

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CHRISTOPHER FAIN,
individually and on behalf of all others
similarly situated, *et al.*,

Plaintiffs,

v.

WILLIAM CROUCH, *et al.*,

Defendants.

CIVIL ACTION NO. 3:20-cv-00740

HON. ROBERT C. CHAMBERS

PLAINTIFFS' SECOND AMENDED NOTICE OF 30(b)(6) DEPOSITION

PLEASE TAKE NOTICE THAT pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiffs, individually and on behalf of the proposed classes, will take the deposition of Defendant West Virginia Department of Health and Human Resources, Bureau for Medical Services through its corporate representatives most knowledgeable about the topics listed herein at the following dates and times, and continuing thereafter until completed:

1. **Sarah Young**, March 11, 2022, beginning at 9 a.m. E.T.
2. **Secretary Crouch**, March 17, 2022, beginning at 11:30 a.m. E.T. to 4 p.m. E.T.
3. **Secretary Crouch**, March 18, 2022, beginning 12:30 p.m. E.T. until completion
4. **Commissioner Beane**, as a Rule 30(b)(6) designee and in her individual capacity, March 29, 2022, beginning at 9:00 a.m. E.T.
5. **Dr. Becker**, March 30, 2022, beginning at 8:00 a.m. E.T. to 4:00 p.m. E.T.
6. **Frederick Lewis**, April 4, 2022, beginning at 9:00 a.m. E.T.

7. **Brandon Lewis**, April 5, 2022, beginning at 10:00 a.m. E.T.
8. **Jennifer Myers**, April 8, 2022, beginning at 9:00 a.m. E.T.
9. **Becky Manning**, April 12, 2022, beginning at 10:00 a.m. E.T.
10. **Brian Thompson**, April 13, 2022, beginning at 9:00 a.m. E.T.

If needed, and to the extent any of the designees above are not able to provide the seven hours of testimony on the record provided for under Federal Rules on the dates specified above, Plaintiffs reserve their right to continue the deposition on another date until it is completed.

The depositions will be taken remotely via video teleconference offered by Veritext. The depositions of each designee will continue from day to day until concluded. The depositions will be taken under oath before a certified shorthand reporter or other officer authorized to administer oaths. The deposition will be recorded by stenographic means, and on videotape. The deposition shall be used for discovery purposes and may be used as evidence in this action, including at trial.

The definitions contained in Plaintiffs' First Set of Requests for the Production of Documents apply to this deposition notice. The relevant time period is January 1, 2016 to the present unless otherwise noted below.

Pursuant to Rule 30(b)(6), Deponents provided by Defendant West Virginia Department of Health and Human Resources, Bureau for Medical Services shall be knowledgeable officers, directors, managing agents, or other persons who consent to testify on their behalf concerning the above-captioned matter regarding the following:

1. Your authority to and/or role in establishing eligibility standards for Medicaid providers, determining benefits, and reimbursing providers.
2. Your receipt of federal and/or state funds, including funds from the U.S.

Department of Health and Human Services, and all representations made to the federal and/or state government in the course of securing such funds.

3. Your choice to participate in the Medicaid program.
4. The development, creation, and/or use of the Medicaid Plan.
5. Your efforts to administer the Medicaid Program in West Virginia and/or affirm Your compliance with the Medicaid Act and the Patient Protection and Affordable Care Act.
6. Your relationship with each of the following, including any written or unwritten agreements, policies, practices, and/or procedures, and/or communications as they relate to the provision of healthcare coverage to West Virginia Medicaid participants: Mountain Health Trust, UniCare Health Plan of West Virginia, Inc., The Health Plan, Aetna Better Health of West Virginia, and the Rational Drug Therapy Program.
7. Your role in determining and/or offering healthcare coverage to West Virginia Medicaid participants, including Your authority, responsibility, and duties as they relate to determining and/or offering healthcare coverage to West Virginia Medicaid participants.
8. Healthcare coverage and/or denials through Medicaid for transgender West Virginians generally and Christopher Fain and Shauntae Anderson specifically.
9. The decision to stop excluding hormone therapy from coverage in 2017 and/or Your experience covering and/or denying coverage for hormone therapy before and after 2017.
10. Your policies, practices, and procedures related to the Exclusion, including

but not limited to how the Exclusion is developed, approved, and maintained.

11. Any government interests that you contend support the Exclusion, and their factual bases.

12. Any research, consideration, and/or analysis by or on behalf of You regarding providing access to gender-confirming care for West Virginia Medicaid participants.

13. Any research, consideration, and/or analysis by or on behalf of You regarding the legality of the Exclusion.

14. As to healthcare coverage for West Virginia Medicaid participants, Your data and documents systems, including but not limited to hardware configuration, software configuration, network configuration, internet structure, and document and data retention systems.

15. As to healthcare coverage for West Virginia Medicaid participants, Your organizational structure including its units, divisions, and departments.

16. The number of Medicaid participants who are transgender and/or have sought any form of care for the treatment of gender dysphoria.

17. All lawsuits, counterclaims, arbitrations, complaints, or judicial or quasi-judicial actions brought or threatened against You related to the denial of gender-confirming care.

18. All interrogatory requests, requests for admission, and requests for production of documents directed to Defendants William Crouch, Cynthia Beane, and West Virginia Department of Health and Human Resources, Bureau for Medical Services, and any discovery responses, responsive documents, filings, or productions by or on behalf of Defendants William Crouch, Cynthia Beane, and West Virginia Department of Health and Human Resources, Bureau for Medical Services.

Dated: March 1, 2022

/s/ Walt Auvil

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document on March 1, 2022 with the Clerk of the Court using the CM/ECF system, which will send notification of filing, and a copy of the same, to the following CM/ECF participants:

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Dated: March 1, 2022

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