

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

C.P., by and through his parents, Patricia Pritchard and Nolle Pritchard, individually and on behalf of others similarly situated; and PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

[PROPOSED] AMENDED ORDER RE:
CLASS CERTIFICATION

On November 9, 2022, this Court issued its Order on Plaintiffs Motion for Class Certification. *See* Dkt. No. 113. The Order certified a class as follows:

All Individuals who:

(1) have been, are, or will be participants or beneficiaries in an ERISA self-funded "group health plan" (as defined in 29 U.S.C. § 1167(1)) administered by Blue Cross Blue Shield of Illinois ("BCBSIL") during the Class Period and that contains a categorical exclusion of some or all Gender-Affirming Health Care services; and

(2) were, are, or will be denied pre-authorization or coverage of treatment with excluded Gender Affirming Health Care services

DEFINITIONS:

1
2 “Class Period” means November 23, 2016 through the termination of the litigation.

3
4 “Gender-Affirming Health Care” means any health care service—physical, mental, or otherwise—administered or prescribed for the treatment of gender dysphoria; related diagnoses such as gender identity disorder, gender incongruence, or transsexualism; or gender transition. This includes but is not limited to the administration of puberty delaying medication (such as gonadotropin-releasing hormone (GnRH) analogues); exogenous endocrine agents to induce feminizing or masculinizing changes (“hormone replacement therapy”); gender-affirming or “sex-reassignment” surgery or procedures; and other medical services or preventative medical care provided to treat gender dysphoria and/or related diagnoses, as outlined in World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, 7th Version (2012).

14 *Id.*, pp. 15-16. The Court appointed Plaintiff C.P. by and through his parents, as class representative, and the following as class counsel: Eleanor Hamburger and Daniel Gross of Sirianni Youtz Spoonemore Hamburger, and Jennifer Pizer and Omar Gonzalez-Pagan of Lambda Legal Defense and Education Fund. *Id.*

18 On November 15, 2022, the Court, *sua sponte*, issued a case management order that, among other issues, requested that Class counsel submit a proposed Amended Order on Class Certification that identifies the “class claims, issues or defenses” pursuant to Rule 23(c)(1)(B). Consistent with that Order, Class counsel identified the Class “claims, issues or defenses” as all claims for relief asserted in the Amended Complaint pursuant to Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116, Dkt. No. 38, ¶¶99-113, seeking declaratory and injunctive relief from BCBSIL’s ongoing discriminatory administration of the Exclusions of coverage for gender-affirming care

1 on behalf of the Class, including both prospective injunction and retrospective
2 reprocessing.

3 The only individual claim reserved to Pattie Pritchard is a claim for individual
4 compensatory damages, including uncovered out-of-pocket medical expenses related to
5 C.P.'s gender-affirming care. See Dkt. No. 38, ¶100.

6 Accordingly, and for good cause shown, the Court hereby amends the previous
7 Order Certifying the Class (Dkt. No. 113), to reflect that the Class claims in this matter
8 are those identified in the Amended Complaint, Dkt. No. 38, ¶¶99-113, pursuant to
9 Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116, and excluding the individual
10 claim for compensatory damages by Patricia Pritchard described at ¶100.

11 DATED this _____ day of _____, 2022.

12
13
14 _____
15 ROBERT J. BRYAN
16 United States District Judge

17 Presented by:

18 SIRIANNI YOUTZ
19 SPOONEMORE HAMBURGER PLLC

20 /s/ Eleanor Hamburger

21 Eleanor Hamburger (WSBA # 26478)

22 Daniel S. Gross (WSBA #23992)

23 LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.

24 /s/ Omar Gonzalez-Pagan

25 Omar Gonzalez-Pagan, *pro hac vice*

26 Jennifer C. Pizer, *pro hac vice*

Attorneys for Plaintiffs