

External Consultant  
Mr. Anthony Rodgers  
Suite 3002  
17777 No. Scottsdale Rd.  
Scottsdale, AZ 85255  
November 30, 2022

Ms. Elizabeth Pitman  
Arkansas Department of Human Services  
Division of Medical Services  
700 Main Street  
Little Rock, AR 72203

**Re: External Consultant Readiness Assessment Report of Empower PASSE**

Dear Ms. Elisabeth Pitman,

Pursuant to your request for an external consultant review and assessment of the readiness of Empower Healthcare Solutions to continue to enroll new PASSE eligible Medicaid beneficiaries at the start of the next contract year on January 1, 2022. The on-site Readiness Review took place on November 19, 2021 from 8 am to 3 pm, at Empower PASSE's offices located at 1491 W. Capitol Avenue, Suite 430, Little Rock, AR 72201. Participating with me at the on-site visit were ADHS staff including Kristin Koenigsfest (DMS), Regina Davenport (DDS), (DAABHS), Portland Gilbert (DDS), Dr. Tammy Alexander (DAABHS), Tony Jackson (DMS), and Lee Fuller (DMS). I would like to thank all of the DMS DDS, and DABHS staff that participated with me at on-site visit, I especially I would like to thank Kristin Koenigsfest for her assistance with providing documents and handling the scheduling for the site visit.

The purpose of this external consultant Readiness Assessment of Empower PASSE is to provide an unbiased third-party assessment of Empower PASSE's readiness to continue it's operations and serve PASSE program enrolled Medicaid beneficiaries starting the next contract period. Empower PASSE currently has 20,500 enrolled beneficiaries from the current contract period.

It is evident that Empower Healthcare Solutions and Beacon Health Options are not having a amicable break up. There is significant organizational friction and a counterproductive relationship between management of each company. This is impacting the transition process between the two companies. If not resolved, it

could lead to disruption functions and services to PASSE members. As part of my due diligence, I reviewed the lawsuit filed by Empower and the ADHS sanction letter to better understand the state of the Empower readiness and level of management control they have current over required PASSE functions and responsibilities.

### **Summary of Findings and Recommendations**

The following is a summary of the major findings and recommendations contained in my detailed report. After review of all the materials and information, I have documented the following major findings:

#### **Major Findings:**

Taken as a whole, the onsite review, ADHS documentation of their desk top reviews of policies and procedures, the information I gleaned from the lawsuit and ADHS sanction letter, raise significant concerns about the transition of functions and responsibilities from Beacon to Empower. The transition has not been collaborative and cooperative. As a result there are a number of transition issues that have not been resolved.

The following are a summary of major findings related to Empower PASSE's readiness to fully perform and manage PASSE functions for contract year 2022. My findings and recommendations should not be viewed as punitive sanctions, but rather they are intended to describe to ADHS any areas I ascertained would impact Empower's readiness and ability to carry out all their required functions and responsibilities at the start of the contract year. . The following major findings were identified:

1. Empower does not have unfettered management control of all the required PASSE functions.
2. Empower does not have control over the management or assignment of its care coordinators.
3. Empower has not completed contracting or credentialing of the required number of primary care provider, behavioral health, HCBS providers.
4. Empower does not have a fully operational financial management system.
5. Empower did not have control over important patient electronic health information data, Person-Centered Service Plans, and other important operational databases.

These major findings engendered concerns about Empower management ability to meet the necessary deadlines and be ready to provide all the key PASSE program functions and to assure undisrupted member care coordination, primary care

assignment, provide an adequate behavioral health provider network, ensure timely and appropriate medical and supportive services.

**Recommendation: Conditionally Pass.**

ADHS should withhold authorization for assignment of new Medicaid beneficiaries for contract year 2022 until Empower can clear each of the identified major findings. Empower should be required to demonstrate it has:

1. Fully transitioned Beacon Health Options functions to Empower and its subcontractors.
2. Full management control of all aspects of its PASSE services and operations, especially of the care coordination program and staff.
3. Completed the re-contracting, or transfer the provider contracts current under Beacon .
4. Control over of management of cover benefits..
5. Establish an appropriate financial management and reporting system.
6. Transferred and has stewardship of existing electronic health information data files, Person-Centered Service Plans, and other important operational data necessary for the provision of customer services, the management of care coordination, and the authorization and provision of medically necessary covered services.

**Readiness Review and Assessment Process**

The on-site review of Empower PASSE’s readiness, provided the opportunity to meet with Empower’s management team and key staff, and hear their presentations on their preparations to initiate PASSE operations for contract period 2022. Empower’s management team provided a number of on-site and virtual presentations to demonstrate their operational capabilities and key functions and processes that will support their PASSE Medicaid enrollees.

The presentations included an introduction of the management team and key staff, and review of the organizational structure. Empower’s contractor Evolent participated and provided a presentation of their customer service call center operations, member eligible data file and enrollment processing, a description of the claims process, and information system capabilities. The staff also provided a demonstration of their future member and provider web portals. I had an opportunity to hear from Empowers newly hired care coordination management staff, who discuss their vision for the future and they capabilities the want to instill in the care coordination program. Empower management described their current progress with provider contracting, and the status of pharmacy network development. I also had the opportunity to hear from one of Empower’s current

Consumer Advisor Council members, who provider her impressions of Empower PASSE's current services, care coordination program, and her current satisfaction with the PASSE's member support for her intellectually disabled son.

However, due to the current status of the disentanglement and transition of Beacon Health Options from Empower operations, I was not able to hear directly from existing front line care coordination staff. Empower's care coordination manager and the care coordinator supervisor did describe their plans for managing and supporting the care coordinators and ensuring members have access to care and supportive services.

Regarding the progress made relative to the disentanglement of Beacon Health Solutions, from key PASSE functions and operations;, Empower's management provided assurance that the their transition activities would be completed before January 1, 2022. Management stated that transition of Beacon Health Options PASSE functions and responsibilities to Empower and its key- subcontractors would not interfere with their continuity operations. Empower gave assurance that provider network access, care coordination assignments, and the provision of required Medicaid covered services and support to enrolled members would be uninterrupted. .

My findings fall into two categories:

1. **Major findings:** which are significant concerns related to Empower PASSE's ability to adequately serve new enrolled Medicaid members by the start of the 2022 contract year, and
2. **Minor findings:** which are programmatic, policy, or procedural gaps or deficiencies that are correctable prior the start of the 2022 contract period.

Based on my readiness assessment review, I will provide one of the following recommendations related to Empower PASSE being authorized to proceed with new Medicaid member enrollment for the next contract year.

- a. **Pass.** Means Empower PASSE substantially met or addressed all the requirements to begin operations.
- b. **Pass with Finding(s).** Means the Empower PASSE met all the critical requirements and should be allowed to proceed with new Medicaid member enrollment, but has specific minor programmatic, process, or policy deficiencies that need to addressed as quickly as possible.
- c. **Conditionally Pass.** Means Empower has significant issues and deficiencies that must be resolved before ADHS should consider authorizing the PASSE to proceed with enrolling additional Medicaid beneficiaries for contract year 2022. Once ADHS clears Empower of the

issues identified in the findings they should be allowed to proceed as a full PASSE participating contractors.

- d. **Did Not Pass:** Means that I cannot recommend Empower PASSE's readiness to participate in the PASSE program starting January 1, 2022 because of the significance of the deficiencies identified.

### Readiness Assessment Due Diligence

As part of my due diligence for the readiness assessment report, I reviewed statements made by Empower in its lawsuit (*Empower Healthcare Solutions LLC, v. Beacon Health Options, Inc*) filed November 2, 2021. Although the lawsuit was withdrawn by Empower November 15, the statements in the lawsuit about Beacon Health Options level of cooperation transitioning functions and responsibilities were informative. Empower viewed Beacon behavior as, “*conduct that suggests that it is functioning as a Trojan-horse*”. Statements in the Complaint and the documentation of misrepresentations to ADHS in their sanction letter to Empower made the attestations and assurances by Empower management at my site visit seem disingenuous.

Included in my review were the following:

1. The information provided at my on-site visit including presentations and discussions with the Empower management team and key staff,
2. Evolent subcontract with Empower,
3. The findings of ADHS program staff from their desk top reviews of Empower policies and procedures,
4. The presentations on capabilities of key subcontractors,
5. A review of statements made by Empower in its lawsuit against Beacon Health Options, and
6. The November 19, 2021 Empower Sanction Letter from ADHS.

The Readiness Assessment covered each of the ADHS required areas:

- Administrative staffing and resources
- Delegation and Oversight of Care Coordination Responsibilities
- Program Integrity/Compliance
- Management and maintenance of Electronic Health Records
- Member handbook
- Provider handbook
- Grievance and Appeals Process

- Provider Network Directory
- Proof of Claims Payment Infrastructure
- applicable Claims and Payment Audits and Edits
- Member Notices and ID cards
- Member Rights Policies
- Medical/Quality Management Committee
- Marketing Materials
- Claims Operations Process
- Medical Management
- Financial Management and Control
- Required Reporting Capability
- Collection and Exchange of Data with the Arkansas Medicaid Management Information System (MMIS)
- Proof of Provider Network Adequacy

### **Findings and Recommendations**

Although the review of documents, including Empower policies, procedures, and the presentation made at the time of the onsite visit, gave the impression that transition of key functions and responsibilities from Beacon to Empower was proceeding smoothly. The allegation made by Empower in its complaint file with the court November 2, 2021 would suggest otherwise. Empower stated *“that since 2019, Beacon began taking actions clearly designed to harm Empower. Those actions, which have continued through the date of the filing of this Complaint, began, not coincidentally, shortly after the acquisition of Beacon by Anthem, Inc. (“Anthem”), a direct competitor of Empower in the PASSE market via Anthem’s ownership in another PASSE, Summit Community Care (“Summit”).”*

According to Empower’s own words, there were a number of critical transition issues that Empower identified in their court documents that could impact their ability to carry out required PASSE functions. In their complain Empower listed among other things:

1. Beacon steadfastly refused to perform tasks necessary to transition functions and responsibilities to Empower.
2. Beacon refused to bring critical staff and functions under Empower’s direct control.

3. Beacon continued to delegate critical service functions to *Anthem* employees, who in turn provided incomplete, defective and generic work-product that was not appropriately tailored to Empower's business needs.
4. Financial reports produced by Beacon were inaccurate.
5. Data compilations prepared by Beacon were incomplete.
6. Beacon failed to timely transfer key subcontractor relationships to Empower. and
7. Beacon did not give Empower control of the provider network and its provider contracts.

The number and seriousness issues identified without doubt draw into question Empower's current readiness to carry out required PASSE functions.

**Major Finding #1: Lack of Management Control.**

Empower does not have unfettered management control of all the required PASSE functions.

In the lawsuit, Empower alleged that *“since 2019, Beacon began taking actions clearly designed to harm Empower.”* Those actions, which have continued through the date of the filing of the Complaint. The materials presented at the site visit also supported the conclusion that key functions had not been transitioned to Empower. For example, Empower has not taken full control over the care coordination program and staff, key infrastructure (telecommunications), financial management systems and accounts, medical management, the provider network, - and benefits management.

**Recommendation:** That ADHS validate the transfer of all functions and responsibilities from Beacon to Empower and its subcontractor prior to authorizing Empower to enroll new Medicaid members in contract year 2022.

**Major Finding #2: Management of Care Coordinators.**

Empower does not have control over the management or assignment of its care coordinators. During the site visits and in court statements, Empower stated they will not have management oversight and control over the current care coordination program and staff until December 31, 2021. The transition and integration of a program as important as care coordination cannot occur literally overnight. Empower has its own processes, and a new management team to overseeing and direct the care coordination staff. There is a lot that care coordinator will need to learn and become familiar with. Empower did not present a detailed plan for the orientation and integration of existing care coordination staff currently under Beacon's control.

**Recommendation:** ADHS staff request f Empower provide a specific plan for orienting and integrating the existing care coordination management staff into Empower’ s systems, procedures, and subcontractor processes.

**Major Finding #3: Provider Network**

Empower also expressed “grave concerns about a potential misappropriation or conversion of Empower’ s BHS Provider Network upon discovering that the contractual relationships that Beacon had been establishing in recent years, while being paid by Empower, were actually established in Beacon's name.” Empower does not have full medical management control over its future contracted provider network. Empower accused the Beacon of “sabotaging its operations” to provide Medicaid healthcare covered services. Because of the conflict and lack of cooperation between Empower and Beacon, provider contracting and credentialing is seriously behind. During the onsite presentation, it was stated that the transfer and credentialing of the Empower provider network would not be completed until later in January. It is problematic that Empower does not have full control over its current provider network.. ”

**Recommendation:** ADHS should validate that Empower has transfer or completed contracting with an adequate number of the same providers currently contracted with Beacon to avoid member and provider disruption.

**Major Finding #4: Financial Management.**

Based on review of materials, it is evident that Empower had not completed the implementation of its own financial management system and chart of accounts. In addition Empower accused Beacon of providing incomplete and inaccurate financial information.

**Recommendation:** ADHS needs to validate that Empower has established their financial management system for managing PASSE program risk-based capitation payment and has an appropriate financial accounting system. ADHS should also require Empower to perform an audit and report on all financial accounts transfer from Beacon.

**Major Finding #5: Databases and Person-Centered Service Plan (PCSP) Records**

Empower does not have control over important patient electronic health information, including Person-Centered Service Plans, and service authorizations As documented in Empowers Complaint and also identified by the ADHS Sanction Letter, there are serious questions about the transition and control member health information records, and other data files, including PCSP

information, service authorizations, electronic health information, other important data files necessary for PASSE operations. There are other PASSE assets (such as telephone numbers, e-mail domain names etc.) that also need to be clarified.

**Recommendation:** ADHS should validate the active and archived data files, PCSP, other patient electronic information, other business information, and PASSE assets required for smooth transition have been fully transfer in a form and format that can be utilization by Empower and the control of Empower and stewardship of data has been transfer by Beacon.

### **Conclusion**

Major transitions are difficult and complicated under the best of circumstances. Considering the seriousness of the readiness assessment findings, I cannot with confidence state that Empower is ready to proceed with enrollment of PASSE Medicaid members starting January 1. Until Empower resolves the major findings identified above to the satisfaction of ADHS, I do not recommend authorizing the enrollment of new Medicaid members with Empower Healthcare Solutions. It is prudent and in the best interest of both existing Empower Medicaid members and new enrollees, that Empower be given the appropriate amount of time to come into full compliance with requirements and standards of the Arkansas Medicaid PASSE program, before the ADHS authorize their full participation in contract year 2022.

Sincerely,

*Anthony Rodgers*

Anthony Rodgers,  
External Reviewer

cc's Kristin Koenigsfest  
Debra Garrison