response related to the cybersecurity audit findings.

In accordance with State law, we have reviewed the response, and we identified certain instances in which statements in the response conflict with or disagree with the report findings. In this regard, MHBE disagreed with several of our recommendations despite agreeing with the factual accuracy of the related analysis. In each instance, we reviewed and reassessed our audit documentation, reaffirmed the validity of our findings, and we continue to maintain that our recommendations are valid.

In accordance with generally accepted government auditing standards, we have included "auditor's comments" within MHBE's response to explain our position. We will advise the Joint Audit and Evaluation Committee of any outstanding issues that we cannot resolve with MHBE.

Respectfully submitted,

*Brian S. Tanen*

Brian S. Tanen, CPA, CFE  
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 October 2013 and consists of several computer processing platforms that perform various functions. Acting together, these platforms enable Maryland residents to explore qualified health, dental, and vision 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 (such as, 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 an insurance provider, 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.

During the 2018 Legislative Session, the Maryland General Assembly passed emergency legislation (Chapter 6, Laws of Maryland 2018, effective March 19, 2018) establishing the State Reinsurance Program beginning January 1, 2019, administered by MHBE. The Program reduces healthcare premiums for all Maryland consumers in the individual market by reimbursing qualifying, individual health insurers for a percentage of an enrollee's claims. The Program is funded through federal funds<sup>1</sup> and a State health insurance provider fee assessed and collected by the Maryland Insurance Administration, which is to be subsequently transferred to MHBE.

## **Financial Activity**

According to the State's records, MHBE's fiscal year 2023 expenditures totaled approximately \$572.6 million. These expenditures were funded by State funds totaling \$49.9 million and federal funds totaling \$522.7 million. MHBE's expenditures related primarily to information technology development, outreach and consumer assistance, reinsurance payments administered by MHBE, and agency operations necessary to maintain MHC (see Figure 1 on the following page). The healthcare costs associated with individuals enrolled in Medicaid via MHC are included in the budget of the MDH – Medical Care Programs Administration.

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<sup>1</sup> Federal funding is via a State Innovation Waiver through Section 1332 of the Affordable Care Act (ACA). Maryland has a waiver in place through December 2028 which provides federal funds to pay for reinsurance. These funds are allowed to carry over if they are not all needed in the year provided. Any reinsurance amounts above the federal funding must be covered by State funds.

**Figure 1**  
**MHBE Positions, Expenditures, and Funding Sources**

<b>Full-Time Equivalent Positions as of June 30, 2023</b>		
	<b>Positions</b>	<b>Percent</b>
Filled	65	97.0%
Vacant	2	3.0%
<b>Total</b>	<b>67</b>	
<b>Fiscal Year 2023 Expenditures</b>		
	<b>Expenditures</b>	<b>Percent</b>
Salaries, Wages & Fringe Benefits	\$ 9,763,210	1.7%
Operating Expenses	562,885,841	98.3%
<b>Total</b>	<b>\$572,649,051</b>	
<b>Fiscal Year 2023 Funding Sources</b>		
	<b>Funding</b>	<b>Percent</b>
General Fund	\$ 3,549,620	0.6%
Special Fund	45,243,251	7.9%
Federal	522,734,940	91.3%
Reimbursable Fund	1,121,240	0.2%
<b>Total</b>	<b>\$572,649,051</b>	

Source: State financial and personnel records

### **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 3, matching certain applicant attested financial information against FTI to verify the recorded income. MHBE and OLA worked together with legal counsel to establish an agreement in accordance with federal requirements to allow OLA access to FTI for testing. Despite months of effort, it was determined that the process would be onerous and would compromise our independence and ultimately we were unable to work out terms. As a result, during our audit, we could not review MHBE's eligibility determination and redetermination processes for which FTI information was used to assess whether proper determinations were being made.

### **Potential Federal Fund Liability**

MHBE had a \$28.4 million potential liability to the federal government related to a 2015 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), *2020* (dated January 26, 2021), *2021* (dated January 26, 2022), and *2022* (dated January 26, 2023).<sup>2</sup> According to MHBE personnel, there has been no resolution of this matter as of November 2024.

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

Our audit included a review to determine the status of the three findings contained in our preceding audit report dated May 6, 2021. As disclosed in Figure 2 on the following page, for the non-cybersecurity-related findings, we determined those two findings are repeated in this report.

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<sup>2</sup> Our *Statewide Review of Budget Closeout Transactions for Fiscal Year 2023* (dated January 19, 2024) did not include a comment regarding the potential liability to the federal government because that report had a reduced scope of work that did not include MHBE.

**Figure 2**  
**Status of Preceding Findings**

<b>Preceding Finding</b>	<b>Finding Description</b>	<b>Implementation Status</b>
Finding 1 (Policy Issue)	MHBE continues to rely 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 3)
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.	<b>Repeated</b> (Current Finding 4)
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.	Status Redacted <sup>3</sup>

<sup>3</sup> Specific information on the current status of this cybersecurity-related finding has been redacted from the publicly available report in accordance with State Government Article, Section 2-1224(i) of the Annotated Code of Maryland.

# Findings and Recommendations

## Medicaid Eligibility

### Background

The Maryland Health Benefit Exchange (MHBE) and the Maryland Department of Health<sup>4</sup> (MDH) have a memorandum of understanding (MOU) since April 2012 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, insurance brokers, and designated MHBE connector entities.

In accordance with MCPA’s applicant data verification plan approved by the federal Centers for Medicare and Medicaid Services, 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 Department of Labor’s (MDL) Division of Unemployment Insurance (DUI) information system, referred to as BEACON.<sup>5</sup> BEACON is an electronic database that contains employer reported wages for most Maryland workers and unemployment insurance benefits paid.

In certain situations, such as, if no BEACON records are located, applicant attested income is verified to annual 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

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<sup>4</sup> As Maryland’s administering agency for the Medical Assistance program (Medicaid), MDH’s Medical Care Programs Administration (MCPA) is responsible for establishing regulations, guidelines, and procedures for Medical Assistance applicant eligibility.

<sup>5</sup> BEACON was implemented in October 2021 and the previous MDL information system was the Maryland Automated Benefit System (MABS).

used to verify Medicaid enrollee income during the annual redetermination process.

According to MHBE records, during fiscal year 2023, individuals applying (both new application and renewals) for health insurance coverage through MHC resulted in 1,260,950 individuals who were determined to be eligible for Medicaid and 176,953 individuals who were enrolled in a qualified health plan. According to State records, Medicaid-related payments made by MDH totaled approximately \$15.1 billion during fiscal year 2023.

**Finding 1**

**MHBE did not request supporting documentation from applicants who reported having zero income when BEACON reflected the applicant had income that exceeded the Medicaid income qualification threshold.**

**Analysis**

MHBE did not request supporting documentation from applicants who reported having zero income when BEACON reflected the applicant had income that exceeded the Medicaid income qualification threshold. Rather, MHBE only required these applicants to sign an affidavit self-certifying that they had no income without any additional support to explain the discrepancy. This practice was inconsistent with MHBE's procedure for applicants that reported income that did not agree with BEACON who had to submit evidence supporting the reported income.

At our request, MHBE generated a report which identified 5,488 Medicaid applicants in fiscal year 2023 who self-certified as having no income after MHBE had identified through BEACON that the applicants income exceeded the income qualification threshold for Medicaid. From this report, we matched the 4,465 applicants that had a social security number<sup>6</sup> to BEACON income data for the quarter before the application was filed, and the subsequent two quarters (including the quarter in which the application was filed).

Our match disclosed 467 applicants for which BEACON reported income from the same employer in the quarter prior, during, and subsequent to the application raising questions about the validity of the affidavit. We tested seven of the match results<sup>7</sup> and determined that none of the applicants qualified for Medicaid based on various factors including BEACON reported income. For example, one applicant completed the self-certification of zero income in February 2023.

<sup>6</sup> Not all Medicaid applicants have a social security number.

<sup>7</sup>We selected seven test items from the match results with significant overall income earnings combined for the quarter of application and the following quarter.

Our review of the related BEACON income disclosed that this applicant had income of \$62,400 in each of the quarters ending December 2022, March 2023, and June 2023 (the period prior, during, and subsequent to the application) for a total income of \$187,200. Based on various factors, including BEACON reported income, we determined the applicant did not qualify for Medicaid. MHBE was not aware of this discrepancy until we brought it to its attention and therefore had not attempted to address the discrepancy with the applicant. As of May 2024, Medicaid expenditures for this applicant since they enrolled in Medicaid totaled \$15,827.

While federal regulations allowed MHBE the flexibility of accepting such an affidavit, federal regulations also allowed MHBE to request an explanation and supporting documentation for any discrepancies.<sup>8</sup> MHBE is subject to MCPA's guidance on Medicaid eligibility determinations and therefore any changes to MHBE's procedures for zero income applicants would need MCPA approval. The MOU between MHBE and MCPA required MHBE to ensure compliance with federal and State laws for detection and prevention of fraud, waste and abuse by performing analytics and assessments, in consultation with MDH, to identify and mitigate potentially fraudulent activities.

### **Recommendation 1**

#### **We recommend that MHBE**

- a. in collaboration with MDH, modify the supporting documentation requirement for applicants who reported zero income when BEACON reported income that exceeded the Medicaid eligibility threshold, so that eligibility will only be granted if the applicant provides an explanation and supporting documentation for any discrepancies;**
- b. investigate all instances when applicant's affidavits conflict with BEACON data, including those noted above; and**
- c. refer instances of potential fraud, waste, and abuse, including those identified above, to the Office of Inspector General for Health.**

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<sup>8</sup> During the pandemic health emergency, MHBE was federally prohibited from disenrolling Medicaid recipients. As such, MHBE asserted that even if applicants improperly obtained eligibility, they could not be disenrolled. We question whether this prohibition would apply to cases of potential fraud and MHBE was unable to provide documentation to support that it would be prohibited from disenrolling applicants who fraudulently applied. Moreover, a related federal regulation (42 CFR 435.940) states that, "nothing in this regulation should be construed as limiting the State's program integrity measures or affecting the State's obligation to ensure that only eligible individuals receive benefits."



**Finding 2**

**MHBE did not ensure it used the most current income data in its verification process resulting in inaccurate enrollment determinations for Medicaid applicants.**

**Analysis**

MHBE did not ensure that it used the most current income data to verify income reported by Medicaid applicants. Under an MOU with MDL, MHBE sends applicant data to MDL to match against State wage records. The MOU provides that, in accordance with federal regulations, MDL is to use the most current wage data for the verification. Our review disclosed that MHBE did not ensure its system consistently used the most current available data from MDL.

We tested 30 Medicaid enrollees<sup>9</sup> who submitted an application during our audit period that had income verified against State wage records. Our test identified 10 enrollees for which MHBE's verification used income data that was between one and three quarters older than the most current available income data as of the date of application. Our further review of these 10 enrollees disclosed that 2 would not have qualified for Medicaid if the most current available income data had been used because the income for the more recent quarter exceeded the Medicaid income eligibility threshold.

**Recommendation 2**

**We recommend that MHBE**

- a. establish procedures to ensure that the most recent income data is used to verify applicant reported income; and**
- b. identify all instances where non-current income data was used, and take the necessary corrective action for any applicants who were not eligible based on the current data.**

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<sup>9</sup> Our test included 12 items which were processed by MABS prior to its replacement with BEACON in October 2021. We selected from both initial applications as well as redetermination applications throughout our audit period. Our test was limited to only applications which were verified against State sources due to the scope limitation prohibiting our access to FTI.

**Finding 3 (Policy Issue)****MHBE continues to rely solely on State wage records to verify income of certain applicants even though it excluded many types of applicant income.****Analysis**

MHBE continues to rely solely on State wage records from BEACON<sup>10</sup> to verify the income of certain applicants even though it excluded many types of applicant income. As noted in our two prior audit reports, MHBE conducts income verifications using federal tax information (FTI) only if no State wage record was located on BEACON for the applicant. If the BEACON wage and unemployment compensation data matched the applicant attested income within certain tolerance levels, no additional verification was performed using FTI. If the BEACON wage and unemployment data exceeded the applicant attested income beyond the tolerable level, a manual review was performed, which also did not involve using FTI.

Using BEACON data exclusively for income verification purposes has inherent limitations that restrict its effectiveness. BEACON data does not include all types of income and, therefore, may not identify applicants who omit or underreport their income. While BEACON does include State unemployment compensation it does not include interest, dividend, alimony, and rental income that may be included in FTI – all of which must be considered for Medicaid eligibility. In addition, BEACON would not identify wages earned from certain employers exempt from reporting wages to the State (such as federal agencies and non-Maryland-based employers) and would not identify any net earnings from self-employment, all of which would be included in FTI.

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 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, 26 states and the District of Columbia utilize FTI data to verify income eligibility, while other states have elected to not use FTI. See Figure 3 on the following page.

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<sup>10</sup> Maryland Automated Benefits System (MABS) was used by the Maryland Department of Labor Division of unemployment Insurance for income and unemployment data prior to BEACON.



as indicated in its response and was unable to explain why the assessment was not done.

### **Recommendation 3**

**We recommend that MHBE in collaboration with MCPA conduct a study using FTI data in addition to BEACON to assess the significance and usefulness of formally incorporating that data into its verification methodology (repeat).**

#### **Finding 4**

**MHBE did not always ensure that manual overrides of applicant eligibility were independently reviewed and approved.**

#### **Analysis**

MHBE did not always ensure that manual overrides of applicant eligibility were independently reviewed and approved. During the period September 2022 through August 2023 there were 3,976 manual overrides (1,906 processed by MHBE and its contractor, 2,009 by MDH, and 61 by DHS employees).

#### Reviews of Manual Overrides Were Not Comprehensive and Independent

MHBE did not review 675 of the 1,906 overrides (35 percent) processed by MHBE employees or its contractor during the period of September 2022 and August 2023 due in part to errors in the output reports used for the review. In addition, beginning in July 2022, the MHBE employee responsible for the review and approval of MHBE employees and contractors' overrides could also process overrides. We reviewed override reports for September 2022 through August 2023 and there were no instances of the employee reviewing their own overrides. Once we brought this lack of independence to MHBE's attention, MHBE removed the employee's ability to perform overrides.

A similar condition regarding the lack of independent reviews for manual overrides was commented upon in our preceding audit report. In its response, MHBE indicated that it would implement procedures to ensure that independent supervisory reviews would be performed by December 31, 2021. However, as noted above, MHBE did not implement the recommended procedures. MHBE management could not explain why the procedures were not implemented in accordance with its response to the prior report.

#### MHBE Did Not Ensure the Propriety of MDH and DHS Eligibility Overrides

MHBE did not have a process to ensure that overrides of applicant eligibility performed by MDH and DHS employees were independently reviewed and

approved. Due to the large percentage of overrides performed by MDH, we reached out to MDH management personnel who advised that it was not reviewing the overrides performed by its employees. At our request, MHBE reviewed 20 overrides performed by MDH and DHS employees and concluded that 16 overrides were improper. For example, an employee performed an override to add retroactive coverage when the applicant had not applied for retroactive coverage.

#### **Recommendation 4**

**We recommend that MHBE**

- a. ensure that all applicant eligibility overrides processed by MHBE employees and its contractors are independently reviewed and approved (repeat);**
- b. develop and implement procedures to ensure that eligibility overrides performed by MDH and DHS employees are independently reviewed and approved; and**
- c. take appropriate corrective action for any improper overrides, including those identified above.**

#### **MHBE Fund**

##### **Finding 5**

**MHBE did not adequately pursue the collection of \$649 million in insurance provider fees collected by the Maryland Insurance Administration (MIA) that should have been transferred to the MHBE Fund.**

##### **Analysis**

MHBE did not pursue the collection of \$649 million in insurance provider fees collected by MIA that should have been transferred to the MHBE Fund. State law provides that MIA was to collect insurance provider fees and deposit them in the MHBE Fund. The MHBE Fund was established in 2011 to help cover the expenses of MHBE's operation and administration. Legislation effective March 2018 expanded the use of the MHBE Fund to cover the costs of the State Reinsurance Program under which MHBE reimburses qualifying individual health insurers for a percentage of an enrollee's claims.

Our review disclosed that as of September 2023, MIA had not received \$649 million in provider fees from MIA that were collected between January 2019 through June 2023. MHBE submitted multiple requests to MIA between 2019 and 2021 to transfer the funds, but MIA did not comply with the request. MHBE stopped requesting the funds in 2021 after it received notice from DBM indicating

it would take care of the transfer, but DBM did not transfer the funds. In response to our inquiries in January 2024, MIA transferred \$641 million<sup>11</sup> to MHBE.

The failure to obtain the funds from MIA impacted MHBE's ability to timely transfer certain funds. Specifically, although MHBE was able to cover its operation and administration costs using other funding sources (such as, federal funds), it did not transfer \$15 million to the Health Equity Resource Community Reserve Fund (HERCRF) in fiscal year 2023 due to a lack of funds. These funds were to be used to support areas that demonstrate measurable and documented health disparities and poor health outcomes to facilitate reduction of health disparities, health costs, and hospital admissions. MHBE subsequently transferred the funds to HERCRF in January 2024.

### **Recommendation 5**

**We recommend that MHBE follow-up with MIA to ensure the timely transfer of fees collected on its behalf.**

## **Procurements**

### **Finding 6**

**MHBE did not always publish contract awards and document bid proposal openings.**

### **Analysis**

MHBE did not always publish contract awards and document bid proposal openings. According to State records, MHBE's procurements totaled \$249.8 million during our audit period. Our test of six of these procurements<sup>12</sup> totaling \$110.6 million, disclosed the following conditions:

- As of March 2024, MHBE had not published 2 of the 6 contracts totaling \$13.1 million that were awarded 8 to 30 months prior. For three other contracts tested totaling \$92.3 million, MHBE did not record the date of the publication and therefore, we could not readily determine when MHBE published those awards.
- MHBE procedures did not require documentation of the opening of vendor bid proposals. Our test disclosed that MHBE did not document the opening of

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<sup>11</sup> MIA withheld certain funds collected in accordance with State law, relating to funds that will be transferred to a different State agency for fiscal year 2024.

<sup>12</sup> Our selection of test items was based on the significance of vendor payments during the period March 9, 2020 through June 30, 2023.

the proposals for three of the six procurements totaling \$97 million. Specifically, MHBE did not document that two employees were present during the proposal openings, the date of the opening, and the specific proposals that were opened.

MHBE is exempt from a number of State laws and regulations, including State procurement laws and regulations. The MHBE Board established procurement policies and procedures governing MHBE's procurements which require contract awards to be published on its website but did not specify a time period (such as, within 30 days from date of the award). Publishing awards provides transparency over State procurements. MHBE procedures also require bids be opened in the presence of two employees and that the date and time opened be documented. However, the procedures do not include a similar requirement for the opening of bid proposals.

### **Recommendation 6**

**We recommend that MHBE**

- a. post its contract awards on its website as required by its policies,**
- b. enhance contract award posting policies to require the publication date on the website as well as a required posted period (e.g. within 30 days of award), and**
- c. establish procedures to document the opening of bid proposals.**

### **Information Systems Security and Control**

We determined that the Information Systems Security and Control section, including Findings 7 and 8 related to "cybersecurity," as defined by the State Finance and Procurement Article, Section 3.5-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available audit report in accordance with the State Government Article 2-1224(i). Consequently, the specifics of the following findings, including the analysis, related recommendations, along with MHBE's responses, have been redacted from this report copy.

#### **Finding 7**

**Redacted cybersecurity-related finding.**

#### **Finding 8**

**Redacted cybersecurity-related finding.**

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

We have conducted a fiscal compliance audit of the Maryland Health Benefit Exchange (MHBE), for the period beginning March 9, 2020 and ending June 30, 2023. 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 page 9, 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, State Reinsurance Program, federal fund reimbursements, the MHBE Fund, payroll, and information systems security and control. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain grant management support services provided to MHBE by the Maryland Department of Health (MDH). These support services (such as drawdowns of Medicaid federal funds including indirect cost allocations, reconciling of grant revenue and expenditures, and recording payment transactions in the State's accounting system) are included within the scope of our audit of the MDH – Office of the Secretary and Other Units. In addition, our audit did not include an evaluation of internal controls over compliance with federal laws and regulations for federal financial assistance programs and an assessment of MHBE's compliance with those laws and regulations 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 March 9, 2020 to June 30, 2023, 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, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us 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 revenue and 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 this source 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 selecting test items and performing data analytics. 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. As

provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to MHBE, were considered by us during the course of this audit.

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.

In addition, this report includes a finding which is identified as a "Policy Issue". Such findings represent significant operational or financial-related issues for which formal criteria may not necessarily exist, and for which management has significant discretion in addressing, but the recommendation represents prudent and or practical actions, which we believe should be implemented by the agency to improve outcomes. Other less significant findings were communicated to MHBE that did not warrant inclusion in this report.

State Government Article Section 2-1224(i) requires that we redact in a manner consistent with auditing best practices any cybersecurity findings before a report is made available to the public. This results in the issuance of two different versions of an audit report that contains cybersecurity findings – a redacted version for the public and an unredacted version for government officials responsible for acting on our audit recommendations.

The State Finance and Procurement Article, Section 3.5-301(b), states that cybersecurity is defined as "processes or capabilities wherein systems, communications, and information are protected and defended against damage, unauthorized use or modification, and exploitation." Based on that definition, and

in our professional judgment, we concluded that certain findings in this report fall under that definition. Consequently, for the publicly available audit report all specifics as to the nature of cybersecurity findings and required corrective actions have been redacted. We have determined that such aforementioned practices, and government auditing standards, support the redaction of this information from the public audit report. The specifics of these cybersecurity findings have been communicated to MHBE and those parties responsible for acting on our recommendations in an unredacted audit report.

MHBE's response to our findings and recommendations is included as an appendix to this report. Depending on the version of the audit report, responses to any cybersecurity findings may be redacted in accordance with State law. 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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[marylandhbe.com](http://marylandhbe.com)



Mr. Brian S. Tanen, CPA, CFE  
Legislative Auditor  
Office of Legislative Audits  
The Warehouse at Camden Yards  
351 West Camden Street, Suite 400  
Baltimore, MD 21201

January 17, 2025

Dear Mr. Tanen:

Enclosed please find responses and corrective actions with timeframes which address the final recommendations from OLA's finance performance audit of Maryland Health Benefit Exchange (MHBE) for period of March 9, 2020 through June 30, 2023.

MHBE's executive leadership team has promptly addressed the audit recommendations. In addition, MHBE's Director of Compliance and Privacy 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,

DocuSigned by:  
  
67E1079957524A6...  
Michele Eberle,  
Executive Director

Enclosure

Cc: Dr. Laura Herrera Scott, Chair, MHBE Board of Trustees  
Scott R. Brennan, Director of Compliance and Privacy, MHBE



# Maryland Health Benefit Exchange

## Agency Response Form

### Medicaid Eligibility

**Finding 1**

**MHBE did not request supporting documentation from applicants who reported having zero income when BEACON reflected the applicant had income that exceeded the Medicaid income qualification threshold.**

**We recommend that MHBE**

- a. in collaboration with MDH, modify the supporting documentation requirement for applicants who reported zero income when BEACON reported income that exceeded the Medicaid eligibility threshold, so that eligibility will only be granted if the applicant provides an explanation and supporting documentation for any discrepancies;**
- b. investigate all instances when applicant's affidavits conflict with BEACON data, including those noted above; and**
- c. refer instances of potential fraud, waste, and abuse, including those identified above, to the Office of Inspector General for Health.**

# Maryland Health Benefit Exchange

## Agency Response Form

Agency Response	
Analysis	Factually Accurate
Please provide additional comments as deemed necessary.	<p>MHBE agrees with the material facts established in OLA's finding. Regarding the decision to rely solely on an attestation of income, the Maryland Department of Health relies on 42 CFR 435.952, the reasonable compatibility rule, for its approach to the zero-dollar income attestation.</p> <p>42 CFR 435.952(c)(2), provides that "If information provided by or on behalf of an individual is not reasonably compatible with information obtained through an electronic data match, the agency must seek additional information from the individual, including, "including--(i) a <b>statement which reasonably explains the discrepancy</b>, or [emphasis added] (ii) other information (which may include documentation)."</p> <p>MHBE maintains that it is not required to request supporting documentation from applicants who reported having zero income. Furthermore, MHBE may rely solely on an affidavit of the applicant, explaining the discrepancy between any electronic record of income with their actual current income, without additional documentation. This practice conforms to the policies and procedures of the Maryland Department of Health (MDH), which are established directly from federal and state regulations governing Medicaid eligibility and enrollment criteria. Notably, MHBE is bound by MDH policies governing this particular requirement and does not have discretion to deviate from that guidance in the implementation of its business operation systems, which are effectuated through technical applications comprising HBX.</p> <p>During the eligibility determination process, as it is performed as a part of the application process, MDH, with approval from CMS, has elected not to stop the application at the point of a no-income declaration and require a Verification Checklist (VCL) to seek the explanation. Instead, Maryland allows the individual to choose from a list of explanations and accepts this as part of the initial application. The particular explanation choice selected is considered to be "a statement which reasonably explains the discrepancy" and, standing alone, comports with 42 CFR 435.952(c)(2), as provided above. Inserting a VCL would not change the nature of the explanation.</p> <p>In sum, the Maryland Department of Health interprets the federal regulation above as expressly permitting the state Medicaid agency to accept an explanation of a discrepancy between the electronic databases and the attested income. The process employed by MHBE is according to MDH guidance and established processes it is bound to follow, and</p>

# Maryland Health Benefit Exchange

## Agency Response Form

	<p>therefore takes exception to this finding on the basis of a difference in the interpretation of the requirements in the Code of Federal Regulations.</p> <p>Additionally, OLA's match disclosed 467 applicants for which BEACON reported income from the same employer in the quarter prior, during, and subsequent to the application raising questions about the validity of the affidavit. However, the Department of Health and Human Services, Centers for Medicare and Medicaid Services expressly prohibited termination of individuals from Medicaid during the Public Health Emergency, even if they no longer qualified. This policy was lifted with June 2023 Medicaid redetermination notices. As a result, all redeterminations that were included as a part of the 467 applicants cited by OLA, would have maintained eligibility regardless of the validity or accuracy of the no income attestation.</p> <p>MHBE agrees that the MOU between MHBE and MDH requires MHBE to ensure compliance with federal and state law for detection and prevention of fraud, waste, and abuse by performing analytics and assessments, in consultation with MDH, to identify and mitigate potentially fraudulent activities.</p>		
<b>Recommendation 1a</b>	Disagree	<b>Estimated Completion Date:</b>	N/A
<b>Please provide details of corrective action or explain disagreement.</b>	MHBE does not agree with the recommendation that it modify the supporting documentation requirement for applicants reporting zero income when BEACON reports income that exceeded the Medicaid eligibility threshold. Income verification (VCL) processing is a function of the MDH. Any modification to work performed by the MHBE on behalf of MDH would have to be at the direction of the MDH with appropriate MOU's and funding put in place to support the work. As stated in the MHBE's response above, it is our position and the position of MDH, that supporting documentation is not required in this instance.		

# Maryland Health Benefit Exchange

## Agency Response Form

<b>Recommendation 1b</b>	Disagree	<b>Estimated Completion Date:</b>	N/A
<b>Please provide details of corrective action or explain disagreement.</b>	MHBE employs a process flow that leads to allowable eligibility determinations when an applicant's affidavit conflicts with BEACON data. MHBE has established this process flow within the HBX system at the direction of MDH policy and maintains that the eligibility determinations that are conducted conform with both MDH policy and all applicable federal regulations, as cited in its response above.		

**Auditor's Comment:** Although MHBE acknowledges the accuracy of the Analysis in our finding, including its responsibility to perform analytics and assessments for the detection and prevention of fraud, waste, and abuse, it disagrees with Recommendation 1a and 1b. MHBE continues to believe that documentation is not required and the current policy conforms with MDH policy and all applicable federal regulations.

Given the results presented in our analysis we continue to believe that documentation should be required consistent with other discrepancies identified by MHBE. Given that MHBE's current practice has and could continue to result in benefits going to unqualified applicants, it should work with MDH to resolve any concerns precluding it from safeguarding State funds.

<b>Recommendation 1c</b>	Agree	<b>Estimated Completion Date:</b>	Ongoing
<b>Please provide details of corrective action or explain disagreement.</b>	As OLA recommends, MHBE will refer those cases identified above in OLA's finding to the Office of Inspector General for Health. MHBE will continue its practice of referring instances of potential fraud, waste, and abuse to OIG.		



# Maryland Health Benefit Exchange

## Agency Response Form

### **Finding 2**

**MHBE did not ensure it used the most current income data in its verification process resulting in inaccurate enrollment determinations for Medicaid applicants.**

**We recommend that MHBE**

- a. establish procedures to ensure that the most recent income data is used to verify applicant reported income; and**
- b. identify all instances where non-current income data was used, and take the necessary corrective action for any applicants who were not eligible based on the current data.**

# Maryland Health Benefit Exchange

## Agency Response Form

Agency Response			
<b>Analysis</b>	<b>Factually Accurate</b>		
<b>Please provide additional comments as deemed necessary.</b>	<p>MHBE is diligent about ensuring it has the proper wage and income data to appropriately determine eligibility and enrollment for Qualified Health Plans and Maryland Medicaid coverage. Accordingly, MHBE has entered into a Memorandum of Understanding with the Department of Labor (MDL) which governs the information MHBE requests, and the information MDL returns from the BEACON system for the purpose of income verification.</p> <p>After researching the BEACON related data in OLA's findings, MHBE found that it did not ensure that it used the most current income data from the Maryland Department of Labor (DOL).</p> <p>MHBE concurs with the finding in specific scenarios. In the instances where the failure to utilize the most current data occurred, MHBE identified a timing issue between the batch and real-time verification methods within the income verification process. Upon further scrutiny, MHBE did not find any indication that the income data received from the Department of Labor was not the most current data, but rather that the data MHBE relied upon was not always the most updated data available to it.</p> <p>Maryland Health Connection (MHC) uses the DOL's BEACON system to verify consumer income. Generally, if income cannot be obtained in real-time through a BEACON call, the HBX system defaults to using DOL's monthly bulk data for verification. However, in some limited scenarios, the monthly batch process handling verification checks does not recognize when the most recent income information has been obtained via a real-time call and income verification has been completed. This leads to redundant checks using potentially outdated bulk data, resulting in inconsistent enrollment determinations for Medicaid applicants in specific cases.</p>		
<b>Recommendation 2a</b>	Agree	<b>Estimated Completion Date:</b>	No later than Feb. 25, 2025
<b>Please provide details of corrective action or explain disagreement.</b>	To resolve the issue identified above, MHBE will modify the monthly batch verification process to correctly handle the timing between the real-time and batch verification methods. This modification will ensure that only the most up-to-date income data is used for eligibility determinations, thereby improving the accuracy of enrollment decisions for Medicaid applicants.		
<b>Recommendation 2b</b>	Disagree	<b>Estimated Completion Date:</b>	N/A

# Maryland Health Benefit Exchange

## Agency Response Form

<b>Please provide details of corrective action or explain disagreement.</b>	MHBE contends that the annual redeterminations process, as opposed to a retroactive manual identification process, will efficiently address this issue. Since these application discrepancies were identified by OLA, the most recent of which was from February 23, 2023, all affected consumers would have undergone at least one annual income redetermination. MHBE's examination of the 2 BEACON samples that were found to contain income discrepancies showed that for the first sample identified, the consumer was moved from Medicaid to a private insurance plan after reporting an income change subsequent to their initial 2023 application, and for the second sample identified, the consumer also reported an income change and attested via affidavit of current income, which resulted in the consumer maintaining their Medicaid coverage. Because the system fix described in the previous response, in combination with the annual redetermination process, cures the deficiencies identified, the recommended manual process is unnecessary.
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**Auditor's Comment:** MHBE disagrees with Recommendation 2b, asserting that it is unnecessary because MHBE is correcting the system error which caused the non-current data to be used and contends that the annual redetermination process will efficiently address this issue. However, as noted in MHBE's response to Recommendation 2a, the system error will not be corrected until (no later than) February 25, 2025. Therefore, any errors in determining eligibility that occurred during our audit period as a result of non-current data will not be addressed until the next redetermination after the system error is corrected. As such, we continue to believe that MHBE needs to identify all instances where non-current income data was used and take corrective action for those applicants who were not eligible based on current data.

# Maryland Health Benefit Exchange

## Agency Response Form

### Finding 3 (Policy Issue)

MHBE continues to rely solely on State wage records to verify income of certain applicants even though it excluded many types of applicant income.

We recommend that MHBE in collaboration with MCPA conduct a study using FTI data in addition to BEACON to assess the significance and usefulness of formally incorporating that data into its verification methodology (repeat).

Agency Response	
<b>Analysis</b>	<b>Factually Accurate</b>
<b>Please provide additional comments as deemed necessary.</b>	MHBE agrees that it continues to rely solely on financial information through State wage records (BEACON) (formerly MABS) to verify the income of certain applicants even though BEACON excluded many types of applicant income. However, in MHBE's response to OLA's May 2021 Audit Report, MHBE stated that "MHBE <i>will collaborate with</i> 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". There was not an agreement to conduct an assessment. The <i>collaboration</i> did occur, and it was concluded that FTI data was not useful as the data would always be 12-18 months old. In addition, MHBE explored using another electronic data source. After CMS informed MHBE that it would not pay for the service, and that the State would have to pay for it, it was deemed too costly to use given the expected outcome.

**Auditor's Comment:** MHBE asserts that there was no agreement to conduct an assessment. However, MHBE's response to OLA's May 2021 audit report clearly states, "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." MHBE also did not provide any documentation showing that CMS informed MHBE that it would not pay for another electronic data source and it was deemed too costly to use the service given the expected outcome. We continue to believe that MHBE should consider using FTI to help ensure that only qualified applicants are approved for benefits.

# Maryland Health Benefit Exchange

## Agency Response Form

<b>Recommendation 3</b>	Disagree	<b>Estimated Completion Date:</b>	N/A
<p><b>Please provide details of corrective action or explain disagreement.</b></p>	<p>MHBE is currently conducting Medicaid Income Verifications according to policy established by MDH, Maryland’s State Medicaid agency. The policy MDH enacted has been approved by CMS and meets all Federal requirements. Conducting a study on using FTI data, in addition to BEACON, to assess the significance and usefulness of formally incorporating that data into the verification methodology would be costly and create an administrative burden for MHBE and MDH. More importantly, should the study determine that the older FTI data showed different results than the more current BEACON data, the ultimate outcome would be the same, as the more current data would be used to approve eligibility, but the <u>impact to the consumer would be significant</u>. If an income verification was generated, the enrollment would be put on hold and manual intervention required by a caseworker. This would delay the consumers enrollment and not align with “CMSs Guidelines for Achieving Compliance with Medicaid and CHIP Eligibility Renewal Timeliness Requirements Following the Medicaid and CHIP Unwinding Period”.</p> <p>Finally, as the State is required to participate in the CMS Payment Error Rate Measurement (PERM) program annually, which specifically examines eligibility determinations, there are checks and balances in place to ensure proper eligibility determinations have been made based on income.</p> <p>MHBE refers OLA to our 2018 Audit Finding Response and 2021 Audit Finding Response for additional information.</p> <p>In its current finding, OLA highlights the fact that 26 states and the District of Columbia utilize FTI data to verify income eligibility, while other states have elected to not use FTI. In response, MHBE offers the same response and rationale for the current findings, as those found in its 2021 response as follows:</p> <p>“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</p>		

# Maryland Health Benefit Exchange

## Agency Response Form

	<p>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.”</p> <p>To conclude, MHBE does not believe an FTI study is advisable, due to the projected cost of such a study, the FTI-cleared resources required to complete such a study, and most importantly, the fact that whatever the results of the study may be, the above issues that prevent the adoption of FTI in Maryland would remain unchanged.</p>
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**Auditor's Comment:** MHBE disagreed with our recommendation that MHBE in collaboration with MCPA conduct a study using FTI data in addition to BEACON to assess the significance and usefulness of formally incorporating that data into its verification methodology. We question MHBE's statements for the reasons listed below:

First, MHBE noted that conducting a study on using FTI would be costly. However, MHBE could not provide documentation of the cost of the requested study.

Second, MHBE asserted that the addition of FTI would not change the eligibility determination process. However, MHBE could not provide documentation supporting this assertion.

Third, MHBE stated that the expanded use of FTI is unnecessary because MHBE participates in the CMS Payment Error Rate Measurement (PERM). However, the PERM does not necessarily make the use of FTI unnecessary. PERM is a program to quantify the amount of improper payments and implement plans to reduce improper payments and the use of FTI could reduce improper payments.

We continue to believe that MHBE should collaborate with MCPA and conduct a study using FTI data in addition to BEACON and document its results.

# Maryland Health Benefit Exchange

## Agency Response Form

### **Finding 4**

**MHBE did not always ensure that manual overrides of applicant eligibility were independently reviewed and approved.**

**We recommend that MHBE**

- a. ensure that all applicant eligibility overrides processed by MHBE employees and its contractors are independently reviewed and approved (repeat);**
- b. develop and implement procedures to ensure that eligibility overrides performed by MDH and DHS employees are independently reviewed and approved; and**
- c. take appropriate corrective action for any improper overrides, including those identified above.**

### **Agency Response**

**Analysis**

**Factually Accurate**

# Maryland Health Benefit Exchange

## Agency Response Form

<p><b>Please provide additional comments as deemed necessary.</b></p>	<p>MHBE did not review 704 of the 1,906 overrides processed by MHBE employees or its contractor during the period from September 2022 to August 2023, due to errors in the reporting criteria used in the technical reports that are relied upon for internal override reviews. Upon discovery of this error by OLA, MHBE immediately examined and remedied the parameters used to generate the report to ensure that all overrides would be appropriately captured in reports from February 2, 2024, forward.</p> <p>There was also one individual identified by OLA as having both override access as well as supervisory override access. Inadvertently, access to one of the override roles was not removed as it should have been in this case. This individual was not aware that he/she had the dual access and in fact, had previously and correctly requested that the access be removed. This individual was operating with the understanding that the appropriate access removal had been completed. As a result, and as OLA notes, there were no instances where this employee reviewed their overrides. Nevertheless, dual access was present, and this is in contravention of MHBE's policy.</p> <p>In OLA's previous audit report of May 2021, 23 individuals were identified as having override ability without independent review and approval. This was due to inadequate controls which were strengthened as part of MHBE's previous Corrective Action Plan. This was accomplished, in part, by the inclusion of such controls in the December 8, 2021, policy on Review of Eligibility Overrides. In the present case, and as explained above, only one individual was determined to have inappropriate access.</p> <p>MHBE did not have a process to ensure that overrides of applicant eligibility performed by employees at MDH and DHS were independently reviewed and approved. Upon review of a sample of MDH and DHS overrides, which were provided and performed by MDH, it was determined that 16 of the 20 overrides were improper. MHBE is committed to the integrity of overrides performed within the HBX system and has collaborated with MDH to develop and implement procedures to ensure that eligibility overrides performed by MDH and DHS employees are independently reviewed and that improper overrides are corrected. This corrective action is outlined below in Recommendation b below.</p>
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# Maryland Health Benefit Exchange

## Agency Response Form

<b>Recommendation 4a</b>	Agree	<b>Estimated Completion Date:</b>	June 30, 2025
<b>Please provide details of corrective action or explain disagreement.</b>	<p>Corrective Action is outlined as follows:</p> <p>A) The MHBE Reporting team, which is currently required by MHBE policy, “to pull cases from HBX where eligibility was changed from HBX generated eligibility to eligibility provided by action by an override worker,” will examine the report parameters and ensure accurate output each month for six months beginning with its September 20, 2024 report. <i>Projected Completion: March 31, 2025</i></p> <p>B) Supervisors who oversee the validity of overrides will not have override capability. Override access within the Health Benefit Exchange (HBX) will be reviewed by MHBE’s Director of Consumer Assistance, or designee, on a quarterly basis to ensure this is the case, with a written communication of the results to the Director of Compliance and Privacy. This commenced in September of 2024, and will be ongoing in nature, with the Policy on Review of Eligibility Overrides already updated to reflect this new quality control. <i>Projected Completion: Ongoing</i></p> <p>C) The Director of Compliance and Privacy, or designee will perform an annual internal review of the Consumer Assistance and Eligibility Department to ensure that override capability has been appropriately managed commensurate with the corrective action plan and updated policy requirements. <i>Projected Completion: June 30, 2025</i></p>		
<b>Recommendation 4b</b>	Agree	<b>Estimated Completion Date:</b>	Completed as of December 31, 2024
<b>Please provide details of corrective action or explain disagreement.</b>	<p>Corrective Action is outlined as follows:</p> <p>MHBE and MDH Management have discussed and agreed upon certain specific processes to ensure that eligibility overrides performed by MDH and DHS employees are independently reviewed and approved, and that improper overrides are corrected.</p> <p><b>MDH Actions:</b> <u>A) Access Controls</u> MDH has proposed, and MHBE agrees, that overrides performed by MDH and DHS would be performed by an individual at a team lead or supervisory level, with oversight over the overrides granted to a separate individual with appropriate subject matter expertise, and who does not have the ability to perform overrides himself.</p>		

# Maryland Health Benefit Exchange

## Agency Response Form

*Proposed Implementation Date: Implemented as of December 31, 2024*

### B) Written Procedure

MDH and MHBE agree that for MDH processes, MDH will draft a written, standardized operating procedure, which outlines requirements surrounding the review of overrides performed by MDH and DHS employees. This document should address access to overrides, review frequency and volume, authorization controls regarding performing and reviewing overrides, etc. Written guidelines will help ensure the quality and integrity of the override process.

*Proposed Implementation Date: Implemented as of December 31, 2024*

### C) Implementation of a Volume Based Quality Control/Override Review Paradigm

MDH and MHBE agree that a defined schedule for the number of overrides to be reviewed by MDH will serve as a good benchmark to ensure consistent reviews are taking place, to control the resource burden for override reviews, and to standardize the number of overrides requiring review. Currently, MHBE reviews 100% of internal overrides, but may consider a reduction to standardize the process with MDH, given that MHBE will be taking on a new workflow in reviewing a percentage of those overrides performed by MDH and DHS workers. The review table below has been proposed by MDH, is based on industry accepted standards for quality assurance, and will be included in the written, standardized operating procedure referenced in section B above. If the same schedule is practical for MHBE, it will be incorporated into the MHBE Policy on Review of Eligibility Overrides.

**Table 1.** Number of Records and Sample Percentage

Number of Records	Percentage Sampled
1-20	100%
21-200	20%
201-1000	10%
1001 - 2000	5%

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2001 +	1%
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*Proposed Implementation Date: Implemented as of December 31, 2024*

**MHBE Actions:**

MHBE proposes the implementation of the following procedures to ensure that eligibility overrides performed by MDH and DHS employees are independently reviewed and approved by both MDH and MHBE, and that improper overrides, including those identified in the analysis above, are corrected.

A) The MHBE reporting team will provide a monthly override report to designated contacts at MHBE, and MDH for MDH and DHS overrides.

B) A MDH designated individual, to be defined by title, will be responsible for pulling a monthly random sample of overrides and other designated individuals, in a separate department of MDH, will be responsible for performing the review of overrides for MDH and DHS, in accordance with the table above.

C) A MDH designated individual, to be defined by title, will securely email the completed random sample review to the MHBE Director of Compliance and Privacy, MHBE Director of Consumer Assistance, and the MHBE Special Projects Manager.

D) The MHBE Special Projects Manager, who does not and will not be granted override access, will be responsible for performing a 100% review of random sample size that has been reviewed by MDH for MDH and DHS overrides.

E) All findings, corrections, and the final reviews performed by the MHBE Special Project Manager will be sent, via secure email, to the MHBE Director of Compliance and Privacy and a MDH designated individual, to be defined by title.

F) MHBE Director of Compliance and Privacy will, on an ongoing basis connect with a MDH designated individual, to be defined by title, to ensure override reviews are being completed.

*Proposed Implementation Date: Implemented as of December 31, 2024*

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<b>Recommendation 4c</b>	Agree	<b>Estimated Completion Date:</b>	Completed as of December 31, 2024
<b>Please provide details of corrective action or explain disagreement.</b>	All overrides that OLA found to be improper were identified, examined, and corrected. At the direction of MHBE's Director of Consumer Assistance, the unreviewed overrides identified were reviewed in an expedited manner. As a matter of due diligence and quality assurance, MHBE reviews <b>all</b> overrides processed by MHBE employees and its contractor rather than just a statistically valid sample. As established in the above recommendation responses, MHBE now has a formal process with MDH and DHS for quality assurance checks based on the specifically defined sample size. When improper overrides are identified, they are corrected as part of the process established in recommendation section 4b.		

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### MHBE Fund

#### Finding 5

**MHBE did not adequately pursue the collection of \$649 million in insurance provider fees collected by the Maryland Insurance Administration (MIA) that should have been transferred to the MHBE Fund.**

**We recommend that MHBE follow-up with MIA to ensure the timely transfer of fees collected on its behalf.**

Agency Response			
Analysis	Factually Accurate		
<p><b>Please provide additional comments as deemed necessary.</b></p>	<p>The State Legislation governing the MHBE Fund was passed on April 10, 2018, and signed by the Governor on April 4, 2018 (Senate Bill 387, Health Insurance - Individual Market Stabilization [Maryland Health Care Access Act of 2018]), with the stated purpose summarized as follows:</p> <p>“Requiring certain insurers, nonprofit health service plans, health maintenance organizations, dental plan organizations, fraternal benefit organizations, managed care organizations, and certain other persons to be subject to a certain 2.75% assessment in calendar year 2019; establishing that the purpose of the assessment is to recoup a certain aggregate amount of the health insurance provider fee for certain purposes; requiring distribution of the assessment to the Maryland Health Benefit Exchange Fund; etc.”</p> <p>In January 2019, November 2019, August of 2020, and March of 2021 MHBE inquired about the transfer of the funds from the Maryland Insurance Administration (MIA). The Maryland Department of Budget and Management (DBM) instructed MHBE to keep the funds with MIA in a March 2021 email.</p> <p>MHBE relied upon this representation from the DBM in its decision to keep the funds with MIA. MHBE clarifies that the amount due to MHBE was \$641,013,402.87, as determined by MIA. MHBE relies on MIA to assess the fee and transfer it to MHBE. At all times during which MIA held these reinsurance funds, MHBE had access to them upon request.</p>		
<b>Recommendation 5</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Agree</td> <td style="width: 50%;"><b>Estimated Completion Date:</b> June 30, 2025</td> </tr> </table>	Agree	<b>Estimated Completion Date:</b> June 30, 2025
Agree	<b>Estimated Completion Date:</b> June 30, 2025		

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<p><b>Please provide details of corrective action or explain disagreement.</b></p>	<p>On January 17, 2024, MIA transferred \$641,013,402.87 to MHBE. At the end of each Fiscal Year the Chief Financial Officer, or designee will request the amount collected by MIA for the premium surcharge supported by appropriate detail. MHBE will request transfer of the amount collected by MIA and ensure its transfer to MHBE.</p> <p>The Director of Compliance and Privacy, or designee, will perform an annual internal review of the Finance and Procurement Department to ensure that MHBE has timely requested the transfer from MIA and that the amount is, in fact, transferred to MHBE as part of MHBE's corrective action plan.</p> <p><i>Projected Completion: June 30, 2025</i></p>
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# Maryland Health Benefit Exchange

## Agency Response Form

### Procurements

#### Finding 6

MHBE did not always publish contract awards and document bid proposal openings.

We recommend that MHBE

- a. post its contract awards on its website as required by its policies,
- b. enhance contract award posting policies to require the publication date on the website as well as a required posted period (e.g. within 30 days of award), and
- c. establish procedures to document the opening of bid proposals.

Agency Response			
<b>Analysis</b>	<b>Factually Accurate</b>		
<b>Please provide additional comments as deemed necessary.</b>	MHBE agrees with this finding and its corrective actions are detailed in the following recommendation sections.		
<b>Recommendation 6a</b>	Agree	<b>Estimated Completion Date:</b>	June 30, 2025
<b>Please provide details of corrective action or explain disagreement.</b>	<p>The Chief Financial Officer will work to update internal procedures to memorialize the written requirement that contract awards are posted to the website within 30 days, and the MHBE Procurement Manager will ensure that this is completed on an ongoing basis. <i>Implemented as of December 31, 2024</i></p> <p>The Director of Compliance and Privacy, or designee, will perform an annual internal review of the Finance and Procurement Department to ensure that the above requirements are met as part of MHBE's corrective action plan. <i>Projected Completion: June 30, 2025</i></p>		
<b>Recommendation 6b</b>	Agree	<b>Estimated Completion Date:</b>	June 30, 2025
<b>Please provide details of corrective action or explain disagreement.</b>	<p>MHBE will update its internal policies governing <b>contract awards to require the publication of awards on MHBE's website no later than 30 days after execution, along with the publication date.</b> <i>Projected Completion: June 30, 2025</i></p> <p>The Director of Compliance and Privacy, or designee, will perform an annual internal review of the Finance and Procurement Department to ensure that the above requirements are met as part of MHBE's corrective action plan. <i>Projected Completion: June 30, 2025</i></p>		

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<b>Recommendation 6c</b>	Agree	<b>Estimated Completion Date:</b>	Ongoing
<b>Please provide details of corrective action or explain disagreement.</b>	<p>MHBE will take the following steps as corrective action:</p> <p>A) The Chief Financial Officer, or designee, will ensure that the awards are posted and the opening of bids is documented.</p> <p>B) The Chief Financial Officer, or designee, currently reports new contracts on a monthly basis to the MHBE's Board of Trustees. After completion of the report, the report preparer will check to ensure that the awards are posted on the MHBE website and that the documentation for the opening of the bids is in the Procurement Folder. The CFO will ensure that the documentation of opening bids is completed properly and in every case.</p> <p><i>Projected Completion: Ongoing</i></p> <p>The Director of Compliance and Privacy, or designee, will perform an annual internal review of the Finance and Procurement Department to ensure that the above requirements are met as part of MHBE's corrective action plan.</p> <p><i>Projected Completion: June 30, 2025</i></p>		



# Maryland Health Benefit Exchange

## Agency Response Form

### Information Systems Security and Control

The Office of Legislative Audits (OLA) has determined that the Information Systems Security and Control section, including Findings 7 and 8 related to “cybersecurity,” as defined by the State Finance and Procurement Article, Section 3.5-301(b) of the Annotated Code of Maryland, and therefore are subject to redaction from the publicly available audit report in accordance with the State Government Article 2-1224(i). Although the specifics of the following findings, including the analysis, related recommendations, along with MHBE’s responses, have been redacted from this report copy, MHBE’s responses indicated agreement with the findings and related recommendations.

#### **Finding 7**

**Redacted cybersecurity-related finding.**

**Agency Response has been redacted by OLA.**

#### **Finding 8**

**Redacted cybersecurity-related finding.**

**Agency Response has been redacted by OLA.**

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