

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brittany R. Tovar,

Plaintiff,

Case No.: 0:16-cv-00100-DWF/LIB

v.

Essentia Health,
Innovis Health, LLC,
dba Essentia Health West,
HealthPartners, Inc., and
HealthPartners Administrators, Inc.,

**MEMORANDUM IN RESPONSE TO
PLAINTIFF'S MOTION TO AMEND
COMPLAINT**

Defendants.

INTRODUCTION

HealthPartners, Inc. (“HealthPartners”) and HealthPartners Administrators, Inc. (“HPAI”), do not formally oppose Plaintiff’s Motion to Amend Complaint, including her request to add Reid Olson as a plaintiff. HealthPartners and HPAI are filing this short memorandum to make clear that they do not waive any defenses concerning the proposed Amended Complaint. In the event the Court denies Plaintiff’s motion as to Essentia Health or Innovis Health, LLC, on grounds that apply to HealthPartners and HPAI, the Court should also deny Plaintiff’s motion as to HealthPartners and HPAI as well. HealthPartners and HPAI intend to file a motion to dismiss under Rule 12 and will do so within 14 days after the Amended Complaint is filed, pursuant to Rule 15(a)(3).

Plaintiff’s draft Amended Complaint mischaracterizes HealthPartners’ and HPAI’s role in the health plan at issue in this case. Beyond that, Plaintiff does not have Article

III standing because she has no out-of-pocket unreimbursed expenses. Plaintiff and her son are not, in any event, members of the class of plaintiffs whom Congress has authorized to file suit under the Affordable Care Act. *See Tovar v. Essentia Health et al.*, 857 F.3d 771, 779-81 (8th Cir. 2017) (Benton, J., dissenting). With the understanding that HealthPartners and HPAI preserve and do not waive any rights and defenses, these Defendants do not oppose Plaintiff's Motion except to the extent the Court denies the motion on grounds that apply to HealthPartners and HPAI.

Date: October 12, 2017

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HEALTHPARTNERS, INC. and
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ADMINISTRATORS, INC.**

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Defendants.

**LR 7.1(f) and (h) WORD COUNT
COMPLIANCE CERTIFICATE
REGARDING MEMORANDUM IN
RESPONSE TO PLAINTIFF'S MOTION
TO AMEND COMPLAINT**

I, David M. Wilk, certify that the Memorandum in Response to Plaintiff's Motion to Amend Complaint complies with Local Rule 7.1(f) and (h).

I further certify that, in preparation of this memorandum, I used Microsoft Word 2010, and that this word processing program has been applied specifically to include all text, including headings, footnotes, and quotations in the following word count and I also certify that this Memorandum has been prepared in 13 pt. font.

I further certify that the above-referenced Memorandum contains 237 words.

Date: October 12, 2017

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