

WHISTLEBLOWERS EXPOSE THE MASSACHUSETTS CONNECTOR

A BEHIND-THE-SCENES ACCOUNT OF WHAT WENT WRONG

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INTRODUCTION

The rollout of the Massachusetts Health Insurance Exchange website on October 1, 2013 was disastrous. The fallout holds a price tag of an estimated \$1 billion and climbing as roughly 320,000 are removed from MassHealth (Medicaid) whom previously had not undergone any eligibility determination.¹ The Commonwealth Connector Authority chose the same contractor that worked on the federal exchange, CGI Corp. (CGI), and it's clear that significant deficiencies plagued the quality of work and delivery of software for both clients. While many of the troubles at the federal exchange were resolved in a matter of a few months, Massachusetts still lacks a fully functioning website.

The Massachusetts Health Insurance Exchange/Integrated Eligibility System (HIX/IES) project troubles were exacerbated by mistakes made by Commonwealth officials, including those at the Commonwealth Connector Authority (CCA) and MassHealth, but led by University of Massachusetts Medical School contractors hired to run the project. Through the review of independent internal audits and testimony from whistleblowers, Pioneer Institute has learned:

- The Commonwealth failed to execute a contract with CGI that would ensure on-time delivery of a project with the required scope;
- The Commonwealth's shortcomings in executing the HIX/IES project were numerous and varied;
- The Commonwealth failed to commit sufficient resources to the project, and to demand that CGI commit the additional resources necessary to complete the job on time and at an acceptable level of quality;
- Commonwealth project leaders repeatedly failed to hold CGI accountable for shoddy work and for missing required deadlines;
- The Commonwealth failed to put in place a governance structure that would ensure ongoing quality of the project;

- The Commonwealth exerted insufficient leadership, which led to glaring communications lapses both among Commonwealth stakeholders and between the Commonwealth and CGI, putting the viability of the project in jeopardy;
- Finally, the Commonwealth appears to have endeavored to conceal these shortcomings by misrepresenting the progress of the HIX/IES to a number of stakeholders including the Centers for Medicare and Medicaid Services (CMS); the Health Connector Board of Directors, the media and the public.

Although the state knew as early as September 2012 that the project was behind schedule and off track, the UMass Medical team chose to conceal CGI's deficiencies rather than remedy them. The Commonwealth misrepresented the project's progress, both in a March 2013 connectivity test with the Federal Data Services Hub, and in a May 2013 presentation to CMS, which was designed to be a broad discussion of the Commonwealth's progress towards meeting the October 1, 2013 launch date.

Connector Board members were not apprised of the website's lack of readiness until after the launch date. Meanwhile the media and public were bombarded with positive messages urging Massachusetts residents to seek coverage when HIX leaders knew many of those efforts would fail.

In the aftermath of the failed health insurance exchange launch, the Commonwealth pointed at CGI and its failure to deliver the product it was contractually responsible to complete as the source of the problem. But the Commonwealth greatly minimized its own mismanagement, which tolerated sub-standard work and allowed CGI to miss deadline after deadline in the run up to the launch.

This report is based on over 10 hours of direct testimony of whistleblowers who worked directly on the HIX/IES project, and corroborated by the review of hundreds of pages of independent

audits completed by BerryDunn, a third-party independent validation and verification contractor. These weekly and monthly audits covered the time-period of October 2012 through October 2013 and can be accessed through the links below:¹

PHASE I

Early, Early Signs of Trouble

September 2012–December 2012

It was in September 2012 that the HIX/IES project really got rolling. University of Massachusetts Medical School contractor Janice Baker had been appointed project manager a year earlier, but it was fall 2012 when many of the other key personnel were brought in and significant work began.

Early players included Dr. Jay Himmelstein who served as the principal investigator for the federal grant establishing the New England States Collaborative for Insurance Exchange Systems (which would morph into just the Massachusetts project) along with Michael Tutty as project director for the Massachusetts HIX/IES project. Scott Devonshire served as the chief information officer for the Connector, and Manu Tandon represented the Executive Office of Health and Human Services as their chief information officer.

Interviews with whistleblowers, as well as reports from BerryDunn, which began in October, show that the fall of 2012 was marked by unchecked shoddy work by CGI Corp., missed deadlines, and insufficient resources. The project also suffered from gaps in the original contract between CGI and the Commonwealth that would have long-term impacts on the project's viability.

Whistleblowers said one of the first signs of trouble was that there was no complete project plan from CGI. For instance, the existing plan provided no details on the 57 interfaces that Massachusetts would need to exchange information with other agencies to determine eligibility for state and federal health programs.

Another early misstep was the Commonwealth's decision not to leverage any parts of the existing

Health Connector website, which would have sped up site development. One whistleblower said,

“We never tried to mesh anything from the old system into the new site, even though the old site worked well. We should have taken generic pieces from the old system that worked, then built new what we needed.”

A. The contract was substandard

While the Commonwealth has repeatedly stated that CGI is solely responsible for mismanagement of the Connector project, the Commonwealth officials overseeing the project failed to execute a comprehensive contract that would have resulted in the delivery of a fully functional HIX.

For instance, shortly after BerryDunn was retained in early October, the company began to raise serious quality control concerns about the project. The firm focused significant attention on the fact that the contract with CGI did not require the firm to produce a “Requirements Traceability Matrix.” BerryDunn stated in its October 2012 monthly report that “without that, it is difficult to verify completion of scope or compliance with regulations.” The lack of traceability would prove to be a persistent problem with the project.

In fact, the contract was missing a range of provisions that would have helped the state more effectively oversee the project and maintain quality control over CGI's work. For instance, the contract did not stipulate the production of a “requirements management tool.” BerryDunn said without one, there was no way to cross reference changes made in Joint Architecture Design meetings or with state and federal regulatory requirements.

Whistleblowers confirm that the lack of quality control measures built into the contract, as well as a lack of Commonwealth leadership to make CGI accountable for its work, were early and persistent problems with the project.

Other contract deficiencies included a failure to establish provisions that would have required CGI to maintain the functionality already in place on the old Massachusetts Health Connector website, built to support the 2006 Massachusetts

¹Public link to weekly reports: <https://dl.dropboxusercontent.com/u/2453619/connector/BerryDunn-Audit-Weekly.zip>

Public link to monthly reports: <https://dl.dropboxusercontent.com/u/2453619/connector/BerryDunn-Audits-Monthly.zip>

health reform law. BerryDunn pointed out in its November 2012 report that CGI had no contractual obligation to maintain functionality while working on the new site.

BerryDunn also concluded that the contract failed to lay out a detailed project scope. CGI was responsible to deliver four different “Code Drops,” together containing all of the functionality that would be required for the October 1, 2013 launch of the website. But the contract, BerryDunn said, only elaborated the project’s scope through the second of the four planned “Code Drops”, or about halfway through the project.

It was pointed out by BerryDunn that as early as October the review and approval schedule for the preliminary requirements documents was insufficient for the scope of the project. The cycle specified in the contract was 24 days (10 days for review by the Commonwealth, 7 days for revision by the vendor, and 7 days for review of the updated deliverable by the Commonwealth). BerryDunn said about the review/approval process: “continuing adherence to the current process and practices will delay the completion of the design milestone and/or the project design will not be adequately validated by business users.”

B. Both CGI and the Commonwealth failed to commit sufficient resources

Whistleblowers say that there were about 40 people working on the UMass team tasked with getting the website up and running, but only about 20 people on the CGI team. They said this initial group of CGI workers did not include any actual software developers. The group also did not include the support staff necessary to perform basic functions, such as taking minutes at meetings. Whistleblowers said this resulted in decisions not being recorded and then having to be revisited at future meetings.

Whistleblowers say that in September and October, they were receiving poor-quality requirements documents, which had to be approved ahead of software development work. Whistleblowers said these documents were so

poorly written or formatted as to be unusable.

The documents did not include the most basic tracking mechanisms, such as page markers or row numbers to identify data in Excel reports, making it difficult to keep track of changes that needed to be made.

Whistleblowers said that when CGI’s substandard work was reported to project manager Janice Baker, workers were told to fill in the gaps themselves. When all sides could agree on changes, CGI did not record the changes in a central repository, so the same issues were revisited in future meetings. This resulted in delayed approval of various preliminary documents that was required before the real coding work could take place. One whistleblower put it this way:

“There was very much a protection of CGI incompetence in simple day to day operations. It was our incompetence too for not holding them accountable.”

Commonwealth resources were also insufficient to get the job done effectively. For instance, whistleblowers recount that workers on the MassHealth HIX team had such an old version of Microsoft Office on their computers that they could not open documents sent by CGI or the UMass Medical School team. MassHealth workers had to email documents to their home computers to access them. This was a drag on productivity and introduced security risks for potentially sensitive documents.

BerryDunn issued extensive critiques throughout the fall of 2012 about the lack of efficiency at Joint Architecture Design and other leadership meetings. By December, BerryDunn issued this warning about the quantity and quality of resources committed to the project on all sides:

“The quantity and/or skills/experience level of project resources may be impacting the ability to complete project tasks within planned timeframes. CGI, MH (MassHealth) and CCA (Commonwealth Connector Authority) may not have sufficiently knowledgeable staff. Staff may not be performing at high enough levels to meet deadlines and produce high-quality, compliant deliverables and outcomes.”

C. The Commonwealth failed to enforce deadlines and demand quality work

The project, poorly resourced and lacking a sufficient contractual framework, quickly began to fall behind schedule.

The original contract entered into by the Commonwealth and CGI stipulated that there would be four Code Drops, with the following dates:

Code Drop 1, 10/26/2012

Code Drop 2, 1/4/2013

Code Drop 3, 4/26/2013

Code Drop 4, 7/29/2013.

However, CGI missed the first Code Drop, and whistleblowers say no attempts were made by the state to reschedule its delivery.

In November, BerryDunn wrote that the project's design phase was behind schedule and falling further behind due to delays in the completion and acceptance of so-called "requirements packets." Further, the work that was being delivered by CGI was of poor quality, according to both BerryDunn and whistleblowers. These requirements packets, which precede the development of software code, were routinely being rejected by contractors hired to review and approve them.

But instead of taking CGI to task over these failures, whistleblowers say that project leadership, including Janice Baker, urged contractors to approve documents that were substandard to move the project forward more quickly.

BerryDunn also cited a number of other factors contributing to the delays:

1. Ineffective communication between individual reviewers and agency approvers;
2. Insufficient documentation of reviewer comments and vendor responses;
3. Failure of Commonwealth personnel to attend meetings and complete reviews; and
4. Complex material that requires the involvement of many business stakeholders.

Whistleblowers confirm that during this time decisions to move things forward often could not be made because all the necessary stakeholders were not in the room during meetings. Whistleblowers say top leadership from the UMass Medical School team, MassHealth and the Commonwealth Connector Authority (CCA) frequently did not even attend the Joint Architecture Design sessions.

By December, the BerryDunn weekly reports urged the Commonwealth to muster some urgency over the Code Drop Schedule delays. Code Drop 1 still had not been delivered, and during the week of 12/21/12, CGI acknowledged that it would miss the second of the four Code Drops.

BerryDunn started to raise a number of alarms at this point, warning that the project was getting further and further behind schedule and that some website functionality might not be ready in time for the October 1, 2013 launch date.

At this time, BerryDunn also started to criticize the management of the project. Both BerryDunn and whistleblowers pointed to the inefficiency of weekly meetings. BerryDunn urged that they be restructured to focus on the Code Drop schedule.

PHASE 2

Major Delays Force the Commonwealth to Lower its Ambitions

January 2013–May 2013

In the first few months of 2013, it became clear that the Commonwealth’s ambition to develop a one-stop shop, end-to-end customer experience—regardless of eligibility status—would not be realized by October 1.

By March, there was discussion about deferring some site functionality beyond October, but there was a lack of agreement between Commonwealth and CGI about which items should be deferred. BerryDunn said there was confusion about whether the items on the deferral list are part of the federal requirements or not. By the end of April 2013, 40 items were under consideration to be deferred until after October 1, 2013.

A. CGI continues to miss deadlines

On January 16, Code Drop 1 still hadn’t been delivered and CGI presented a new timeline for delivering code. The project was so far behind that CGI amended the schedule to include only two Code Drops, with all of the code initially scheduled for Code Drops 2, 3, and 4 collapsed into a massive Code Drop 2. A new due date of July 1 – 90 days before the October 1, 2013 scheduled release date- was eventually agreed upon for the delivery of Code Drop 2.

But the Commonwealth failed to discuss how this new timeline would impact downstream developments. BerryDunn reported that the details of CGI’s new plan had not been discussed a month later. BerryDunn said four meetings that were scheduled in January and February were subsequently cancelled. This is one of several instances outlined by BerryDunn, and confirmed by whistleblowers, demonstrating that the Commonwealth chose to ignore rather than confront ongoing problems with the project.

CGI’s new schedule posed significant problems. First, it meant the Commonwealth would have very poor visibility into CGI’s progress, since

the bulk of the site’s functionality would not even be delivered until July. The new schedule also meant that the timeline very important for user acceptance testing (UAT) would have to be reduced by 65 percent, introducing more risk that the site worked properly by the time of the launch.

By the end of January, BerryDunn started to urge the Commonwealth to come up with a contingency plan, writing:

“Regardless of whether CGI acknowledges or fulfills their contractual responsibilities, the Commonwealth will be called upon by CMS to demonstrate compliance with the HIX Blueprint and should implement a strategy and tactical plan to do so.”

Code Drop 1 was finally delivered during this period. But other deliverables were delayed. BerryDunn noted in their April monthly report that there was no configuration management plan in place. BerryDunn had recommended that CGI submit this plan on April 7, but the company failed to do so.

B. Contract gaps threaten compliance with federal requirements

In January, BerryDunn started raising concerns about gaps between the CGI contract and the federal requirements for a functioning HIX. There was, for instance, no mechanism in place to map development activities by CGI to actual requirements for the HIX, to make sure compliance was ensured at every step. Such standards were required in order to pass federal “gate reviews” and gain approval as an ACA-compliant exchange in order to keep federal taxpayer funds flowing to the Connector.

By February, the Commonwealth was working on a fourth amendment to the contract to address another important compliance issue. The Centers for Medicare and Medicaid Services required vendors to provide reusability metrics. Reusability refers to the ability to leverage existing assets in some form within the software product development process. CGI was not providing these metrics because they said it was not in the contract. Not using reusability metrics would likely

adversely impact the efficiency of the website's development.

By January, it was also clear that some parts of the initial contract would have to be jettisoned. For instance, the long review/approval schedule of 24 days that was part of the contract would have to be abandoned, because there simply wasn't time for such a long review period.

However abandoning the review cycle timeframe introduced new risks into the development process. BerryDunn raised concerns in January that "CGI is commencing development upon submission rather than approval of requirement and design deliverables." In other words, CGI was no longer waiting for approval from the Commonwealth.

C. Leadership and sufficient resources still lacking

BerryDunn continued to assail the lack of sufficient resources and leadership to get the project back on track. It was suggested that Project Manager Janice Baker add more staff, including two new "deputy project managers" to focus on the management of risks and issues as well as the management of a Commonwealth MA HIX/IES Project Plan. But by April, BerryDunn reported that Baker was "not including sufficient staff to adequately support [the] project – [and there is] no progress to ID resources and get them on board".

In February, BerryDunn recommended that Baker take over meetings from CGI, since CGI was not delivering sufficient value in these meetings. But BerryDunn reports that she failed to do so. Instead, Baker simply set expectations at the beginning of the meetings, but then allowed CGI to continue to run them.

During this period, BerryDunn began outlining critical issues and risks in its reports. A risk is an adverse effect that could happen, and an issue is a risk that has come to fruition. The list of issues and risks mounted each month during this period, as did BerryDunn's criticism of the Commonwealth's inability or unwillingness to address the project deficiencies.

By March, BerryDunn painted a chaotic picture of the Massachusetts HIX project, writing in its monthly report,

"Communications of key decisions, project status, project schedules, and scope are not effectively managed and disseminated throughout the MA HIX/IES Project Teams, including the Commonwealth PMO [Janice Baker's team], CGI, the Commonwealth Stakeholders, and IV&V [BerryDunn]."

BerryDunn wrote that the Commonwealth's team had an inconsistent understanding of key decisions, including change of scope, schedule, etc.

BerryDunn also takes the Commonwealth to task for failing to enforce deadlines. CGI was not reporting missed deadlines and the Commonwealth was not "visibly tracking CGI adherence to approved deliverable submission dates as stated in the 3/21/2013 Project Schedule." For instance, CGI missed a critical deadline to deliver a site-testing plan on 4/30. BerryDunn reported that at the end of May, Janice Baker provided new submission dates for some overdue deliverables but not for others. BerryDunn urged the state to start tracking deadlines and actual delivery dates.

When CGI did finally deliver the testing plan in May, BerryDunn raised grave concerns about the risks the plan would introduce, in part because site development was so far behind schedule that development and testing would have to occur concurrently. In spite of this warning, the Commonwealth team decided to approve the new testing plan at the end of May.

PHASE 3

The Wheels Come Off

June 2013–October 2013

During the run up to the October launch, whistleblowers said that everyone on the Commonwealth team knew that the website would not work as promised.

One whistleblower said,

“It’s like when you’re a kid and you do something wrong and you are waiting to be caught. We were waiting for people to recognize how bad this was, because we had done everything we could to escalate. We were always told to be quiet, it doesn’t matter, don’t say anything.”

Continued software development delays led to a mounting list of functions that would have to be deferred past the October 1 launch. This meant that the window to test the site was repeatedly shrunk. In the end, there would be no user acceptance testing for the bulk of the site functionality. As one whistleblower put it,

“We called it UDT – Users Do Testing - because nothing had been tested ahead of the launch, it was a joke.”

Whistleblowers say that during this time it became clear that manual processes would be needed to process health insurance applications. The eligibility determination tool – the complex engine of the website, which would connect myriad state and federal agencies to figure out which subsidies, if any, consumers were eligible for – was not functional.

During this time, the Commonwealth developed an alternative “program determination tool” outside of the HIX to ensure consumers would be placed into the right programs. However, the tool did not end up working well enough during open enrollment so the state placed most applicants on MassHealth without checking any eligibility.

Meanwhile, as more and more of the site’s content was pushed off beyond the October launch, BerryDunn warned that not enough was being done to prepare for a second launch, which was

now scheduled for December 15, 2013.

A. Deferred site functions put Massachusetts residents’ health care coverage at risk

By June and July, BerryDunn was warning that the Commonwealth may not even be able to complete the site by December 15, the date for a second launch to incorporate the functions that had been deferred from the October 1 launch. The thinking was that the December date would still allow enough time for consumers to sign up for health insurance effective January 1, 2014.

But it quickly became clear that the late date of this second launch - which would contain important functionality, including customer service modules and the health plan enrollment interface – would likely hobble consumers’ ability to obtain coverage in time for the January 1, 2014 health plan start dates.

Massachusetts health insurers warned the Commonwealth Connector Authority (CCA) by June that they might not be able to process enrollment information by January 1 if they don’t receive enrollment data until December 15.

The CCA also reported to BerryDunn that Dell, the Authority’s customer service vendor, might not receive all the information needed to perform critical functions that had to occur before December 15, such as billing and payment, again because the enrollment interface was deferred. The customer service implementation project manager at CCA told BerryDunn this issue was a “showstopper.”

The development of the HIX/IES was in crisis. The Commonwealth knew at this point that there would be delays to health coverage for individuals and employees seeking ACA-compliant plans for January 1. This information was not shared in public meetings, with the Connector Board, the public, or the media.

BerryDunn recommended in July that the Commonwealth revisit and possibly reverse the decision to defer the enrollment interface or develop a workaround to deliver enrollment

information to carriers before December 15.

B. Delays of critical functions could cause the Feds to pull the plug on the website

By August, website testing was way behind schedule because the site development had not been completed. BerryDunn said in its August monthly report that approximately one-third of the HIX functionality had been tested by CGI. BerryDunn warned that:

“...it is not clear that all system functionality currently planned for go-live on 10/1/2013 will be of a quality that is acceptable...”

Even before this dismal assessment, BerryDunn warned in July that CMS might not certify the Massachusetts HIX because it was so far behind schedule. BerryDunn said the state could be “denied the authority to connect (ATC) to the CMS Hub because deliverable dates for “Final System Security Plan” and “Plan of Action and Milestones” do not support CMS deadlines.” BerryDunn warned that the current deadline of July 25 for several federally required documents was cutting it too close to the August 1 deadline established by CMS.

BerryDunn reported that CGI was trying to obscure how far behind the software development was by putting references to so-called “artifacts” instead of the actual content in the deliverables. This process was used in part to avoid any state comment, since the state did not have to approve artifacts. BerryDunn wrote that the use of artifacts instead of the final product, “creates risk that this content will not be developed by the time it is needed, and may not meet the Commonwealth’s expectations.”

As late as September, another compliance issue still remained unresolved. One CMS requirement was a complex password sign-on process called multi-factor authentication (MFA) for certain functions that were part of the website launch. MFA adds another layer of security to protect sensitive HIPAA-protected personal data. However, BerryDunn pointed out in September that while this issue had been flagged in June,

multi-factor authentication was never added to the site.

BerryDunn warned that failure to implement MFA could also jeopardize the ability to receive an ATC certification, which would prevent connectivity to the Federal Data Services Hub (FDSH).

C. Both sides add resources, but it’s too little too late

After repeated pleas from auditor BerryDunn, both the Commonwealth and CGI finally began piling on resources in June 2013, three months before the launch date. UMass Medical School hired a deputy project manager and two project coordinators to focus on schedule management, project communications, and deliverable review management. CGI added staff both locally and in other global locations, including Canada, the UK, and India.

In June, BerryDunn warned that CGI was struggling to keep up with all the change orders to repair code as defects were discovered, while at the same time continuing to build fresh site functionality. Whistleblowers commented that such practices add additional risk to the project, as the impacts of any code repairs need to be factored into the development of new site functions.

By the end of June, CGI reported that it was “at capacity” for repairing defects in code that was required for the October launch. CGI had previously said that the development team responsible for the repair of defects was separate from the team working on additional new site functions.

This bombshell prompted BerryDunn to recommend that the Commonwealth add even more functions to the list of content to be deferred past the October 1 deadline.

In July, BerryDunn warned that CGI had not provided to the Commonwealth detailed implementation checklists, including the go-live checklists, indicating implementation tasks, schedule, and responsible parties. BerryDunn

said that because the implementation plan lacked sufficient staffing and schedule details, these checklists were critical for giving the Commonwealth confidence that all the correct tasks had been identified. In addition, it would guarantee that a proper level of resources for both CGI and the Commonwealth would be in place to execute the plans, that dependencies had been identified, and the responsible parties knew what they were expected to do and by when. The Commonwealth assured the federal government that these checklists would be in place, but did not push CGI to provide them.

D. Communications and management problems persist

Major management and communication problems between the Commonwealth and CGI were ongoing during this period. For instance, in July, BerryDunn raised the alarm that the CGI development team may not be using the most current reviewed/approved design documents. This was even after significant time had been taken to review and approve these documents in the fall. BerryDunn also commented that they had not seen a list of baseline deliverables and baseline delivery dates since February.

BerryDunn reported in August that CGI regularly missed and changed the planned start and end dates for key tasks and deliverables. CGI did not regularly report project schedule metrics, according to BerryDunn, and the Commonwealth was not routinely monitoring the CGI project schedule. BerryDunn criticized the Commonwealth for not putting into place a process for CGI to report schedule changes and their impacts.

Throughout this period, BerryDunn noted that Commonwealth leadership was not effectively resolving critical issues and risks that BerryDunn identified. For example, BerryDunn reported that 28 risks and 58 issues remained open as of August 31, 2013. Of those 58 issues, 39 were overdue for resolution—almost 70 percent.

Meanwhile the quality of CGI's work, unchecked by the Commonwealth, deteriorated further as the go-live date approached. For instance, BerryDunn reported that code violations increased by 53 percent during September.

Whistleblowers recounted that during this period CGI failed to provide adequate training manuals for workers who would assist consumers. This was a requirement of the contract. Whistleblowers also said Janice Baker ordered workers to accept the substandard training manual, instead of sending it back to CGI to be fixed. In the end, customer service representatives created their own manual.

User acceptance testing, put off several times due to gaps in site functionality and an unstable testing environment, simply never happened. BerryDunn warned in September that CGI and the Commonwealth had not “developed a plan for monitoring and performing quality assurance on system results during the immediate post-live stabilization period”.

By the end of September, Massachusetts planned to go-live with a site that had just a small number of features completed. The only consumers who would be able to apply, shop for a plan, and enroll would be those who were not seeking subsidies and would not need a working eligibility determination tool. Other consumers were expected to be able to create accounts and browse plans, but not enroll.

BerryDunn reported in late September that testing completed just before the launch revealed a 90 percent fail rate.

PHASE 4

No Plan to Clean Up the Mess

October 1, 2013 and beyond

Whistleblowers recounted that everyone on the Commonwealth team knew that the website would not work for the vast majority of consumers. But most consumers weren't looking to buy insurance on October 1. One reason was that Massachusetts had obtained permission to extend coverage through March 2014 for legacy Commonwealth Care plans, which were part of the 2006 Massachusetts health reform law.

Describing the behind-the-scenes sentiment for the October 1 launch of the HIX, one whistleblower said, "There was a sense of dread."

The public was largely unaware in October that consumers seeking subsidies would soon face a byzantine maze of manual workarounds to make sure they were not knocked off coverage.

Connector Executive Director Jean Yang and board member Jonathan Gruber appeared on the *PBS NewsHour* on October 1 to celebrate the start of open enrollment. Jean Yang said:

"The experience you get is not going to be much different than what you typically get when you go to an e-commerce website where consumers can easily browse, compare options, and complete a transaction."²

Behind the scenes, the post-launch period was characterized by cascading delays and no workable schedule for establishing a fully functional website, according to both the final BerryDunn reports in October and whistleblower testimony. The increasing urgency to keep consumers insured absorbed all the energy of the Commonwealth's team, pushing completion of the website to the back burner.

During October, the Commonwealth decided to defer some functions even further. The original contingency plan was to defer some content until October 29th, dubbed Release 1.1, and the remainder of the site functionality until December 15, dubbed Release 2.0. The Commonwealth

realized during October that Release 1.1 would not be finished on time, and it was rescheduled for November 17.

Release 1.1 was scheduled to include crucial functionality to allow consumers to purchase and enroll in new plans, in time for January 1, 2014 plan start dates. This functionality included determination of applicant subsidy levels, and applicants' ability to shop for plans.

But by mid-October the complex eligibility determination tool was still not working. BerryDunn reported that while some case studies involving individuals could correctly assign eligibility to consumers, the tool was not working for families. In addition, no end-to-end testing of the tool had taken place. Later it would become clear that the solution did not work in a live end-to-end environment for any consumers requesting subsidies.

BerryDunn recommended that the Commonwealth begin testing an alternative eligibility tool, developed by MassHealth, which would be used outside of the website. This began on October 21.

Meanwhile, testing required by CMS was still not done by the end of October. This testing had August dates.

According to Chelsea Conaboy of *The Boston Globe*,

"In the first weeks of October, Governor Deval Patrick and officials at the Massachusetts Health Connector... maintained a positive message about the site, saying the glitches were minor and the site would improve over time, particularly as improvements were made to a federal data hub needed for processing applications."³

By November 6, the Commonwealth's project leader told BerryDunn that the content for Release 1.1 was not ready, which meant no end-to-end testing could be performed.

BerryDunn warned that Release 1.1 would not be ready by November 17, and the Commonwealth

should plan to merge the launch of Release 1.1 with Release 2.0 on December 15.

At this point, BerryDunn's criticism of the Commonwealth's management of the crisis became increasingly direct. The auditor wrote that "the total number of urgent and high severity defects has remained steady each week," indicating that the Commonwealth team was not efficiently resolving problems and putting pressure on CGI to deliver.

BerryDunn also pointed out the mounting risks of some of the Commonwealth's workarounds. For instance, at the end of October, the team decided to enact a complex plan that would allow eligibility determination for some consumers through the HIX, manual determination for some consumers, and no eligibility determination at all for a third group. BerryDunn warned this could result in consumers having access to plans for which they were not actually eligible.

BerryDunn also reiterated that its team had still not seen a list of dates for deliverables since the previous February, making it nearly impossible for the Commonwealth to accurately track CGI's progress and ascertain how close the vendor was to finishing the project.

When Governor Patrick was asked on November 11th, 41 days into open enrollment, if he had any concerns about the website, he was [quoted](#) as saying, "No, none at all."²⁴

Whistleblowers paint a chaotic picture of the next several months. In December, whistleblowers said it finally became public that CCA officials working on the HIX, including Connector head Jean Yang and Secretary of Administration and Finance and Connector board chair Glen Shor, had not been honest with the Connector's board in public meetings.

Board members were blindsided by the depth of the HIX's problems. In December, the Commonwealth launched workaround tools to be used outside the HIX, but whistleblowers said it was too late to use these tools to enroll consumers

by January 1, and all applications were put through a manual process.

January 1, 2014 came and went. Consumers on subsidized coverage remained on legacy plans. New consumers using the website—over 325,000 individuals—were placed in transitional Medicaid coverage, whether or not they were eligible.

In late January former Senate aide to Ted Kennedy, John McDonough wrote in blog post for *The Boston Globe* assessing the situation:

"This is unacceptable. I can't name a single Massachusetts official who is leveling with the public on this national embarrassment. From what I hear, second and third hand, four months into this disaster, the Patrick Administration has no plan.

No plan. No explanation. No hope.

If there has not been a conspiracy of silence in leveling with the public about what's gone wrong and how it will be fixed, our responsible state officials, including Governor Patrick, are all doing a fine imitation of one."²⁵

Finally in late January 2014, Massachusetts Governor Deval Patrick brought in Blue Cross Blue Shield of Massachusetts executive Sarah Iselin as special assistant for project delivery, to get the project back on track. Optum, a health care technology firm, was hired to assess the state of the website, produce a report and propose a way forward. Iselin and Optum had three top priorities:

1. Get rid of the paper application backlog.
2. Get workarounds up and running.
3. Get the website up and running.

Governor Patrick also told the media that UMass Medical School would be relieved of its oversight of the HIX project. However, whistleblowers said UMass Medical contractors working on the HIX were simply moved to another government agency, the Information Technology Division of the Executive Office of Administration and Finance.

These contractors continued to oversee the project, whistleblowers said. By March, CGI had been

“fired” and by May, Optum was hired as the lead vendor on a no-bid contract to re-build the website. However, a transitional period with CGI, which was designed to smooth the transfer of unfinished code, lasted until August 2014 and cost an additional \$17 million in taxpayer money.

Whistleblowers said there was no functionality for CGI to turn over, because the vendor simply had not done the work. One said,

“CGI got paid a lot of money because Janice Baker said, we need this information to be turned over. But CGI hadn’t written it. Baker convinced Sarah Iselin that there was all this code to be recovered. There wasn’t.”

In addition, whistleblowers said that under the contract, any code would have been owned by the state, without additional payments.

Another reason given to the media and the public for the drawn out transition period with CGI was concern about the security of sensitive personal information. Whistleblowers said the release of data was never a real threat.

In May, Iselin returned to her post at Blue Cross and whistleblowers said Optum started over from scratch, for instance re-doing Joint Architecture Design sessions that had been held nearly two years earlier. Iselin has since left Blue Cross to work for Optum.

Whistleblowers reported that there was no unfinished code from CGI transferred to Optum, as promised, and Optum chose to scrap most unfinished work completed by the Connector and MassHealth. This led to a scramble in the months leading up to the second open enrollment period, which began November 15, 2014. Whistleblowers alleged that, again, there was little or no time for user acceptance testing ahead of the November 2014 re-launch.

In the June/July 2014 time period, whistleblowers said that the Commonwealth had to report progress to CMS. This would enable CMS to determine whether Massachusetts could go ahead with its own re-launch or if the Commonwealth

would need to hook onto the federal site (healthcare.gov) to insure a smooth process for consumers. One whistleblower said,

“We hadn’t made progress, so again we lied. We were told by Janice Baker quite clearly, that doing whatever Massachusetts wanted to do was the most important thing and hooking on to the federal site was secondary.”

The federal government forced the state to pursue a dual-track strategy of preparing for both a second launch of the Connector and defaulting to healthcare.gov. but abandoned that plan as open enrollment approached.

However the second launch was not been without problems. The Commonwealth’s initial goal of a seamless end-to-end process for all consumers was not a reality. For instance, consumers looking for dental insurers, and those looking to report a “qualifying event” such as a birth initially had to use manual processes. Glitches included problems with verifying identity and the site’s rejection of names that include apostrophes. The payment process was a significant source of problems and insurance cards were once again not delivered in a timely manner for an unknown number of applicants seeking coverage starting on January 1, 2015. Dozens of individuals took to social media to vent their frustration. The site lacks a function to confirm if a specific doctor is in-network, and many of the backend elements of the website were still being built and tested well into open enrollment. Moreover, the new executive director of the Connector just announced the need for at least another \$20 million of additional IT fixes moving forward.

It should be noted that the Connector has had low subsidized coverage enrollment, which could significantly impact future funding discussions. At the end of the 2014 open enrollment, with subsidy eligibility being between 138-400% of the federal poverty level (FPL) the Connector had 83,537 individuals enrolled to receive a subsidy.

By contract, at the start of open enrollment in 2013 the Connector had 208,158 on subsidized coverage making between 100-300% FPL. Just

over 100,000 of those individuals were transferred to MassHealth as result of the ACA's Medicaid expansion. This expansion left roughly 100,000 that could still be eligible for ACA subsidies. Yet even with a larger income range under the ACA, the Connector failed to get back to pre-ACA subsidized enrollment levels. More may enroll in the future, but hard questions need to be asked where these people have gone, and if outreach efforts and marketing money was well spent.

LOOKING BACK

The Commonwealth Appears to Break Multiple Federal Laws

It is clear from both reports submitted by BerryDunn and from verbal whistleblower testimony that the Commonwealth had knowledge of CGI's delayed delivery schedule, poor quality of deliverables, and failure to build out a workable project plan by September or October of 2012 – a full year before the Massachusetts HIX was set to launch.

But whistleblowers testify, and BerryDunn reports confirm, that the Commonwealth team, led by UMass Medical Center contractor and Project Manager Janice Baker, did little to take charge of the project or hold CGI accountable.

Instead, as the clock ticked down to the site launch and very little code had been delivered, there is evidence that the Commonwealth misrepresented its progress towards a working HIX on at least two occasions in its communications with the federal government.

The state had to know that CGI was further behind schedule than the Commonwealth acknowledged during a final detailed design review (FDDR) presentation to the Centers for Medicare and Medicaid Services in May 2013. Whistleblowers also claim that the Commonwealth concealed its lack of readiness in a March 2013 connectivity test with the Federal Data Services Hub by failing to conduct the test as required.

These two incidents, taken together, caused CMS to have undue confidence in the Commonwealth to complete development of the HIX website in time for the October 1, 2013 launch date. The on-time launch of the deficient website has had numerous deleterious effects on state and federal taxpayers, as well as on Massachusetts residents seeking timely enrollment in ACA-compliant health plans. One key impact was the placement of more than 325,000 residents on temporary Medicaid plans in January 2014, even though these residents were never accurately determined to be eligible for Medicaid. Another negative impact has been that the vendor, CGI, may have illegally been paid for work it never completed, including \$17 million in payments in advance of the October 1, 2013 launch date, and an additional \$35 million during a transition period post-launch, after the Commonwealth decided to terminate its contract with CGI.

In its May FDDR presentation to CMS, the Massachusetts HIX project team made claims about the HIX project that vastly overstated the amount of work that had been successfully completed.

Reports from whistleblowers and BerryDunn contradict a number of claims the Commonwealth team made to CMS on May 6, 2013. Among the Commonwealth's claims:

1. Requirements and high-level design: 99 percent complete

In fact, the monthly BerryDunn report for April 2013, in advance of this May presentation, highlights several important gaps in the requirements and design of the site.

BerryDunn identified as a “barrier” to success that there was no list of interface requirements for the October 1 deadline. “There is little visibility into CGI's design and development of key interfaces required for a 10/1 go-live. There is little confidence that interaction between CGI and the Commonwealth business leads is occurring to define the interfaces required and specifications for the interfaces,” the report reads.

BerryDunn also identified as a barrier to success in the April report, the “fragmented vision” of the site’s architecture design, with the state insisting that the site would be compliant with service oriented architecture (SOA) requirements, while significant confusion persisted at CGI about what type of architecture the site would conform to. CGI later acknowledged that the site would likely not be SOA-compliant, BerryDunn reported, with a CGI developer saying, “the services aren’t there”.

Third, BerryDunn noted in the April monthly report that there was no configuration management plan in place. BerryDunn had recommended that CGI submit this plan on April 7, but CGI failed to do so.

2. Design and Build: 60 percent complete

It is not feasible, based on information gleaned from reports and from interviews with whistleblowers, that 60 percent of the design and build activities were contained in code that the Commonwealth had received by May 2013.

The Commonwealth acknowledged to CMS in the May presentation that the original schedule of four Code Drops had been delayed and collapsed into Code Drop 1 and 2. Code Drop 1 was originally scheduled for September 2012. A new Code Drop 2, which would include all of the code that was originally scheduled for delivery in Code Drops 2, 3 and 4, would eventually be scheduled for July 1, 2013.

The Commonwealth told CMS in the presentation that while delivery of content from Code Drop 2 was behind schedule, 29 percent of that code had been delivered.

The Commonwealth acknowledged that some of the functions initially scheduled to be part of Code Drop 2 would be deferred until after the October 1 launch.

Whistleblowers state, and BerryDunn reports confirm, that Code Drop 1 contained little code aside from four “shared services”. BerryDunn reported in April that, “of the 93 Functions

described in the MA HIX/IES Contingency Plan, 18 are deferred (beyond the October launch date). Of the remaining 75, 10 have a status of ‘Completed.’” BerryDunn went on to explain that 61 of the 65 functions that were not completed were part of the “CMS Core 70” list, meaning they were requirements for launching the site on October 1. BerryDunn wrote that none of the unfinished 65 functions had been completed during April.

As for the 29 percent of the Code Drop 2 content the Commonwealth claimed had been delivered ahead of the May 6 presentation, BerryDunn wrote that the code had not, as of the end of April, been checked into the central servers. BerryDunn said this prevented their analysts from validating the testing of the code.

3. Testing: 46 percent complete

The Commonwealth misrepresented the amount of testing completed ahead of the May presentation to CMS. While BerryDunn reports confirm that the code associated with Code Drop 1 had gone through integrated system testing, and was set to enter user acceptance testing, this represented a small fraction of the code that needed to be tested.

No test plan was in place for the majority of the code, to be delivered as part of Code Drop 2, as of the May 6 presentation. This plan was due on April 30 and was not delivered by CGI, according to BerryDunn.

The plan, once delivered in May after the presentation, was so sub-standard that it prompted BerryDunn to issue a warning to the Commonwealth in its May 17th weekly report, which reads in part, “we cannot recommend that this approach be adopted. Simply put, we believe the likely outcome is not worth the effort expended nor the risks incurred.” BerryDunn went on to advise that the test plan for Code Drop 2 increases the risk that the system turned over for production on October 1, 2013 would be non-compliant.

Over the next few months, BerryDunn reports would go on to document in detail the failures of CGI's test strategy, which the Commonwealth agreed to adopt on May 31st. Highlights include:

1. Only about 10 percent of Java source code was routinely tested. BerryDunn reports that 76 percent testing of Java source code is the industry standard.
2. Site development and testing were conducted concurrently, raising the risk of new defects being introduced following testing.
3. Testing delays were caused by the decision to defer the conversion of legacy enrollee data, required for use in testing, until after the October 1 launch.
4. Test exit/entrance criteria did not conform to industry standards
5. Testing delays were caused by the chronic instability of both the integrated system testing and user acceptance testing environments, and "dummy sites."

By July, just 120 out of 3,129 component test scripts had passed, according to BerryDunn, while 274 had failed and 185 weren't executed. BerryDunn said 935 of the test scripts had been put on hold "for various reasons including that the functionality is not available and blocking defects exist".

Most damning is the fact that by the October 1 launch, no user acceptance testing had been performed on the delayed and revised Code Drop 2 content, which made up the bulk of the site.

Given the multitude of quality control problems and delays that plagued the testing of the Massachusetts HIX site up until the October 1, 2013 launch date, it is very unlikely that 46 percent of testing could have been completed by May 6, 2013. The majority of the site's functions, including eligibility determination and health plan enrollment interfaces, had not even been built at that time.

A second example of the Commonwealth concealing the amount of work left undone

occurred in March 2013 during connectivity testing with the Federal Services Data Hub. Whistleblowers say the Commonwealth misrepresented its readiness by sidestepping requirements of the test.

Massachusetts was required to use its own HIX site to connect with the federal site by requesting information, receiving it, and confirming the receipt of information to federal authorities. Instead, because state servers, website code, firewalls and other essential parts of the project were absent or incomplete, the state and its vendor used newly minted HIX URLs backed by free open source software to conduct the test, concealing the fact that there was no content on the state website behind the URLs.

Whistleblowers allege that the Massachusetts HIX interface manager informed CGI that the test could not be performed this way because it was "cheating" and instead advised CGI to "come clean" to federal authorities that the servers were not ready to support the test. Whistleblowers claim the interface manager was removed from his position the day before the test was scheduled to take place.

This incident mirrors allegations made about a misleading connectivity test conducted by Oregon officials in support of its state HIX. The FBI opened a probe in May of 2014 to look into whether the state intentionally misled federal authorities in order to draw down federal funds.

Commonwealth HIX officials may have violated laws, including the Criminal False Claims Act--18 USC 287 & 1001; the Program Fraud and Civil Remedies Act of 1986--31 USC 3801; and the Civil False Claims Act 31 USC 3729(a).

The alleged misrepresentations, up to six months before the launch of the site, show that the state was aware early on that the website project was off-track and unlikely to be completed on time. But the state failed to adequately inform federal authorities, the Health Connector Board, or the public of website failures that would threaten to bump hundreds of thousands of people off health

insurance. In fact, public officials were traveling the state and speaking to the media exhorting the vision and innovation behind the HIX, while at the same time being listed on internal memos and attending meetings in which the grave state of the project was being discussed, and contracts between the state and CGI were being renegotiated.

The website debacle has led to hundreds of thousands of residents being placed on temporary Medicaid since January 2014, since the website could not accurately determine which applicants were eligible for which state or federal health care programs. Many of these beneficiaries will be found ineligible for Medicaid, likely costing taxpayers hundreds of millions compared to if the website had worked.

CONCLUSION

Further investigation is needed to answer the open questions about the failed implementation of an ACA website in Massachusetts. Our public officials not only were incompetent from a managerial perspective, but appear to have lied to the federal government to cover up mistakes made by both the state and CGI. The result has been cost overruns and misuse of taxpayer money that will translate into less state money for education, public safety, and roads, or higher taxes in the near future.

It is still unclear when senior managers such as Glen Shor (former Connector executive director, and board chair as Governor Patrick's secretary of administration and finance), or Scott Devonshire (Connector chief information officer), or other technical staff knew problems existed. We don't even know when Governor Deval Patrick himself was told of the complications. His public comments during and after open-enrollment point to a complete lack of knowledge of the status of the project or the depth of the technical problems involved.

Documents related to this project should immediately be set aside for further independent examination to not only figure out what went wrong on the website project, but to hold public

officials accountable if federal laws were broken. The new Administration should also glean lessons from the failed Connector launch to prevent such large scale failures in the future

About the Author

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