IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STATE OF MISSISSIPPI, *et al.*, Plaintiffs, v. XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, *et al.*, Defendants.	Civil Action No. 1:22-cv-00113-HSO-RPM

DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Defendants hereby move for summary judgment in their favor because there is no genuine dispute as to any material fact and Defendants are entitled to judgment as a matter of law. The reasons for this Motion are set forth in the accompanying Opposition to Plaintiffs' Motion for Summary Judgment and in Support of Defendants' Cross-Motion for Summary Judgment. A proposed Order is submitted.

Dated: November 5, 2024

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

MICHELLE BENNETT
Assistant Director, Federal Programs Branch

/s/ Alexander W. Resar
ALEXANDER W. RESAR
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Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STATE OF MISSISSIPPI, *et al.*, Plaintiffs, v. XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, *et al.*, Defendants.	Civil Action No. 1:22-cv-00113-HSO-RPM

DECLARATION OF SUSAN HILL

Pursuant to 28 U.S.C. § 1746, I, Susan Hill, based upon my personal knowledge, declare the following:

1. I am the Acting Group Director of the Policy and Program Alignment Group at the Office of Minority Health (OMH), Centers for Medicare & Medicaid Services (CMS), United States Department of Health and Human Services. I have been acting in this capacity since August 24, 2023. Prior to that time, I served as a Senior Advisor to the Office Director, OMH.
2. As Acting Group Director of the Policy and Program Alignment Group, I am responsible for overseeing and managing the CMS Disparities Impact Statement, including updates to the Disparities Impact Statement.
3. The Disparities Impact Statement is used broadly to assist all health care stakeholders in achieving optimal health outcomes for all populations, including populations experiencing health disparities. As explained in the bulletin accompanying the most recent update, the CMS Disparities Impact Statement "is a tool that can be used by health care stakeholders to

promote efforts to eliminate health disparities while improving the health of people from all populations that experience disparities, including people from racial and ethnic minorities; people with disabilities; members of the lesbian, gay, bisexual, and transgender communities; sexual and gender minorities, individuals with limited English proficiency; and rural, tribal, and geographically isolated communities." *See* Ex. A; *also available at*: https://www.cms.gov/files/document/cms-disparities-impact-statement.pdf.

4. The Disparities Impact Statement was first released in 2016 and was originally titled the "Disparities Action Statement." This resource predates the creation of the clinical practice improvement activity MIPS IA_AHE_8. The Disparities Impact Statement was and is used by clinicians and other health care stakeholders outside the context of the clinical practice improvement activity MIPS IA_AHE_8.

5. On August 20, 2024, CMS released an updated Disparities Impact Statement. *See* Ex. B; *also available at*: https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Disparities-Impact-Statement-508-rev102018.pdf. Prior to that update, the Disparities Impact Statement had last been updated as follows:

> Disparities Action Statement, first released, Fall 2016
>
> Disparities Impact Statement, retitled and revised, October 2018
>
> Disparities Impact Statement, updated and revised, April 2021

6. CMS explained in the bulletin accompanying the August 20, 2024 update that this update was completed as part of CMS's regular cycle of review of available resources in order to provide the most up-to-date information available. The update is intended to be clearer about the purpose of the resource and offer more examples of potential use. *See* Ex. A.

7. While CMS did not understand or intend the prior Disparities Impact Statement to encourage discrimination of any kind, the update addresses any misreading of the prior Disparities Impact Statement to make clear that any interventions taken pursuant to that Statement must be "available to all individuals without regard to a person's race, color, national origin, sex, age, or disability." *See* Ex. A; Ex. B at 2. To eliminate any possible ambiguity, the updated Disparities Impact Statement also makes clear that it is to be used "to promote efforts to identify and address health disparities while improving the health of all people, including those from racial and ethnic minorities; people with disabilities; members of lesbian, gay, bisexual, and transgender communities; individuals with limited English proficiency; and rural, Tribal, and geographically isolated communities." Ex. B at 1.
8. To further clarify the types of interventions contemplated by the Disparities Impact Statement, the update provides an example of a plan ("Reduce unnecessary emergency department visits among patients who screen positive for health-related social need.") and a short-term goal and a long-term goal to accomplish that plan. *See* Ex. B.
9. As the updated Disparities Impact Statement makes clear, CMS has no intention of instructing clinicians to deny resources or interventions to patients based on a person's race, color, national origin, sex, age, or disability, or to otherwise engage in unlawful discrimination. Indeed, federal anti-discrimination law prohibits clinicians in federally funded or CMS-administered programs from subjecting any individual to unlawful discrimination. Such discrimination would be prohibited by 42 U.S.C. § 18116(a), which provides that "[A]n individual shall not . . . be subjected to discrimination under[] any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or

contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title."

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed this 31st day of October 2024, in Ellicott City, MD.

SUSAN N. HILL -S Digitally signed by SUSAN N. HILL -S
Date: 2024.10.31 09:23:58 -04'00'

Susan Hill
Acting Group Director
Policy and Program Alignment Group
Office of Minority Health
Centers for Medicare & Medicaid Services
United States Department of Health and Human Services

EXHIBIT A

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Office of Minority Health
WORKING TO ACHIEVE HEALTH EQUITY

Now updated! CMS Disparities Impact Statement

The CMS Office of Minority Health has updated the CMS Disparities Impact Statement, a quality improvement tool that can be used to improve population health.

Click here to download the most recent version.

About the tool

The CMS Disparities Impact Statement is a tool that can be used by health care stakeholders to promote efforts to eliminate health disparities while improving the health of people from all populations that experience disparities, including people from racial and ethnic minorities; people with disabilities; members of the lesbian, gay, bisexual, and transgender communities; sexual and gender minorities, individuals with limited English proficiency; and rural, tribal, and geographically isolated communities.

CMS completed this update as part of our regular cycle of review of available resources in order to provide the most up to date information available. This newer version is clearer about the purpose for the resource and offers more examples of potential use. Organizations looking to reduce health disparities and further their health equity improvement goals can review and use this tool to further their planned work.

While organizations and individuals may consider a variety of factors in using this tool such as health status, health needs, health-related social needs, income, geographic location, and other social determinants of health, organizations must ensure any interventions are available to individuals without regard to a person's race, ethnicity, color, national origin, sex, age, or disability.

More information

The CMS Office of Minority Health offers a Health Equity Technical Assistance program to assist organizations, researchers, and those looking for assistance with health equity data collection and analysis, resources to embed health equity, and other resources to improve health equity efforts. Contact HealthEquityTA@cms.hhs.gov for more information.

Sign up for our listserv to get the latest on health equity from the CMS Office of Minority Health.

CMS Office of Minority Health | Working to Achieve Health Equity

EXHIBIT B

Disparities Impact Statement

This tool can be used by health care stakeholders to promote efforts to identify and address health disparities while improving the health of all people, including those from racial and ethnic minorities; people with disabilities; members of lesbian, gay, bisexual, and transgender communities; individuals with limited English proficiency; and rural, Tribal, and geographically isolated communities.

This worksheet has 5 steps to be completed over time:

1. Identify health disparities and affected populations
2. Define your health equity improvement goals
3. Establish your organization's health equity strategy
4. Determine what your organization needs to implement its strategy
5. Monitor and evaluate your progress

To learn more about CMS's approach to advancing health equity and eliminating disparities, read the CMS Framework for Health Equity and CMS Framework for Advancing Health Care in Rural, Tribal, and Geographically Isolated Communities and visit the CMS Office of Minority Health website at go.cms.gov/omh.

Revised: Aug. 2024. Paid for by the U.S. Department of Health and Human Services.

STEP 1:

Identify health disparities and affected populations

Use available data to help identify which health disparities to address.

Organizations and individuals may consider a variety of factors in using this tool such as health status, health needs, health-related social needs, income, geographic location, and other social determinants of health. Organizations must ensure any interventions are available to individuals without regard to a person's race, ethnicity, color, national origin, sex, age, or disability.

Stratifying data by sociodemographic variables can help you get started.

What data can you use to identify health disparities among those you serve?

What population(s) experience disparities?

What health disparities will you address?

STEP 2:

Define your health equity improvement goals

Using the information from **STEP 1**, set out what you aim to do, by when, and with whom.

For example:

Reduce unnecessary emergency department visits among patients who screen positive for a health-related social need.

- (Short term goal) Within 1 year, improve care coordination for identified patients through the following activities:
  - Engage patients and caregivers to understand health care needs within 1 week of emergency department (ED) utilization.
  - Develop a care plan for each identified patient within 1 month of ED utilization.
  - Review ED utilization rates quarterly to monitor changes in rates over time.
- (Long term goal) Within 2 years, reduce unnecessary ED utilization rate among patients who screen positive for a health-related social need by 10%.

What do you want to improve or accomplish?

Short-term goal:

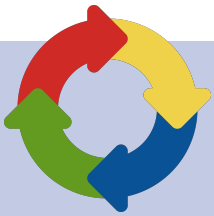
Long-term goal:

STEP 3:

Establish your organization's health equity strategy

List out the actions needed to achieve your **STEP 2** health equity improvement goals.

Using a Plan Do Study Act approach can help identify meaningful action steps toward an intended impact.



Actions to reach the short-term goal:

Actions to reach the long-term goal:

STEP 4:

Determine what your organization needs to implement its health equity strategy

Identify the policy changes and resources needed to achieve your strategy from **STEP 3**. For example, more staff, leadership support, changes to policies, or investment in technology.

Developing a stakeholder engagement plan can provide a roadmap for how your team will engage and collaborate with internal and external partners.

What policy changes and resources are needed to achieve your health equity improvement goals?

Resources you already have (assets):

Resources and/or policy changes you still need (deficits):

STEP 5:

Monitor and evaluate your progress

Establish what you will measure and agree on a plan to track progress.

Set your baseline: measure before you take action.

What measures can you use to track progress?

Consider electronic Clinical Quality Measures (eCQMs) and resources in the Electronic Clinical Quality Improvement Resource Center for ideas.

Who is responsible for the evaluation and how frequently will updates be provided?

Next: Complete the Action Plan to develop and implement a Disparities Impact Statement.

Contact HealthEquityTA@cms.hhs.gov for assistance completing the Disparities Impact Statement.

ACTION PLAN

Fill out one for each improvement goal. Health Equity Technical Assistance is available for stakeholders completing the Disparities Impact Statement. Contact HealthEquityTA@cms.hhs.gov.

Health Equity Champion: Executive Sponsor: Date:

Improvement Goal
What health disparity and population(s) does your intervention focus on?

Health Disparity:

Populations(s):

Goals	Action Steps	Resources & Key Stakeholders	Metrics	Measurable Outcomes/Impact
List your short-term and long-term goals from Step 2. Add rows as needed.	List the action steps needed to achieve your goals.	List the resources needed to accomplish action steps, including key staff or stakeholders.	What will you monitor? What data will be used to track progress and how often?	Consider longer-term outcomes: how will you evaluate the impact and sustainability of your actions?
Short-Term Goal				
Long-Term Goal				

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DECLARATION OF ALEXANDER W. RESAR IN SUPPORT OF DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

I, Alexander W. Resar, make the following Declaration pursuant to 28 U.S.C. § 1746, and state that under penalty of perjury the following is true and correct to the best of my knowledge and belief:

1. I am a Trial Attorney with the Federal Programs Branch of the Civil Division of the United States Department of Justice and counsel for Defendants in this matter.

2. Attached as Exhibit A is a true and correct copy of Plaintiffs' Amended Objections and Responses to Defendants' First Set of Requests for Admission, dated May 29, 2024, and amended June 17, 2024.

3. Attached as Exhibit B is a true and correct copy of Plaintiffs' Amended Objections and Responses to Defendants' First Set of Interrogatories, dated May 29, 2024, and amended June 17, 2024, and October 15, 2024.

Executed on November 5, 2024, in Washington, D.C.

/s/ Alexander W. Resar
Alexander W. Resar

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STATE OF MISSISSIPPI; STATE OF ALABAMA; STATE OF ARKANSAS; COMMONWEALTH OF KENTUCKY; STATE OF LOUISIANA; STATE OF MISSOURI; and STATE OF MONTANA, *Plaintiffs*, v. XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services; THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; CHIQUITA BROOKS-LASURE, in her official capacity as Administrator of the Centers for Medicare and Medicaid Services; THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; THE UNITED STATES OF AMERICA, *Defendants*.	Case No. 1:22-cv-113-HSO-RPM

AMENDED OBJECTIONS AND RESPONSES TO DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSION

Below are Plaintiffs' objections and responses to Defendants' first set of RFAs. Plaintiffs' ability to respond to these requests is limited by the fact that they have not yet received responses to their subpoenas to third-party providers or their second batch of discovery to Defendants. Plaintiffs thus reserve the right to update this document once they receive that information.

1. Admit that Mississippi does not have a state anti-discrimination law.

Response: Deny.

2. Admit that Alabama does not have a state anti-discrimination law.

Response: Deny.

3. Admit that the State of Mississippi has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Mississippi itself since 2020, admit. Otherwise cannot admit or deny.

4. Admit that the State of Mississippi has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Mississippi itself, admit. Otherwise cannot admit or deny.

5. Admit that the State of Mississippi has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

6. Admit that the State of Alabama has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Alabama itself since 2020, admit. Otherwise cannot admit or deny.

7. Admit that the State of Alabama has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Alabama itself, admit. Otherwise cannot admit or deny.

8. Admit that the State of Alabama has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

9. Admit that the State of Louisiana has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Louisiana itself since 2020, admit. However, the Louisiana Board of Medical Examiners has opened several cases with allegations of physician race-based discrimination since May 1, 2012. At least one case is ongoing and active. All details of these cases are confidential and non-public. Otherwise cannot admit or deny.

10. Admit that the State of Louisiana has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, university, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Louisiana itself, admit.

11. Admit that the State of Louisiana has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

12. Admit that the State of Montana has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: Deny.

13. Admit that the State of Montana has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Montana itself, admit. Otherwise cannot admit or deny.

14. Admit that the State of Montana has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

15. Admit that the State of Arkansas has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Arkansas itself since 2020, admit. Otherwise cannot admit or deny.

16. Admit that the State of Arkansas has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Arkansas itself, admit. Otherwise cannot admit or deny.

17. Admit that the State of Arkansas has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

18. Admit that the Commonwealth of Kentucky has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the Commonwealth of Kentucky itself since 2020, admit. Otherwise cannot admit or deny.

19. Admit that the Commonwealth of Kentucky has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the Commonwealth of Kentucky itself, admit. Otherwise cannot admit or deny.

20. Admit that the Commonwealth of Kentucky has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

21. Admit that the State of Missouri has not taken any enforcement action against a health care provider for racial discrimination since May 1, 2012.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Missouri itself since 2020, admit. Otherwise cannot admit or deny.

22. Admit that the State of Missouri has not taken any enforcement action for racial discrimination against any MIPS eligible professional due to an anti-racism plan they completed.

Objections: Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, universities, hospitals, employers, and more.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State of Missouri itself, admit. Otherwise cannot admit or deny.

23. Admit that the State of Missouri has not incurred any increased costs due to MIPS eligible professionals not completing an anti-racism plan.

Objections: Plaintiffs object to the undefined term "costs" as vague and not proportional, as it could encompass any number of negative externalities, including monetary costs, nonmonetary and unquantifiable harms, resource diversions, time, energy, focus, discrimination itself, the costs of inaction, and more.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

Dated: May 29, 2024
Amended: June 17, 2024

Respectfully submitted,

s/ Justin L. Matheny
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*pro hac vice

CERTIFICATE OF SERVICE

Plaintiffs emailed everyone requiring service.

Dated: May 29, 2024
Amended: June 17, 2024

s/ Cameron T. Norris

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

STATE OF MISSISSIPPI; STATE OF ALABAMA; STATE OF ARKANSAS; COMMONWEALTH OF KENTUCKY; STATE OF LOUISIANA; STATE OF MISSOURI; and STATE OF MONTANA, *Plaintiffs*, v. XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services; THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; CHIQUITA BROOKS-LASURE, in her official capacity as Administrator of the Centers for Medicare and Medicaid Services; THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; THE UNITED STATES OF AMERICA, *Defendants*.	Case No. 1:22-cv-113-HSO-RPM

AMENDED OBJECTIONS AND RESPONSES TO DEFENDANTS' FIRST SET OF INTERROGATORIES

Below are Plaintiffs' objections and responses to Defendants' first set of ROGs. Plaintiffs' ability to respond to these requests is limited by the fact that they have not yet received responses to their subpoenas to third-party providers or their second batch of discovery to Defendants. Plaintiffs thus reserve the right to update this document once they receive that information.

1. Discussing each State individually, describe in detail how state laws in the Plaintiff States prohibit racial discrimination in the provision of health care, including by identifying all court decisions and other authorities that support your assertion that these laws apply to the provision of health care.

Objections: Plaintiffs object to providing "all" authorities as not proportional. The only arguably relevant question is whether the States prohibit racial discrimination in healthcare, which can be shown with examples and without a burdensome search for "all" authorities. Defendants can research and access publicly available statutes, regulations, caselaw, and other authorities themselves. Plaintiffs have already provided citations in this litigation, and they reproduce sufficient exemplary authorities below.

Response: In Alabama, Ala. Code § 34-24-360(2) provides: "The Medical Licensure Commission shall have the power and duty to suspend, revoke, or restrict any license to practice medicine or osteopathy in the State of Alabama or place on probation or fine any licensee whenever the licensee shall be found guilty on the basis of substantial evidence of any of the following acts or offenses: … Unprofessional conduct as defined herein or in the rules and regulations promulgated by the commission." The Commission, in turn, has defined "unprofessional conduct" to "mean the Commission or omission of any act that is detrimental or harmful to the patient of the physician or detrimental or harmful to the health, safety, and welfare of the public, and which violates the high standards of honesty, diligence, prudence and ethical integrity demanded from physicians and osteopaths licensed to practice in the State of Alabama." Ala. Admin. Code 545-X-4-.06. The Commission provides examples

of unprofessional conduct, including: "Conduct which is immoral and which is willful, shameful, and which shows a moral indifference to the standards and opinions of the community." *Id.* 545-X-4-.06(9). It would be unethical and thus unprofessional conduct for a physician to discriminate against a patient based on his or her race. Other regulations likewise prohibit certain racially discriminatory practices related to healthcare. *E.g.*, Ala. Admin. Code 420-5-4-.03(2)(d) (assisted living facilities); *id.* 420-5-20-.03(2)(d) (specialty care assisted living facilities); *id.* 420-5-10-.03(4) (nursing facilities). And Alabama public hospitals and health institutions ban discrimination based on race. *See, e.g.*, Taylor Hardin Secure Medical Facility, Dep't of Mental Health, perma.cc/22VE-PFBY; UAB Medicine, perma.cc/RXV8-Y4RE; Huntsville Hospital, https://www.huntsvillehospital.org/disclaimer#:~:text=Huntsville%20Hospital%20Health%20System%20complies,expression%20or%20source%20of%20payment.

Arkansas law prohibits racial discrimination in the provision of health care. *See* Ark. Code Ann. §16-123-101 *et seq.* In Arkansas, a place of public accommodation is "any place … or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds." *Id.* §16-123-102(11). Arkansas protects as "a civil right" the right "to be free from discrimination because of race," and includes "[t]he right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public … accommodation." *Id.* §16-123-107(a). Arkansas recognizes a cause of

action for intentional violations of that right "to recover compensatory and punitive damages" and "to enjoin further violations." *Id.* §16-123-107(b). Additionally, the Arkansas Department of Health Division of Health Protection - Infectious Disease Branch has contracts with providers. Public health service agreements contain this language:

> B. COMPLIANCE WITH NONDISCRIMINATION LAWS: The Provider will comply with all applicable provisions of the following federal regulations related to nondiscrimination, both in service delivery to clients and in employment, including, but not limited to, the following:
>
> - Title 45 Code of Federal Regulations: Part 80 (Nondiscrimination on the Basis of Race or Sex) Part 84 (Nondiscrimination on the Basis of Handicap) Part 90 (Nondiscrimination on the Basis of Age)
> - Americans with Disabilities Act of 1990, U.S.C. Section 12101 et. seq.
> - Title 28 Code of Federal Regulations: Part 35 (Nondiscrimination on the Basis of Disability in State and Local Government Services)
> - Title 41 Code of Federal Regulations: Part 60-741 (OFCCP: Affirmative Action Regulations on Handicapped Workers) The Department will furnish a copy of these regulations to the Provider upon request.

Kentucky law prohibits racial discrimination in the provision of health care. *See* Ky. Rev. Stat. Ann. §344.010 *et seq.* Kentucky law seeks to "provide for execution within the state of the policies embodied in" federal civil rights statutes, including "the Federal Civil Rights Act of 1964," and "[t]o safeguard all individuals within the state from discrimination because of … race." *Id.* §344.020(a), (b). Places of public accommodation generally include "any place … or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits

or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds." *Id.* §344.130. Kentucky bans denying "an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation … on the ground of … race." *Id.* §344.120. It also bans certain racially discriminatory printed materials. *Id.* §344.140. Civil-rights protections extend to, for example, "clinics." *Lexington Fayette Urb. Cnty. Hum. Rts. Comm'n v. Hands on Originals, Inc.*, 2017 WL 2211381, at *5 (Ky. Ct. App.), *aff'd* 592 S.W.3d 291 (Ky. 2019). Regulations also prohibit racial discrimination in the provision of health care. *See* 907 Ky. Admin. Regs. 1:671 §1(40)(l) ("'Unacceptable practice' means conduct by a provider" that can include "[d]iscriminating in the furnishing of medical care, services, or supplies"); *id.* §6(3) ("A provider's participation may be terminated and a period of exclusion imposed, if an administrative determination is made … that the provider engaged in an unacceptable practice."); *id.* 1:672 §2(6)(i)–(k) (prohibiting "unacceptable practice" and requiring compliance with federal and state law); *id.* §2(7)(a)(8) (denying enrollment to providers that engage in unacceptable practices).; *id.* §5(12) (unacceptable practices include "[d]iscriminating in the furnishing of medical care, services, or supplies").

Louisiana law prohibits racial discrimination in the provision of health care. *See* La. Stat. Ann. §51:2231 *et seq.* The Louisiana Commission on Human Rights was established "to safeguard all individuals within the state from discrimination because of race, creed, color, religion, sex, age, disability, or national origin in connection with

employment and in connection with public accommodations." *Id.* §51:2231(A). A place of public accommodation includes "any place … or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or accepts the patronage or trade of the general public, or which is supported directly or indirectly by government funds." *Id.* §2232(10). Discriminatory practices include "any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race." *Id.* §2232(5). Louisiana bans denying "an individual the full and equal enjoyment of the goods, services, privileges, advantages, and accommodations of a place of public accommodation … on the grounds of race." *Id.* §2247. Louisiana also bans certain racially discriminatory printed materials. *Id.* §2248. The Commission has an online portal for citizens to file complaints of discrimination. *See Filing a Complaint with LCHR*, Office of Gov'r Landry, gov.louisiana.gov/page/filing-a-complaint-with-lchr. The Louisiana State Board of Medical Examiners also investigates complaints against healthcare providers and physicians. *See* La. R.S. § 37:1270. The Board has an online portal for citizens to file complaints. *See File a Complaint/Investigations*, La. State Bd. of Med. Examiners, lsbme.la.gov/content/investigations.

Mississippi regulations prohibit certain racially discriminatory practices related to healthcare. *See* 15 Code Miss. R. Pt. 16, Subpt. 1, Ch. 4, R. 4.15.5 (licensed rehabilitation facility cannot deprive clients "of civil or legal rights" or subject them "to discrimination

on the basis of race"); *id.* Ch. 46, R. 46.31.1(8) ("No person shall be refused service because of … race" in home health agencies); *id.* Ch. 1, R. 1.19.9(3) ("The hospice shall insure that the patient has the right to … [r]eceive appropriate and compassionate care, regardless of … race"); *id.* Ch. 40, R. 40.21.2(1) ("The [psychiatric hospital] shall have written policies and procedures that describe the rights of patients," including the "impartial access to treatment, regardless of race."); *id.* Ch. 51, R. 51.29.2(1) ("The [psychiatric treatment] facility shall have written policies and procedures that describe the rights of patients and the means by which these rights are protected and exercised. These rights shall include … impartial access to treatment, regardless of race."); *id.* Pt. 19, Subpt. 60, Ch. 10, R.10.8.1(9) (providing for "disciplinary sanctions" against certain licensees for "[m]aking differential, detrimental treatment against any person because of race"); *id.* Ch. 8, R. 8.8.1(9) (similar); 24 Code Miss. R. Pt. 3, R. 1.8(A) ("The Department of Mental Health promotes nondiscriminatory practices and procedures in all phases of state service administration, as well as in programs funded and/or certified/operated by the Department of Mental Health."); *id.* Pt. 2, R. 10.7(B)(1) ("All agency providers must have policies that include/address … [n]on-discrimination based on … race."); *id.* R. 16.2(A) ("Written policies and procedures must address admission to services and must at a minimum … [a]ssure equal access to treatment and services and non-discrimination based on … race."); *id.* Pt. 3, Ch. 18, R. 18.14(D), (G) ("DMH-credentialed individuals do not discriminate against any individual because of race" and "work to eliminate the effect of bias on any service provision, and they do not

knowingly participate in or condone discriminatory practices."). In addition, Mississippi state hospitals do not allow discrimination based on race. *See, e.g.*, *Discrimination is Against the Law*, Miss. State Hospital, perma.cc/WWM6-Q9NT.

Missouri law prohibits racial discrimination in the provision of health care. *See, e.g.*, Mo. Ann. Stat. §213.010 *et seq*. In Missouri, places of public accommodation include "all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public." *Id.* §213.010(16). Missouri protects the "free and equal use and enjoyment … of any place of public accommodation … without discrimination or segregation because of race." *Id.* §213.065(1). "It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation … or to segregate or discriminate against any such person in the use thereof because of race." *Id.* §213.065(2); *see also* Mo. Code Regs. Ann. tit. 19, §10-2.010 (civil rights compliance requirements for health service providers).

Montana law prohibits racial discrimination in the provision of health care. *See* Mont. Code Ann.§53-6-105 (Medicaid) ("No discrimination shall be practiced or asserted against any applicant for or recipient of care and services … on the basis of race … and the furnishing of care under this part to any applicant or recipient thereof

shall not be delayed or denied on the basis of race."); *id.* §50-5-105 ("All phases of the operation of a health care facility must be without discrimination against anyone on the basis of race."); *id.* §49-2-101, *et seq.*; *id.* 49-3-101, *et seq.* Montana protects as "a civil right" the "right to be free from discrimination because of race." *Id.* §49-1-102(1). Places of public accommodation are any "place that caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons," including "hospital[s]." *Id.* §49-2-101(20)(a). Montana makes it unlawful "to refuse, withhold from, or deny to a person any … services, goods, facilities, advantages, or privileges because of … race." *Id.* §49-2-304(1)(a). Montana also bans certain racially discriminatory printed materials. *Id.* §49-2-304(1)(b). Willfully engaging in "an unlawful discriminatory practice" is a crime. *Id.* §49-2-601. A person who believes that he or she has been discriminated against based on race can file a complaint with the Department of Labor and Industry's Human Rights Bureau. *Id.* §49-2-504. Moreover, if a healthcare provider or supplier of healthcare services is considered a state or local government entity, including an instrumentality of a state or local government entity, it is unlawful to discriminate based on race in the performance of services. *Id.* §49-3-205. Montana may not consider race in the distribution of governmental funds. *Id.* §49-3-206. And every state or local contract for goods or services "must contain a provision that … there may not be discrimination on the basis of race … by the persons performing the contract." *Id.* §49-3-207; *see also id.* §49-3-205 ("nor may a state or local governmental agency become a

party to an agreement, arrangement, or plan that has the effect of sanctioning discriminatory practices").

Montana's Department of Public Health and Human Services uses contract templates that contain specific anti-discrimination provisions. For example, the current template for general agreements/agreements outside the Medicaid context contains the following provision:

> Civil Rights. The Contractor may not discriminate in any manner against any person on the basis of race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, ancestry, or an individual's association with individuals in any of the previously mentioned protected classes in the performance of this Contract or in the delivery of Montana State services or funding on behalf of the State of Montana.

The Department administers Montana's medical assistance programs, and requires health care providers that participate in such programs to execute a provider enrollment agreement. The Montana Healthcare Programs Provider Enrollment Agreement also contains specific anti-discrimination provision: "The Provider may not, on the grounds of race, color, national origin, creed, sex, religion, political ideas, marital status, age, or disability exclude persons from employment in, deny participation in, deny benefits to, or otherwise subject persons to discrimination under the Medicaid program and/or any activity connected with the provision of Medicaid services." The provider enrollment agreements for Healthy Montana Kids/CHIP program (e.g., HMK/CHIP Dental Provider Agreement and Signature Page, CHIP Provider

Agreement and Signature for Extended Mental Health Benefits for Children with a Serious Emotional Disturbance (SED)) contain substantially the same anti-discrimination provisions. Another example is Montana's Passport to Health, the basic care management program for Montana Medicaid and Healthy Montana Kids Plus (HMK+) members. The Passport Provider Agreement includes the following provision: "Must not discriminate against members enrolled on the basis of race … and will not use any policy or practice that has the effect of discriminating on the basis of race. . . ." Other contracts for the provision of certain services to the Medicaid Program or to Medicaid or HMK?CHIP beneficiaries also contain this provision or the civil rights provision from the Department's general contract template.

Until mid-2024, the Department's Developmental Disabilities Program (DDP) entered into contracts with providers for the provision of services to persons with developmental disabilities served by DDP. These contracts were based on the general/non-Medicaid contract template referenced above and contained that Civil Rights provision. On September 20, 2024, the Department published a rule by which it adopted the Developmental Disabilities Program 0208 Comprehensive Waiver Provider Manual (DDP Provider Manual), effective as of July 1, 2024. The DDP Provider Manual requires DDP providers to enroll as a Montana Medicaid provider, pursuant to the Montana Healthcare Programs Provider Enrollment Agreement referenced above.

2. Discussing each State individually, describe in detail all complaints or charges of racial discrimination against health care providers received under state laws that prohibit racial discrimination in the provision of health care since May 1, 2012, whether in administrative or court proceedings, and describe in detail how each complaint or charge was resolved.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to providing and describing "in detail" "all" complaints or charges as not proportional. Additionally, complaints, charges, and resolutions involve confidential information that cannot be publicly disclosed, as explained below.

Response: The Louisiana State Board of Medical Examiners investigates complaints regarding physicians. *See* La. Stat. Ann. §37:1270. The Board has had several cases opened with allegations of physician race-based discrimination in recent years. At least one case is ongoing and active. All details of these cases are confidential and nonpublic but show that the Board actively investigates complaints and charges of racial discrimination against healthcare providers. Under applicable regulations, "failure to provide professional service to a person because of such person's race, creed, color or national origin" is an aggravating circumstance which may be considered in determining whether a complaint disposition is disciplinary (public) or non-disciplinary (non-public). 46 La. Admin. Code Pt. XLV, §9714.

According to Missouri law, "[a]ll … complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency

assigned to the division of professional registration by statute or by the department are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved." Mo. Ann. Stat. §324.001.8; *see also id.* §324.017. All complaints or charges identified by the State of Missouri are privileged and will be logged.

The Arkansas State Medical Board has received and examined several complaints against physicians involving racial discrimination. The Board closed all cases for lack of evidence, not because racial discrimination in healthcare is somehow permitted. Likewise, the Arkansas Board of Examiners in Counseling received and examined several complaints against providers involving racial discrimination.

Alabama, Kentucky, and Mississippi have not identified any complaints or charges of racial discrimination against healthcare providers since 2020 that resulted in an investigative action.

Montana has identified at least one case where a health care provider had a finding against them based on racial discrimination. The details of the case and findings are confidential under State law. *See* Admin. R. Mont. 24.8.210.

The absence of complaints or charges does not mean that the States do not prohibit racial discrimination by healthcare providers, or that they do not wish to enforce their anti-discrimination laws when applicable and when they discover racial discrimination.

3. Discussing each State individually, describe in detail all enforcement actions each Plaintiff State has taken against health care providers for racial discrimination since May 1, 2012, including but not limited to enforcement actions against MIPS eligible professionals due to anti-racism plans.

Objections: Plaintiffs object to providing information going back to 2012—ten years before this case was filed, ten years before the challenged rule was promulgated, and across multiple administrations with significant personnel turnover—as not proportional. Plaintiffs object to providing "all" enforcement actions as not proportional. Plaintiffs object to the undefined term "enforcement action" as vague and not proportional, as it could encompass any number of actions by any number of state entities, university, hospitals, employers, and more. Additionally, complaints, charges, and resolutions involve confidential information that cannot be publicly disclosed, as explained below.

Response: To the extent "enforcement action" means a lawsuit brought under a public-accommodation statute by the State itself, Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Missouri have not identified any enforcement actions against healthcare providers for racial discrimination that the State itself has initiated since 2020. The absence of an enforcement action does not mean that the States do not prohibit racial discrimination by healthcare providers, or that they do not wish to enforce their anti-discrimination laws when applicable and when they discover racial discrimination. Federal laws also ban racial discrimination, and the States rely in part on those laws to police discrimination. But they can't rely on those laws here because the

Anti-Racism Rule—a federal regulation—encourages the kind of discrimination at issue.

Montana has identified at least one case where a health care provider had a finding against them based on racial discrimination. The details of the case and findings are confidential under State law. *See* Admin. R. Mont. 24.8.210.

4. **Discussing each State individually, identify by name and address all MIPS eligible professionals in each Plaintiff State that did not receive a full score in the MIPS clinical practice improvement activity performance category and did not complete an anti-racism plan because of a perceived conflict or dilemma with state law. For each MIPS eligible professional identified, describe (1) how the State learned that the MIPS eligible professional did not complete an anti-racism plan because of a perceived conflict or dilemma with state law, (2) when the State learned this information, and (3) how the MIPS eligible professional's failure to complete an anti-racism plan harmed a substantial segment of the State's population or the state's economy.**

Objections: The request for the "name and address [of] all MIPS eligible professionals in each Plaintiff State that did not receive a full score" is not proportional because Defendants already have—and *only* Defendants can access—this granular information. The request to identify "all" MIPS eligible professionals that acted "because of a perceived conflict or dilemma with state law" is not proportional because Plaintiffs cannot ascertain (at least not without excessive burdens) the reason every provider in their States did not adopt an anti-racism plan.

Response: Interpreting this interrogatory to ask whether Plaintiffs have been told by a provider that the provider would adopt an antiracism plan if not for state law, no provider has told Plaintiffs that yet.

5. Discussing each State individually, describe in detail the nature and amount of all increased costs incurred by each Plaintiff State due to MIPS eligible professionals who did not complete an anti-racism plan.

Objections: Plaintiffs object to this request as not proportional because "costs" is vague and not defined, because the "amount" of all the various monetary and nonmonetary costs cannot be described (at least without excessive burden) "in detail," and because the nature and amount are not relevant to any question in the case.

Response: To resolve the parties' dispute over this request, Plaintiffs will not advance a theory of standing based on increased costs incurred from MIPS eligible professionals not completing an anti-racism plan.

Dated: May 29, 2024
Amended: June 17, 2024
Amended: October 15, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

Plaintiffs emailed everyone requiring service.

Dated: May 29, 2024 *s/ Cameron T. Norris*

Amended: June 17, 2024

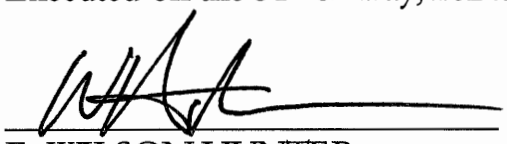
Amended: October 15, 2024

VERIFICATION OF INTERROGATORIES

Alabama

I declare under penalty of perjury that the above responses to interrogatories for the State of Alabama are true and correct to the best of my knowledge.

Executed on the 31st of May, 2024.



E. WILSON HUNTER
General Counsel
ALABAMA STATE BOARD OF MEDICAL EXAMINERS
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Montgomery, AL 36104
(334) 833-0188
whunter@albme.gov

AFFIDAVIT OF Phillip Matthew Gilmore

I am currently the Boards and Commissions Coordinator for the Arkansas Department of Health, serving since 2019.

I declare under penalty of perjury that the above response to interrogatories for the State of Arkansas are true and correct to the best of my knowledge.

Phillip Matthew Gilmore
Boards and Commissions Coordinator
Arkansas Department of Health

5/31/24
DATE

State of Arkansas)
)SS
County of Pulaski)

Subscribed and sworn to before me this 31 day of May, 2024.

Kris Richardson
Notary Public

My Commission Expires:

11.01.31

Kentucky

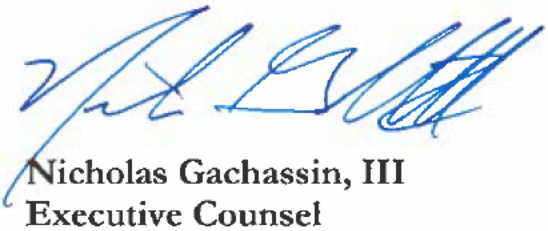
I declare under penalty of perjury that the above responses to interrogatories for the Commonwealth of Kentucky are true and correct to the best of my knowledge.

Christopher L. Thacker
General Counsel
Kentucky Office of the Attorney General

5/30/24
Date

Louisiana

I declare under penalty of perjury that the above responses to interrogatories for the State of Louisiana are true and correct to the best of my knowledge.



Date: 6/11/2024

Nicholas Gachassin, III
Executive Counsel
Louisiana Department of Health

Missouri

I declare under penalty of perjury that the above responses to interrogatories for the State of Missouri are true and correct to the best of my knowledge.

_____ _____

Caleb Rutledge
Assistant Attorney General
Office of the Attorney General

10/1/2024
Date

Mississippi

I declare under penalty of perjury that the above responses to interrogatories for the State of Mississippi are true and correct to the best of my knowledge.

Whitney H. Lipscomb
Deputy Attorney General
Mississippi Attorney General's Office

Montana

I declare under penalty of perjury that the above response to Interrogatory No. 1 for the State of Montana with respect to the Montana Department of Public Health and Human Services are true and correct to the best of my knowledge.

10/15/24

Rebecca de Camara — Date
Executive Director, Medicaid and Health Services, and State Medicaid Director
Montana Department of Public Health and Human Services

Montana

I declare under penalty of perjury that the above responses to interrogatories for the State of Montana are true and correct to the best of my knowledge to the extent that the response(s) involves application, or interpretation claims that arise under the laws enforced by the Department of Labor and Industry's Human Rights Bureau, specifically Montana Code Annotated Title 49, Chapters 2 and 3.

10·15·24

Marieke Beck
Bureau Chief / Human Rights Bureau
Montana Dep't of Labor and Industry

Date