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8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
9 **AT YAKIMA**

10 STATE OF WASHINGTON,

NO. 2:19-cv-00183-SAB

11 Plaintiff,

DECLARATION OF MARYANNE
LINDEBLAD IN SUPPORT OF
STATE OF WASHINGTON’S
MOTION FOR PRELIMINARY
INJUNCTION

12 v.

NOTED FOR: July 17, 2019
With Oral Argument at 1:30 p.m.

13 ALEX M. AZAR II, in his official
capacity as Secretary of the United
States Department of Health and
14 Human Services; and UNITED
STATES DEPARTMENT OF
15 HEALTH AND HUMAN
SERVICES,

16 Defendants.
17

18 I, MaryAnne Lindeblad, pursuant to 28 U.S.C. § 1746, hereby declare as
19 follows:

20 1. I am over the age of 18, competent to testify as to the matters herein,
21 and make this declaration based on my own knowledge.

22 2. I am the Medicaid Director for the Washington State Health Care

1 Authority (HCA). I have the held this position for seven years. I hold a bachelor
2 of science in nursing from Eastern Washington University and a master’s in
3 public health from the University of Washington.

4 3. HCA’s mission is to provide high-quality health care through
5 innovative health policies and purchasing strategies. Our vision is “A healthier
6 Washington.” More than two million Washingtonians receive health care
7 services through programs financed and administered by HCA, making HCA the
8 largest health care purchaser in Washington.

9 4. HCA received approximately \$8.4 billion dollars in federal funding
10 from Department of Health and Human Services in State Fiscal year 2018.

11 5. Among the programs HCA administers, those that are funded by
12 federal funds partially or in whole, include: State Children Health Insurance
13 Program; Blind/Disabled; Native Health Primary Care case management; Health
14 Home; All-Inclusive Care for the Elderly; Foster Care; and Washington Apple
15 Health.

16 6. Apple Health is Washington’s version of Medicaid. As of
17 April 2019, it has around 1,812,000 enrollees, which include pregnant women,
18 elderly individuals, and children.¹ A significant number of those enrollees come
19 from rural counties. For example, in the last three months, while King County

20 _____

21 ¹See <https://www.hca.wa.gov/assets/free-or-low-cost/Apple-Health-enroll>
22 [ment-totals.pdf](https://www.hca.wa.gov/assets/free-or-low-cost/Apple-Health-enroll) (last accessed June 17, 2019).

1 had 396,763 enrollees, SW Washington and the Greater Columbia regions
2 together had 373,566 enrollees, despite having a significantly smaller population.

3 7. I am familiar with the rule, Protecting Statutory Conscience Rights
4 in Health Care Delegations of Authority, published in the Federal Register on
5 May 21, 2019 (Final Rule).

6 8. I anticipate the Final Rule will increase costs for HCA and all related
7 sub-recipients and will likely have negative impacts to health care access across
8 the State of Washington. In addition to the additional costs described above, it is
9 impossible to calculate with certainty the total costs and impacts associated with
10 implementing the Final Rule. It would not be unreasonable to anticipate new
11 costs to implement systems and processes for compliance, including the addition
12 of new staff to carry out this work.

13 9. The Rule will impose costs on HCA, including:

- 14 a. Preparation and publication of revisions to policy guidance, and
15 other materials for use by agency employees, sub-recipients, and
16 contractors
- 17 b. Oversight and monitoring of HCA contractors and sub-recipients
18 affected by the Rule. The Final Rule requires extensive oversight
19 and monitoring and includes harsh penalties for HCA if its
20 contractors and sub-recipients are not in compliance with the Final
21 Rule. HCA will have to educate and extensively monitor its
22

1 contractors and sub-recipients to ensure compliance.

2 10. The Final Rule imposes ongoing record-keeping and compliance
3 costs. This includes the obligation to maintain any information regarding
4 discrimination on the basis of religious belief or moral conviction; any
5 complaints, statements, policies, or notices; procedures for accommodating
6 employees' or other protected individuals' religious beliefs or moral convictions;
7 and records of request for accommodation and the response to it. Further, it is my
8 understanding that a sub-recipient's violation of the Final Rule has the potential
9 for placing all of our federal funds at risk.

10 11. In order to comply with the Final Rule's assurance/certification and
11 compliance processes, HCA will need to develop and maintain a system for
12 tracking and monitoring compliance. This system will require dedicated
13 resources to fulfill the many recordkeeping and compliance activities required by
14 the Final Rule including, but not limited to:

- 15 a. maintaining complete and accurate records of compliance with the
16 with the Rule, including sub-recipients;
- 17 b. tracking all accommodation requests and complaints across
18 programs;
- 19 c. facilitating the investigation of any sub-recipient or overseeing
20 sub-recipient implementation of any corrective action required
21 under the Rule; and

22

1 d. providing ongoing oversight of and training to the many
2 sub-recipients and contractors across the State.

3 12. HCA has not accounted for the changes imposed by the Final Rule
4 in its current budget. HCA will have to find resources within its existing budget
5 to pay for the additional costs created by the Final Rule.

6 13. The Rule will likely make it more difficult for individuals who
7 qualify for HCA-administered programs to access an array of covered services.
8 Given the Rule's breadth, access to covered services is impeded not only by a
9 provider's ability to refuse a covered service, but also by a provider's ability to
10 refrain from sharing information or referring an individual to a provider who will
11 not refuse the same service. For this reason, I believe it is likely the Rule will
12 impede access to critical services in rural or otherwise underserved portions of
13 the State. In addition, the potential for negative impacts will disproportionately
14 borne by vulnerable population groups, such as women who are low-income, and
15 the LGBTQ community. Further, these potential negative impacts to access
16 would be exacerbated in the event a sizeable portion of federal funds is withheld
17 due to a violation.

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I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED this 19th day of June, 2019, at Olympia, Washington.



MARYANNE LINDEBLAD

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 24th day of June, 2019, at Seattle, Washington.

s/ Paul Crisalli

PAUL CRISALLI, WSBA #40681
Assistant Attorney General