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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SUZANNE KISTING-LEUNG, SAMANTHA DABABNEH, RANDALL RENTSCH, CRISTINA THORNHILL, AMANDA BREDLOW, and ABDULHUSSEIN ABBAS, individually and on behalf of all other similarly situated,

Plaintiffs,

v.

CIGNA CORPORATION, CIGNA HEALTH AND LIFE INSURANCE COMPANY, and DOES 1 through 50, inclusive,

Defendants.

Case No. 2:23-cv-01477-DAD-CSK

JOINT SCHEDULING REPORT PURSUANT TO RULE 26(f)

Conf. Date: June 9, 2025
Time: 1:30 p.m.
Judge: Hon. Dale A. Drozd
Location: Robert T. Matsui U.S. Courthouse
501 I Street
Sacramento, CA 95814
Courtroom: 4, 15th Floor

Defendants the Cigna Group (f/k/a Cigna Corporation) and Cigna Health and Life Insurance Company (together, "Cigna" or "Defendants") and Suzanne Kisting-Leung, Samantha Dababneh, Randall Rentsch, Cristina Thornhill, Amanda Bredlow, and Abdulhussein Abbas (collectively "Plaintiffs" and together with Defendants, the "Parties"), provide this joint scheduling report, pursuant to the Court's March 31, 2025 Order (ECF No. 55).

I. BRIEF SUMMARY OF CLAIMS.

Plaintiffs' Statement:

This proposed class action challenges Cigna's use of the "PXDX" algorithm by its physician claims reviewers to deny thousands of claims *en masse* without meaningful medical review. (TAC ¶¶ 3, 29.) While Cigna represented that medical necessity determinations would be made by physicians, it instead used PXDX to deny claims in batches without evaluating each patient's claim, with only superficial rubber-stamping by physicians. (*Id.* ¶¶ 29–30). Plaintiffs are Cigna insureds who had claims denied using PXDX, citing a supposed lack of medical necessity. (*Id.* ¶¶ 54–55, 63, 95–98). Plaintiffs brought two claims under ERISA and one claim under California's Unfair Competition Law ("UCL"). The Court has allowed two of those three claims to proceed past Cigna's motion to dismiss: Plaintiffs Dababneh, Rentsch, and Abbas's claims for breach of fiduciary duty under ERISA § 502(a)(3), and Plaintiffs Dababneh and Abbas's UCL claims. (ECF No. 55 at 26–27.) Plaintiffs bring both claims on behalf of two proposed classes of individuals who similarly had claims denied based on the use of the PXDX algorithm. Cigna's failure to conduct individualized medical necessity determinations by a physician violates its fiduciary obligations under ERISA to make claims determinations consistent with plan documents and solely in the interests of its members. Separately, Cigna's use of an algorithm to make medical necessity determinations violates Cal. Health & Safety Code § 1367.01(e) and the California UCL, which require licensed physicians, not computers, to make medical necessity determinations.

Cigna's use of an algorithm to make medical necessity determinations is a common practice well-suited to class treatment. Because Cigna applied a common policy and process that denied Plaintiffs medical benefits based on the algorithm, and not an individualized medical necessity determination by a physician, individualized issues are unlikely to preclude class certification.

Plaintiffs anticipate that discovery will focus primarily on Cigna's adoption and use of the PXDX algorithm; its representations to the classes; the reasons for implementing the PXDX system; the scope and extent of medical necessity-based denials through PXDX; the financial harm to the class because of PXDX claim denials; and the improper financial gains Cigna enjoyed as a result.

Defendants' Statement:

Defendants submit the following summary of key defenses in this Action:

This putative class action challenges Cigna's Procedure-to-Diagnosis or "PxDx" claim review process, based on a misleading and inflammatory article which Plaintiffs use to portray PxDx as an "illegal scheme" (TAC ¶ 1) that Cigna allegedly implemented to deny plan members their covered benefits. The Court has already dismissed Plaintiffs' primary claim under ERISA § 502(a)(1)(B), finding that Plaintiffs could not point to anything in their health benefit plans that mandates coverage for their claims or prohibits the use of a system like PxDx to identify claims that Cigna has a right to deny. (ECF No. 55 at 13-14.) And the Court has already dismissed half of the originally named plaintiffs from the suit on standing grounds.

Discovery will show that Plaintiffs' remaining claims under ERISA § 502(a)(3) or California's Unfair Competition Law ("UCL") have no merit either, let alone are the type of claims that could be tried on a classwide basis. Plaintiffs' theory of the case is based on a fundamental misunderstanding of the PxDx process, and the value it provided to Cigna's members. The PxDx claim review process was designed to accelerate the approval of covered, medically necessary services, while also providing a way for Cigna to identify services that have not been submitted with diagnosis codes or other criteria specified in Cigna's evidence-based coverage policies as not being medically necessary, and directing those claims to medical directors for their review and sign-off. If the medical directors agreed that the submitted claim was medically unnecessary after reviewing the procedure, diagnosis code, applicable coverage policy, and other basic information submitted with the claim, they could approve the denial. This process allowed Cigna to appropriately identify and deny claims for services that are not covered under the terms of its' clients benefit plans or under Cigna's coverage policies. In fact, the ProPublica article on which Plaintiffs rely says as much—reporting that PxDx "simply allowed Cigna to cheaply identify claims that it had a ***right to deny***."

(Emphasis added).[1] And while Plaintiffs allege that Cigna's medical directors did not spend sufficient time reviewing claims through PxDx, again citing the ProPublica article (*see, e.g.*, ¶ 3 (alleging that Cigna doctors spent an "average of just 1.2 seconds 'reviewing' each request")), discovery will show that this is not only inaccurate, but it also fails to support Plaintiffs' claims. The PxDx claim review process facilitated medical directors' efficient review by allowing medical directors to rely on coverage policies developed using the latest peer-reviewed, evidence-based scientific literature and guidelines. Plaintiffs simply fail to allege how use of a process like PxDx to check incoming claims for plan coverage limitations violates ERISA or the UCL.

Plaintiffs' claims that the PxDx process, or the reasons behind their denials, was not adequately disclosed to them also lacks merit, as the letters for claims reviewed through the PxDx review process include the exact information Plaintiffs say is missing—like the specific reasons for their adverse determinations (including the relevant coverage policy used in making the determination), and how to appeal their denial.

Discovery will also show that, in addition to its failures on the merits, Plaintiffs' putative class suffers from a host of individualized issues that will preclude class certification. For example, each test and service subject to the PxDx process is addressed in an applicable coverage policy that specifies when the service is medically necessary, meaning the circumstances will differ from service to service – and indeed, from claim to claim – as to why a claim was denied. And despite the fact that many plans require members to appeal to exhaust their administrative remedies before bringing suit, the currently proposed class also does not distinguish between members who appealed their PxDx claims (or appealed through their providers) and those who did not, even though discovery will show that Cigna's medical directors can and would overturn initial claim denials if presented with information establishing the medical necessity of the test or service on appeal. And the proposed class similarly does not differentiate between members who saw in-network providers, who should not have received and would not have needed to pay a balance bill pursuant to the terms of most of

[1] *See* Patrick Rucker et al., How Cigna Saves Millions by Having Its Doctors Reject Claims Without Reading Them, PROPUBLICA (Mar. 25, 2023), available at https://perma.cc/SPY6-GLS5.

Cigna's contracts with in-network providers, and members who received services from out-of-network providers, who may or may not have received balance bills, let alone paid them.

For these reasons and others, discovery will show that Plaintiffs' remaining claims are unsubstantiated and unable to be tried on a classwide basis.

II. STATUS OF SERVICE UPON ALL DEFENDANTS AND CROSS-DEFENDANTS.

All Defendants have been served.

III. POSSIBLE JOINDER OF ADDITIONAL PARTIES.

The Parties do not anticipate any joinder of additional parties at this time.

IV. CONTEMPLATED AMENDMENTS TO THE PLEADINGS.

The Parties do not anticipate any amendments to the pleadings at this time. (*See* ECF No. 56 (Plaintiffs' Notice of Intent regarding not amending the TAC)).

V. STATUTORY BASIS FOR JURISDICTION AND VENUE.

This Court has subject matter jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331, because Plaintiffs' action arises under ERISA. This Court also has supplemental jurisdiction over Plaintiffs' UCL claim pursuant to 23 U.S.C. §1367.

This Court also has subject matter jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1332(d)(2). This is a putative class action in which there is a diversity of citizenship between at least one Plaintiff and one Defendant; the proposed Classes each exceed one hundred members; and the matter in controversy exceeds the sum of $5,000,000.00, exclusive of interest and costs.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391. Defendants regularly conduct business in this District, and the remaining Plaintiffs are citizens of California who reside in this District.

VI. ANTICIPATED DISCOVERY AND SCHEDULING OF DISCOVERY AND CLASS CERTIFICATION.

The Parties have discussed and agreed to coordinate discovery in this action with *Amy Snyder, et al. v. The Cigna Group, Cigna Health and Life Ins. Co., and Cigna Health Mgmt., Inc.*, 3:23-cv-01451-OAW (D. Conn. Nov. 2, 2023) ("*Snyder*"), which is another putative class action against Cigna that contains similar allegations regarding PxDx, and also alleges that Cigna's use of PxDx

violated ERISA and state unfair competition law. Discovery in the *Snyder* case has been in progress since March 2024, and fact discovery is currently scheduled to close on February 27, 2026. The Parties have agreed: (1) to propound substantially similar, but not necessarily identical, discovery requests as have been propounded in the *Snyder* action; (2) to utilize the same document custodians, search terms, relevant time period, and technology assisted review protocol ("TAR Protocol") as in the *Snyder* action, although the parties agree that it may be necessary to add additional search terms specific to the named plaintiffs in this matter (such as names and plan sponsor information) and will meet and confer to discuss this issue; and (3) to make reasonable efforts to conduct depositions jointly with *Snyder*'s counsel, contingent upon the agreement of *Snyder*'s counsel. To expedite discovery in this matter and to promote efficiency, the Parties propose the below schedule for discovery and class certification.

EVENT	DEADLINE
Initial disclosures	June 23, 2025
Fact discovery closes (document production, fact depositions, discovery requests and responses)	May 1, 2026
Plaintiffs' motion for class certification along with any supporting expert reports and supporting materials required by FRCP 26	August 22, 2026
Defendants' opposition to motion for class certification along with any supporting expert reports and supporting materials required by FRCP 26	October 24, 2026
Plaintiffs' reply in support of motion for class certification	December 24, 2026
Deadline for dispositive motions, pretrial conference, and trial to be scheduled after ruling on class certification motion	TBD

The Parties jointly anticipate that discovery in the case can be completed within the limitations outlined in the Federal Rules of Civil Procedure. The Parties agree that any need to modify discovery will be discussed between counsel prior to filing any motion to modify the discovery.

VII. PROPOSED DATE BY WHICH ALL MOTIONS SHALL BE FILED AND HEARD.

As discussed in Section VI, Plaintiffs anticipate filing a class certification motion.

Following a decision on class certification, the Parties anticipate that they will file motions for summary judgment, or in the alternative, partial summary judgment.

The Parties reserve the right to file motions *in limine*.

VIII. LIMITATIONS OR RESTRICTIONS ON THE USE OF TESTIMONY UNDER FRE 702.

None at this time.

IX. FINAL PRETRIAL CONFERENCE AND TRIAL.

Plaintiffs demand a trial by jury on all issues. Cigna denies that Plaintiffs have a right to a jury trial for their claims in this action.

At this point, the parties cannot reliably estimate when the case will be ready for trial. Because the Court's ruling on class certification and on any dispositive motions could substantially impact the scope and timing of any trial (and the related final pretrial conference), the parties propose to confer after the Court's decision on Plaintiffs' anticipated motion for class certification to set a schedule to govern the rest of the case.

X. SPECIAL PROCEDURES.

Both Parties declined reference to a Magistrate Judge. (*See* ECF No. 53, 54).

The Parties do not anticipate reference to a special master.

XI. PRETRIAL PROCEDURES.

The Parties do not feel that modification of standard pretrial procedures is necessary in the present matter.

XII. RELATED CASES.

To the Parties' knowledge, the only active related case is the out-of-circuit *Amy Snyder, et al. v. The Cigna Group, Cigna Health and Life Ins. Co., and Cigna Health Mgmt., Inc*., 3:23-cv-01451-OAW (D. Conn. Nov. 2, 2023).

XIII. SETTLEMENT DISCUSSIONS.

Pursuant to Local Rule 271(d) the parties have discussed the Voluntary Dispute Resolution Program ("VDRP") rules and process and considered whether the action might benefit from participation in VDRP. The Parties do not agree to submit this case to the Court's VDRP or any other alternative dispute resolution procedure at this time. The Parties also do not presently stipulate to the trial judge acting as a settlement judge.

XIV. OTHER MATTERS.

None at this time.

Dated: May 23, 2025

/s/ Glenn A. Danas (as auth. on May 23, 2025)
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CERTIFICATION OF SERVICE

I hereby certify that on May 23, 2025, I electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using the Court's CM/ECF system, which will send notice of the filing to counsel of record.

/s/ Dmitriy Tishyevich
Dmitriy Tishyevich