

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

Case No. 17-cv-264

v.

STATE OF WISCONSIN DEPARTMENT
OF EMPLOYEE TRUST FUNDS, et al.,

Defendants.

DECLARATION OF NICHOLAS E. FAIRWEATHER

I, Nicholas E. Fairweather certify under penalty of perjury that the following is true and correct to the best of my knowledge and recollection:

1. I am an attorney licensed to practice in the state of Wisconsin and am one of the attorneys representing the Plaintiffs in the above-captioned matter.

2. Attached hereto as **Exhibit A** is a true and correct copy of Defendants' Responses and Objections to Plaintiffs' Second Set of Requests for Production of Documents and Things, dated July 12, 2018.

3. Attached hereto as **Exhibit B** is a true and correct copy of a screenshot created from ETF's website: <http://www.etf.wi.gov/members/IYC2018/et2169icha.asp>.

Executed this 14th day of September, 2018.

/s/ Nicholas E. Fairweather
Nicholas E. Fairweather

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

v.

Case No. 17-CV-0264

STATE OF WISCONSIN DEPARTMENT
OF EMPLOYEE TRUST FUNDS, et al.,

Defendants.

**STATE DEFENDANTS' RESPONSES AND OBJECTIONS TO
PLAINTIFFS' SECOND SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Federal Rules of Civil Procedure 26 and 34, State of Wisconsin Department of Employee Trust Funds, State of Wisconsin Group Insurance Board, and Robert J. Conlin (collectively, "State Defendants"), by their counsel, hereby object and respond to Plaintiffs' Second Set of Requests for Production of Documents and Things.

GENERAL OBJECTIONS

State Defendants assert the following objections as to each of the Plaintiffs' Second Set of Requests for Production of Documents and Things to State Defendants ("Plaintiffs' Second Requests"):

1. State Defendants object to the Plaintiffs' Second Requests to the extent that they purport to impose burdens other than or beyond those imposed by Rules 26 and 34 of the Federal Rules of Civil Procedure.

2. State Defendants object to the Plaintiffs' First Requests to the extent they seek to require State Defendants to disclose information prepared in anticipation of litigation or protected from disclosure by the attorney-client privilege, work-product doctrine, or any other applicable privileges on the ground that such discovery is impermissible under Rule 26(b) of the Federal Rules of Civil Procedure. State Defendants do not waive, and expressly reserve, the protection for materials prepared in anticipation of litigation, the attorney-client privilege, the work-product doctrine, and every other privilege and doctrine with respect to each and every document protected by such privilege or doctrine. Inadvertent production of any such protected information shall not constitute a waiver of any privilege or protection or of any other ground for objection to discovery with respect to the information contained therein. Nor shall such inadvertent production waive the right of State Defendants to object to the use of any such document or the information contained therein in this action or during any subsequent proceeding. Upon notification that such disclosure was inadvertent, the information and any copies thereof shall be returned immediately.

**SPECIFIC OBJECTIONS AND RESPONSES TO
REQUESTS FOR PRODUCTION**

State Defendants hereby incorporate the General Objections described above into each response below, as if fully restated therein.

REQUEST FOR PRODUCTION NO. 1: All policy manuals, coverage guidelines, or other criteria used by Defendants or the third-party administrators of the Uniform Benefits plans for state employees to determine whether a particular service is “Medically Necessary” as defined by the Uniform Benefits plan during the years from 2016 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: State Defendants object that the terms “policy manuals, coverage guidelines, or other criteria” are vague and ambiguous. State Defendants further object that this Request calls for documents not in their possession, custody, or control.

Subject to and without waiving these objections, State Defendants respond as follows: State Defendants are not aware of any documents responsive to this Request within their possession, custody, or control.

REQUEST FOR PRODUCTION NO. 2: All policy manuals, coverage guidelines, or other criteria used by Defendants or the third-party administrators of the Uniform Benefits plans for state employees to determine whether coverage is available for surgery to treat a medical condition, injury, infection, or congenital condition.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: State Defendants object that the terms “policy manuals, coverage guidelines, or other criteria” and “medical condition, injury, infection, or congenital condition” are vague and ambiguous. State Defendants further object that this Request calls for documents not in their possession, custody, or control.

Subject to and without waiving these objections, State Defendants respond as follows: The Uniform Benefits contract is the document that

provides the criteria used to determine whether coverage is available for surgery to treat a medical condition, injury, infection, or congenital condition. Other than this document, State Defendants are not aware of any documents responsive to this Request within their possession, custody, or control.

REQUEST FOR PRODUCTION NO. 3: A list of all the CPT codes for procedures, including tests, surgeries, evaluations, and any other medical procedure performed by a healthcare provider on a patient, that are covered under the Uniform Benefits plans for state employees during the last five (5) years.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: State Defendants object to the extent this Request asks them to create a document not kept in the normal course of business, as they have no such obligation. State Defendants further object that this Request calls for documents not in their possession, custody, or control.

Subject to and without waiving these objections, State Defendants respond as follows: State Defendants are not aware of any documents responsive to this Request within their possession, custody, or control.

Dated July 12, 2018.

Respectfully submitted,

BRAD D. SCHIMEL
Wisconsin Attorney General

s/ Colin T. Roth
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Exhibit B

It's Your Choice 2018

Local High Deductible Health Plan
Insurance for Employees
and Retirees (PO7, PO17)



IMPORTANT CHANGES FOR 2018

Health Plan Changes

There are several changes to the available health plans for 2018. Use the **interactive map (et-2169hpm.asp)** to find health plans and covered providers where you live or receive care.



Not seeing your health plan?

Change can happen each year. Some plans are no longer available, some have merged or changed their name. See **Available Health Plans (et-2169hpf.asp)** for more information.

Health Plans No Longer Available

If you are currently enrolled in any of the following health plans, you will need to choose a new plan for 2018:

- Anthem Blue Preferred Northeast
- Arise Health Plan
- Health Tradition Health Plan
- Humana Eastern and Western, including Medicare Advantage
- UnitedHealthcare of Wisconsin
- WPS – Contract ends December 31, 2017. If you are enrolled in a WPS plan, you will be auto-enrolled with the new administrator, WEA Trust, if you do not choose a new plan during open enrollment.

Health Plan Name Changes (No Action Required)

Medicare Advantage (Action Required)

IYC Access Plan / Access High Deductible Health Plan (HDHP) / Medicare Plus / State Maintenance Plan (SMP) / SMP HDHP

IYC Access Plan In-Network Cost-Sharing Changes

IYC Access Plan Overview of Benefit Changes

SMP County Changes

- No Domestic Partner Coverage** ▼
 - Medical Benefits** ▼
 - Pharmacy Benefits** ▼
 - Wellness** ▼
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Disclaimer:

Every effort has been made to ensure that this information is accurate, but may be subject to change. Please note revision dates located at the bottom of each page. In the event of conflicting information, federal law, state statute, state health contracts and/or policies and provisions established by the State of Wisconsin Group Insurance Board shall be followed.

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