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May 30, 2025

VIA CM/ECF

David J. Smith
Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

Re: *REACH Air Medical Services LLC v. Kaiser Foundation Health Plan Inc., et al.*, No. 24-10135 (to be argued June 3, 2025) –
Response to May 29, 2025 Letter from Kaiser

Dear Mr. Smith:

Plaintiff-Appellant REACH Air Medical Services LLC respectfully submits this letter in response to the notice of supplemental authority filed yesterday by Defendant-Appellee Kaiser Foundation Health Plan, Inc. Kaiser’s letter brings to the Court’s attention a seven-month-old CMS report—*but see* Fed. R. App. P. 28(j) (instructing parties to “*promptly* advise the circuit clerk” if “pertinent and significant authorities come to a party’s attention” (emphasis added))—showing that CMS has provided monetary remedies in some “instances of non-compliance” with the No Surprises Act. Kaiser states that this report shows that administrative remedies are available to healthcare providers.

The language in the report is non-specific, and REACH remains unaware of any instances of providers obtaining monetary remedies through an administrative process where an insurer misrepresented its QPA. Again, in the audit REACH cited in its reply (at 17 n.4) where an insurer had systematically miscalculated its QPAs, the corrective action instructed refunds to *consumers* but recommended no action to make *providers* whole.

In any case, even if administrative remedies were a meaningful possibility, that does not alter the statutory language in Subsection (II) providing for “*judicial* review” in cases where the IDR “award was procured by corruption, fraud, or undue means.” 42

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U.S.C. § 300gg-111(c)(5)(E)(i)(II) (emphasis added); 9 U.S.C. § 10(a)(1). Whatever authority CMS has to monitor QPA calculations, this case is about a fraudulently misrepresented QPA. That provides a basis for judicial review under the plain terms of the statute.

Sincerely,

/s/ Charlotte H. Taylor

Charlotte H. Taylor

Counsel for Plaintiff-Appellant

cc: Counsel of Record (via CM/ECF)

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CERTIFICATION

I hereby certify that pursuant to Fed. R. App. P. 28(j), the body of this Letter beginning with the first word after the salutation and ending with the last word before the complimentary close, contains 239 words according to the word-processing software used to prepare this Letter. I also certify that on May 30, 2025, I served a copy of the foregoing on all counsel of record by CM/ECF.

Dated: May 30, 2025

/s/ Charlotte H. Taylor
Charlotte H. Taylor