

**NEW JERSEY STATE BASED HEALTH EXCHANGE**

(A Component Unit of the New Jersey Department of Banking and Insurance)

PERFORMANCE AUDIT

June 30, 2020

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September 28, 2021

Ms. Devon Trolley  
Director  
New Jersey State Based Health Exchange  
New Jersey Department of Banking and Insurance  
20 West State Street  
Trenton, NJ 08625

Dear Ms. Trolley,

This report presents the results of our work performed to address the performance audit objectives relative to the New Jersey State Based Health Exchange's (the "Exchange" or "SBE") compliance with the Centers for Medicare and Medicaid Services ("CMS") 45 C.F.R. § 155 subpart C and subpart K requirements. Our work was performed for the period November 1, 2019 to June 30, 2020.

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

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

*Mercadien, P.C.*  
*Certified Public Accountants*

September 28, 2021

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### **BACKGROUND**

The Patient Protection and Affordable Care Act (“PPACA”) and the Health Care and Education Reconciliation Act of 2010 (together referred to as the Affordable Care Act or “ACA”) were signed by President Obama in March 2010. Section 1311(b) of the ACA requires each state to establish health insurance exchanges. Since the inception of the PPACA, New Jersey has utilized the Federally Facilitated Exchange (“FFE”), or Marketplace, which provides a platform for consumers to shop for and enroll in coverage.

In June 2019, Governor Phil Murphy signed legislation (P.L. 2019 c. 141) to establish a state-based health exchange for the State of New Jersey. The state-based exchange was established, and is operated by, the New Jersey Department of Banking and Insurance (“NJ DOBI” or “Department”) and is a division of the department. The purpose of the SBE is to provide a centralized location where individuals and small businesses can anonymously shop for a health insurance plan, entering the platform by way of a landing page, creating an account, receiving an assessment or determination of eligibility for any applicable financial assistance, appropriate referral to the State Medicaid agency, and selection of a health insurance plan, as appropriate. For the 2020 plan year the Exchange operated as a state-based health exchange on the federal platform. Going forward in 2021 and beyond the Exchange will operate as a state-based exchange.

The Exchange’s operations began on November 1, 2019, when the Exchange began conducting outreach and advertising as a state-based exchange on the federal platform. The Exchange’s operating activity and initial startup was funded solely by the State of New Jersey Treasury appropriations. This included expenditures related to design, development and implementation, including outreach and advertising activities designed to attract new enrollees. The Exchange amounts appropriated by the state were to be reimbursed to the Treasury when the Exchange was able to begin collecting revenues from participating insurance carriers.

The exchange is a division within NJ DOBI. Department personnel perform various Exchange operations including business administration, carrier and plan management and oversight, finance, legal, public policy and outreach, reporting and customer support. In addition to NJ DOBI personnel, the Exchange utilizes various third-party vendors to assist in these operations and the critical services of the Exchange. Some of the key vendors utilized are those that operate as Navigators. Navigators support the Exchange by facilitating the outreach and enrollment in health and dental coverages and the purchase and sale of Qualified Health Plans (“QHP”) in the individual insurance market in the State of New Jersey. Navigators are individuals or entities that are trained and able to help consumers, small businesses and their employees, including completing eligibility and enrollment forms, as they look for health coverage options through the Marketplace. Only those individuals or entities that meet the criteria of 45 C.F.R. § 155.210 and apply for and are awarded funding through the New Jersey State Navigator Grant program are authorized to operate as Navigators in the State of New Jersey for each plan year.

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### AUDIT OBJECTIVES

The objective of our audit was to conduct a performance audit in accordance with 45 C.F.R. and *Government Auditing Standards* to assess the Exchange's compliance with 45 C.F.R. § 155 subpart C and subpart K regulations for the period November 1, 2019 to June 30, 2020.

We are responsible for preparing a written report communicating the results of the audit, including relevant findings and recommendations for noncompliance noted, if any. These results should include deficiencies in internal controls that are significant within the context of the audit objectives, any identified instances of fraud or potential illegal acts, unless determined to be inconsequential within the context of the audit objectives, and significant abuse that was identified as a result of our audit procedures. In accordance with *Government Auditing Standards*, we are also required in certain circumstances to report fraud, illegal acts, and violations of provisions of contracts or grant agreements, or abuse that we may detect as a result of this engagement, directly to parties outside of the Exchange.

### AUDIT SCOPE

We were engaged to assess the Exchange's compliance with 45 C.F.R. § 155 subpart C and subpart K regulations for the period November 1, 2019 to June 30, 2020. Our procedures were limited to the following areas:

	Audit Areas		Procedures	Documentation
Subpart	Section	Topic		
C	155.205	Consumer assistance tools and programs of an Exchange.	- Interview key staff and members of management regarding policies, procedures and controls for each applicable audit area.	- Policies and procedures Documents on Exchange functions including standard forms utilized by the Exchange.
C	155.210	Navigator program standards.		
C	155.225	Certified application counselors.		
K	155.1000	Certification standards for QHPs.		
K	155.1010	Certification process for QHPs.		
K	155.1020	QHP issuer rate and benefit information.	- Review process and control documentation for each applicable audit area.	- Navigator applications, grant agreements and attachments, progress reports and budgets.
K	155.1030	QHP certification standards related to advance payments of the premium tax credit and cost-sharing reductions.		
K	155.1040	Transparency in coverage.	- Conduct walkthroughs of key process controls.	- Certified Application Counselor Designated Org Applications.
K	155.1045	Accreditation timeline.		
K	155.1050	Establishment of Exchange network adequacy standards.	- Select samples to evaluate the design and effectiveness of key process controls and to test compliance of each audit area.	- Carrier QHP application and related documentation as well as Exchange website review.
K	155.1055	Service area of a QHP.		
K	155.1065	Stand-alone dental plans.		
K	155.1075	Recertification of QHPs.		
K	155.1080	Decertification of QHPs.		
K	155.1090	Request for reconsideration.		

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### AUDIT METHODOLOGY

In order to effectively determine compliance with specified elements of 45 C.F.R. § 155 subpart C and subpart K, testing was performed in accordance with *Generally Accepted Government Auditing Standards* (“GAGAS”). We gathered information from a variety of sources using various methodologies, including those listed below.

- **Performance Audit Standards**

In the execution of the performance audit, we performed the engagement in accordance with *Generally Accepted Government Auditing Standards* issued by the Comptroller General of the United States of America. Those 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. Accordingly, we performed testing of records and source documentation as well as other auditing procedures determined necessary in the circumstances. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

- **Interviews with Key Staff**

A formal project kickoff meeting was held with NJ DOBI staff who operate and perform key functions of the Exchange at the outset of the engagement. The project kickoff meeting was conducted to confirm the understanding of the audit scope and objectives. In addition to the kickoff meeting, interviews with key staff were conducted to understand the Exchange’s programmatic operations and oversight related to 45 C.F.R. § 155 subpart C and subpart K. This understanding was critical to properly plan our audit procedures and determine the essential processes, controls and supporting documentation required to achieve the audit objectives.

- **Walkthroughs**

To corroborate our understanding of the Exchange’s operations and to substantiate the conclusions reached from initial inquiries performed, we “walked-through” specific operations and processes of the Department. The walkthrough procedures included additional corroborative inquiries of key staff and inspection of critical source documents, forms and systems of the Exchange.

- **Internal Controls**

We obtained an understanding of the design, operation and effectiveness of internal controls where significant within the context of the compliance objectives. During our preliminary assessment of the five components of internal controls (control environment, risk assessment, control activities, information and communication, monitoring), we determined that each component was relevant to the audit objectives of assessing the Exchange’s compliance with the specified provisions of 45 C.F.R. § 155, both in their daily activities and overall operations, and services performed. As it relates to 45 C.F.R. § 155 subpart C and subpart K requirements, the Exchange is responsible for establishing an adequate control environment, performing risk

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#### AUDIT METHODOLOGY (CONTINUED)

- **Internal Controls (Continued)**

assessments and assessing fraud risk, developing control activities through formal policies and procedures, providing and communicating information internally and externally, and continuously monitoring their compliance with those requirements. We documented our understanding of the design of internal controls obtained through inspection of policies and procedures, and inquiries with NJ DOBI staff who manage and perform key functions of the Exchange. We then identified the key controls that have an impact on compliance. These key controls were then tested as well as the compliance testing procedures. As a result of these procedures, we concluded whether the Department has adequate controls in place that are designed and operating effectively to determine compliance with policies and procedures.

- **Requirements Tested**

The elements tested during our audit correspond directly to the requirements established by 45 C.F.R. § 155.1200 subpart C and subpart K under the Affordable Care Act as outlined in our engagement letter dated July 28, 2021. A summary of the areas and compliance elements tested included:

- **General Functions of the Exchange:** Testing to determine if the Department implemented adequate procedures to establish and properly monitor consumer assistance tools, Navigator program standards, and certified application counselors. Specific elements of subpart C tested included 155.205, 155.210 and 155.225.
- **General Functions of Qualified Health Plans (QHP):** Testing to determine if the Department implemented adequate procedures to establish and properly monitor QHP standards, QHP processes, QHP rate and benefit structures, and applicable certification and decertification procedures if applicable for 2020 operations. The entirety of subpart K (155.1000 to 155.1090) was subject to testing, though certain elements were determined to not be applicable for testing for the 2020 year.

- **Sampling**

Due to the nature of the compliance requirements tested and the availability of supporting source documentation, we determined that precision testing of the following was more efficient and effective:

- Population of navigator entities and related reports
- Population of certified application counselors and related reports
- Population of insurance carriers and their 2020 QHPs and rates

- **Reporting**

Upon completion of our audit procedures we reviewed any noncompliance identified, if any, with the Exchange staff and noted any reportable matters in the findings and recommendations section below.

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### **PROCEDURES PERFORMED**

We reviewed the requirements of 45 C.F.R. § 155.1200 subpart C and subpart K to identify audit objectives relevant to the Exchange's functions. We performed this engagement in accordance with GAGAS and developed audit procedures in accordance with GAGAS and Mercadien audit methodologies.

- **Interviews**

As part of our procedures, we interviewed four individuals responsible for the various departments or programmatic functions of the Exchange. The result of the interviews was that the staff provided a clear understanding of their and their staffs' job responsibilities, day-to-day functions, and policies and procedures that ensure compliance with applicable requirements and standards. Additionally, key documentation and systems that would illustrate or support the statements received during our inquiries were identified by staff and provided.

- **Walkthroughs and Observations**

Subsequently, we completed walkthroughs of controls and understanding obtained during our initial inquiries. The walkthroughs involved additional follow-up interviews with the four individuals to corroborate understanding previously received, inspection of the supporting documentation that illustrated the controls and procedures detailed, and observation and inspection of the QHP systems utilized by staff for the plan and rate determinations. From the interviews and walkthroughs it was determined that sufficient controls and procedures appeared to be in place to maintain compliance with the applicable general functions of the Exchange and QHPs and limited risk of noncompliance existed for the period under audit.

- **Document Inspection**

Upon completion of the walkthroughs we performed an assessment of the applicable supporting documentation. The supporting documentation inspected included standard Department forms and attestation documents used for the application and determination of Navigator and certified application counselor entities, completed entity applications, budgets, contracts, certifications, and attestations from the November 1, 2019 to June 30, 2020 year, Navigator monthly reporting, and completed insurance carrier health and dental plan and rate documents that were remitted to the Exchange for review against federal and state regulations for approval. We noted five approved Navigator entities, 22 certified application counselor designated organizations ("CDOs"), and four unique insurance carriers that uploaded medical plan documentation to the SERFF system for managing plans and rates. Two of those carriers also uploaded dental plans and three of the carriers were on exchange and one was off exchange. Five additional insurance carriers also uploaded dental plan documentation to the SERFF system for managing plans and rates. In examining each entity and the related supporting documentation, we noted that the documentation supported compliance with the applicable standards as well as Exchange management and monitoring of the entities for the period November 1, 2019 to June 30, 2020.



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**FINDINGS AND RECOMMENDATIONS**

None reported.