

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; and PATRICIA
PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

DECLARATION OF ELEANOR
HAMBURGER IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL

**Note on Motion Calendar:
June 3, 2022**

I, Eleanor Hamburger, declare under penalty of perjury and in accordance with the laws of the United States and State of Washington that:

1. I am a partner at Sirianni Youtz Spoonemore Hamburger and am one of the attorneys for plaintiffs in this action.

2. Plaintiffs served their first discovery requests on June 18, 2021. Defense counsel requested, and Plaintiffs' counsel approved, multiple extensions to Defendant's response, which was provided on December 10, 2021. No documents were provided with Defendant's response. Defendant provided some responsive documents between December 2021 and May 2022.

3. Defendant provided a timely but incomplete response to Plaintiffs' second discovery requests but did not provide any responsive documents. Defendant supplemented its second discovery requests three times in May 2022, leading up to the May 13, 2022 deposition of

1 BCBSIL's first Rule 30(b)(6) witness. The remaining Rule 30(b)(6) witnesses will be deposed on
2 June 2 and 28, 2022.

3 4. Plaintiffs served two additional sets of discovery, to which Defendant provided its
4 responses and responsive documents. This discovery dispute does not address Defendant's
5 responses to the third and fourth discovery requests.

6 5. Defendant first served its privilege log, together with additional documents that it
7 concluded were not privileged, on May 10, 2022.

8 6. On May 3, 2022, Plaintiffs' counsel emailed defense counsel inquiring about
9 whether BCBSIL viewed the discovery production as complete, since it did not include any
10 documents regarding plans other than the CHI plan. Plaintiffs' counsel alerted defense counsel in
11 writing, in advance of the deposition of the first Rule 30(b)(6) witness, and during the deposition,
12 that Plaintiffs reserved the right to recall the witness to pose questions regarding the disputed
13 discovery, once this discovery dispute is resolved.

14 7. Until May 11, 2022, Plaintiffs' counsel understood that Defendant would produce
15 the summary plan descriptions and Benefit Program Applications (BPAs) of plans containing
16 exclusions of gender-affirming care. The parties' counsel had regular discovery conferences to
17 discuss the timing of Defendant's document production and supplementation of the discovery
18 responses. During these meetings, BCBSIL never stated that the actual plans and BPAs would
19 only be produced subject to a court order. If Defendant had stated its position originally, in
20 December 2021, or at any time during the previous five months, Plaintiffs would have moved to
21 compel so that the information would have been available well in advance of the Rule 30(b)(6)
22 deposition.

23 8. The BPAs for the CHI plan assert that the gender-affirming care exclusion was
24 permitted, despite the requirements of the Affordable Care Act's anti-discrimination law, due to
25 protections of the "religious freedom" of CHI. BCBSIL refused to produce the BPAs for any other
26 plans that contain a gender-affirming care exclusion. BCBSIL's Rule 30(b)(6) witness testified

1 that the language in the other plans' BPAs was "similar" even though the other plans included
2 non-religious employers.

3 9. During the discovery conference on May 11, 2022, defense counsel refused to
4 produce the actual summary plan documents and BPAs to Plaintiffs because such production
5 would require BCBSIL to obtain permission for the disclosure from each of the 200 affected
6 employers. Defense counsel did not identify why such permission was required, nor why no such
7 permission had been obtained during the many months that discovery was pending. Plaintiffs'
8 counsel knows of no law that requires that summary plan descriptions of employee benefit plans
9 be maintained confidentially.

10 10. During the May 11, 2022 discovery conference, the parties' counsel also discussed
11 the privilege log, but defense counsel did not change any of the assertions of privilege over the
12 disputed documents. Defense counsel did not object to the possibility of having *in camera* review
13 to resolve the dispute regarding the documents withheld in the privilege log.

14 11. Attached are true and correct copies of the following documents, with highlighting
15 where appropriate for the Court's convenience:

Exhibit	Description	Date
1	Plaintiff's First Interrogatories and Requests for Production of Documents to Defendant Blue Cross and Blue Shield of Illinois	June 18, 2021
2	Defendant BCBSIL's Responses and Objections to Plaintiff's First Interrogatories and Requests for Production of Documents	December 10, 2021
3	Plaintiffs' Second Discovery Requests to Defendant BCBSIL	November 9, 2021
4	Defendant BCBSIL's Responses and Objections to Plaintiffs' Second Discovery Requests	December 10, 2021
5	Defendant BCBSIL's Supplemental Responses and Objections to Plaintiffs' Second Discovery Requests	May 4, 2022

Exhibit	Description	Date
6	Defendant BCBSIL's Second Supplemental Responses and Objections to Plaintiffs' Second Discovery Requests	May 9, 2022
7	Defendant BCBSIL's Third Supplemental Responses and Objections to Plaintiffs' Second Discovery Requests	May 12, 2022
8	Email chain between Gwendolyn Payton and Eleanor Hamburger re: Defendant BCBSIL's Supplemental documents to RFP No. 12	May 11, 2022
9	Email chain between Gwendolyn Payton and Eleanor Hamburger re: Responses to BCBSIL's First Interrogatories	January 27, 2022
10	Letter from Eleanor Hamburger to Gwendolyn Payton and Stephanie Bedard re: status of discovery	March 9, 2022
11	Email from Eleanor Hamburger to Gwendolyn Payton and Stephanie Bedard re: Follow up to meet and confer on Friday March 11, 2022	March 15, 2022
12	Emails from Eleanor Hamburger to Stephanie Bedard and Gwendolyn Payton re: Discovery conference	April 22, 2022
13	Email from Eleanor Hamburger to Stephanie Bedard and Gwendolyn Payton re: Defendants' production re Rule 30(b)(6) deposition	May 3, 2022
14	Email chain between Gwendolyn Payton and Eleanor Hamburger re: Supplemental documents to RFP No. 12	May 10, 2022
15	Emails from Eleanor Hamburger to Gwendolyn Payton and Stephanie Bedard re: Meet and Confer	May 11, 2022
16	BCBSIL Privilege Log	May 10, 2022

DATED: May 19, 2022, at Seattle, Washington.

/s/ Eleanor Hamburger

Eleanor Hamburger (WSBA #26478)
 SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC
 3101 Western Avenue, Suite 350
 Seattle, WA 98121
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 Attorneys for Plaintiffs

Exhibit 1

HON. 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; and
PATRICIA PRITCHARD,

Plaintiffs,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

NO. 3:20-cv-06145-RJB

PLAINTIFF'S FIRST
INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT BLUE CROSS AND
BLUE SHIELD OF ILLINOIS

TO: Defendant BLUE CROSS AND BLUE SHIELD OF ILLINOIS;

AND TO: Gwendolyn C. Payton, KILPATRICK TOWNSEND & STOCKTON LLP,
its attorneys

Pursuant to Federal Rule of Civil Procedure 33 and 34, you are requested to respond to each of the following interrogatories and requests for production, in accordance with the definitions and instructions set forth below.

The instructions and definitions in sections B and C, respectively, are used in and govern the interrogatories in section D and requests for production in section E, and are incorporated by reference into those interrogatories and requests for production. All such interrogatories and requests for production must be answered with regard to the following instructions and definitions.

A. TIME AND PLACE OF PRODUCTION

1 The requested material should be produced at 5:00 p.m. at the offices of Sirianni
2 Youtz Spoonemore Hamburger within 30 days of the date of service of these requests, as
3 required by Fed. R. Civ. P. 33 and 34.
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B. INSTRUCTIONS

5 1. Unless otherwise indicated, the following requests for production and
6 interrogatories request information and documents generally from August 10, 2012
7 through the date that this litigation is fully and finally resolved. Information relating to
8 events, transactions or situations occurring during such period or documents generated
9 during same must be provided.

10 2. These requests are intended to draw upon the combined knowledge of
11 Blue Cross and Blue Shield of Illinois and any of its agents, employees, or attorneys
12 (collectively "Defendant" or "BCBSIL"). In responding to the requests, the Defendant
13 must furnish all documents available to it or any of its agents, employees, or attorneys,
14 including documents that are in the possession of the Defendant or are otherwise subject
15 to its control.

16 3. These discovery requests are continuing in nature. In accordance with
17 Federal Rule of Civil Procedure 26(e), if additional information is discovered at any time,
18 these requests are directed to that information, and Defendant is requested to provide it
19 immediately. Original documents responsive to these requests for production are to be
20 produced for inspection at the offices of Sirianni Youtz Spoonemore Hamburger, 701
21 Fifth Avenue, Suite 2560, Seattle, Washington, 30 days from the date of service of these
22 requests.

23 4. If it is claimed that a response, in whole or in part, to any request for
24 production is privileged or otherwise protected from discovery, then with respect to
25 *each* such response:
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1 a. State with specificity the reason or reasons for the objection and/or the
2 nature of any privilege asserted;

3 b. State the name and address of each person having knowledge of the factual
4 basis, if any, upon which the privilege or other objection is asserted; and, if a document;

5 c. Specify:

6 i. The date of the document;

7 ii. The nature or type of the document (*i.e.*, whether letter,
8 telegram, memorandum, etc.);

9 iii. The name and address of each individual who prepared the
10 document;

11 iv. The name and address of each individual to whom the
12 document, or a copy thereof, has been at any time provided;

13 v. The name and address of each person from whom the
14 document has been obtained by you;

15 vi. The name and address of the individual or entity having
16 possession of the original of the document (or if the whereabouts of the original is
17 unknown, the name and address of each person or entity known or believed to have a
18 copy or copies thereof);

19 vii. All other information necessary to identify the document
20 with sufficient particularity to meet the requirements for its inclusion in a motion for
21 production pursuant to FRCP 37; and

22 viii. If such document was, but is no longer, within your care,
23 custody or control, state what disposition was made of it, the reason for such disposition,
24 and the date upon which it was so disposed.

C. DEFINITIONS

As used in the following requests:

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1. Whenever reference is made to the “Defendant,” “you” or “your,” it is to be understood to include any and all of Blue Cross and Blue Shield of Illinois (“BCBSIL”) and its subsidiaries, predecessors in interest, directors, officers, employees, agents, attorneys (including its inside/house counsel and outside or retained counsel), accountants, consultants and other representatives.

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2. The term “document” means the original (or duplicate, identical copies when originals are not available), and any nonidentical copies of writings of every kind and description whether inscribed by hand or by mechanical, electronic, magnetic, microfilm, photographic or other means, as well as phonic (such as tape recordings) or visual reproductions of oral statements, conversations or events, and including but not limited to, correspondence, notes, minutes, internal messages and memoranda, reports, compilations, studies, tables and tabulations, tallies, maps, diagrams, plans, pictures, computer-generated, computer-stored or computer-readable data, electronic mail, computer printouts, teletype messages, bills of lading and other communication. “Documents” includes the file, folder tabs and/or containers and labels appended thereto associated with each such aforesaid original and copy. *With respect to electronic mail or information, these requests reach electronic information that may have been “deleted” from a person’s individual CPU, but that still exists in retrievable form on an individual’s CPU, or on the Defendant’s servers (or on any historical back-up copies of the individual’s CPU, or the servers). Such information remains in the care, custody and control of the Defendant and must be searched and/or disclosed if responsive to these requests.*

1 RESPONSE:

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5 REQUEST FOR PRODUCTION NO. 2: All documents obtained by Defendant
6 from C.P.'s medical providers related to his gender dysphoria.

7 RESPONSE:

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11 REQUEST FOR PRODUCTION NO. 3: All contracts, applications, or other
12 agreements between Catholic Health Initiatives and/or Catholic Health Initiatives
13 Medical Plan and BCBSIL in effect as of January 1, 2014, up to and including the present.

14 RESPONSE:

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18 REQUEST FOR PRODUCTION NO. 4: All documents, emails, and other
19 communications between Catholic Health Initiatives and/or Catholic Health Initiatives
20 Medical Plan and BCBSIL relating to covering and/or excluding treatment related to
21 gender dysphoria from the Plan, including but not limited to, treatment with puberty
22 blockers such as Vantas Implants, testosterone treatment, and chest surgery for
23 adolescents.

1 RESPONSE:

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5 REQUEST FOR PRODUCTION NO. 5: All Independent Review Organization
6 decisions related to treatment of gender dysphoria in BCBSIL plans at any time since
7 January 1, 2014. Defendant may produce redacted copies of these documents.

8 RESPONSE:

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11 REQUEST FOR PRODUCTION NO. 6: All documents provided to, or created by
12 or for, employees or agents of BCBSIL that describe, explain, or otherwise relate to its
13 administration of benefits for and/or exclusions of health care services to treat gender
14 dysphoria at any time since January 1, 2014. This request includes but is not limited to:
15 training manuals, policy manuals, information sheets, internal memoranda, meeting
16 minutes, policy positions, committee reviews, notes, correspondence, implementation
17 plans, etc. including without limitation any research, reports, analyses, studies, etc. upon
18 which BCBSIL's medical policies, and/or coverage exclusions are or were based.

19 RESPONSE:

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22 REQUEST FOR PRODUCTION NO. 7: All actuarial material, or other financial
23 projections, analyses, worksheets and assumption papers relating to the cost, projected
24 or actual, or financial impact of providing coverage for medically necessary treatment
25 for gender dysphoria for enrollees in BCBSIL ERISA self-funded group plans.

1 RESPONSE:

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4 REQUEST FOR PRODUCTION NO. 8: An organizational chart for BCBSIL (and
5 its subsidiaries/component entities, if applicable) for the years 2014 to the present.

6 RESPONSE:

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10 REQUEST FOR PRODUCTION NO. 9: All documents provided to, or created by
11 or for, employees or agents of BCBSIL that describe, explain, or otherwise relate to
12 coverage and/or the exclusion of treatment for gender dysphoria in its insured and/or
13 self-funded or claims administered plans. This request includes but is not limited to:
14 training manuals, policy manuals, information sheets, internal memoranda, meeting
15 minutes, policy positions, committee reviews, notes, correspondence, implementation
16 plans, etc. including without limitation any research, reports, analyses, studies, etc. upon
17 which BCBSIL's coverage determinations of treatment for gender dysphoria are based.

18 RESPONSE:

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22 REQUEST FOR PRODUCTION NO. 10: To the extent not already provided,
23 please produce all copies of the "Benefit Program Application" submitted by the Plan
24 and/or Catholic Health Initiatives to Defendant at any time since January 1, 2014

LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.

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Attorneys for Plaintiffs

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Exhibit 2

HONORABLE JUDGE ROBERT J. BRYAN

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiff,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendants.

Case No. 3:20-cv-06145-RJB

**RESPONSES AND OBJECTIONS TO
PLAINTIFF’S FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT BLUE
CROSS AND BLUE SHIELD OF ILLINOIS**

TO: Plaintiffs C. P., Patricia Pritchard, and Nolle Pritchard.

AND TO: SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC and LAMBDA
LEGAL DEFENSE AND EDUCATION FUND, INC., their attorneys.

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Defendant Blue Cross Blue
Shield of Illinois (“BCBSIL”) hereby objects and responds to Plaintiffs’ First Interrogatories and
Requests for Production (the “Requests”) as follows:

A. GENERAL OBJECTIONS

1. BCBSIL objects to the Requests to the extent they are overly broad, unduly
burdensome, oppressive, redundant, vague, ambiguous, and/or seek to impose on BCBSIL
obligations greater than or different from those imposed by the Federal Rules of Civil Procedure.

2. BCBSIL objects to the Requests to the extent they impose a burden on it that is

1 disproportionate to the needs of the litigation.

2 3. BCBSIL interprets the Requests as excluding documents and information subject
3 to the attorney-client privilege, work-product privilege, joint-defense/common-interest privilege,
4 and any other applicable privileges or protections.

5 5. BCBSIL objects to the Requests to the extent they require BCBSIL to use more
6 than reasonable diligence in preparing its objections and responses based on an examination of
7 those files that reasonably may be expected to yield responsive information and an inquiry of
8 those persons who reasonably may be expected to possess responsive information.

9 6. BCBSIL objects to the Requests to the extent the discovery sought is
10 unreasonably cumulative, duplicative, or obtainable from some other source that is more
11 convenient, less burdensome, or less expensive, including if the discovery sought is already in
12 the Plaintiffs' possession.

13 7. BCBSIL objects to each and every Request to the extent it seeks to require
14 BCBSIL to identify or produce documents not currently in its possession, custody, or control, on
15 the grounds that such a request seeks to require more of BCBSIL than any obligation imposed by
16 law, would subject it to unreasonable and undue annoyance, oppression, burden, and expense, or
17 would seek to impose upon it an obligation to discover information or materials from third
18 parties or sources that are equally accessible to the Plaintiffs.

19 8. BCBSIL objects to the Requests to the extent they seek information outside the
20 applicable three-year statute of limitations for Plaintiffs' Section 1557 claims. *See Smith v.*
21 *Highland Hosp. of Rochester*, No. 17-CV-6781-CJS, 2018 WL 4748187, at *3 (W.D.N.Y. Oct.
22 2, 2018); *Solis v. Our Lady of the Lake Ascension Cmty. Hosp., Inc.*, No. CV 18-56-SDD-RLB,
23 2020 WL 2754917, at *4 (M.D. La. May 27, 2020); *Ward v. Our Lady of the Lake Hosp., Inc.*,
24 No. CV 18-00454-BAJ-RLB, 2020 WL 414457, at *2 (M.D. La. Jan. 24, 2020); RCW
25 4.16.080(2). Moreover, Plaintiffs' class claims, added via amended complaint, do not relate back
26 to the filing of the initial complaint because BCBSIL was not put on sufficient notice at the time
27 that Plaintiffs intended to seek relief on a class-wide basis. *See McClelland v. Deluxe Fin. Servs.*,

1 *Inc.*, 431 F. App'x 718, 731 (10th Cir. 2011); *Corns v. Laborers Int'l Union of N. Am., No. 09-*
2 *CV-4403 YGR*, 2014 WL 1319363, at *5 (N.D. Cal. Mar. 31, 2014) (finding the notice
3 requirement unmet where the original complaint did not give "clear notice" of plaintiff's intent to
4 allege and certify a class); *Perry v. Beneficial Finance Co. of N.Y.*, 81 F.R.D. 490, 495
5 (W.D.N.Y. 1979) (amended complaint adding class claims did not relate back to initial
6 individual complaint). Nonetheless, per the agreement between the parties and for discovery
7 purposes only, BCBSIL will conduct and produce discovery from November 23, 2016 to the
8 present.

9 10. BCBSIL incorporates by reference these "General Objections" into each of the
10 Specific Responses and Objections set forth below, as if fully set forth therein.

11 **B. OBJECTIONS TO INSTRUCTIONS**

12 1. BCBSIL objects to Instruction One because it purports to require BCBSIL to
13 provide documents or information outside of its own possession, custody or control. BCBSIL will
14 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
15 to it, in accordance with the Federal Rules of Civil Procedure.

16 2. BCBSIL objects to Instruction Two because it purports to require BCBSIL to
17 provide documents or information outside of its own possession, custody or control. BCBSIL will
18 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
19 to it, in accordance with the Federal Rules of Civil Procedure.

20 **C. OBJECTIONS TO DEFINITIONS**

21 1. BCBSIL objects to the terms "Defendant," "you" or "your," as overly broad and as
22 calling for information outside of its own possession, custody, or control. BCBSIL also objects
23 that these terms as defined seek information protected by the attorney-client privilege, work
24 product doctrine, or any other applicable privilege or protection.

25 2. BCBSIL objects that the term "Plan," as defined, fails to identify a specific policy
26 year. BCBSIL interprets this term to mean the Summary Plan Description, with an effective date
27

1 of January 1, 2019, attached as Appendix A to the Amended Complaint (Doc. 38, the
2 “Complaint”).

3 **D. INTERROGATORIES**

4 **INTERROGATORY NO. 1: Please identify all individuals who had any role in the**
5 **creation, drafting and/or administering the “Transgender Reassignment Surgery” exclusion**
6 **in the Plan at any time. See Dkt. No. 1-1, p. 61.**

7 ANSWER: BCBSIL objects to this Interrogatory to the extent it seeks information
8 protected by the attorney-client privilege, the work product doctrine, and/or other applicable
9 privileges. BCBSIL further objects that the term “Plan,” as defined, fails to identify a specific
10 policy year. BCBSIL interprets this term to mean the Summary Plan Description attached as
11 Appendix A to the Complaint, with an effective date of January 1, 2019. BCBSIL further objects
12 to the terms “creation” and “administering” as vague and ambiguous. BCBSIL also objects to this
13 Interrogatory as overly broad and unduly burdensome in seeking the identification of “all”
14 BCBSIL employees who are even tangentially involved in any policy-making or decision-making
15 concerning the approval or denial of an exclusion in the Plan, without regard to the materiality of
16 each such person’s knowledge to the facts at issue in this lawsuit. For example, this Interrogatory,
17 as written, arguably would encompass hundreds of employees who received intake calls from
18 policyholders and physicians concerning pre-authorization under the Plan.

19 Notwithstanding the foregoing objections, BCBSIL states that it did not create or draft the
20 exclusion at issue. BCBSIL further states that Telisa Drake has material knowledge of BCBSIL’s
21 administration of the Plan.

22 **INTERROGATORY NO. 2: Please identify the total number of unique enrollees in**
23 **the Plan administered by BCBSIL who have received a denial from BCBSIL under the**
24 **Transgender Surgery Exclusion at any time.**

25 ANSWER: BCBSIL objects to this Interrogatory to the extent it seeks information
26 protected by the attorney-client privilege, the work product doctrine, and/or other applicable
27 privileges. BCBSIL also objects to the undefined term “Transgender Surgery Exclusion” as vague

1 and ambiguous. BCBSIL further objects to the phrase “same or similar” as vague and ambiguous.
2 BCBSIL will interpret the term “Transgender Surgery Exclusion” to mean the exclusion found on
3 pages 67-68 of the Plan.

4 Notwithstanding the above objections, BCBSIL responds as follows: Two.

5
6 **INTERROGATORY NO. 3: Please identify any other plans for which BCBSIL**
7 **administers the same or similar Transgender Reassignment Surgery exclusion.**

8 ANSWER: BCBSIL objects to this Interrogatory as overly broad, unduly burdensome,
9 and not reasonably calculated to lead to the discovery of admissible evidence in seeking “any other
10 plans” for which BCBSIL administers the “same or similar” type of exclusion, without regard to
11 the materiality of such plans to the fact as issue in this lawsuit as alleged in the Complaint. BCBSIL
12 also objects to the undefined term “Transgender Surgery Exclusion” as vague and ambiguous.
13 BCBSIL will interpret the term “Transgender Surgery Exclusion” to mean the exclusion found on
14 pages 67-68 of the Plan. BCBSIL further objects to the term “same or similar” as vague and
15 ambiguous.

16 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
17 Documents sufficient to show the requested information for ERISA self-funded group health plans
18 in effect from November 23, 2016 to the present pursuant to Rule 33(d) of the Federal Rules of
19 Civil Procedure.

20
21 **INTERROGATORY NO. 4: Please identify all individuals who participated in any**
22 **way in the creation, drafting and/or preparation of the Gender Assignment Surgery and**
23 **Gender Reassignment Surgery with Related Services medical policy. See Dkt. No. 1-7.**

24 ANSWER: BCBSIL understands this Interrogatory to refer to the exhibit attached as
25 Appendix G to the Amended Complaint. BCBSIL objects to this Interrogatory to the extent it seeks
26 information protected by the attorney-client privilege, the work product doctrine, and/or other
27 applicable privileges. BCBSIL further objects to this Interrogatory’s use of the terms “creation”

1 and “preparation” which are vague and ambiguous. BCBSIL also objects to this Interrogatory as
2 unduly burdensome in seeking the identification of “all” individuals who are even tangentially
3 involved in any policy-making or decision-making concerning BCBSIL’s medical policy titled
4 “Gender Assignment Surgery and Gender Reassignment Surgery with Related Services,” without
5 regard to the materiality of each such person’s knowledge to the facts at issue in this lawsuit.

6 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
7 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

8
9 **INTERROGATORY NO. 5: Please identify all individuals who participated in any**
10 **way in the creation, drafting and/or preparation of the Benefit Program Application**
11 **provision on coverage and/or the exclusion of treatment for gender dysphoria (including but**
12 **not limited to any reference to the Transgender Reassignment Surgery exclusion) between**
13 **Catholic Health Initiatives and Defendant at any time since January 1, 2014, whether**
14 **employed by BCBSIL, the Plan, Catholic Health Initiatives or another entity.**

15 ANSWER: BCBSIL objects to this Interrogatory to the extent it seeks information
16 protected by the attorney-client privilege, the work product doctrine, and/or other applicable
17 privileges. BCBSIL also objects to this Interrogatory as unduly burdensome in seeking the
18 identification of “all” individuals who are even tangentially involved in the creation, drafting,
19 and/or preparation of the Benefit Program Application provision at issue, without regard to the
20 materiality of each such person’s knowledge to the facts at issue in this lawsuit. BCBSIL also
21 objects to the terms “creation” and “preparation” as vague and ambiguous. BCBSIL further objects
22 to the time frame set forth in this Interrogatory as seeking irrelevant information beyond the
23 applicable statute of limitations.

24 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
25 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

1 **E. REQUESTS FOR PRODUCTION**

2 **REQUEST FOR PRODUCTION NO. 1: All documents relating to C.P.'s requests**
3 **for coverage of health care services related to his gender dysphoria, including but not limited**
4 **to BCBSIL's claims processing of the same, its denials of coverage for certain health care**
5 **services, including all documents reviewed or consulted by defendant in the process of**
6 **administering C.P.'s claims, and C.P.'s administrative appeals.**

7 **RESPONSE:** BCBSIL objects to the Request as vague and ambiguous as to the undefined
8 terms "reviewed or consulted." BCBSIL also objects to this Request to the extent it seeks
9 information protected by the attorney-client privilege, the work product doctrine, and/or other
10 applicable privileges.

11 Notwithstanding these objections, BCBSIL states that it has produced responsive, non-
12 privileged documents in its possession, custody, or control. Discovery is ongoing and BCBSIL
13 will supplement this request if other information is discovered.

14
15 **REQUEST FOR PRODUCTION NO. 2: All documents obtained by Defendant from**
16 **C.P.'s medical providers related to his gender dysphoria.**

17 **RESPONSE:** BCBSIL objects that this Request seeks Documents and Communications
18 that are already in the possession, custody, or control of Plaintiffs or that are as easily available to
19 Plaintiffs as to BCBSIL.

20 Notwithstanding these objections, BCBSIL states that it has produced responsive, non-
21 privileged documents in its possession, custody, or control. Discovery is ongoing and BCBSIL
22 will supplement this request if other information is discovered.

23
24 **REQUEST FOR PRODUCTION NO. 3: All contracts, applications, or other**
25 **agreements between Catholic Health Initiatives and/or Catholic Health Initiatives Medical**
26 **Plan and BCBSIL in effect as of January 1, 2014, up to and including the present.**

1 RESPONSE: BCBSIL objects to this Request as unduly burdensome and not reasonably
2 calculated to lead to the discovery of admissible evidence in seeking “all contracts, applications,
3 or other agreements” between Catholic Health Initiatives and/or Catholic Health Initiatives
4 (“CHI”) Medical Plan and BCBSIL, without regard to the materiality of such documents to the
5 facts at issue in this lawsuit. For example, this Request as drafted could encompass agreements
6 between CHI and BCBSIL that have nothing to do with medical coverage for Plaintiffs or other
7 beneficiaries. BCBSIL further objects to the time frame set forth in this Request as seeking
8 irrelevant information beyond the applicable statute of limitations.

9 Notwithstanding these objections, BCBSIL states that it has produced responsive, non-
10 privileged documents in its possession, custody, or control. Discovery is ongoing and BCBSIL
11 will supplement this request if other information is discovered.

12
13 **REQUEST FOR PRODUCTION NO. 4: All documents, emails, and other**
14 **communications between Catholic Health Initiatives and/or Catholic Health Initiatives**
15 **Medical Plan and BCBSIL relating to covering and/or excluding treatment related to gender**
16 **dysphoria from the Plan, including but not limited to, treatment with puberty blockers such**
17 **as Vantas Implants, testosterone treatment, and chest surgery for adolescents.**

18 RESPONSE: Notwithstanding these objections, BCBSIL states that it has produced
19 responsive, non-privileged documents in its possession, custody, or control. Discovery is ongoing
20 and BCBSIL will supplement this request if other information is discovered.

21
22 **REQUEST FOR PRODUCTION NO. 5: All Independent Review Organization**
23 **decisions related to treatment of gender dysphoria in BCBSIL plans at any time since**
24 **January 1, 2014. Defendant may produce redacted copies of these documents.**

25 RESPONSE: BCBSIL objects to this Request as overly broad and unduly burdensome in
26 seeking “all” Independent Review Organization decisions relating to any appeal of a denial of
27 coverage related to treatment of gender dysphoria in any BCBSIL plan, without regard to the

1 materiality of such Documents to the facts at issue in this lawsuit. For example, this Request, as
2 written, encompasses Documents related to any appeal of a denial of coverage for the treatment of
3 gender dysphoria for any insured on a non-ERISA plan whose claims for coverage varied widely
4 from those for Plaintiffs; thus, this Request is not reasonably calculated to lead to the discovery of
5 admissible evidence. BCBSIL further objects to the time frame set forth in this Request as seeking
6 irrelevant information beyond the applicable statute of limitations.

7 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
8 Plaintiffs regarding the relevance of this request to the allegations in the complaint. Denials based
9 on Plan exclusions are not subject to IRO review.

10
11 **REQUEST FOR PRODUCTION NO. 6: All documents provided to, or created by**
12 **or for, employees or agents of BCBSIL that describe, explain, or otherwise relate to its**
13 **administration of benefits for and/or exclusions of health care services to treat gender**
14 **dysphoria at any time since January 1, 2014. This request includes but is not limited to:**
15 **training manuals, policy manuals, information sheets, internal memoranda, meeting**
16 **minutes, policy positions, committee reviews, notes, correspondence, implementation plans,**
17 **etc. including without limitation any research, reports, analyses, studies, etc. upon which**
18 **BCBSIL’s medical policies, and/or coverage exclusions are or were based.**

19 **RESPONSE:** BCBSIL objects to this Request as overly broad and unduly burdensome in
20 seeking “all” Documents related to the “administration of benefits for and/or exclusions of health
21 care services to treat gender dysphoria,” without regard to the materiality of such Documents to
22 the facts at issue in this lawsuit. For example, this Request, as written, encompasses Documents
23 related to plans that vary widely from the Plan at issue in this litigation; thus, this Request is not
24 reasonably calculated to lead to the discovery of admissible evidence. BCBSIL further objects to
25 the Request’s use of the phrase “agents of BCBSIL” as vague and ambiguous. BCBSIL further
26
27

1 objects to the time frame set forth in this Request as seeking irrelevant information beyond the
2 applicable statute of limitations.

3 Notwithstanding these objections, BCBSIL is willing to meet and confer on the scope of
4 this request.

5
6 **REQUEST FOR PRODUCTION NO. 7: All actuarial material, or other financial
7 projections, analyses, worksheets and assumption papers relating to the cost, projected or
8 actual, or financial impact of providing coverage for medically necessary treatment for
9 gender dysphoria for enrollees in BCBSIL ERISA self-funded group plans.**

10 **RESPONSE:** BCBSIL objects to this Request as overly broad and unduly burdensome in
11 seeking “all actuarial material, or other financial projections, analyses, worksheets and assumption
12 papers,” without regard to the materiality of such Documents to the facts at issue in this lawsuit.
13 For example, this Request, as written, encompasses Documents related to plans that vary widely
14 from the Plan at issue in this litigation; thus, this Request is not reasonably calculated to lead to
15 the discovery of admissible evidence.

16 Notwithstanding the foregoing objections, BCBSIL states that it is not currently aware of
17 any responsive information in its possession, custody, or control. Discovery is ongoing and
18 BCBSIL will supplement this request if other information is discovered.

19
20 **REQUEST FOR PRODUCTION NO. 8: An organizational chart for BCBSIL (and
21 its subsidiaries/component entities, if applicable) for the years 2014 to the present.**

22 **RESPONSE:** BCBSIL objects to this Request as unduly burdensome in seeking an
23 organizational chart showing BCBSIL’s subsidiaries and “component entities,” without regard to
24 the materiality of each entity’s involvement with the facts at issue in this lawsuit. Thus, this
25 Request is not reasonably calculated to lead to the discovery of admissible evidence. BCBSIL
26 further objects to the phrase “component entities” as vague and ambiguous and undefined.
27 BCBSIL does not have subsidiaries, affiliates or divisions. BCBSIL further objects to the time

1 frame set forth in this Request as seeking irrelevant information beyond the applicable statute of
2 limitations.

3 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
4 Documents sufficient to show the requested information from November 23, 2016 to the present,
5 to the degree it exists.

6
7 **REQUEST FOR PRODUCTION NO. 9: All documents provided to, or created by**
8 **or for, employees or agents of BCBSIL that describe, explain, or otherwise relate to coverage**
9 **and/or the exclusion of treatment for gender dysphoria in its insured and/or self-funded or**
10 **claims administered plans. This request includes but is not limited to: training manuals,**
11 **policy manuals, information sheets, internal memoranda, meeting minutes, policy positions,**
12 **committee reviews, notes, correspondence, implementation plans, etc. including without**
13 **limitation any research, reports, analyses, studies, etc. upon which BCBSIL’s coverage**
14 **determinations of treatment for gender dysphoria are based.**

15 **RESPONSE:** BCBSIL objects to this Request as overly broad and unduly burdensome in
16 seeking “all” Documents “provided to, or created by or for, employees or agents of BCBSIL that
17 describe, explain, or otherwise relate to coverage and/or the exclusion of treatment for gender
18 dysphoria in its insured and/or self-funded or claims administered plans,” without regard to the
19 materiality of such Documents to the facts at issue in this lawsuit. For example, this Request, as
20 written, encompasses Documents related to plans that vary widely from the Plan at issue in this
21 litigation; thus, this Request is not reasonably calculated to lead to the discovery of admissible
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1 evidence. BCBSIL further objects to the phrase “agents of BCBSIL” as vague, ambiguous, and
2 undefined. Insured Plans are not relevant to this litigation.

3 Notwithstanding these objections, BCBSIL is willing to meet and confer on the scope of
4 this request.

5
6 **REQUEST FOR PRODUCTION NO. 10: To the extent not already provided, please**
7 **produce all copies of the “Benefit Program Application” submitted by the Plan and/or**
8 **Catholic Health Initiatives to Defendant at any time since January 1, 2014.**

9 RESPONSE: BCBSIL further objects to the time frame set forth in this Request as seeking
10 irrelevant information beyond the applicable statute of limitations.

11 Notwithstanding these objections, BCBSIL states that it has produced responsive, non-
12 privileged documents in its possession, custody, or control. Discovery is ongoing and BCBSIL
13 will supplement this request if other information is discovered.

14
15 **REQUEST FOR PRODUCTION NO. 11: To the extent not already provided, please**
16 **produce all documents provided by the Plan and/or Catholic Health Initiatives that reflects**
17 **any determination that BCBSIL could administer the Plan in a manner that did not and/or**
18 **does not comply with the Affordable Care Act’s Section 1557, 42 U.S.C. §18116.**

19 RESPONSE: BCBSIL objects to this Request to the extent it implicates attorney-client
20 privilege, work-product privilege, or any other applicable privileges or protections.

21 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
22 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

23
24 DATED this 10th day of December, 2021.

KILPATRICK TOWNSEND & STOCKTON LLP

By /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA No. 26752
gpayton@kilpatricktownsend.com
1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 626-7714
Facsimile: (206) 623-6793

*Counsel for Defendant Health Care Service
Corporation, a Mutual Legal Reserve
Company, doing business in Illinois as Blue
Cross and Blue Shield of Illinois*

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VERIFICATION

1
2 My name is Suzanne Livorsi, and I am a Project Coordinator for Blue Cross and Blue Shield
3 Of Illinois. I have read the RESPONSES AND OBJECTIONS TO Interrogatories 1-5 of
4 PLAINTIFFS’ FIRST DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND
5 BLUE SHIELD OF ILLINOIS. I have authority to provide the foregoing RESPONSES AND
6 OBJECTIONS TO Interrogatories 1-5 of PLAINTIFFS’ FIRST DISCOVERY REQUESTS TO
7 DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS, and based on the
8 information currently available after reasonable investigation, I certify that Blue Cross and Blue
9 Shield Of Illinois’ RESPONSES AND OBJECTIONS TO Interrogatories 1-5 of PLAINTIFFS’
10 FIRST DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF
11 ILLINOIS are true, correct, and complete; except the RESPONSES AND OBJECTIONS TO
12 Interrogatories 1-5 of PLAINTIFFS’ FIRST DISCOVERY REQUESTS TO DEFENDANT
13 BLUE CROSS AND BLUE SHIELD OF ILLINOIS were prepared with information available
14 from other sources and not based entirely upon my personal knowledge. The RESPONSES AND
15 OBJECTIONS TO Interrogatories 1-5 of PLAINTIFFS’ FIRST DISCOVERY REQUESTS TO
16 DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS are limited by the
17 information presently recollectd and thus far discovered in the course of preparation of the
18 RESPONSES AND OBJECTIONS TO Interrogatories 1-5 of PLAINTIFFS’ FIRST
19 DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF
20 ILLINOIS.

21
22 .
23
24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed at Naperville, Illinois on December 10, 2021.

26 City

27 State



Suzanne Livorsi

CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, RESPONSES AND OBJECTIONS TO PLAINTIFF’S FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS has been sent via e-mail to the following attorneys of record:

Eleanor Hamburger
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
3101 WESTERN AVENUE STE 350
SEATTLE, WA 98121
206-223-0303
Fax: 206-223-0246
Email: ehamburger@sylaw.com

Jennifer C Pizer
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
4221 WILSHIRE BLVD., STE 280
LOS ANGELES, CA 90010
213-382-7600
Email: jpizer@lambdalegal.org

Omar Gonzalez-Pagan
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC. (NY)
120 WALL STREET
19TH FLOOR
NEW YORK, NY 10005
212-809-8585
Email: ogonzalez-pagan@lambdalegal.org

DATED this 10th day of December, 2021.

Kilpatrick, Townsend & Stockton LLP

By: /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA #26752
gpayton@kilpatricktownsend.com

Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

Exhibit 3

1 interrogatories and requests for production must be answered with regard to the
2 following instructions and definitions.

3 **A. TIME AND PLACE OF PRODUCTION**

4 The requested material should be produced at 5:00 p.m. at the offices of Sirianni
5 Youtz Spoonemore Hamburger within 30 days of the date of service of these requests, as
6 required by Fed. R. Civ. P. 33 and 34.

7 **B. INSTRUCTIONS**

8 1. Unless otherwise indicated, the following requests for production and
9 interrogatories request information and documents generally from August 10, 2012
10 through the date that this litigation is fully and finally resolved. Information relating to
11 events, transactions or situations occurring during such period or documents generated
12 during same must be provided.

13 2. These requests are intended to draw upon the combined knowledge of
14 Blue Cross and Blue Shield of Illinois and any of its agents, employees, or attorneys
15 (collectively "Defendant" or "BCBSIL"). In responding to the requests, the Defendant
16 must furnish all documents available to it or any of its agents, employees, or attorneys,
17 including documents that are in the possession of the Defendant or are otherwise subject
18 to its control.

19 3. These discovery requests are continuing in nature. In accordance with
20 Federal Rule of Civil Procedure 26(e), if additional information is discovered at any time,
21 these requests are directed to that information, and Defendant is requested to provide it
22 immediately. Original documents responsive to these requests for production are to be
23 produced for inspection at the offices of Sirianni Youtz Spoonemore Hamburger, 3101
24 Western Avenue, Suite 350, Seattle, Washington, 30 days from the date of service of these
25 requests.

1 4. If it is claimed that a response, in whole or in part, to any request for
2 production is privileged or otherwise protected from discovery, then with respect to
3 *each* such response:

4 a. State with specificity the reason or reasons for the objection and/or
5 the nature of any privilege asserted;

6 b. State the name and address of each person having knowledge of the
7 factual basis, if any, upon which the privilege or other objection is asserted; and, if a
8 document;

9 c. Specify:

10 i. The date of the document;

11 ii. The nature or type of the document (*i.e.*, whether letter,
12 telegram, memorandum, etc.);

13 iii. The name and address of each individual who prepared the
14 document;

15 iv. The name and address of each individual to whom the
16 document, or a copy thereof, has been at any time provided;

17 v. The name and address of each person from whom the
18 document has been obtained by you;

19 vi. The name and address of the individual or entity having
20 possession of the original of the document (or if the whereabouts of the original is
21 unknown, the name and address of each person or entity known or believed to have a
22 copy or copies thereof);

23 vii. All other information necessary to identify the document
24 with sufficient particularity to meet the requirements for its inclusion in a motion for
25 production pursuant to FRCP 37; and
26

1 *control of the Defendant and must be searched and/or disclosed if responsive to these*
2 *requests.*

3 3. The term “pertaining to” or “relating to” means concerning, referring to,
4 alluding to, responding to, about, regarding, announcing, explaining, discussing,
5 showing, describing, studying, reflecting and analyzing or constituting.

6 4. “Plan” means the health benefit plan provided by Catholic Health
7 Initiatives Medical Plan for the employees of Catholic Health Initiatives (“CHI”) that is
8 claims-administered and/or plan-administered by BCBSIL.

9 5. The term “gender-affirming care exclusion” means any exclusion,
10 including the Transgender Reassignment Surgery exclusion contained in the CHI Plan,
11 which categorically excludes from coverage medical services, including but not limited
12 to gonadotropin-releasing hormone (GnRH) analog treatment, hormone replacement
13 therapy, and surgery, for the purpose of gender transition, gender reassignment, sex
14 change, sex reassignment, sex transformation, transsexual services, or treatment of
15 gender dysphoria, gender identity disorder, or transsexualism, on any basis other than
16 medical necessity.

17 **D. REQUESTS FOR ADMISSIONS**

18 REQUEST FOR ADMISSION NO. 1: Admit that there are at least 40 persons who
19 fit the class definition found at paragraph 91 of the Amended Complaint (Dkt. No. 38).

20 ANSWER:

21
22
23 **E. INTERROGATORIES**

24 INTERROGATORY NO. 6: Please identify any other plans for which BCBSIL
25 administers a gender-affirming care exclusion.

26 ANSWER:

1
2
3 INTERROGATORY NO. 7: Please identify the total population of enrollees, by
4 year, in the CHI Plan and each of the plans identified in the responses to Interrogatories
5 Nos. 3 and 6.

6 ANSWER:
7
8

9 INTERROGATORY NO. 8: Please identify the total number of unique enrollees
10 in each plan administered by BCBSIL that contains a gender-affirming care exclusion as
11 identified in response to Interrogatory No. 6, or an exclusion that is the same or similar
12 to the Transgender Reassignment Surgery exclusion as identified in response to
13 Interrogatory No. 3, who have received a denial based on such exclusion from BCBSIL
14 at any time since November 23, 2014.

15 ANSWER:
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18 INTERROGATORY NO. 9: For each of the plans identified in response to
19 Interrogatories Nos. 3 and 6, please identify all individuals who participated in any way
20 in the creation, drafting and/or preparation of the Benefit Program Application
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1 provision on coverage of treatment for gender dysphoria and/or the gender-affirming
2 care exclusion, whether employed by BCBSIL or another entity.

3 ANSWER:

4
5
6 INTERROGATORY NO. 10: To the extent that BCBSIL's response to Request for
7 Admission No. 1 is not a complete admission, please identify the complete factual bases
8 for BCBSIL's denial, either in whole or in part, including the source of the factual bases
9 for the denial.

10 ANSWER:

11
12
13 **F. REQUESTS FOR PRODUCTION**

14 Please produce for inspection and copying:

15 REQUEST FOR PRODUCTION NO. 12: All contracts, Benefit Program
16 Applications or other kinds of applications or agreements between BCBSIL and any
17 other entity, including the self-funded plans and/or the self-funded plans' sponsors,
18 pertaining to the plans identified in response to Interrogatories Nos. 3 and 6 in effect as
19 of January 1, 2014, up to and including the present.

20 RESPONSE:

21
22
23 REQUEST FOR PRODUCTION NO. 13: All documents, emails, and other
24 communications relating to covering or excluding treatment related to gender dysphoria
25 and/or a gender-affirming care exclusion with regards to any plan identified in response
26

1 to Interrogatories Nos. 3 and 6, including but not limited to, treatment with puberty
2 blockers, hormone treatment, and/or surgery.

3 RESPONSE:

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6 REQUEST FOR PRODUCTION NO. 14: To the extent not already provided,
7 please produce all copies of the "Benefit Program Application" submitted to BCBSIL in
8 relation to any plan identified in response to Interrogatories No. 3 and 6, at any time
9 since January 1, 2014.

10 RESPONSE:

11
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13 REQUEST FOR PRODUCTION NO. 15: To the extent not already provided,
14 please produce all documents relating to any plan identified in response to
15 Interrogatories Nos. 3 and 6 which reflect any determination that BCBSIL could
16 administer such plan in a manner that did not and/or does not comply with the
17 Affordable Care Act's Section 1557, 42 U.S.C. § 18116.

18 RESPONSE:

1 DATED: November 9, 2021.

2 SIRIANNI YOUTZ
3 SPOONEMORE HAMBURGER PLLC

4 /s/Eleanor Hamburger

5 Eleanor Hamburger (WSBA #26478)
6 3101 Western Avenue, Suite 350
7 Seattle, WA 98121
8 Tel. (206) 223-0303; Fax (206) 223-0246
9 Email: ehamburger@sylaw.com

10 LAMBDA LEGAL DEFENSE AND
11 EDUCATION FUND, INC.
12 Omar Gonzalez-Pagan, *pro hac vice*
13 120 Wall Street, 19th Floor
14 New York, NY 10005
15 Tel. (212) 809-8585; Fax (212) 809-0055
16 Email: ogonzalez-pagan@lambdalegal.org

17 Jennifer C. Pizer, *pro hac vice*
18 4221 Wilshire Boulevard, Suite 280
19 Los Angeles, California 90010
20 Tel. (213) 382-7600; Fax (213) 351-6050
21 Email: jpizer@lambdalegal.org

22 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2021, I caused the foregoing document to be served on the following counsel of record via electronic mail:

Gwendolyn C. Payton, WSBA No. 26752
KILPATRICK TOWNSEND & STOCKTON LLP
1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 626-7714
gpayton@kilpatricktownsend.com
IRountree@kilpatricktownsend.com
Counsel for Defendant Blue Cross Blue Shield Of Illinois

DATED: November 9, 2021, at Seattle, Washington.

/s/ Eleanor Hamburger
Eleanor Hamburger (WSBA # 26478)
Email: ehamburger@sylaw.com

Exhibit 4

HONORABLE JUDGE ROBERT J. BRYAN

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiff,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendants.

Case No. 3:20-cv-06145-RJB

**RESPONSES AND OBJECTIONS TO
PLAINTIFF’S SECOND DISCOVERY
REQUESTS TO DEFENDANT BLUE
CROSS AND BLUE SHIELD OF ILLINOIS**

TO: Plaintiffs C. P., Patricia Pritchard, and Nolle Pritchard.

AND TO: SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC and LAMBDA
LEGAL DEFENSE AND EDUCATION FUND, INC., their attorneys.

Pursuant to Federal Rules of Civil Procedure 26, 33, 34, and 36, Defendant Blue Cross
Blue Shield of Illinois (“BCBSIL”) hereby objects and responds to Plaintiffs’ Second Discovery
Requests (the “Requests”) as follows:

A. GENERAL OBJECTIONS

1. BCBSIL objects to the Requests to the extent they are overly broad, unduly
burdensome, oppressive, redundant, vague, ambiguous, and/or seek to impose on BCBSIL
obligations greater than or different from those imposed by the Federal Rules of Civil Procedure.

1 2. BCBSIL objects to the Requests to the extent they impose a burden on it that is
2 disproportionate to the needs of the litigation.

3 3. BCBSIL interprets the Requests as excluding documents and information subject
4 to the attorney-client privilege, work-product privilege, joint-defense/common-interest privilege,
5 and any other applicable privileges or protections.

6 5. BCBSIL objects to the Requests to the extent they require BCBSIL to use more
7 than reasonable diligence in preparing their objections and responses based on an examination of
8 those files that reasonably may be expected to yield responsive information and an inquiry of
9 those persons who reasonably may be expected to possess responsive information.

10 6. BCBSIL objects to the Requests to the extent the discovery sought is
11 unreasonably cumulative, duplicative, or obtainable from some other source that is more
12 convenient, less burdensome, or less expensive, including if the discovery sought is already in
13 the Plaintiffs' possession.

14 7. BCBSIL objects to each and every Request to the extent it seeks to require
15 BCBSIL to identify or produce documents not currently in their possession, custody, or control,
16 on the grounds that such a request seeks to require more of BCBSIL than any obligation imposed
17 by law, would subject it to unreasonable and undue annoyance, oppression, burden, and expense,
18 or would seek to impose upon it an obligation to discover information or materials from third
19 parties or sources that are equally accessible to the Plaintiffs.

20 8. BCBSIL objects to the Requests to the extent they seek information outside the
21 applicable three-year statute of limitations for Plaintiffs' Section 1557 claims. *See Smith v.*
22 *Highland Hosp. of Rochester*, No. 17-CV-6781-CJS, 2018 WL 4748187, at *3 (W.D.N.Y. Oct.
23 2, 2018); *Solis v. Our Lady of the Lake Ascension Cmty. Hosp., Inc.*, No. CV 18-56-SDD-RLB,
24 2020 WL 2754917, at *4 (M.D. La. May 27, 2020); *Ward v. Our Lady of the Lake Hosp., Inc.*,
25 No. CV 18-00454-BAJ-RLB, 2020 WL 414457, at *2 (M.D. La. Jan. 24, 2020); RCW
26 4.16.080(2). Moreover, Plaintiffs' class claims, added via amended complaint, do not relate back
27 to the filing of the initial complaint because BCBSIL was not put on sufficient notice at the time

1 that Plaintiffs intended to seek relief on a class-wide basis. *See McClelland v. Deluxe Fin. Servs.,*
2 *Inc.*, 431 F. App'x 718, 731 (10th Cir. 2011); *Corns v. Laborers Int'l Union of N. Am.*, No. 09-
3 CV-4403 YGR, 2014 WL 1319363, at *5 (N.D. Cal. Mar. 31, 2014) (finding the notice
4 requirement unmet where the original complaint did not give “clear notice” of plaintiff's intent to
5 allege and certify a class); *Perry v. Beneficial Finance Co. of N.Y.*, 81 F.R.D. 490, 495
6 (W.D.N.Y. 1979) (amended complaint adding class claims did not relate back to initial
7 individual complaint). Nonetheless, per the agreement between the parties and for discovery
8 purposes only, BCBSIL will conduct and produce discovery from November 23, 2016 to the
9 present.

10 9. BCBSIL objects to each and every Request to the extent BCBSIL incorporates by
11 reference these “General Objections” into each of the Specific Responses and Objections set
12 forth below, as if fully set forth therein.

13 10. BCBSIL incorporates by reference these “General Objections” into each of the
14 Specific Responses and Objections set forth below, as if fully set forth therein

15 **B. OBJECTIONS TO INSTRUCTIONS**

16 1. BCBSIL objects to Instruction One because it purports to require BCBSIL to
17 provide documents or information outside of its own possession, custody or control. BCBSIL will
18 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
19 to it, in accordance with the Federal Rules of Civil Procedure.

20 2. BCBSIL objects to Instruction Two because it purports to require BCBSIL to
21 provide documents or information outside of its own possession, custody or control. BCBSIL will
22 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
23 to it, in accordance with the Federal Rules of Civil Procedure.

24 **C. OBJECTIONS TO DEFINITIONS**

25 1. BCBSIL objects to the terms “Defendant,” “you” or “your,” as overly broad and as
26 calling for information outside of its own possession, custody, or control. BCBSIL also objects
27

1 that these terms as defined seek information protected by the attorney-client privilege, work
2 product doctrine, or any other applicable privilege or protection.

3 2. BCBSIL further objects that the term “Plan,” as defined, fails to identify a specific
4 policy year. BCBSIL interprets this term to mean the Summary Plan Description, with an effective
5 date of January 1, 2019, attached as Appendix A to the Amended Complaint (Doc. 38, the
6 “Complaint”).

7 **D. REQUESTS FOR ADMISSION**

8 **REQUEST FOR ADMISSION NO. 1: Admit that there are at least 40 persons who
9 fit the class definition found at paragraph 91 of the Amended Complaint (Dkt. No. 38).**

10 ANSWER: BCBSIL objects to this Interrogatory in that the class definition is vague,
11 ambiguous and not easily ascertainable. BCBSIL is still investigating this request and will
12 supplement this response upon completion of the investigation.

13
14 **E. INTERROGATORIES**

15 **INTERROGATORY NO. 6: Please identify any other plans for which BCBSIL
16 administers a gender-affirming care exclusion.**

17 ANSWER: BCBSIL objects to this Interrogatory as overly broad, unduly burdensome,
18 and not reasonably calculated to lead to the discovery of admissible evidence in seeking “any other
19 plans” for which BCBSIL administers a “gender-affirming care exclusion,” without regard to the
20 materiality of such plans to the fact as issue in this lawsuit as alleged in the Complaint.

21 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
22 Documents sufficient to show the relevant language and number of ERISA self-funded group
23 health plans pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

24
25 **INTERROGATORY NO. 7: Please identify the total population of enrollees, by year,
26 in the CHI Plan and each of the plans identified in the responses to Interrogatories Nos. 3
27 and 6.**

1 ANSWER: BCBSIL incorporates by reference its responses and objections to Interrogatory
2 Nos. 3 and 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer
3 with Plaintiffs regarding the relevance of this request to the allegations in the complaint.
4

5 **INTERROGATORY NO. 8**: Please identify the total number of unique enrollees in
6 each plan administered by BCBSIL that contains a gender-affirming care exclusion as
7 identified in response to Interrogatory No. 6, or an exclusion that is the same or similar to
8 the Transgender Reassignment Surgery exclusion as identified in response to Interrogatory
9 No. 3, who have received a denial based on such exclusion from BCBSIL at any time since
10 November 23, 2014.

11 ANSWER: BCBSIL incorporates by reference its responses and objections to
12 Interrogatory Nos. 3 and 6. BCBSIL further objects to the term “same or similar” as vague and
13 ambiguous. BCBSIL also objects to the time frame set forth in this Interrogatory as seeking
14 irrelevant information beyond the applicable statute of limitations. For the reasons stated above,
15 BCBSIL will conduct and produce discovery from November 23, 2016 to the present

16 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
17 Documents sufficient to show the requested information from November 23, 2016 to the present,
18 to the degree it exists.
19

20 **INTERROGATORY NO. 9**: For each of the plans identified in response to
21 Interrogatories Nos. 3 and 6, please identify all individuals who participated in any way in
22 the creation, drafting and/or preparation of the Benefit Program Application provision on
23 coverage of treatment for gender dysphoria and/or the gender-affirming care exclusion,
24 whether employed by BCBSIL or another entity.

25 ANSWER: BCBSIL incorporates by reference its responses and objections to
26 Interrogatory Nos. 3 and 6. BCBSIL objects that the terms “creation” and “preparation” are vague
27

1 and ambiguous. Notwithstanding the foregoing objections, BCBSIL states that it will meet and
2 confer with Plaintiffs regarding the relevance of this request to the allegations in the complaint.

3
4 **INTERROGATORY NO. 10: To the extent that BCBSIL’s response to Request for**
5 **Admission No. 1 is not a complete admission, please identify the complete factual bases for**
6 **BCBSIL’s denial, either in whole or in part, including the source of the factual bases for the**
7 **denial.**

8 **ANSWER:** BCBSIL will respond if its investigation leads to a denial of Request for
9 Admission No. 1.

10
11 **F. REQUESTS FOR PRODUCTION**

12 **REQUEST FOR PRODUCTION NO. 12: All contracts, Benefit Program**
13 **Applications or other kinds of applications or agreements between BCBSIL and any other**
14 **entity, including the self-funded plans and/or the self-funded plans’ sponsors, pertaining to**
15 **the plans identified in response to Interrogatories Nos. 3 and 6 in effect as of January 1, 2014,**
16 **up to and including the present.**

17 **RESPONSE:** BCBSIL incorporates by reference its responses and objections to
18 Interrogatory Nos. 3 and 6. BCBSIL objects to this Request as unduly burdensome and not
19 reasonably calculated to lead to the discovery of admissible evidence in seeking “all contracts,
20 Benefit Program Applications or other kinds of applications or agreements” between BCBSIL and
21 “any other entity,” without regard to the materiality of such documents to the facts at issue in this
22 lawsuit. For example, this Request as drafted could encompass agreements between BCBSIL and
23 a whole number of third parties that have nothing to do with coverage for any beneficiaries.

1 BCBSIL further objects to the time frame set forth in this Request as seeking irrelevant information
2 beyond the applicable statute of limitations.

3 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
4 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
5 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

6
7 **REQUEST FOR PRODUCTION NO. 13: All documents, emails, and other**
8 **communications relating to covering or excluding treatment related to gender dysphoria**
9 **and/or a gender-affirming care exclusion with regards to any plan identified in response to**
10 **Interrogatories Nos. 3 and 6, including but not limited to, treatment with puberty blockers,**
11 **hormone treatment, and/or surgery.**

12 **RESPONSE:** BCBSIL incorporates by reference its responses and objections to
13 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Interrogatory to the extent it seeks
14 information protected by the attorney-client privilege, the work product doctrine, and/or other
15 applicable privileges. BCBSIL further objects to this Request as unduly burdensome and not
16 reasonably calculated to lead to the discovery of admissible evidence in seeking “all documents,
17 emails, and other communications” without regard to the materiality of such documents to the facts
18 at issue in this lawsuit. For example, this Request as drafted could encompass documents, emails,
19 and communications related to the plans identified in response to Interrogatory Nos. 3 and 6 but
20 which do not directly concern treatment for gender dysphoria and/or a gender-affirming care
21 exclusion.

22 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
23 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
24 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

25
26 **REQUEST FOR PRODUCTION NO. 14: To the extent not already provided, please**
27 **produce all copies of the “Benefit Program Application” submitted to BCBSIL in relation to**

1 **any plan identified in response to Interrogatories No. 3 and 6, at any time since January 1,**
2 **2014.**

3 RESPONSE: BCBSIL incorporates by reference its responses and objections to
4 Interrogatory Nos. 3 and 6. BCBSIL further objects to the time frame set forth in this Request as
5 seeking irrelevant information beyond the applicable statute of limitations.

6 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
7 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
8 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

9
10 **REQUEST FOR PRODUCTION NO. 15: To the extent not already provided, please**
11 **produce all documents relating to any plan identified in response to Interrogatories Nos. 3**
12 **and 6 which reflect any determination that BCBSIL could administer such plan in a manner**
13 **that did not and/or does not comply with the Affordable Care Act’s Section 1557, 42 U.S.C.**
14 **§ 18116.**

15 RESPONSE: BCBSIL incorporates by reference its responses and objections to
16 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Request to the extent it implicates attorney-
17 client privilege, work-product privilege, or any other applicable privileges or protections.

18 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
19 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
20 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

21
22 DATED this 10th day of December, 2021.

23 KILPATRICK TOWNSEND & STOCKTON LLP

24 By /s/ Gwendolyn C. Payton
25 Gwendolyn C. Payton, WSBA No. 26752
26 gpayton@kilpatricktownsend.com
27 1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 626-7714
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Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

VERIFICATION

1

2 My name is Suzanne Livorsi, and I am a Project Coordinator at Blue Cross and Blue

3 Shield of Illinois. I have read the RESPONSES AND OBJECTIONS TO Interrogatories 6 -10

4 of PLAINTIFFS’ SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS

5 AND BLUE SHIELD OF ILLINOIS. I have authority to provide the foregoing RESPONSES

6 AND OBJECTIONS TO Interrogatories 6-10 of PLAINTIFFS’ SECOND DISCOVERY

7 REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS, and

8 based on the information currently available after reasonable investigation, I certify that Blue

9 Cross and Blue Shield Of Illinois’ RESPONSES AND OBJECTIONS TO Interrogatories 6-10

10 of PLAINTIFFS’ SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS

11 AND BLUE SHIELD OF ILLINOIS are true, correct, and complete; except that the

12 RESPONSES AND OBJECTIONS TO Interrogatories 6 -10 of PLAINTIFFS’ SECOND

13 DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF

14 ILLINOIS were prepared with information available from other sources and not based entirely

15 upon my personal knowledge. The RESPONSES AND OBJECTIONS TO Interrogatories 6 -

16 10 of PLAINTIFFS’ SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS

17 AND BLUE SHIELD OF ILLINOIS are limited by the information presently recollected and

18 thus far discovered in the course of preparation of the RESPONSES AND OBJECTIONS TO

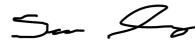
19 Interrogatories 6-10 of PLAINTIFFS’ SECOND DISCOVERY REQUESTS TO

20 DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Naperville, Illinois on December 10, 2021.

City State



Suzanne Livorsi

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CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, RESPONSES AND OBJECTIONS TO PLAINTIFF’S SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS has been sent via e-mail to the following attorneys of record:

Eleanor Hamburger
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
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DATED this 10th day of December, 2021.

Kilpatrick, Townsend & Stockton LLP

By: /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA #26752
gpayton@kilpatricktownsend.com

Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

Exhibit 5

HONORABLE JUDGE ROBERT J. BRYAN

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiff,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendants.

Case No. 3:20-cv-06145-RJB

**SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO PLAINTIFFS’ SECOND
DISCOVERY REQUESTS TO DEFENDANT
BLUE CROSS AND BLUE SHIELD OF
ILLINOIS**

TO: Plaintiffs C. P., Patricia Pritchard, and Nolle Pritchard.

AND TO: SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC and LAMBDA
LEGAL DEFENSE AND EDUCATION FUND, INC., their attorneys.

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Defendant Blue Cross Blue
Shield of Illinois (“BCBSIL”) hereby objects and responds to Plaintiffs’ Second Discovery
Requests (the “Requests”) as follows:

A. GENERAL OBJECTIONS

1. BCBSIL objects to the Requests to the extent they are overly broad, unduly
burdensome, oppressive, redundant, vague, ambiguous, and/or seek to impose on BCBSIL
obligations greater than or different from those imposed by the Federal Rules of Civil Procedure.

1 2. BCBSIL objects to the Requests to the extent they impose a burden on it that is
2 disproportionate to the needs of the litigation.

3 3. BCBSIL interprets the Requests as excluding documents and information subject
4 to the attorney-client privilege, work-product privilege, joint-defense/common-interest privilege,
5 and any other applicable privileges or protections.

6 5. BCBSIL objects to the Requests to the extent they require BCBSIL to use more
7 than reasonable diligence in preparing their objections and responses based on an examination of
8 those files that reasonably may be expected to yield responsive information and an inquiry of
9 those persons who reasonably may be expected to possess responsive information.

10 6. BCBSIL objects to the Requests to the extent the discovery sought is
11 unreasonably cumulative, duplicative, or obtainable from some other source that is more
12 convenient, less burdensome, or less expensive, including if the discovery sought is already in
13 the Plaintiffs' possession.

14 7. BCBSIL objects to each and every Request to the extent it seeks to require
15 BCBSIL to identify or produce documents not currently in their possession, custody, or control,
16 on the grounds that such a request seeks to require more of BCBSIL than any obligation imposed
17 by law, would subject it to unreasonable and undue annoyance, oppression, burden, and expense,
18 or would seek to impose upon it an obligation to discover information or materials from third
19 parties or sources that are equally accessible to the Plaintiffs.

20 8. BCBSIL objects to the Requests to the extent they seek information outside the
21 applicable three-year statute of limitations for Plaintiffs' Section 1557 claims. *See Smith v.*
22 *Highland Hosp. of Rochester*, No. 17-CV-6781-CJS, 2018 WL 4748187, at *3 (W.D.N.Y. Oct.
23 2, 2018); *Solis v. Our Lady of the Lake Ascension Cmty. Hosp., Inc.*, No. CV 18-56-SDD-RLB,
24 2020 WL 2754917, at *4 (M.D. La. May 27, 2020); *Ward v. Our Lady of the Lake Hosp., Inc.*,
25 No. CV 18-00454-BAJ-RLB, 2020 WL 414457, at *2 (M.D. La. Jan. 24, 2020); RCW
26 4.16.080(2). Moreover, Plaintiffs' class claims, added via amended complaint, do not relate back
27 to the filing of the initial complaint because BCBSIL was not put on sufficient notice at the time

1 that Plaintiffs intended to seek relief on a class-wide basis. *See McClelland v. Deluxe Fin. Servs.,*
2 *Inc.*, 431 F. App'x 718, 731 (10th Cir. 2011); *Corns v. Laborers Int'l Union of N. Am.*, No. 09-
3 CV-4403 YGR, 2014 WL 1319363, at *5 (N.D. Cal. Mar. 31, 2014) (finding the notice
4 requirement unmet where the original complaint did not give "clear notice" of plaintiff's intent to
5 allege and certify a class); *Perry v. Beneficial Finance Co. of N.Y.*, 81 F.R.D. 490, 495
6 (W.D.N.Y. 1979) (amended complaint adding class claims did not relate back to initial
7 individual complaint). Nonetheless, per the agreement between the parties and for discovery
8 purposes only, BCBSIL will conduct and produce discovery from November 23, 2016 to the
9 present.

10 10. BCBSIL incorporates by reference these "General Objections" into each of the
11 Specific Responses and Objections set forth below, as if fully set forth therein

12 **B. OBJECTIONS TO INSTRUCTIONS**

13 1. BCBSIL objects to Instruction One because it purports to require BCBSIL to
14 provide documents or information outside of its own possession, custody or control. BCBSIL will
15 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
16 to it, in accordance with the Federal Rules of Civil Procedure.

17 2. BCBSIL objects to Instruction Two because it purports to require BCBSIL to
18 provide documents or information outside of its own possession, custody or control. BCBSIL will
19 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
20 to it, in accordance with the Federal Rules of Civil Procedure.

21 **C. OBJECTIONS TO DEFINITIONS**

22 1. BCBSIL objects to the terms "Defendant," "you" or "your," as overly broad and as
23 calling for information outside of its own possession, custody, or control. BCBSIL also objects
24 that these terms as defined seek information protected by the attorney-client privilege, work
25 product doctrine, or any other applicable privilege or protection.

26 2. BCBSIL further objects that the term "Plan," as defined, fails to identify a specific
27 policy year. BCBSIL interprets this term to mean the Summary Plan Description, with an effective

1 date of January 1, 2019, attached as Appendix A to the Amended Complaint (Doc. 38, the
2 “Complaint”).

3 **D. REQUESTS FOR ADMISSION**

4 **REQUEST FOR ADMISSION NO. 1: Admit that there are at least 40 persons who
5 fit the class definition found at paragraph 91 of the Amended Complaint (Dkt. No. 38).**

6 INITIAL ANSWER: BCBSIL objects to this Interrogatory in that the class definition is
7 vague, ambiguous and not easily ascertainable. BCBSIL is still investigating this request and will
8 supplement this response upon completion of the investigation.

9 SUPPLEMENTAL ANSWER: BCBSIL objects that the class definition found at
10 Paragraph 91 of the Amended Complaint is vague, ambiguous, and not easily ascertainable.
11 BCBSIL specifically objects that the proposed class definition hypothetically includes all
12 individuals who “will be participants” and who “will be denied pre-authorization of coverage.”

13 Notwithstanding the foregoing objections, BCBSIL admits that there are at least 40 persons
14 who may fit the class definition found at paragraph 91 of the Amended Complaint.

15
16 **E. INTERROGATORIES**

17 **INTERROGATORY NO. 6: Please identify any other plans for which BCBSIL
18 administers a gender-affirming care exclusion.**

19 ANSWER: BCBSIL objects to this Interrogatory as overly broad, unduly burdensome,
20 and not reasonably calculated to lead to the discovery of admissible evidence in seeking “any other
21 plans” for which BCBSIL administers a “gender-affirming care exclusion,” without regard to the
22 materiality of such plans to the fact as issue in this lawsuit as alleged in the Complaint.

23 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
24 Documents sufficient to show the relevant language and number of ERISA self-funded group
25
26
27

1 health plans pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

2
3 **INTERROGATORY NO. 7: Please identify the total population of enrollees, by year,**
4 **in the CHI Plan and each of the plans identified in the responses to Interrogatories Nos. 3**
5 **and 6.**

6 INITIAL ANSWER: BCBSIL incorporates by reference its responses and objections to
7 Interrogatory Nos. 3 and 6. Notwithstanding the foregoing objections, BCBSIL states that it will
8 meet and confer with Plaintiffs regarding the relevance of this request to the allegations in the
9 complaint.

10 SUPPLEMENTAL ANSWER: BCBSIL states that the average number of enrollees in the
11 CHI Medical Plan is as follows:

12	January 2016-December 2016	35,802
13	January 2017-December 2017	34,437
14	January 2018-December 2018	34,224
15	January 2019-December 2019	34,883
16	January 2020-December 2020	37,641
17	January 2021-December 2021	37,222

18 *See* BCBSIL_CP_0010824.

19
20 **INTERROGATORY NO. 8: Please identify the total number of unique enrollees in**
21 **each plan administered by BCBSIL that contains a gender-affirming care exclusion as**
22 **identified in response to Interrogatory No. 6, or an exclusion that is the same or similar to**
23 **the Transgender Reassignment Surgery exclusion as identified in response to Interrogatory**
24 **No. 3, who have received a denial based on such exclusion from BCBSIL at any time since**
25 **November 23, 2014.**

26 ANSWER: BCBSIL incorporates by reference its responses and objections to
27 Interrogatory Nos. 3 and 6. BCBSIL further objects to the term “same or similar” as vague and

1 ambiguous. BCBSIL also objects to the time frame set forth in this Interrogatory as seeking
2 irrelevant information beyond the applicable statute of limitations. For the reasons stated above,
3 BCBSIL will conduct and produce discovery from November 23, 2016 to the present

4 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
5 Documents sufficient to show the requested information from November 23, 2016 to the present,
6 to the degree it exists.

7
8 **INTERROGATORY NO. 9:** For each of the plans identified in response to
9 Interrogatories Nos. 3 and 6, please identify all individuals who participated in any way in
10 the creation, drafting and/or preparation of the Benefit Program Application provision on
11 coverage of treatment for gender dysphoria and/or the gender-affirming care exclusion,
12 whether employed by BCBSIL or another entity.

13 **ANSWER:** BCBSIL incorporates by reference its responses and objections to
14 Interrogatory Nos. 3 and 6. BCBSIL objects that the terms “creation” and “preparation” are vague
15 and ambiguous. Notwithstanding the foregoing objections, BCBSIL states that it will meet and
16 confer with Plaintiffs regarding the relevance of this request to the allegations in the complaint.

17
18 **INTERROGATORY NO. 10:** To the extent that BCBSIL’s response to Request for
19 Admission No. 1 is not a complete admission, please identify the complete factual bases for
20 BCBSIL’s denial, either in whole or in part, including the source of the factual bases for the
21 denial.

22 **ANSWER:** BCBSIL has admitted Request for Admission No. 1.

23 **F. REQUESTS FOR PRODUCTION**

24 **REQUEST FOR PRODUCTION NO. 12:** All contracts, Benefit Program
25 Applications or other kinds of applications or agreements between BCBSIL and any other
26 entity, including the self-funded plans and/or the self-funded plans’ sponsors, pertaining to
27

1 **the plans identified in response to Interrogatories Nos. 3 and 6 in effect as of January 1, 2014,**
2 **up to and including the present.**

3 INITIAL RESPONSE: BCBSIL incorporates by reference its responses and objections to
4 Interrogatory Nos. 3 and 6. BCBSIL objects to this Request as unduly burdensome and not
5 reasonably calculated to lead to the discovery of admissible evidence in seeking “all contracts,
6 Benefit Program Applications or other kinds of applications or agreements” between BCBSIL and
7 “any other entity,” without regard to the materiality of such documents to the facts at issue in this
8 lawsuit. For example, this Request as drafted could encompass agreements between BCBSIL and
9 a whole number of third parties that have nothing to do with coverage for any beneficiaries.
10 BCBSIL further objects to the time frame set forth in this Request as seeking irrelevant information
11 beyond the applicable statute of limitations.

12 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
13 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

14 SUPPLEMENTAL RESPONSE: BCBSIL has produced its Administrative Services
15 Agreement, *see* BCBSIL_CP_0003912. BCBSIL has also produced a number of responsive
16 Benefit Program Applications from 2013-2021, *see, e.g.*, BCBSIL_CP_0008556;
17 BCBSIL_CP_0010652; BCBSIL_CP_0011135; BCBSIL_CP_0011147; BCBSIL_CP_0008567;
18 BCBSIL_CP_0010664; BCBSIL_CP_0008419; BCBSIL_CP_0010632; and BCBSIL_CP_
19 0010621.

20
21 **REQUEST FOR PRODUCTION NO. 13: All documents, emails, and other**
22 **communications relating to covering or excluding treatment related to gender dysphoria**
23 **and/or a gender-affirming care exclusion with regards to any plan identified in response to**
24 **Interrogatories Nos. 3 and 6, including but not limited to, treatment with puberty blockers,**
25 **hormone treatment, and/or surgery.**

26 RESPONSE: BCBSIL incorporates by reference its responses and objections to
27 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Interrogatory to the extent it seeks

1 information protected by the attorney-client privilege, the work product doctrine, and/or other
2 applicable privileges. BCBSIL further objects to this Request as unduly burdensome and not
3 reasonably calculated to lead to the discovery of admissible evidence in seeking “all documents,
4 emails, and other communications” without regard to the materiality of such documents to the facts
5 at issue in this lawsuit. For example, this Request as drafted could encompass documents, emails,
6 and communications related to the plans identified in response to Interrogatory Nos. 3 and 6 but
7 which do not directly concern treatment for gender dysphoria and/or a gender-affirming care
8 exclusion.

9 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
10 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

11
12 **REQUEST FOR PRODUCTION NO. 14: To the extent not already provided, please**
13 **produce all copies of the “Benefit Program Application” submitted to BCBSIL in relation to**
14 **any plan identified in response to Interrogatories No. 3 and 6, at any time since January 1,**
15 **2014.**

16 RESPONSE: BCBSIL incorporates by reference its responses and objections to
17 Interrogatory Nos. 3 and 6. BCBSIL further objects to the time frame set forth in this Request as
18 seeking irrelevant information beyond the applicable statute of limitations.

19 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
20 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

21
22 **REQUEST FOR PRODUCTION NO. 15: To the extent not already provided, please**
23 **produce all documents relating to any plan identified in response to Interrogatories Nos. 3**
24 **and 6 which reflect any determination that BCBSIL could administer such plan in a manner**
25 **that did not and/or does not comply with the Affordable Care Act’s Section 1557, 42 U.S.C.**
26 **§ 18116.**

CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PLAINTIFFS’ SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS has been sent via e-mail to the following attorneys of record:

Eleanor Hamburger
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NEW YORK, NY 10005
212-809-8585
Email: ogonzalez-pagan@lambdalegal.org

DATED this 4th day of May, 2022.

Kilpatrick, Townsend & Stockton LLP

By: /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA #26752
gpayton@kilpatricktownsend.com

Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

Exhibit 6

HONORABLE JUDGE ROBERT J. BRYAN

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiff,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendants.

Case No. 3:20-cv-06145-RJB

**SECOND SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO PLAINTIFFS’
SECOND DISCOVERY REQUESTS TO
DEFENDANT BLUE CROSS AND BLUE
SHIELD OF ILLINOIS**

TO: Plaintiffs C. P., Patricia Pritchard, and Nolle Pritchard.

AND TO: SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC and LAMBDA
LEGAL DEFENSE AND EDUCATION FUND, INC., their attorneys.

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Defendant Blue Cross Blue
Shield of Illinois (“BCBSIL”) hereby objects and responds to Plaintiffs’ Second Discovery
Requests (the “Requests”) as follows:

A. GENERAL OBJECTIONS

1. BCBSIL objects to the Requests to the extent they are overly broad, unduly
burdensome, oppressive, redundant, vague, ambiguous, and/or seek to impose on BCBSIL
obligations greater than or different from those imposed by the Federal Rules of Civil Procedure.

2. BCBSIL objects to the Requests to the extent they impose a burden on it that is

1 disproportionate to the needs of the litigation.

2 3. BCBSIL interprets the Requests as excluding documents and information subject
3 to the attorney-client privilege, work-product privilege, joint-defense/common-interest privilege,
4 and any other applicable privileges or protections.

5 5. BCBSIL objects to the Requests to the extent they require BCBSIL to use more
6 than reasonable diligence in preparing their objections and responses based on an examination of
7 those files that reasonably may be expected to yield responsive information and an inquiry of
8 those persons who reasonably may be expected to possess responsive information.

9 6. BCBSIL objects to the Requests to the extent the discovery sought is
10 unreasonably cumulative, duplicative, or obtainable from some other source that is more
11 convenient, less burdensome, or less expensive, including if the discovery sought is already in
12 the Plaintiffs' possession.

13 7. BCBSIL objects to each and every Request to the extent it seeks to require
14 BCBSIL to identify or produce documents not currently in their possession, custody, or control,
15 on the grounds that such a request seeks to require more of BCBSIL than any obligation imposed
16 by law, would subject it to unreasonable and undue annoyance, oppression, burden, and expense,
17 or would seek to impose upon it an obligation to discover information or materials from third
18 parties or sources that are equally accessible to the Plaintiffs.

19 8. BCBSIL objects to the Requests to the extent they seek information outside the
20 applicable three-year statute of limitations for Plaintiffs' Section 1557 claims. *See Smith v.*
21 *Highland Hosp. of Rochester*, No. 17-CV-6781-CJS, 2018 WL 4748187, at *3 (W.D.N.Y. Oct.
22 2, 2018); *Solis v. Our Lady of the Lake Ascension Cmty. Hosp., Inc.*, No. CV 18-56-SDD-RLB,
23 2020 WL 2754917, at *4 (M.D. La. May 27, 2020); *Ward v. Our Lady of the Lake Hosp., Inc.*,
24 No. CV 18-00454-BAJ-RLB, 2020 WL 414457, at *2 (M.D. La. Jan. 24, 2020); RCW
25 4.16.080(2). Moreover, Plaintiffs' class claims, added via amended complaint, do not relate back
26 to the filing of the initial complaint because BCBSIL was not put on sufficient notice at the time
27 that Plaintiffs intended to seek relief on a class-wide basis. *See McClelland v. Deluxe Fin. Servs.*,

1 *Inc.*, 431 F. App'x 718, 731 (10th Cir. 2011); *Corns v. Laborers Int'l Union of N. Am.*, No. 09-
2 CV-4403 YGR, 2014 WL 1319363, at *5 (N.D. Cal. Mar. 31, 2014) (finding the notice
3 requirement unmet where the original complaint did not give "clear notice" of plaintiff's intent to
4 allege and certify a class); *Perry v. Beneficial Finance Co. of N.Y.*, 81 F.R.D. 490, 495
5 (W.D.N.Y. 1979) (amended complaint adding class claims did not relate back to initial
6 individual complaint). Nonetheless, per the agreement between the parties and for discovery
7 purposes only, BCBSIL will conduct and produce discovery from November 23, 2016 to the
8 present.

9 10. BCBSIL incorporates by reference these "General Objections" into each of the
10 Specific Responses and Objections set forth below, as if fully set forth therein

11 **B. OBJECTIONS TO INSTRUCTIONS**

12 1. BCBSIL objects to Instruction One because it purports to require BCBSIL to
13 provide documents or information outside of its own possession, custody or control. BCBSIL will
14 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
15 to it, in accordance with the Federal Rules of Civil Procedure.

16 2. BCBSIL objects to Instruction Two because it purports to require BCBSIL to
17 provide documents or information outside of its own possession, custody or control. BCBSIL will
18 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
19 to it, in accordance with the Federal Rules of Civil Procedure.

20 **C. OBJECTIONS TO DEFINITIONS**

21 1. BCBSIL objects to the terms "Defendant," "you" or "your," as overly broad and as
22 calling for information outside of its own possession, custody, or control. BCBSIL also objects
23 that these terms as defined seek information protected by the attorney-client privilege, work
24 product doctrine, or any other applicable privilege or protection.

25 2. BCBSIL further objects that the term "Plan," as defined, fails to identify a specific
26 policy year. BCBSIL interprets this term to mean the Summary Plan Description, with an effective
27

1 date of January 1, 2019, attached as Appendix A to the Amended Complaint (Doc. 38, the
2 “Complaint”).

3 **D. REQUESTS FOR ADMISSION**

4 **REQUEST FOR ADMISSION NO. 1: Admit that there are at least 40 persons who
5 fit the class definition found at paragraph 91 of the Amended Complaint (Dkt. No. 38).**

6 INITIAL ANSWER: BCBSIL objects to this Interrogatory in that the class definition is
7 vague, ambiguous and not easily ascertainable. BCBSIL is still investigating this request and will
8 supplement this response upon completion of the investigation.

9 SUPPLEMENTAL ANSWER: BCBSIL objects that the class definition found at
10 Paragraph 91 of the Amended Complaint is vague, ambiguous, and not easily ascertainable.
11 BCBSIL specifically objects that the proposed class definition hypothetically includes all
12 individuals who “will be participants” and who “will be denied pre-authorization of coverage.”

13 Notwithstanding the foregoing objections, BCBSIL admits that there are at least 40 persons
14 who may fit the class definition found at paragraph 91 of the Amended Complaint.

15
16 **E. INTERROGATORIES**

17 **INTERROGATORY NO. 6: Please identify any other plans for which BCBSIL
18 administers a gender-affirming care exclusion.**

19 INITIAL ANSWER: BCBSIL objects to this Interrogatory as overly broad, unduly
20 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in
21 seeking “any other plans” for which BCBSIL administers a “gender-affirming care exclusion,”
22 without regard to the materiality of such plans to the fact as issue in this lawsuit as alleged in the
23 Complaint.

24 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
25 Documents sufficient to show the relevant language and number of ERISA self-funded group
26 health plans pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

27 SUPPLEMENTAL ANSWER: BCBSIL objects to this Interrogatory as overly broad,

1 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence
 2 in seeking “any other plans” for which BCBSIL administers a “gender-affirming care exclusion,”
 3 without regard to the materiality of such plans to the fact as issue in this lawsuit as alleged in the
 4 Complaint.

5 Notwithstanding the foregoing objections, BCBSIL preliminarily states that there are at
 6 least 200 ERISA self-funded group health plans for which BCBSIL administers a gender-affirming
 7 care exclusion. Discovery is ongoing, and BCBSIL reasonably anticipates that this number will
 8 increase. BCBSIL will supplement this preliminary number as its internal review and investigation
 9 proceeds.

10
 11 **INTERROGATORY NO. 7: Please identify the total population of enrollees, by year,**
 12 **in the CHI Plan and each of the plans identified in the responses to Interrogatories Nos. 3**
 13 **and 6.**

14 **INITIAL ANSWER:** BCBSIL incorporates by reference its responses and objections to
 15 Interrogatory Nos. 3 and 6. Notwithstanding the foregoing objections, BCBSIL states that it will
 16 meet and confer with Plaintiffs regarding the relevance of this request to the allegations in the
 17 complaint.

18 **SUPPLEMENTAL ANSWER:** BCBSIL states that the average number of enrollees in the
 19 CHI Medical Plan is as follows:

20	January 2016-December 2016	35,802
21	January 2017-December 2017	34,437
22	January 2018-December 2018	34,224
23	January 2019-December 2019	34,883
24	January 2020-December 2020	37,641
25	January 2021-December 2021	37,222

26 *See* BCBSIL_CP_0010824.
 27

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2 **INTERROGATORY NO. 8: Please identify the total number of unique enrollees in**
3 **each plan administered by BCBSIL that contains a gender-affirming care exclusion as**
4 **identified in response to Interrogatory No. 6, or an exclusion that is the same or similar to**
5 **the Transgender Reassignment Surgery exclusion as identified in response to Interrogatory**
6 **No. 3, who have received a denial based on such exclusion from BCBSIL at any time since**
7 **November 23, 2014.**

8 **INITIAL ANSWER:** BCBSIL incorporates by reference its responses and objections to
9 Interrogatory Nos. 3 and 6. BCBSIL further objects to the term “same or similar” as vague and
10 ambiguous. BCBSIL also objects to the time frame set forth in this Interrogatory as seeking
11 irrelevant information beyond the applicable statute of limitations. For the reasons stated above,
12 BCBSIL will conduct and produce discovery from November 23, 2016 to the present.

13 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
14 Documents sufficient to show the requested information from November 23, 2016 to the present,
15 to the degree it exists.

16 **SUPPLEMENTAL ANSWER:** BCBSIL incorporates by reference its responses and
17 objections to Interrogatory Nos. 3 and 6. BCBSIL further objects to the term “same or similar” as
18 vague and ambiguous. BCBSIL also objects to the time frame set forth in this Interrogatory as
19 seeking irrelevant information beyond the applicable statute of limitations. For the reasons stated
20 above, BCBSIL will conduct and produce discovery from November 23, 2016 to the present.

21 Notwithstanding the foregoing objections, BCBSIL preliminarily states that of the ERISA
22 self-funded group health plans BCBSIL administers, there are approximately 505 unique members
23 of 200 plans who have received a denial based on such an exclusion, for a total claim count of
24 1,952 claims and a total billed charges amount of \$1,326,779.00. BCBSIL reasonably anticipates

1 that these numbers are overinclusive. Discovery is ongoing, and BCBSIL will supplement these
2 preliminary numbers as its internal review and investigation proceeds.

3
4 **INTERROGATORY NO. 9:** For each of the plans identified in response to
5 Interrogatories Nos. 3 and 6, please identify all individuals who participated in any way in
6 the creation, drafting and/or preparation of the Benefit Program Application provision on
7 coverage of treatment for gender dysphoria and/or the gender-affirming care exclusion,
8 whether employed by BCBSIL or another entity.

9 **ANSWER:** BCBSIL incorporates by reference its responses and objections to
10 Interrogatory Nos. 3 and 6. BCBSIL objects that the terms “creation” and “preparation” are vague
11 and ambiguous. Notwithstanding the foregoing objections, BCBSIL states that it will meet and
12 confer with Plaintiffs regarding the relevance of this request to the allegations in the complaint.

13
14 **INTERROGATORY NO. 10:** To the extent that BCBSIL’s response to Request for
15 Admission No. 1 is not a complete admission, please identify the complete factual bases for
16 BCBSIL’s denial, either in whole or in part, including the source of the factual bases for the
17 denial.

18 **ANSWER:** BCBSIL has admitted Request for Admission No. 1.

19 **F. REQUESTS FOR PRODUCTION**

20 **REQUEST FOR PRODUCTION NO. 12:** All contracts, Benefit Program
21 Applications or other kinds of applications or agreements between BCBSIL and any other
22 entity, including the self-funded plans and/or the self-funded plans’ sponsors, pertaining to
23 the plans identified in response to Interrogatories Nos. 3 and 6 in effect as of January 1, 2014,
24 up to and including the present.

25 **INITIAL RESPONSE:** BCBSIL incorporates by reference its responses and objections to
26 Interrogatory Nos. 3 and 6. BCBSIL objects to this Request as unduly burdensome and not
27 reasonably calculated to lead to the discovery of admissible evidence in seeking “all contracts,

1 Benefit Program Applications or other kinds of applications or agreements” between BCBSIL and
2 “any other entity,” without regard to the materiality of such documents to the facts at issue in this
3 lawsuit. For example, this Request as drafted could encompass agreements between BCBSIL and
4 a whole number of third parties that have nothing to do with coverage for any beneficiaries.
5 BCBSIL further objects to the time frame set forth in this Request as seeking irrelevant information
6 beyond the applicable statute of limitations.

7 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
8 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

9 SUPPLEMENTAL RESPONSE: BCBSIL has produced its Administrative Services
10 Agreement, *see* BCBSIL_CP_0003912. BCBSIL has also produced a number of responsive
11 Benefit Program Applications from 2013-2021, *see, e.g.*, BCBSIL_CP_0008556;
12 BCBSIL_CP_0010652; BCBSIL_CP_0011135; BCBSIL_CP_0011147; BCBSIL_CP_0008567;
13 BCBSIL_CP_0010664; BCBSIL_CP_0008419; BCBSIL_CP_0010632; and BCBSIL_CP_
14 0010621.

15
16 **REQUEST FOR PRODUCTION NO. 13: All documents, emails, and other**
17 **communications relating to covering or excluding treatment related to gender dysphoria**
18 **and/or a gender-affirming care exclusion with regards to any plan identified in response to**
19 **Interrogatories Nos. 3 and 6, including but not limited to, treatment with puberty blockers,**
20 **hormone treatment, and/or surgery.**

21 RESPONSE: BCBSIL incorporates by reference its responses and objections to
22 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Interrogatory to the extent it seeks
23 information protected by the attorney-client privilege, the work product doctrine, and/or other
24 applicable privileges. BCBSIL further objects to this Request as unduly burdensome and not
25 reasonably calculated to lead to the discovery of admissible evidence in seeking “all documents,
26 emails, and other communications” without regard to the materiality of such documents to the facts
27 at issue in this lawsuit. For example, this Request as drafted could encompass documents, emails,

1 and communications related to the plans identified in response to Interrogatory Nos. 3 and 6 but
2 which do not directly concern treatment for gender dysphoria and/or a gender-affirming care
3 exclusion.

4 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
5 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

6
7 **REQUEST FOR PRODUCTION NO. 14: To the extent not already provided, please**
8 **produce all copies of the “Benefit Program Application” submitted to BCBSIL in relation to**
9 **any plan identified in response to Interrogatories No. 3 and 6, at any time since January 1,**
10 **2014.**

11 RESPONSE: BCBSIL incorporates by reference its responses and objections to
12 Interrogatory Nos. 3 and 6. BCBSIL further objects to the time frame set forth in this Request as
13 seeking irrelevant information beyond the applicable statute of limitations.

14 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
15 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

16
17 **REQUEST FOR PRODUCTION NO. 15: To the extent not already provided, please**
18 **produce all documents relating to any plan identified in response to Interrogatories Nos. 3**
19 **and 6 which reflect any determination that BCBSIL could administer such plan in a manner**
20 **that did not and/or does not comply with the Affordable Care Act’s Section 1557, 42 U.S.C.**
21 **§ 18116.**

22 RESPONSE: BCBSIL incorporates by reference its responses and objections to
23 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Request to the extent it implicates attorney-
24 client privilege, work-product privilege, or any other applicable privileges or protections.

25 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
26 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
27 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

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DATED this 9th day of May, 2022.

KILPATRICK TOWNSEND & STOCKTON LLP

By /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA No. 26752
gpayton@kilpatricktownsend.com
1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 626-7714
Facsimile: (206) 623-6793

*Counsel for Defendant Health Care Service
Corporation, a Mutual Legal Reserve
Company, doing business in Illinois as Blue
Cross and Blue Shield of Illinois*

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CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, SECOND SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PLAINTIFFS' SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS has been sent via e-mail to the following attorneys of record:

Eleanor Hamburger
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
3101 WESTERN AVENUE STE 350
SEATTLE, WA 98121
206-223-0303
Fax: 206-223-0246
Email: ehamburger@syllaw.com

Jennifer C Pizer
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
4221 WILSHIRE BLVD., STE 280
LOS ANGELES, CA 90010
213-382-7600
Email: jpizer@lambdalegal.org

Omar Gonzalez-Pagan
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC. (NY)
120 WALL STREET
19TH FLOOR
NEW YORK, NY 10005
212-809-8585
Email: ogonzalez-pagan@lambdalegal.org

DATED this 9th day of May, 2022.

Kilpatrick, Townsend & Stockton LLP

By: /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA #26752
gpayton@kilpatricktownsend.com

Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

Exhibit 7

HONORABLE JUDGE ROBERT J. BRYAN

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

C. P., by and through his parents,
Patricia Pritchard and Nolle Pritchard;
and PATRICIA PRITCHARD,

Plaintiff,

vs.

BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendants.

Case No. 3:20-cv-06145-RJB

**THIRD SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO PLAINTIFFS’
SECOND DISCOVERY REQUESTS TO
DEFENDANT BLUE CROSS AND BLUE
SHIELD OF ILLINOIS**

TO: Plaintiffs C. P., Patricia Pritchard, and Nolle Pritchard.

AND TO: SIRIANNI YOUTZ SPOONEMORE HAMBURGER PLLC and LAMBDA
LEGAL DEFENSE AND EDUCATION FUND, INC., their attorneys.

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Defendant Blue Cross Blue
Shield of Illinois (“BCBSIL”) hereby objects and responds to Plaintiffs’ Second Discovery
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A. GENERAL OBJECTIONS

1. BCBSIL objects to the Requests to the extent they are overly broad, unduly
burdensome, oppressive, redundant, vague, ambiguous, and/or seek to impose on BCBSIL
obligations greater than or different from those imposed by the Federal Rules of Civil Procedure.

2. BCBSIL objects to the Requests to the extent they impose a burden on it that is

1 disproportionate to the needs of the litigation.

2 3. BCBSIL interprets the Requests as excluding documents and information subject
3 to the attorney-client privilege, work-product privilege, joint-defense/common-interest privilege,
4 and any other applicable privileges or protections.

5 5. BCBSIL objects to the Requests to the extent they require BCBSIL to use more
6 than reasonable diligence in preparing their objections and responses based on an examination of
7 those files that reasonably may be expected to yield responsive information and an inquiry of
8 those persons who reasonably may be expected to possess responsive information.

9 6. BCBSIL objects to the Requests to the extent the discovery sought is
10 unreasonably cumulative, duplicative, or obtainable from some other source that is more
11 convenient, less burdensome, or less expensive, including if the discovery sought is already in
12 the Plaintiffs' possession.

13 7. BCBSIL objects to each and every Request to the extent it seeks to require
14 BCBSIL to identify or produce documents not currently in their possession, custody, or control,
15 on the grounds that such a request seeks to require more of BCBSIL than any obligation imposed
16 by law, would subject it to unreasonable and undue annoyance, oppression, burden, and expense,
17 or would seek to impose upon it an obligation to discover information or materials from third
18 parties or sources that are equally accessible to the Plaintiffs.

19 8. BCBSIL objects to the Requests to the extent they seek information outside the
20 applicable three-year statute of limitations for Plaintiffs' Section 1557 claims. *See Smith v.*
21 *Highland Hosp. of Rochester*, No. 17-CV-6781-CJS, 2018 WL 4748187, at *3 (W.D.N.Y. Oct.
22 2, 2018); *Solis v. Our Lady of the Lake Ascension Cmty. Hosp., Inc.*, No. CV 18-56-SDD-RLB,
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24 No. CV 18-00454-BAJ-RLB, 2020 WL 414457, at *2 (M.D. La. Jan. 24, 2020); RCW
25 4.16.080(2). Moreover, Plaintiffs' class claims, added via amended complaint, do not relate back
26 to the filing of the initial complaint because BCBSIL was not put on sufficient notice at the time
27 that Plaintiffs intended to seek relief on a class-wide basis. *See McClelland v. Deluxe Fin. Servs.*,

1 *Inc.*, 431 F. App'x 718, 731 (10th Cir. 2011); *Corns v. Laborers Int'l Union of N. Am.*, No. 09-
2 CV-4403 YGR, 2014 WL 1319363, at *5 (N.D. Cal. Mar. 31, 2014) (finding the notice
3 requirement unmet where the original complaint did not give "clear notice" of plaintiff's intent to
4 allege and certify a class); *Perry v. Beneficial Finance Co. of N.Y.*, 81 F.R.D. 490, 495
5 (W.D.N.Y. 1979) (amended complaint adding class claims did not relate back to initial
6 individual complaint). Nonetheless, per the agreement between the parties and for discovery
7 purposes only, BCBSIL will conduct and produce discovery from November 23, 2016 to the
8 present.

9 10. BCBSIL incorporates by reference these "General Objections" into each of the
10 Specific Responses and Objections set forth below, as if fully set forth therein

11 **B. OBJECTIONS TO INSTRUCTIONS**

12 1. BCBSIL objects to Instruction One because it purports to require BCBSIL to
13 provide documents or information outside of its own possession, custody or control. BCBSIL will
14 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
15 to it, in accordance with the Federal Rules of Civil Procedure.

16 2. BCBSIL objects to Instruction Two because it purports to require BCBSIL to
17 provide documents or information outside of its own possession, custody or control. BCBSIL will
18 interpret these Requests to require BCBSIL to draw upon the information reasonably ascertainable
19 to it, in accordance with the Federal Rules of Civil Procedure.

20 **C. OBJECTIONS TO DEFINITIONS**

21 1. BCBSIL objects to the terms "Defendant," "you" or "your," as overly broad and as
22 calling for information outside of its own possession, custody, or control. BCBSIL also objects
23 that these terms as defined seek information protected by the attorney-client privilege, work
24 product doctrine, or any other applicable privilege or protection.

25 2. BCBSIL further objects that the term "Plan," as defined, fails to identify a specific
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27

1 date of January 1, 2019, attached as Appendix A to the Amended Complaint (Doc. 38, the
2 “Complaint”).

3 **D. REQUESTS FOR ADMISSION**

4 **REQUEST FOR ADMISSION NO. 1: Admit that there are at least 40 persons who
5 fit the class definition found at paragraph 91 of the Amended Complaint (Dkt. No. 38).**

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7 vague, ambiguous and not easily ascertainable. BCBSIL is still investigating this request and will
8 supplement this response upon completion of the investigation.

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10 Paragraph 91 of the Amended Complaint is vague, ambiguous, and not easily ascertainable.
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12 individuals who “will be participants” and who “will be denied pre-authorization of coverage.”

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14 who may fit the class definition found at paragraph 91 of the Amended Complaint.

15
16 **E. INTERROGATORIES**

17 **INTERROGATORY NO. 6: Please identify any other plans for which BCBSIL
18 administers a gender-affirming care exclusion.**

19 INITIAL ANSWER: BCBSIL objects to this Interrogatory as overly broad, unduly
20 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in
21 seeking “any other plans” for which BCBSIL administers a “gender-affirming care exclusion,”
22 without regard to the materiality of such plans to the fact as issue in this lawsuit as alleged in the
23 Complaint.

24 Notwithstanding the foregoing objections, BCBSIL states that it will produce responsive
25 Documents sufficient to show the relevant language and number of ERISA self-funded group
26 health plans pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

27 SUPPLEMENTAL ANSWER: BCBSIL objects to this Interrogatory as overly broad,

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 2 in seeking “any other plans” for which BCBSIL administers a “gender-affirming care exclusion,”
 3 without regard to the materiality of such plans to the fact as issue in this lawsuit as alleged in the
 4 Complaint.

5 Notwithstanding the foregoing objections, BCBSIL preliminarily states that there are at
 6 least 200 ERISA self-funded group health plans for which BCBSIL administers a gender-affirming
 7 care exclusion. Discovery is ongoing, and BCBSIL reasonably anticipates that this number will
 8 increase. BCBSIL will supplement this preliminary number as its internal review and investigation
 9 proceeds.

10 SECOND SUPPLEMENTAL ANSWER: *See* Addendum A.

11
 12 **INTERROGATORY NO. 7: Please identify the total population of enrollees, by year,**
 13 **in the CHI Plan and each of the plans identified in the responses to Interrogatories Nos. 3**
 14 **and 6.**

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January 2021-December 2021	37,222

27 *See* BCBSIL_CP_0010824.

1
2 **INTERROGATORY NO. 8: Please identify the total number of unique enrollees in**
3 **each plan administered by BCBSIL that contains a gender-affirming care exclusion as**
4 **identified in response to Interrogatory No. 6, or an exclusion that is the same or similar to**
5 **the Transgender Reassignment Surgery exclusion as identified in response to Interrogatory**
6 **No. 3, who have received a denial based on such exclusion from BCBSIL at any time since**
7 **November 23, 2014.**

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22 self-funded group health plans BCBSIL administers, there are approximately 505 unique members
23 of 200 plans who have received a denial based on such an exclusion, for a total claim count of
24 1,952 claims and a total billed charges amount of \$1,326,779.00. BCBSIL reasonably anticipates

1 that these numbers are overinclusive. Discovery is ongoing, and BCBSIL will supplement these
2 preliminary numbers as its internal review and investigation proceeds.

3
4 **INTERROGATORY NO. 9:** For each of the plans identified in response to
5 Interrogatories Nos. 3 and 6, please identify all individuals who participated in any way in
6 the creation, drafting and/or preparation of the Benefit Program Application provision on
7 coverage of treatment for gender dysphoria and/or the gender-affirming care exclusion,
8 whether employed by BCBSIL or another entity.

9 ANSWER: BCBSIL incorporates by reference its responses and objections to
10 Interrogatory Nos. 3 and 6. BCBSIL objects that the terms “creation” and “preparation” are vague
11 and ambiguous. Notwithstanding the foregoing objections, BCBSIL states that it will meet and
12 confer with Plaintiffs regarding the relevance of this request to the allegations in the complaint.

13
14 **INTERROGATORY NO. 10:** To the extent that BCBSIL’s response to Request for
15 Admission No. 1 is not a complete admission, please identify the complete factual bases for
16 BCBSIL’s denial, either in whole or in part, including the source of the factual bases for the
17 denial.

18 ANSWER: BCBSIL has admitted Request for Admission No. 1.

19 **F. REQUESTS FOR PRODUCTION**

20 **REQUEST FOR PRODUCTION NO. 12:** All contracts, Benefit Program
21 Applications or other kinds of applications or agreements between BCBSIL and any other
22 entity, including the self-funded plans and/or the self-funded plans’ sponsors, pertaining to
23 the plans identified in response to Interrogatories Nos. 3 and 6 in effect as of January 1, 2014,
24 up to and including the present.

25 INITIAL RESPONSE: BCBSIL incorporates by reference its responses and objections to
26 Interrogatory Nos. 3 and 6. BCBSIL objects to this Request as unduly burdensome and not
27 reasonably calculated to lead to the discovery of admissible evidence in seeking “all contracts,

1 Benefit Program Applications or other kinds of applications or agreements” between BCBSIL and
2 “any other entity,” without regard to the materiality of such documents to the facts at issue in this
3 lawsuit. For example, this Request as drafted could encompass agreements between BCBSIL and
4 a whole number of third parties that have nothing to do with coverage for any beneficiaries.
5 BCBSIL further objects to the time frame set forth in this Request as seeking irrelevant information
6 beyond the applicable statute of limitations.

7 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
8 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

9 SUPPLEMENTAL RESPONSE: BCBSIL has produced its Administrative Services
10 Agreement, *see* BCBSIL_CP_0003912. BCBSIL has also produced a number of responsive
11 Benefit Program Applications from 2013-2021, *see, e.g.*, BCBSIL_CP_0008556;
12 BCBSIL_CP_0010652; BCBSIL_CP_0011135; BCBSIL_CP_0011147; BCBSIL_CP_0008567;
13 BCBSIL_CP_0010664; BCBSIL_CP_0008419; BCBSIL_CP_0010632; and BCBSIL_CP_
14 0010621.

15
16 **REQUEST FOR PRODUCTION NO. 13: All documents, emails, and other**
17 **communications relating to covering or excluding treatment related to gender dysphoria**
18 **and/or a gender-affirming care exclusion with regards to any plan identified in response to**
19 **Interrogatories Nos. 3 and 6, including but not limited to, treatment with puberty blockers,**
20 **hormone treatment, and/or surgery.**

21 RESPONSE: BCBSIL incorporates by reference its responses and objections to
22 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Interrogatory to the extent it seeks
23 information protected by the attorney-client privilege, the work product doctrine, and/or other
24 applicable privileges. BCBSIL further objects to this Request as unduly burdensome and not
25 reasonably calculated to lead to the discovery of admissible evidence in seeking “all documents,
26 emails, and other communications” without regard to the materiality of such documents to the facts
27 at issue in this lawsuit. For example, this Request as drafted could encompass documents, emails,

1 and communications related to the plans identified in response to Interrogatory Nos. 3 and 6 but
2 which do not directly concern treatment for gender dysphoria and/or a gender-affirming care
3 exclusion.

4 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
5 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

6
7 **REQUEST FOR PRODUCTION NO. 14: To the extent not already provided, please**
8 **produce all copies of the “Benefit Program Application” submitted to BCBSIL in relation to**
9 **any plan identified in response to Interrogatories No. 3 and 6, at any time since January 1,**
10 **2014.**

11 RESPONSE: BCBSIL incorporates by reference its responses and objections to
12 Interrogatory Nos. 3 and 6. BCBSIL further objects to the time frame set forth in this Request as
13 seeking irrelevant information beyond the applicable statute of limitations.

14 Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
15 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

16
17 **REQUEST FOR PRODUCTION NO. 15: To the extent not already provided, please**
18 **produce all documents relating to any plan identified in response to Interrogatories Nos. 3**
19 **and 6 which reflect any determination that BCBSIL could administer such plan in a manner**
20 **that did not and/or does not comply with the Affordable Care Act’s Section 1557, 42 U.S.C.**
21 **§ 18116.**

22 RESPONSE: BCBSIL incorporates by reference its responses and objections to
23 Interrogatory Nos. 3 and 6. BCBSIL also objects to this Request to the extent it implicates attorney-
24 client privilege, work-product privilege, or any other applicable privileges or protections.

25 BCBSIL incorporates by reference its responses and objections to Interrogatory Nos. 3 and
26 6. Notwithstanding the foregoing objections, BCBSIL states that it will meet and confer with
27 Plaintiffs regarding the relevance of this request to the allegations in the complaint.

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DATED this 12th day of May, 2022.

KILPATRICK TOWNSEND & STOCKTON LLP

By /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA No. 26752
gpayton@kilpatricktownsend.com
1420 Fifth Ave., Suite 3700
Seattle, WA 98101
Telephone: (206) 626-7714
Facsimile: (206) 623-6793

*Counsel for Defendant Health Care Service
Corporation, a Mutual Legal Reserve
Company, doing business in Illinois as Blue
Cross and Blue Shield of Illinois*

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CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused a copy of the foregoing document, THIRD SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PLAINTIFFS' SECOND DISCOVERY REQUESTS TO DEFENDANT BLUE CROSS AND BLUE SHIELD OF ILLINOIS has been sent via e-mail to the following attorneys of record:

Eleanor Hamburger
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
3101 WESTERN AVENUE STE 350
SEATTLE, WA 98121
206-223-0303
Fax: 206-223-0246
Email: ehamburger@sylaw.com

Jennifer C Pizer
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
4221 WILSHIRE BLVD., STE 280
LOS ANGELES, CA 90010
213-382-7600
Email: jpizer@lambdalegal.org

Omar Gonzalez-Pagan
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC. (NY)
120 WALL STREET
19TH FLOOR
NEW YORK, NY 10005
212-809-8585
Email: ogonzalez-pagan@lambdalegal.org

DATED this 12th day of May, 2022.

Kilpatrick, Townsend & Stockton LLP

By: /s/ Gwendolyn C. Payton
Gwendolyn C. Payton, WSBA #26752
gpayton@kilpatricktownsend.com

Counsel for Defendant Health Care Service Corporation, a Mutual Legal Reserve Company, doing business in Illinois as Blue Cross and Blue Shield of Illinois

ADDENDUM A

Effective Date	Exclusion/Limitation Language
1/01/2017	<p>["Exclusions - What is Not Covered"] "Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services and supplies."</p>
1/1/2019	<p>["Exclusions"] "This Plan does not cover services, supplies or treatment relating to, arising out of, or given in connection with the following: . . . Treatment or services, except for the initial diagnosis, for a primary diagnosis of Mental Retardation, Learning, Motor Skills and Communication Disorders, Conduct Disorder, Dementia, Sexual, Paraphilia and Gender Dysphoria, and Personality Disorders, as well as other mental illnesses that will not substantially improve beyond the current level of functioning, or that are not subject to modification or management according to prevailing national standards of clinical practice, as reasonably determined by Blue Cross and Blue Shield of Illinois."</p> <p>["Short Term Disability Benefits"] "This Plan will not cover any disability . . . a gender change, including, but not limited to, any operation, drug therapy or any other procedure related to a gender change."</p> <p>["Long Term Disability Benefits"] "This Plan will not cover any disability: . . . a gender change, including, but not limited to, any operation, drug therapy or any other procedure related to a gender change."</p>
1/01/2020	<p>[GENDER REASSIGNMENT SURGERY] Benefits will be provided for Covered Services for gender reassignment the same as any other for persons 18 and older. Benefits for gender reassignment Surgery will be limited to a lifetime maximum of \$75, 000.</p> <p>Gender reassignment Surgery will be provided when all of the following criteria are met:</p> <ol style="list-style-type: none"> 1. The Individual is at least 18 years of age; 2. The individual has been diagnosed with the Gender Identity Disorder (GID) of transsexualism; 3. The individual has undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and such therapy is provided under the supervision of a Physician; 4. The individual has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender; 5. A letter from the individual's physician and mental health provider, who has treated the individual for a minimum of 18 months, documenting the treatment and that the treatment is Medically Necessary. <p>Coverage will also be provided for cosmetic Surgery. The following surgeries</p>

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are considered cosmetic and will be covered for an individual who has undergone or is planning to undergo gender reassignment Surgery:

1. Reduction thyroid chondroplasty;
2. Liposuction;
3. Rhinoplasty;
4. Facial bone reconstruction;
5. Face lift;
6. Blepharoplasty;
7. Voice modification surgery;
8. Hair removal/hairplasty; and/or
9. Breast augmentation.

However, no benefits will be provided for transportation or lodging expenses or for any reversal of gender reassignment Surgery.

[EXCLUSIONS – WHAT IS NOT COVERED]

- Transportation and lodging expenses for gender reassignment Surgery
- Reversal of gender reassignment surgery.

1/1/2016	["What is Not Covered by the Medical Plan"] "Transsexual surgery or any treatment of gender identity disorders."
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1/1/2013	<p>[Gender Reassignment Surgery]</p> <p>Benefit is provided to associates only. All of the following criteria must be met:</p> <ul style="list-style-type: none"> - Associate is at least 18 years old; - Associate has met criteria for the diagnosis of "true" transsexualism, including: <ul style="list-style-type: none"> - A sense of estrangement from one's own body, so that any evidence of one's own biological sex is regarded as repugnant;- A stable transsexual orientation evidenced by a desire to be rid of one's genitals and to live in society as a member of the other sex for at least 2 years, that is, not limited to periods of stress; - Absence of physical inter-sex of genetic abnormality; - Does not gain sexual arousal from cross-dressing; - Life-long sense of belonging to the opposite sex and of having been born into the wrong sex, often since childhood; - Not due to another biological, chromosomal or associated psychiatric disorder, such as schizophrenia; - Wishes to make his or her body as congruent as possible with the preferred sex through surgery and hormone treatment; and - Associate has completed a recognized program of transgender identity treatment as evidenced by all of the following: <ul style="list-style-type: none"> - A qualified mental health professional*who has been acquainted with the member for at least 18 months recommends sex reassignment surgery documented in the form of a written comprehensive evaluation; - For genital surgical sex reassignment, a second concurring recommendation by another qualified mental health professional * must be documented in the form of a written expert opinion**;
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1 -For genital surgical sex reassignment, member has undergone a urological
 2 examination for the purpose of identifying and perhaps treating abnormalities of
 3 the genitourinary tract, since genital surgical sex reassignment includes the
 4 invasion of, and the alteration of, the genitourinary tract (urological examination
 5 is not required for persons not undergoing genital reassignment);
 6 - Associate has demonstrated an understanding of the proposed male-to-female
 7 or female-to-male sex reassignment surgery with its attendant costs, required
 8 lengths of hospitalization, likely complications, and post-surgical rehabilitation
 9 requirements of the planned surgery; - Psychotherapy is not an absolute
 10 requirement for surgery unless the mental health professional's initial assessment
 11 leads to a recommendation for psychotherapy that specifies the goals of
 12 treatment, estimates its frequency and duration throughout the real life
 13 experience (usually a minimum of 3 months);
 14 - The associate has successfully lived and worked within the desired gender role
 15 full-time for at least 12 months(so-called real-life experience), without periods
 16 of returning to the original gender; and
 17 - Unless medically contraindicated, associate has received at least 12 months of
 18 continuous hormonal sex reassignment therapy recommended by a mental health
 19 professional and carried out by an endocrinologist (which can be simultaneous
 20 with the real-life experience).

21 *At least one of the two clinical behavioral scientists making the favorable
 22 recommendation for surgical (genital) sex reassignment must possess a doctoral
 23 degree (e.g.,Ph.D.,Ed.D.,D.Sc.,D.S.W., Psy.D., or M.D.).

24 Note: Evaluation of candidacy for sex reassignment surgery by a mental health
 25 professional is covered under the member’s medical benefit, unless the services
 26 of a mental health professional are necessary to evaluate and treat a mental
 27 health problem, in which case the mental health professional’s services are
 covered under the associate’s behavioral health benefit. Please check benefit
 plan descriptions.

**Either two separate letters or one letter with two signatures is acceptable.

Notes:

(1) Medically necessary core surgical procedures for female to male persons
 include: mastectomy, hysterectomy, vaginectomy, salpingo-oophorectomy,
 metoidioplasty, phalloplasty, urethroplasty, scrotoplasty and placement of
 testicular prostheses, and erectile prostheses.

(2) Medically necessary core surgical procedure for male to female persons
 include: penectomy, orchidectomy, vaginoplasty, clitoroplasty, and labiaplasty.

(3) Rhinoplasty ,face-lifting, lip enhancement, facial bone reduction,
 blepharoplasty, breast augmentation, liposuction of the waist (body contouring),
 reduction thyroid chondroplasty, hair

Gender Reassignment Surgery- Travel & Lodging Gender reassignment surgery
 is performed at limited locations in the United States, and most patients will
 need to travel outside their immediate home area. If travel is required for surgery

	<p>because it is not offered in your immediate home area, travel to an in-network surgery provider and lodging expenses will be reimbursed up to a maximum of \$10,000. To be eligible for reimbursement:</p> <ul style="list-style-type: none"> - Travel must be over 100 miles away from your home and must be by air, rail, bus or car. The \$10,000 covers you and one caretaker to travel with you for in-network surgery only. - You are only allowed to travel in-network within the 48 contiguous United States. - Lodging expenses include hotel or motel room, car rental, tips and cost of meals while you are not hospitalized and for your caretaker. - Itemized receipts will be required.
1/1/2015	<p>[Schedule of Benefits Gender Reassignment Surgery]</p> <p>LIFETIME MAXIMUM OF \$75,000 PPO85% after deductible 60% of eligible charges after deductible HRA85% after deductible 60% of eligible charges after deductible HSA85% after deductible 60% of eligible charges after deductible. Gender reassignment surgery benefits will be provided for covered services rendered to persons age 18 and over. Conditions for coverage apply:</p> <ul style="list-style-type: none"> •The individual is at least 18 years of age• <p>The individual has been diagnosed with the gender identity disorder (GID) of trans-sexualism</p> <ul style="list-style-type: none"> •The individual has undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and provided under the supervision of a physician •The individual has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender •A letter from the individual’s physician or mental health provider documenting treatments and medical necessity <p>[Exclusions] Benefits for gender reassignment surgery exclude transportation and lodging expenses, reversals, and surgeries that are considered to be cosmetic. The following surgeries are considered cosmetic and will not be covered for an individual who has undergone or is planning to undergo gender reassignment surgery: reduction thyroid, chondroplasty, liposuction, rhinoplasty, facial bone reconstruction, face lift, blepharoplasty, voice modification surgery, hair removal/hairplasty and breast augmentation.</p> <p>[STD Exclusions] Cosmetic surgery (defined as procedures or services that change or improve appearance without significantly improving physiological function) except for reconstructive surgery or gender reassignment surgery and the subsequent cosmetic surgery to enhance the transformation, as determined by Leave Administration and the medical plan.</p>
6/1/2021	<p>["Exclusions - What is Not Covered"]</p> <p>"Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services</p>

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	and supplies."
	"["Exclusions - What is Not Covered"] Transgender Coverage"
1/1/2022	["Other Covered Services"] Gender reassignment—Benefits will be provided for services and supplies related to gender reassignment but excluding surgery.
1/1/2019	["Other Plan Exclusions and Limitations"] "Services related to gender reassignment"
1/1/2016	["Gender Reassignment Surgery"] "Benefits will be provided for the gender reassignment surgery for persons age 18 and over with a Gender Identity Disorder, undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and provided under the supervision of a physician. Benefits for gender reassignment will be limited to a lifetime maximum of \$75,000." Gender Reassignment Surgery is covered; with the exception of the following: - Transportation and lodging expenses relating to gender reassignment surgery; - Reversals of gender reassignment Surgery.

Exhibit 8

From: [Ele Hamburger](#)
To: [Payton_Gwendolyn](#)
Cc: [Bedard, Stephanie](#); [Omar Gonzalez-Pagan](#); [Jenny Pizer](#); [Daniel Gross](#)
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12
Date: Wednesday, May 11, 2022 1:14:00 PM

Gwendolyn,

Are you refusing to meet and confer about this at 3:30 today? What is the legal basis for defendants' belated refusal to produce the actual SPDs or the identity of the employer pursuant to the existing protective order in response to properly served discovery, many months ago?

Ele

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Wednesday, May 11, 2022 1:10 PM
To: Ele Hamburger <ele@syllaw.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Ele, Thanks for your email. We will not be producing the actual SPDs or the identity of the employer absent the Court ordering us to do that. You have not articulated any reason why you need the actual SPDs or the identity of the employer. We are not contesting that we administer plans with exclusions. We understand that you do not have a monetary damages claim other than for CP, and only seek injunctive relief with respect to other employers.

Thanks,

Gwendolyn

Gwendolyn Payton
 Kilpatrick Townsend & Stockton LLP
 Suite 3700 | 1420 Fifth Avenue | Seattle, WA 98101
 office 206 626 7714 | fax 206 299 0414
gpayton@kilpatricktownsend.com | [My Profile](#) | [vCard](#)

From: Ele Hamburger <ele@syllaw.com>
Sent: Wednesday, May 11, 2022 1:03 PM
To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Then send us the 2021 documents. We need actual documents, not some defense counsel notes in an email.

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Wednesday, May 11, 2022 12:43 PM
To: Ele Hamburger <ele@syllaw.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Effective Date	Exclusion/Limitation Language
1/01/2017	["Exclusions - What is Not Covered"] "Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services and supplies."
1/1/2019	["Exclusions"] "This Plan does not cover services, supplies or treatment relating to, arising out of, or given in connection with the following: . . . Treatment or services, except for the initial diagnosis, for a primary diagnosis of Mental Retardation, Learning, Motor Skills and Communication Disorders, Conduct Disorder, Dementia, Sexual, Paraphilia and Gender Dysphoria, and

	<p>Personality Disorders, as well as other mental illnesses that will not substantially improve beyond the current level of functioning, or that are not subject to modification or management according to prevailing national standards of clinical practice, as reasonably determined by Blue Cross and Blue Shield of Illinois."</p> <p>["Short Term Disability Benefits"] "This Plan will not cover any disability . . . a gender change, including, but not limited to, any operation, drug therapy or any other procedure related to a gender change."</p> <p>["Long Term Disability Benefits"] "This Plan will not cover any disability: . . . a gender change, including, but not limited to, any operation, drug therapy or any other procedure related to a gender change."</p>
1/1/2018	<p>["Exclusions - What is Not Covered"] "Gender reassignment Surgery."</p>
1/01/2020	<p>[GENDER REASSIGNMENT SURGERY] Benefits will be provided for Covered Services for gender reassignment the same as any other for persons 18 and older. Benefits for gender reassignment Surgery will be limited to a lifetime maximum of \$75, 000.</p> <p>Gender reassignment Surgery will be provided when all of the following criteria are met:</p> <ol style="list-style-type: none"> 1. The Individual is at least 18 years of age; 2. The individual has been diagnosed with the Gender Identity Disorder (GID) of transsexualism; 3. The individual has undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and such therapy is provided under the supervision of a Physician; 4. The individual has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender; 5. A letter from the individual's physician and mental health provider, who has treated the individual for a minimum of 18 months, documenting the treatment and that the treatment is Medically Necessary. <p>Coverage will also be provided for cosmetic Surgery. The following surgeries are considered cosmetic and will be covered for an individual who has undergone or is planning to undergo gender reassignment Surgery:</p> <ol style="list-style-type: none"> 1. Reduction thyroid chondroplasty; 2. Liposuction; 3. Rhinoplasty; 4. Facial bone reconstruction; 5. Face lift; 6. Blepharoplasty; 7. Voice modification surgery; 8. Hair removal/hairplasty; and/or 9. Breast augmentation. <p>However, no benefits will be provided for transportation or lodging expenses or for any reversal of gender reassignment Surgery.</p> <p>[EXCLUSIONS – WHAT IS NOT COVERED] <ul style="list-style-type: none"> • Transportation and lodging expenses for gender reassignment Surgery • Reversal of gender reassignment surgery. </p>
1/1/2016	<p>["What is Not Covered by the Medical Plan"] "Transsexual surgery or any treatment of gender identity disorders."</p>
1/1/2013	<p>[Gender Reassignment Surgery] Benefit is provided to associates only. All of the following criteria must be met:</p> <ul style="list-style-type: none"> - Associate is at least 18 years old; - Associate has met criteria for the diagnosis of "true" transsexualism, including: <ul style="list-style-type: none"> - A sense of estrangement from one's own body, so that any evidence of one's own biological sex is regarded as repugnant;- A stable transsexual orientation evidenced by a desire to be rid of one's genitals and to live in society as a member of the other sex for at least 2 years, that is, not limited to periods of stress; - Absence of physical inter-sex or genetic abnormality; - Does not gain sexual arousal from cross-dressing; - Life-long sense of belonging to the opposite sex and of having been born into the wrong sex, often since childhood; - Not due to another biological, chromosomal or associated psychiatric disorder, such as schizophrenia; - Wishes to make his or her body as congruent as possible with the preferred sex through surgery and hormone treatment; and - Associate has completed a recognized program of transgender identity treatment as evidenced by all of the following: <ul style="list-style-type: none"> - A qualified mental health professional*who has been acquainted with the member for at least 18 months recommends sex reassignment surgery documented in the form of a written comprehensive evaluation; - For genital surgical sex reassignment, a second concurring recommendation by another qualified mental health professional *

	<p>must be documented in the form of a written expert opinion**;</p> <ul style="list-style-type: none"> -For genital surgical sex reassignment, member has undergone a urological examination for the purpose of identifying and perhaps treating abnormalities of the genitourinary tract, since genital surgical sex reassignment includes the invasion of, and the alteration of, the genitourinary tract (urological examination is not required for persons not undergoing genital reassignment); - Associate has demonstrated an understanding of the proposed male-to-female or female-to-male sex reassignment surgery with its attendant costs, required lengths of hospitalization, likely complications, and post-surgical rehabilitation requirements of the planned surgery; - Psychotherapy is not an absolute requirement for surgery unless the mental health professional's initial assessment leads to a recommendation for psychotherapy that specifies the goals of treatment, estimates its frequency and duration throughout the real life experience (usually a minimum of 3 months); - The associate has successfully lived and worked within the desired gender role full-time for at least 12 months(so-called real-life experience), without periods of returning to the original gender; and - Unless medically contraindicated, associate has received at least 12 months of continuous hormonal sex reassignment therapy recommended by a mental health professional and carried out by an endocrinologist (which can be simultaneous with the real-life experience). <p>*At least one of the two clinical behavioral scientists making the favorable recommendation for surgical (genital) sex reassignment must possess a doctoral degree (e.g.,Ph.D.,Ed.D.,D.Sc.,D.S.W., Psy.D., or M.D.).</p> <p>Note: Evaluation of candidacy for sex reassignment surgery by a mental health professional is covered under the member's medical benefit, unless the services of a mental health professional are necessary to evaluate and treat a mental health problem, in which case the mental health professional's services are covered under the associate's behavioral health benefit. Please check benefit plan descriptions.</p> <p>**Either two separate letters or one letter with two signatures is acceptable.</p> <p>Notes:</p> <ol style="list-style-type: none"> (1) Medically necessary core surgical procedures for female to male persons include: mastectomy, hysterectomy, vaginectomy, salpingo-oophorectomy, metoidioplasty, phalloplasty, urethroplasty, scrotoplasty and placement of testicular prostheses, and erectile prostheses. (2) Medically necessary core surgical procedure for male to female persons include: penectomy, orchidectomy, vaginoplasty, clitoroplasty, and labiaplasty. (3) Rhinoplasty,face-lifting, lip enhancement, facial bone reduction, blepharoplasty, breast augmentation, liposuction of the waist (bodycontouring), reduction thyroid chondroplasty, hair <p>Gender Reassignment Surgery- Travel & Lodging Gender reassignment surgery is performed at limited locations in the United States, and most patients will need to travel outside their immediate home area. If travel is required for surgery because it is not offered in your immediate home area, travel to an in-network surgery provider and lodging expenses will be reimbursed up to a maximum of \$10,000. To be eligible for reimbursement:</p> <ul style="list-style-type: none"> - Travel must be over 100 miles away from your home and must be by air, rail, bus or car. The \$10,000 covers you and one caretaker to travel with you for in-network surgery only. - You are only allowed to travel in-network within the 48 contiguous United States. - Lodging expenses include hotel or motel room, car rental, tips and cost of meals while you are not hospitalized and for your caretaker. - Itemized receipts will be required.
<p>1/1/2015</p>	<p>[Schedule of Benefits Gender Reassignment Surgery]</p> <p>LIFETIME MAXIMUM OF \$75,000 PPO85% after deductible 60% of eligible charges after deductible HRA85% after deductible 60% of eligible charges after deductible HSA85% after deductible 60% of eligible charges after deductible. Gender reassignment surgery benefits will be provided for covered services rendered to persons age 18 and over. Conditions for coverage apply:</p> <ul style="list-style-type: none"> •The individual is at least 18 years of age• The individual has been diagnosed with the gender identity disorder (GID) of trans-sexualism •The individual has undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and provided under the supervision of a physician •The individual has completed a minimum of 12 months of successful continuous full time real-life experience in their new gender, with no returning to their original gender •A letter from the individual's physician or mental health provider documenting treatments and medical necessity <p>[Exclusions] Benefits for gender reassignment surgery exclude transportation and lodging expenses, reversals, and surgeries that are considered to be cosmetic. The following surgeries are considered cosmetic and will not be covered for an individual who has undergone or is planning to undergo gender reassignment surgery: reduction thyroid, chondroplasty, liposuction, rhinoplasty, facial bone reconstruction, face lift, blepharoplasty, voice modification surgery, hair removal/hairplasty and breast augmentation.</p> <p>[STD Exclusions] Cosmetic surgery (defined as procedures or services that change or improve appearance without significantly improving physiological function) except for reconstructive surgery or gender reassignment surgery and the subsequent cosmetic surgery to enhance the transformation, as determined by Leave Administration and the medical plan.</p>
<p>6/1/2021</p>	<p>["Exclusions - What is Not Covered"]</p> <p>"Gender reassignment Surgery (also referred to as transsexual Surgery, sex reassignment Surgery or intersex Surgery), including related services</p>

	and supplies." ["Exclusions - What is Not Covered"] Transgender Coverage"
1/1/2022	["Other Covered Services"] Gender reassignment—Benefits will be provided for services and supplies related to gender reassignment but excluding surgery.
1/1/2019	["Other Plan Exclusions and Limitations"] "Services related to gender reassignment"
1/1/2016	["Gender Reassignment Surgery"] "Benefits will be provided for the gender reassignment surgery for persons age 18 and over with a Gender Identity Disorder, undergone a minimum of 12 months of continuous hormonal therapy when recommended by a mental health professional and provided under the supervision of a physician. Benefits for gender reassignment will be limited to a lifetime maximum of \$75,000." Gender Reassignment Surgery is covered; with the exception of the following: - Transportation and lodging expenses relating to gender reassignment surgery; - Reversals of gender reassignment Surgery.

We don't have many 2022 SPDs at this time. The yellow highlighted language is the standard Illinois language.

Gwendolyn Payton

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From: Ele Hamburger <ele@syllaw.com>

Sent: Wednesday, May 11, 2022 9:41 AM

To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>

Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>

Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Dear Gwendolyn,

I am glad that you are making good time with your travels and will be available for the 3:30 pm call.

Here's the minimum information we need in advance of the Rule 30(b)(6) deposition: We need to see the standard language that BCBSIL uses and some (5-10) of the representative one-offs, both the plan documents and the BPAs for Plan year 2022. We need the total number of people enrolled in the 200 identified plans by Plan Year during the class period, as requested in long pending discovery. We also need the identities of the 200 identified plans, so we can independently determine the mix of secular vs. religious for class certification.

There is no reasonable dispute that we are entitled to this information under the rules of discovery. We understood during the repeated discovery conferences this winter and spring that we would be provided at least this information in advance of the Rule 30(b)(6) deposition. **Please ensure it is provided by the close of business today.**

It does not matter that the corporate representatives are prepared to testify about these issues – we are entitled to the documentary evidence so we can test and appropriately question the corporate representatives, rather than have to react, on the spur of the moment, to their testimony whatever it may be.

Sincerely yours,

Ele

Ele Hamburger

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SEATTLE, WASHINGTON 98121

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WEBSITE: www.syllaw.com

I am presently working remotely but regularly checking voice messages left on my direct line.

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Wednesday, May 11, 2022 9:08 AM
To: Ele Hamburger <ele@syllaw.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Our corporate representatives will be prepared to testify about these issues. I understand the testimony will be that:

1. The self-funded plans often write their own exclusion, as with CHI
2. They are a mix of secular and religious institutions
3. There is some standard exclusion language self-funded plans sometimes elect to use.

I am making good time travelling so I think I may be able to make the time you have asked to meet. I am doing my best to get to a place where I can take a call.

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From: Ele Hamburger <ele@syllaw.com>
Sent: Tuesday, May 10, 2022 9:55 AM
To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

We also need this information to understand whether these 200 plans are all connected to a religious organization or include secular employers.

From: Ele Hamburger
Sent: Tuesday, May 10, 2022 9:38 AM
To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

You are contesting commonality and typicality. I cannot understand why BCBSIL contends that the exclusions in other plans are so different as to destroy class certification without copies of at least some of those plans.

The late afternoon tomorrow is too late. I don't understand why you cannot produce some of these plans immediately. We have been asking for this for many months, and you never indicated that you would not produce them. Now to refuse to disclose them on the eve of the Rule 30(b)(6) deposition is improper.

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Tuesday, May 10, 2022 9:35 AM
To: Ele Hamburger <ele@syllaw.com>

Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@syllaw.com>

Subject: Re: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

I am not available today. I am available late tomorrow afternoon. We are not contesting numerosity and don't understand why you need them. Your injunctive relief claim does not seek damages.

Gwendolyn Payton

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On May 10, 2022, at 9:19 AM, Ele Hamburger <ele@syllaw.com> wrote:

Dear Gwendolyn and Stephanie,

We appreciate the supplemental disclosure provided yesterday but there were no additional documents produced. We understand that you have identified at least 200 plans that have a similar exclusion to that in the CHI plan, but none of the contracts or BPAs were produced, as requested in RFP No. 12.

We need at least some of these contracts and BPAs for the deposition on Friday. We need to understand how BCBSIL identified the 200 plans, and whether and how the language in these identified plans differs, since BCBSIL asserts that the language in the proposed class definition is "vague, ambiguous and not easily ascertainable" and defendant denied our allegations of commonality and typicality in its Answer. Are you free to meet and confer about this today? I am available until 3:15 pm today. **How about 10:30 am?**

If we cannot resolve this today we may need to hold open the Rule 30(b)(6) deposition and call back the witnesses for Friday on another date when defendants' production is more complete.

Ele

Ele Hamburger

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Exhibit 9

Ele Hamburger

From: Ele Hamburger
Sent: Thursday, January 27, 2022 9:48 AM
To: Payton, Gwendolyn; Bedard, Stephanie; Neeleman, John
Cc: Rountree, Ian; Omar Gonzalez-Pagan; Jenny Pizer; Daniel Gross
Subject: RE: [External] C.P. v. BCBSIL - Responses to BCBSIL's First Interrogatories

When will we receive the remaining BCBSIL documents?

The discovery to date does not include any documents describing the imposition of the Exclusion in the CHI plan, the BPAs, nor anything about any other plans.

Thank you,

Ele

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Thursday, January 27, 2022 9:34 AM
To: Ele Hamburger <ele@sylaw.com>; Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Neeleman, John <JNeeleman@kilpatricktownsend.com>
Cc: Rountree, Ian <IRountree@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>
Subject: RE: [External] C.P. v. BCBSIL - Responses to BCBSIL's First Interrogatories

Thanks. We will need all the documents in enough advance of Patricia's deposition that we can prepare, so by February 16.

Gwendolyn Payton

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From: Ele Hamburger <ele@sylaw.com>
Sent: Wednesday, January 26, 2022 2:54 PM
To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>; Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Neeleman, John <JNeeleman@kilpatricktownsend.com>
Cc: Rountree, Ian <IRountree@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>
Subject: C.P. v. BCBSIL - Responses to BCBSIL's First Interrogatories

Dear Counsel,

Please find attached Plaintiffs' responses to BCBSIL's first interrogatories. We will provide the response to BCBSIL's Requests for Production by Friday, and will start producing the responsive documents on a rolling basis.

Thank you,

Ele

Ele Hamburger

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Exhibit 10

SIRIANNI YOUTZ
SPOONEMORE HAMBURGER PLLC

March 9, 2022

BY EMAIL ONLY

gpayton@kilpatricktownsend.com
sbedard@kilpatricktownsend.com

Gwendolyn Payton
Stephanie Bedard
KILPATRICK TOWNSEND
1420 Fifth Avenue, Suite 3700
Seattle, WA 98101

RE: C.P. v. Blue Cross Blue Shield of Illinois, No. 3:20-cv-06145-RJB

Dear Gwendolyn and Stephanie:

This letter is to follow up on the status of discovery:

1. **Defendant's Outstanding Document Production:** Will Defendants complete their outstanding document production to Plaintiffs' first two discovery requests by March 11, 2022? If not, we are concerned that at least one of our experts may not be able to complete their disclosures on April 8, 2022, as to numerosity. We need the relevant discovery, which has been outstanding for months, as soon as possible. If you are not able to complete production by March 11, 2022, we request a discovery conference after Ms. Pritchard's deposition on Friday. If we cannot timely resolve BCBSIL's production of responsive discovery then, we may have no alternative but to move to compel.
2. **BCBSIL Rule 30(b)(6) Deposition and Deposition of Individual with Knowledge of BCBSIL's Medical Policy on Coverage of Gender Affirming Care:** Please provide us with the dates discussed for the depositions as soon as possible. We are available any dates in May except for May 13 and 17 in the morning, and possibly May 23-27.
3. **Privilege Logs:** We will provide ours shortly. Can you confirm when BCBSIL will provide its log?

Please let us know if there are any other outstanding issues.

SIRIANNI YOUTZ
SPOONEMORE HAMBURGER PLLC

Gwendolyn Payton
Stephanie Bedard
March 9, 2022
Page 2

Very truly yours,

SIRIANNI YOUTZ
SPOONEMORE HAMBURGER

/s/ Eleanor Hamburger

Eleanor Hamburger

EH:tr

cc: Omar Gonzalez-Pagan
Jenny Pizer
Daniel Gross

Exhibit 11

Ele Hamburger

From: Ele Hamburger
Sent: Tuesday, March 15, 2022 12:44 PM
To: Payton, Gwendolyn; Bedard, Stephanie
Cc: Omar Gonzalez-Pagan; Jenny Pizer; Daniel Gross
Subject: CP v. BCBSIL - Follow up to meet and confer on Friday March 11, 2022

Dear Gwendolyn and Stephanie,

Just to follow up on our "meet and confer" on last Friday. Defendants agreed to get much of the outstanding discovery to us by Friday, particularly related to the medical policy in question, the BPAs, and the requested emails. Will defendants also supplement their responses to interrogatories and RFAs at that time?

Defendants need more time to respond to ROGs 6-8 related to the other plans with similar exclusions. We understand that defendants do not dispute that this information is required to be disclosed, but that the logistics of delivering it to us has been challenging and time consuming. Depending on defendants' supplemental responses to Plaintiffs' First and Second discovery requests, defendants' delay in producing this evidence may impact our ability to provide expert disclosures on April 8.

We agreed to check in again on discovery on Thursday morning at 9 am. If there are any other outstanding issues, please let us know.

Thank you,

Ele

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Exhibit 12

Ele Hamburger

From: Ele Hamburger
Sent: Friday, April 22, 2022 12:59 PM
To: Bedard, Stephanie; Payton, Gwendolyn
Cc: Omar Gonzalez-Pagan; Jenny Pizer; Daniel Gross
Subject: RE: CP v. BCBSIL - Discovery conference

Dear Gwendolyn and Stephanie,

Thanks for a productive and helpful call today. I just wanted to follow up so we are all on the same page:

1. The dates for the depositions are right. Can BCBSIL provide the topics for Drake and Malec so I can figure out the right start time on May 13? We will start on June 2 at 9:30 PT, as presently identified.
2. There is no additional protective order that defendants seek at present.
3. You will confer about whether the First and Second Discovery Requests should be supplemented, apart from the numerosity information. We discussed that we really need the outstanding discovery, supplemental responses and numerosity information by the end of next week, in order to adequately prepare for the May 13 deposition. If that deadline becomes a problem, we reserve the right to reschedule the May 13 deposition depending on how large the remaining production is, and when it is produced.
4. We agreed that the June 3 deadline should be moved about a month. I will put together a stipulation along those lines.
5. We walked through the BCBSIL objections to the Amended Notice of Rule 30(b)(6) deposition:
 - a. On topic 2(c), BCBSIL will produce a witness to testify about the research and analysis that supported the provision of coverage for gender affirming care by BCBSIL
 - b. 2(d), (e), and (f), BCBSIL will produce a witness to testify about the statement in the objections that the administration of the Exclusion is not based on medical, scientific, financial or actuarial information, or any other information other than the selection of the exclusion by the employer.
 - c. 2(h) and (i) – Plaintiffs take the position that we are entitled to ask whether a legal analysis was done, who it was done by, when it was done and to whom it was communicated. Defense counsel would like to research this issue further and provide a response.
 - d. 2(n) – Defense counsel indicated that there is a written joint defense agreement with CHI in place. I requested a copy, and defense counsel will research this issue further and provide a response. I requested a privilege log for any pre-litigation communications between BCBSIL and CHI about this issue that were withheld from production as soon as possible.
 - e. 2(p) and 3 – In both of these responses, BCBSIL states that the witness’s testimony will be limited to the CHI plan. We strongly object to BCBSIL’s unilateral limitation of testimony to just the CHI plan. Plaintiffs expect the BCBSIL witnesses to testify about its standard practice, not just the practice in the CHI plan. The witnesses must be prepared to testify to these topics without limitation to the CHI plan.
 - f. 2(r) and (s) – BCBSIL should prepare a witness to explain why it does not have access to the information sought.
 - g. 4(d) – BCBSIL should have a witness prepared to explain whether it submitted the form called “an assurance” required under 45 C.F.R. 92.4 to the federal government, and if so, why the form has not been produced, and if not, why not.

Thanks again for working through these issues with me. If I missed anything or you have a different understanding, please let me know.

I hope we can wrap up most of the outstanding discovery production issues by the end of next week.

Sincerely yours,

Ele

Ele Hamburger

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WEBSITE: www.sylaw.com

I am presently working remotely but regularly checking voice messages left on my direct line.

From: Ele Hamburger

Sent: Friday, April 22, 2022 11:29 AM

To: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Payton, Gwendolyn <GPayton@kilpatricktownsend.com>

Cc: Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>

Subject: RE: CP v. BCBSIL - Discovery conference

I forgot to mention this in the last email – Per defendants’ objections to the Rule 30(b)(96) deposition, if defendants wish to have a different protective order in place for the Rule 30(b)(6) deposition, please provide it ASAP so we can review and discuss.

From: Ele Hamburger

Sent: Friday, April 22, 2022 10:35 AM

To: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Payton, Gwendolyn <GPayton@kilpatricktownsend.com>

Cc: Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>

Subject: CP v. BCBSIL - Discovery conference

For today’s call:

1. Confirm deposition schedule: Booker May 6 at 11, May 13 BCBSIL (Drake, Malec) – start at 7:30 PT/9:30 CT? June 2 BCBSIL (D’Anca and Reed) start time? June 12 Hatfield (tentative) June 14 Kylo (tentative). Anything else?
2. Update on when BCBSIL will supplement its first and second discovery responses
3. Any additional document production by BCBSIL? Numerosity?
4. Do we need to address the June 3 2022 deadline for discovery motions?
5. Discussion of BCBSIL objections on Rule 30(b)(6) deposition notice

Ele Hamburger

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WEBSITE: www.sylaw.com

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Exhibit 13

Ele Hamburger

From: Ele Hamburger
Sent: Tuesday, May 3, 2022 3:00 PM
To: Bedard, Stephanie; Payton, Gwendolyn
Cc: Omar Gonzalez-Pagan; Jenny Pizer; Daniel Gross
Subject: CP v. BCBSIL

Importance: High

Dear Stephanie and Gwendolyn,

Can you confirm whether defendants' production is complete and if and when defendants will supplement their responses to Plaintiffs' first and second discovery requests? If we do not get the remaining discovery right away, including the supplemental responses, we may need to reschedule or continue the upcoming Rule 30(b)(6) deposition of BCBSIL.

Thank you,

Ele

Ele Hamburger
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Exhibit 14

From: [Ele Hamburger](#)
To: [Payton, Gwendolyn](#)
Cc: [Bedard, Stephanie](#); [Omar Gonzalez-Pagan](#); [Jenny Pizer](#); [Daniel Gross](#)
Subject: Re: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12
Date: Tuesday, May 10, 2022 9:38:47 PM

Gwendolyn,

What time are you available for a meet and confer call tomorrow? I will accommodate your availability.

We are entitled to the plans and the BPAs and you have not articulated a reason why BCBSIL is not obligated to produce them. As I explained in my earlier email, since defendant deny commonality and typicality of the proposed class definition we need to understand whether there is a common standard practice running through the various exclusions, by reviewing some or all of the actual plans and the BPAs. I have been seeking this information for months, and have consistently informed you in the various emails that it was necessary for the Rule 30(b)(6) deposition.

If you do not produce the missing discovery tomorrow or participate in a meet and confer, we will move to compel.

Ele

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From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Tuesday, May 10, 2022 7:59:17 PM
To: Ele Hamburger <ele@sylaw.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

As to number 1, you still have not articulated why you need the actual plans. You have made a claim for injunctive relief that states that if we are administering plans that have exclusions, we should stop. That's it. We have told you we administer Plans with exclusions. Why do you need them? What questions would you ask a witness about them? How are they possibly relevant to any of your 30(b)6 topics?

As to number 2, isn't that number in the annual reports we sent you?

I am flying to Chicago tomorrow and am not sure I will have arrived at the time you unilaterally set.

Gwendolyn Payton
Kilpatrick Townsend & Stockton LLP
Suite 3700 | 1420 Fifth Avenue | Seattle, WA 98101

office 206 626 7714 | fax 206 299 0414
gpayton@kilpatricktownsend.com | [My Profile](#) | [vCard](#)

From: Ele Hamburger <ele@sylaw.com>
Sent: Tuesday, May 10, 2022 3:07 PM
To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>
Subject: RE: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

Dear Gwendolyn and Stephanie,

Hearing nothing further from either of you (I also left a message for Stephanie, assuming that Gwendolyn was traveling today), and without any further production from defendants, I am uncertain whether we can proceed to have the deposition on Friday. At a minimum, the deposition will be held open for additional questions once defendants' discovery production is complete.

I will talk with you both tomorrow. I am setting up a call for 3:30 pm, PT. If that time does not work, please let me know immediately. However, I expect either defendants will produce tomorrow: (1) some or all of the plans identified in their supplemental disclosure, and (2) provide an adequate answer to the Interrogatory asking for the total population in the identified plans. At a minimum, at the meet and confer tomorrow, defense counsel should explain why we should proceed with the Rule 30(b)(6) deposition given the extraordinary and late disclosure of 200 plans that are subject to the Exclusion of gender affirming care, without any specific documentary discovery related to those 200 plans.

Sincerely yours,

Ele

From: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>
Sent: Tuesday, May 10, 2022 9:35 AM
To: Ele Hamburger <ele@sylaw.com>
Cc: Bedard, Stephanie <Sbedard@kilpatricktownsend.com>; Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>
Subject: Re: [External] CP v. BCBSIL -- Supplemental documents to RFP No. 12

I am not available today. I am available late tomorrow afternoon. We are not contesting numerosity and don't understand why you need them. Your injunctive relief claim does not seek damages.



Gwendolyn Payton

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On May 10, 2022, at 9:19 AM, Ele Hamburger <ele@sylaw.com> wrote:

Dear Gwendolyn and Stephanie,

We appreciate the supplemental disclosure provided yesterday but there were no additional documents produced. We understand that you have identified at least 200 plans that have a similar exclusion to that in the CHI plan, but none of the contracts or BPAs were produced, as requested in RFP No. 12.

We need at least some of these contracts and BPAs for the deposition on Friday. We need to understand how BCBSIL identified the 200 plans, and whether and how the language in these identified plans differs, since BCBSIL asserts that the language in the proposed class definition is “vague, ambiguous and not easily ascertainable” and defendant denied our allegations of commonality and typicality in its Answer. Are you free to meet and confer about this today? I am available until 3:15 pm today. **How about 10:30 am?**

If we cannot resolve this today we may need to hold open the Rule 30(b)(6) deposition and call back the witnesses for Friday on another date when defendants’ production is more complete.

Ele

Ele Hamburger

SIRIANNI YOUTZ

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3101 WESTERN AVENUE, SUITE 350

SEATTLE, WASHINGTON 98121

DIRECT LINE: (206) 838-1809

GENERAL OFFICE: (206) 223-0303

FACSIMILE: (206) 223-0246

E-MAIL: ehamburger@sylaw.com

WEBSITE: www.sylaw.com

I am presently working remotely but regularly checking voice messages left on my direct line.

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DISCLAIMER Per Treasury Department Circular 230: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Exhibit 15

From: [Ele Hamburger](#)
To: [Payton, Gwendolyn](#); [Bedard, Stephanie](#)
Cc: [Omar Gonzalez-Pagan](#); [Jenny Pizer](#); [Daniel Gross](#)
Subject: RE: CP v. BCBSIL -- Meet and Confer
Date: Wednesday, May 11, 2022 4:07:00 PM

Dear Gwendolyn,

This email is to follow up on our conversation today. We agreed that for the most part, this dispute cannot be resolved without a motion to compel. We also agreed to proceed with Fridays deposition, where I will note that we will hold the deposition open and recall witnesses once the Court rules on the anticipated motion to compel.

1. Interrogatory No. 6 – this issue remains. Defendant agreed to produce the ASO “off the shelf” standard plan with the standard language related to gender affirming care and to produce quotations of the various permutations of the exclusion in a formal discovery response. No other agreement about the Interrogatory or related document production was reached. Plaintiffs offered to receive redacted versions of the various permutations of the gender affirming care language in the 200 identified plans, but defendant rejected that approach.
2. Interrogatory No. 8 – this issue remains. Plaintiffs’ counsel asserted if the identities of the plans were produced, Plaintiffs’ counsel could look up the enrollment on the DOL Form 5500 that is publicly filed. Defendant rejected that approach.
3. Requests for Production No. 12, 13, 14 – these issues remains.
4. Request for Production No. 15 and privilege log – the parties are considering whether to stipulate to *in camera* review by the Court.

Please let me know if you have a different understanding of our conversation today. Thank you,

Sincerely yours,

Ele

Ele Hamburger
SIRIANNI YOUTZ
SPOONEMORE HAMBURGER PLLC
3101 WESTERN AVENUE, SUITE 350
SEATTLE, WASHINGTON 98121

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GENERAL OFFICE: (206) 223-0303
FACSIMILE: (206) 223-0246
E-MAIL: ehamburger@sylaw.com
WEBSITE: www.sylaw.com

I am presently working remotely but regularly checking voice messages left on my direct line.

From: Ele Hamburger

Sent: Wednesday, May 11, 2022 3:18 PM

To: Payton, Gwendolyn <GPayton@kilpatricktownsend.com>; Bedard, Stephanie <Sbedard@kilpatricktownsend.com>

Cc: Omar Gonzalez-Pagan <ogonzalez-pagan@lambdalegal.org>; Jenny Pizer <jpizer@lambdalegal.org>; Daniel Gross <Daniel@sylaw.com>

Subject: CP v. BCBSIL -- Meet and Confer

Dear Gwendolyn and Stephanie,

I want to clarify the scope of the current discovery dispute during our call this afternoon, so that we can move forward to a motion to compel in an orderly manner:

1. Interrogatory No. 6 – the identity of the plans for which BCBSIL administers exclusions of gender affirming care – This information is not produced. Instead, defendants provided a “preliminary” count of affected plans.
2. Interrogatory No. 8 – the total number of unique enrollees in each plan administered by BCBSIL that contains an exclusion of gender affirming care. This number is not produced. Instead, defendants provided the number of people denied gender affirming care in the affected plans. While interesting, this is not the information requested.
3. Request for Production No. 12, 14 – all contracts, BPAs, or other applications or agreements related to the plans identified in Interrogatory No. 6. We have offered a sampling approach on this to address any concerns about the burden for defendants, but defendants have refused, contending that if we are to receive any of these documents, we must obtain a court order. Defendants, however, have not identified any basis for withholding these documents other than claiming that Plaintiffs do not “require” them.
4. Request for Production No. 13 - Emails and communications related to the plans identified in Interrogatory No. 6 related to treatment for gender dysphoria or a gender affirming care exclusion. Our position is the same as in #3.
5. Request for Production No. 15 – communications related to plans identified in Interrogatory No. 6 related to compliance with Section 1557 that is not subject to attorney client privilege or the fiduciary exception. Specifically, Defendants have withheld documents described in the privilege log just provided, that may not be attorney-client privilege or may be exempt pursuant to the fiduciary exception. *See Stephan v. Unum Life Ins. Co.*, 697 F.3d 917, 931-32 (9th Cir. 2012). First, it is unclear if the communications actually involve any attorneys, since attorneys are not specifically identified on the privilege log. Second, all of the documents listed appear to be from before C.P.’s final appeal and appear to be about plan administration. *See A.F. v. Providence*, 173 F. Supp. 3d 1061, 1078 (D. Or., March 26, 2016). Accordingly, all of the documents listed in the privilege log should be disclosed.

As I have told you repeatedly over the past few months, we need this information for the Rule 30(b) (6) deposition. We will proceed on Friday but we will continue the deposition and reserve the right to recall all witnesses, once defendants’ production is complete.

I look forward to speaking with you further shortly.

Ele

Ele Hamburger

SIRIANNI YOUTZ

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WEBSITE: www.sylaw.com

I am presently working remotely but regularly checking voice messages left on my direct line.

Exhibit 16

BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB

Privilege Log No.	Date Family	Sent From	Sent To	Sent CC	Subject	File Name	Privilege Treatment	Privilege Reason	Privilege Description
1	2/27/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>	FW: Denied claim	FW: Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
2	2/28/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>	RE: Denied claim	RE: Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
3	2/28/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
4	3/1/2017	"telisa drake" <1829e1194ee547fc85e4c12710a6dc21-u251800@exchangelabs.com>	bealt@bcbsil.com;kimberlynorton@catholichealth.net	shelleyhines@catholichealth.net	RE: Denied claim	RE: Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
5	3/1/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>	RE: Denied claim	RE: Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
6	3/2/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
7	3/3/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;"hines, michelle" <shelleyhines@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

**BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB**

8	3/3/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	FW: PHI Denied claim #secure#	FW: PHI Denied claim #secure#	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
9	3/3/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	PHI Denied claim #secure#	PHI Denied claim #secure#	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
10	3/3/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	RE: PHI Denied claim #secure#	RE: PHI Denied claim #secure#	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
11	3/3/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	PHI Denied claim #secure#	PHI Denied claim #secure#	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
12	3/24/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>	elisa sornat <elisa_sornat@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	PHI Pritchard misquote	PHI Pritchard misquote	Privileged - Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
13	3/24/2017				Catholic Health Initiatives_transgender services letter_v7.docx		Privileged - Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
14	3/29/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;elisa sornat <elisa_sornat@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	RE: PHI Pritchard misquote	RE: PHI Pritchard misquote	Privileged - Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB

15	3/29/2017					# 58014886 v 1 (Catholic Health Initiatives_transgen der services letter_....docx	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
16	4/4/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>	"hines, michelle" <shelleyhines@catholichealth.net>;elisa sornat <elisa_sornat@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	PHI Pritchard misquote	PHI Pritchard misquote	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
17	4/4/2017					Catholic Health Initiatives_transgen der services letter_v8.docx	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
18	4/26/2017	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;"norton, kimberly" <kimberlynorton@catholichealth.net>	elisa sornat <elisa_sornat@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	PHI Pritchard misquote	PHI Pritchard misquote	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
19	10/13/2017	trisha beal <bealt@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;diane hubbuch <diane_hubbuch@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adambenedict@catholichealth.net>;"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	PHI Patricia Pritchard Case 20662121	PHI Patricia Pritchard Case 20662121	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
20	10/13/2017					Pritchard Decision Letter.pdf	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel

**BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB**

21	10/13/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	diane hubbuch <diane_hubbuch@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>;trisha beal <beal@bcbsil.com>	"benedict, adam" <adambenedict@catholichealth.net>;"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	RE: PHI Patricia Pritchard EE200934 Case 20662121	RE: PHI Patricia Pritchard EE200934 Case 20662121	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
22	10/13/2017	"telisa drake" <1829e1194ee547fc85e4c12710a6dc21-u251800@exchangelabs.com>	beal@bcbsil.com;diane_hubbuch@bcbsil.com;kimberlynorton@catholichealth.net	adambenedict@catholichealth.net;shelleyhines@catholichealth.net;wsweeney@polsinelli.com	PHI Patricia Pritchard EE200934 Case 20662121	PHI Patricia Pritchard EE200934 Case 20662121	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
23	10/13/2017	trisha beal <beal@bcbsil.com>	"norton, kimberly" <kimberlynorton@catholichealth.net>;diane hubbuch <diane_hubbuch@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adambenedict@catholichealth.net>;"hines, michelle" <shelleyhines@catholichealth.net>;william sweeney <wsweeney@polsinelli.com>	PHI Patricia Pritchard EE200934 Case 20662121	PHI Patricia Pritchard EE200934 Case 20662121	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
24	10/13/2017				Pritchard complaint and appeal timeline.docx	Pritchard complaint and appeal timeline.docx	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
25	10/13/2017				WB Edited Pritchard EI Determination Letter.docx	WB Edited Pritchard EI Determination Letter.docx	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
26	10/13/2017				Pritchard Civil Rights Complaints.docx	Pritchard Civil Rights Complaints.docx	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel

**BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB**

27	10/16/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	diane hubbuch <diane_hubbuch@bcbsil.com>;galye burchard <burchardg@bcbsil.com>;telisadrake <telisa_drake@bcbsil.com>	"benedict, adam" <adambenedict@catholichealth.net>;williamsweeney <wsweeney@polsinelli.com>	FW: PHI Patricia Pritchard EE200934 Case 20662121	FW: PHI Patricia Pritchard EE200934 Case 20662121	FW: PHI Patricia Pritchard EE200934 Case 20662121	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
28	10/16/2017				WB Edited Pritchard EI Determination Letter.docx			Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
29	10/16/2017				Pritchard Civil Rights Complaints.docx			Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
30	10/16/2017				Pritchard complaint and appeal timeline.docx			Privileged Withhold - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
31	10/18/2017	"norton, kimberly" <kimberlynorton@catholichealth.net>	diane hubbuch <diane_hubbuch@bcbsil.com>;galye burchard <burchardg@bcbsil.com>;telisadrake <telisa_drake@bcbsil.com>;trisha beal <beat@bcbsil.com>	"benedict, adam" <adambenedict@catholichealth.net>;williamsweeney <wsweeney@polsinelli.com>	FW: #secure# Patricia Pritchard EE200934 Case 20662121 #secure#	FW: #secure# Patricia Pritchard EE200934 Case 20662121 #secure#	FW: #secure# Patricia Pritchard EE200934 Case 20662121 #secure#	Privileged Withhold - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

**BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB**

32	1/8/2018	diane hubbuch <diane_hubbuch@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>; "hines, michelle" <shelleyhines@catholichealth.net>; "norton, kimberly" <kimberlynorton@catholichealth.net>; william sweeney <wsweeney@polsinelli.com>	kathy corbin <kathy_corbin@bcbsil.com>	BPA updates and follow up - Privileged & Confidential	BPA updates and follow up - Privileged & Confidential	Privileged - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
33	1/8/2018				Affiliated Contract_CHI_Add_2017_10_23.doc		Privileged - JDA Agreement	Joint Defense Agreement	Attachment to communications reflecting legal advice from counsel
34	11/1/2018	"hines, michelle" <shelleyhines@catholichealth.net>	amanda miller <millera2@bcbsil.com>; telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	FW: PHI Denied claim	FW: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
35	11/2/2018	telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>; amanda miller <millera2@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
36	11/2/2018	"hines, michelle" <shelleyhines@catholichealth.net>	amanda miller <millera2@bcbsil.com>; telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
37	11/2/2018	"hines, michelle" <shelleyhines@catholichealth.net>	'amanda miller' <millera2@bcbsil.com>; 'telisa drake' <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

**BCBSIL PRIVILEGE LOG 5/10/2022
C.P. v. BCBSIL, #3:20-cv-06145-RJB**

38	11/2/2018	telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
39	11/2/2018	telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
40	11/2/2018	"hines, michelle" <shelleyhines@catholichealth.net>	amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
41	11/2/2018		bealt@bcbsil.com;millera2@bcbsil.com;shelleyhines@catholichealth.net	adam.benedict@catholichealth.net	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
42	11/2/2018	telisa drake <telisa_drake@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
43	11/2/2018	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

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C.P. v. BCBSIL, #3:20-cv-06145-RJB**

44	11/2/2018	"hines, michelle" <shelleyhines@catholichealth.net>	amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
45	11/5/2018	"hines, michelle" <shelleyhines@catholichealth.net>	'amanda miller' <millera2@bcbsil.com>;telisa drake' <telisa_drake@bcbsil.com>;'trisha beal' <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
46	11/5/2018	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
47	11/6/2018	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
48	11/7/2018	"hines, michelle" <shelleyhines@catholichealth.net>	amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>;trisha beal <bealt@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel

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C.P. v. BCBSIL, #3:20-cv-06145-RJB**

49	11/8/2018	"amanda miller" <813d08e33751424a8dafeb23cec07589-u255172@exchangelabs.com>	bealt@bcbsil.com;shelleyhines@catholichealth.net;telisa_drake@bcbsil.com	adam.benedict@catholichealth.net	RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
50	11/8/2018		millera2@bcbsil.com;shelleyhines@catholichealth.net;telisa_drake@bcbsil.com	adam.benedict@catholichealth.net	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
51	11/8/2018	trisha beal <bealt@bcbsil.com>	"hines, michelle" <shelleyhines@catholichealth.net>;amanda miller <millera2@bcbsil.com>;telisa drake <telisa_drake@bcbsil.com>	"benedict, adam" <adam.benedict@catholichealth.net>	PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
52	1/22/2019	"hines, michelle" <shelleyhines@catholichealth.net>	trisha beal <bealt@bcbsil.com>		RE: PHI Denied claim	RE: PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel
53	1/24/2019	"trisha beal" <e6b5d54f898f4c1686d896b79429789c-u32822@exchangelabs.com>	shelleyhines@catholichealth.net		PHI Denied claim	PHI Denied claim	Privileged - Redact - JDA Agreement	Joint Defense Agreement	Communication reflecting legal advice from counsel