



# **Secretary of State Oregon Audits Division**

## **Oregon Health Insurance Marketplace Fiscal Year 2018 Compliance**

November 2018  
**2018-36**

Secretary of State Dennis Richardson  
Audits Division Director Kip Memmott

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# Introduction

## Background

In March 2015, Senate Bill 1 designated the Department of Consumer and Business Services to operate Oregon's health insurance exchange — an online marketplace that enables individuals and employers to shop, compare plans, and access financial assistance to help pay for insurance coverage.

The Oregon Health Insurance Marketplace (OHIM) is one of only five state-based exchanges that uses the federal marketplace platform for eligibility and enrollment (referred to as a SBE-FP). Complying with the Code of Federal Regulations (CFR) is important to ensure state health exchanges are functioning to allow eligible citizens to enroll in qualified health plans. Under the terms of the SBE-FP agreement, OHIM is responsible for educating consumers, working with agents and community partners providing consumer assistance, certifying qualified health plans, and maintaining the integrity of data and the security of personal information.

## Audit Objectives, Scope, and Methodology

### *Objectives*

The objectives of this audit were to conduct the following for the fiscal year ended June 30, 2018:

- Verify OHIM's compliance with programmatic requirements set forth by 45 CFR part 155;
- Report on compliance as directed by the Centers for Medicare & Medicaid Services (CMS); and
- Fulfill the requirements of a performance audit as directed in Oregon Revised Statute 741.220.

### *Scope*

We performed this audit of the state fiscal year ended June 30, 2018, in accordance with the requirements of 45 CFR part 155 as directed by CMS and clarified by the SBE-FP agreement. Because Oregon utilizes the federal platform for enrollment and eligibility, our scope was limited to verifying compliance with those sections of 45 CFR part 155 applicable to the structure of OHIM as a SBE-FP as follows:

#### Subpart C — General Functions of an Exchange

- .205 Consumer assistance tools and programs of an Exchange
- .210 Navigator program standards
- .220 Ability of States to permit agents and brokers to assist qualified individuals, qualified employers, or qualified employees enrolling in Qualified Health Plans (QHPs)
- .225 Certified application counselors
- .260 Privacy and security of personally identifiable information

#### Subpart K — Exchange Functions: Certification of QHPs

- .1000 Certification standards for QHPs

- .1010 Certification process for QHPs
- .1020 QHP issuer rate and benefit information
- .1030 QHP certification standards related to advance payments of the premium tax credit and cost-sharing reductions
- .1040 Transparency in coverage
- .1045 Accreditation timeline
- .1050 Establishment of Exchange network adequacy standards
- .1055 Service area of a QHP
- .1065 Stand-alone dental plans
- .1075 Recertification of QHPs
- .1080 Decertification of QHPs

### ***Methodology***

We performed our audit of OHIM's performance by comparing actual operations, practices, and results against the stated requirements of 45 CFR part 155, subparts C and K, and the federal platform agreement with CMS, identifying the specific exchange functions for which Oregon is responsible. We interviewed OHIM personnel and reviewed customer and community partner resources on OHIM's website. We performed a review and analysis of OHIM documentation including contracts, agreements, and policies and procedures applicable to the compliance objectives.

We conducted this 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 conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Auditors from our office, not involved with the audit, reviewed our report for accuracy, checking facts and conclusions against our supporting evidence.

# Annual Results

Based on the results of our review, during the fiscal year ended June 30, 2018, OHIM complied with the following requirements applicable to SBE-FPs under 45 CFR part 155, subparts C and K, except as noted.

## General Functions of an Exchange (Subpart C)

### ***Consumer Assistance Programs***

**Criteria:** OHIM is required, under 45 CFR part 155.205, to establish a toll-free telephone hotline, an up-to-date website, accessibility for individuals with disabilities and those with limited English proficiency, consumer assistance performed by trained assisters, and outreach and education.

**Methodology:** We reviewed information posted on OHIM's website, the operation of the toll-free telephone hotline, accessibility, training of assisters, and outreach and educational activities.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.

### ***Navigator Program***

**Criteria:** OHIM is required, under 45 CFR part 155.210(a), to establish a navigator program through which it awards grants to eligible entities or individuals. OHIM has established community partner and agent partner programs that provide grants to nonprofit organizations and insurance agencies to provide education, outreach, enrollment, and marketing activities. As a SBE-FP, OHIM must ensure that navigators and partners complete required training and comply with rules of conduct and applicable statutory and regulatory requirements, including consumer assistance, outreach and education, and privacy and security requirements.

**Methodology:** We reviewed grant agreements and partner contracts to ensure they included required training for key personnel and required privacy and security of personally identifiable and health information. Grantees and partners provide metric reports to OHIM on the outcome of outreach, education, and enrollment activities. We reviewed a selection of these metric reports to ensure they verified participation in these activities.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.

### ***Agents and Brokers***

**Criteria:** Agents and brokers who assist with enrollment in QHPs must obtain training and register with the federal exchange in advance of providing assistance with enrollment. In accordance with 45 CFR part 155.220, OHIM must limit information provided on its website to include only licensed agents and brokers who have completed training and are registered with CMS.

**Methodology:** We reviewed a sample of 40 agents and brokers listed on OHIM’s “Find Local Help” website for compliance with training and registration requirements. We found one agent that did not take the required training and register for the 2018 plan year, yet was listed on OHIM website.

**Conclusion:** Based on our review, OHIM did not fully comply with this requirement during the audit period.

OHIM receives a list of registered agents from CMS on an annual basis. The list is compared to names on the “Find Local Help” portion of the OHIM website to ensure all are appropriately trained and registered. In one instance, an agent was trained and registered to participate in the 2015, 2016, and 2017 plan years, but their registration expired on October 31, 2017. Although not renewed for the 2018 plan year, the individual remained listed on the website until October 2018, when we notified the agency. Upon notification, OHIM promptly removed the individual’s name. We reported a similar finding last year (report no. 2018-04<sup>1</sup>).

**We recommend** management ensure OHIM staff continue to follow the procedures established, and consider performing the review more frequently than annually, as appropriate. This will help ensure OHIM promptly removes agents who are not registered for the current plan year from the website listing.

The agency’s response is at the end of this report.

### ***Certified Application Counselor Program***

**Criteria:** OHIM must have a certified application counselor (CAC) program that complies with 45 CFR part 155.225, and may designate an organization to ensure staff members and volunteers are certified to act as CACs. OHIM has designated the Oregon Department of Human Services (DHS) to assist with administering the community partner program and overseeing CACs.

Under this program, volunteers and staff at local nonprofits or other organizations provide assistance with enrollment. These individuals must complete the required training and certification to perform this function.

**Methodology:** We reviewed the contract executed between OHIM and DHS for inclusion of federal requirements to train and certify the volunteers and staff of community partners as CACs before providing assistance with QHP applications.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.

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<sup>1</sup> Report Number 2018-04: “Oregon Health Insurance Marketplace: Fiscal Year 2017 Compliance Audit”, January 2018, p. 5, <https://sos.oregon.gov/audits/documents/2018-04.pdf>



## ***Privacy and Security Safeguards***

**Criteria:** OHIM must establish and implement privacy and security standards and safeguards for personally identifiable information (PII) that are consistent with the principles listed in 45 CFR part 155.260.

**Methodology:** We reviewed the types of PII OHIM receives, reviewed OHIM policies and procedures, data sharing agreements with partner agencies and CMS, contract agreements, and agency-wide security measures put in place to safeguard unauthorized access to PII.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.

## **Exchange Functions: Certification of Qualified Health Plans (Subpart K)**

### ***Certification, Recertification, and Decertification of Qualified Health Plans***

**Criteria:** OHIM must establish procedures to certify, recertify, and decertify QHPs consistent with 45 CFR part 155.1000-.1080. OHIM must certify the plans prior to the beginning of open enrollment. If a carrier is no longer in compliance with exchange participation requirements, OHIM may decertify a carrier's plans.

**Methodology:** We reviewed OHIM's procedures for certifying, recertifying, and decertifying QHPs and insurance carriers. We reviewed the filings of the five carriers offering plans in OHIM for plan year 2018 to verify the carrier's plans were certified prior to open enrollment, and the carrier was licensed to sell insurance in Oregon. No plans were decertified for plan year 2018.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.

### ***QHP Issuer Justification for Rate Increases***

**Criteria:** OHIM must ensure that QHP issuers submit justification for rate increases in accordance with 45 CFR part 155.1020 prior to increasing rates. OHIM must review and approve the rate increase and provide access to the justification on its website.

**Methodology:** We reviewed rate increase justifications submitted by the five QHP carriers in OHIM to ensure OHIM reviewed the increases and made the justifications available on their website as required.

**Conclusion:** Based on our review, OHIM complied with this requirement during the audit period.



# Oregon

Kate Brown, Governor

## Department of Consumer and Business Services Oregon Health Insurance Marketplace

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November 13, 2018

Kip Memmott, Director  
Secretary of State, Audits Division  
255 Capitol St. NE, Suite 500  
Salem, OR 97310

Dear Mr. Memmott,

This letter provides a written response to the Audits Division's final draft audit report titled "Oregon Health Insurance Marketplace: Fiscal Year 2018 Compliance Audit".

The Department of Consumer and Business Services (DCBS) appreciates the opportunity to respond to the Secretary of State's audit of DCBS' Oregon Health Insurance Marketplace program. We appreciate the professionalism and responsiveness of the Secretary of State's team. DCBS generally agrees with the report's recommendations. Please see below for specific recommendations and our discussion of the corrective action.

Below is our detailed response to each recommendation in the audit.

### RECOMMENDATION 1

**We recommend** management ensure OHIM staff continue to follow the procedures established, and consider performing the review more frequently than annually, as appropriate. This will help ensure OHIM promptly removes agents who are not registered for the current plan year from the website listing.

Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 6 months)	Name and phone number of specific point of contact for implementation
Agree	Complete. Please see narrative below.	Micheil Wallace 503-315-9112

### Narrative for Recommendation 1

Agency agrees and will revise established procedures to reflect more frequent updates to the "Find Local Help" portion of the website. Name was removed from listing as soon as the Oregon Health Insurance Marketplace (OHIM) team was informed.



Aside from this erroneous listing, the division has re-verified that all the insurance agents are current licensees in good standing. The division will continue to monitor the list on a regular basis and will make sure to only include current licensees listed in the Federal data set provided.

Sincerely,



Chiqui Flowers  
Administrator  
Oregon Health Insurance Marketplace  
Department of Consumer and Business Services

cc: Cameron Smith, Director  
Nancy Boysen, Deputy Director  
Jason Robinson, Internal Auditor  
Micheil Wallace, OHIM Agent and Small Business Liaison  
Michael Morter, OHIM Agent and Small Business Liaison



## Audit Team

Mary Wenger, CPA, Deputy Director

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## About the Secretary of State Audits Division

The Oregon Constitution provides that the Secretary of State shall be, by virtue of his office, Auditor of Public Accounts. The Audits Division performs this duty. The division reports to the elected Secretary of State and is independent of other agencies within the Executive, Legislative, and Judicial branches of Oregon government. The division has constitutional authority to audit all state officers, agencies, boards and commissions as well as administer municipal audit law.

We sincerely appreciate the courtesies and cooperation extended by officials and employees of the Department of Consumer and Business Services, specifically those of the Oregon Health Insurance Marketplace, Central Services Division, and Division of Financial Regulation, during the course of this audit.

This report is intended to promote the best possible management of public resources.  
Copies may be obtained from:

### Oregon Audits Division

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