

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

BENEFITALIGN, LLC; AND
TRUECOVERAGE, LLC,

Plaintiffs,

v.

CENTERS FOR MEDICARE AND
MEDICAID SERVICES;

XAVIER BECERRA, in his official capacity
as Secretary of Health and Human Services;

THE U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare & Medicaid Services;

Defendants.

Case No.:

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION AND REQUEST FOR EXPEDITED HEARING**

Plaintiffs Benefitalign, LLC and TrueCoverage, LLC move this Court for both a Temporary Restraining Order and Preliminary Injunction enjoining the Centers for Medicare and Medicaid Services (“CMS”) from suspending Plaintiffs’ access to CMS’ Data Services Hub (“CMS Network”). A Complaint and Memorandum in support of these motions are filed contemporaneously. In addition, Plaintiffs seek expedited discovery of certain matters prior to the hearing on the requested Preliminary Injunction. Finally, Plaintiffs request an expedited hearing, including oral argument, on the Motion for Temporary Restraining Order¹

¹ Plaintiffs will confer with counsel for Defendants regarding availability for a hearing but respectfully request that any hearing be held no later than Wednesday, September 4, 2024.

Dated: August 29, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2024, I electronically filed the foregoing Motion for Temporary Restraining Order and Preliminary Injunction and Request for Expedited Hearing, including a memorandum in support and attachments, with the Clerk of the United States District Court, District of Columbia using the CM/ECF system. On that same date, Plaintiffs delivered a copy of the same by electronic mail to the U.S. Department of Health & Human Services, the Office of General Counsel for the U.S. Department of Health & Human Services, the Office of General Counsel for Centers for Medicare & Medicaid Services, and the United States Attorney's Office for the District of Columbia. Because the motion was filed after regular business hours on August 29, 2024, Plaintiffs will make best efforts to serve the entities and individuals listed below by hand delivery or certified mail on August 30, 2024.

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**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

BENEFITALIGN, LLC,
TRUECOVERAGE, LCLC
Plaintiffs,

v.

CENTERS FOR MEDICARE AND
MEDICAID SERVICES,

Defendant.

Case No.:

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION AND REQUEST FOR EXPEDITED
HEARING**

Dated: August 29, 2024

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PRELIMINARY STATEMENT

On August 8, 2024, the Centers for Medicare and Medicaid Services (CMS) cut off Plaintiffs' access to the CMS databases that underlie healthcare.gov, with no meaningful notice or explanation, in violation of its own regulations. Plaintiffs designed their business to interact seamlessly with those databases, and the cutoff effectively shut down that business. CMS knows this, yet for three weeks, has failed to tell Plaintiffs what (if anything) they think Plaintiffs have done wrong and what (if anything) would satisfy CMS's secret concerns so as to restore that access. In fact, having first made the decision to cut off Plaintiffs, CMS now seems to be groping blindly for some reason, any reason, to justify it in retrospect.

Kafka would recognize Plaintiffs' predicament: mounting a defense in a proceeding in which "the accused and his defence don't have access . . . to the indictment," meaning they "generally don't know" the questions that must be addressed to establish innocence. Franz Kafka, *The Trial* 83 (Janet Baine Kopito ed., David Wyllie trans., Dover Publ'ns 2009) (1925) "If anything about the individual charges and the reasons for them comes out clearly or can be guessed at while the accused is being questioned, then it's possible to work out and submit documents that really direct the issue and present proof, but not before." *Id.* Federal law may be Byzantine, but it is not quite this Kafkaesque.

Plaintiffs operate technology platforms that allow consumers, agents, and brokers to interact with healthcare exchanges contemplated by the Affordable Care Act ("ACA"). *See* Declaration of Girish Panicker ("Panicker Decl.") ¶ 3. Plaintiffs' platforms need access to data from CMS in order to function. Panicker Decl. ¶ 6. For years, Plaintiffs have operated their platforms with the approval of CMS, and largely without incident. On August 8, however, CMS summarily suspended Plaintiffs' access without prior notice and without offering a meaningful post-hoc explanation. *See* Panicker Decl. ¶ 10. Nevertheless, in hopes of resolving the issue

quickly, for three weeks Plaintiffs engaged with CMS, answered a wide range of questions, and provided significant amounts of data. See Panicker Decl. ¶¶ 10–22. Despite Plaintiffs’ best efforts, the platforms remain suspended, and CMS has yet to offer any meaningful explanation as to why. Panicker Decl. ¶ 22.

CMS’s sudden, arbitrary, and seemingly endless suspension violates HHS regulations, the Administrative Procedure Act (“APA”), and the Due Process Clause. The suspension is also an imminent threat to Plaintiffs’ existence, because the overwhelming majority of Plaintiffs’ revenue comes from operating platforms that access the ACA exchanges. Plaintiffs have already lost customers. See Panicker Decl. ¶ 25. Unless the platforms are reinstated quickly, Plaintiffs are likely to see a mass exodus of customers in the coming days. See Panicker Decl. ¶ 25. If that happens, Plaintiffs will be unable to repay bank loans, pay employees, or cover other expenses. Panicker Decl. ¶ 9. Plaintiffs’ only hope of salvaging their business is to regain access to CMS data immediately, both to prevent the mass customer exodus, and to give Plaintiffs time to prepare for ACA open enrollment season, which begins November 1, 2024. Panicker Decl. ¶ 26. Without immediate access to CMS data, Plaintiffs will not have enough time to secure the relationships needed to participate in open enrollment. Panicker Decl. ¶ 26. As a result, CMS’s continued suspension without explanation imperils Plaintiffs’ very existence.

CMS’s suspension does not just threaten Plaintiffs’ business; it has a significant impact on third parties, including consumers. For example, the suspension denies consumers access to affordable healthcare plans, prevents brokers and agents from accessing customer records, and denies insurance carriers and doctors the ability to confirm the existence and scope of customers’ health coverage. Panicker Decl. ¶ 33.

CMS's suspension is plainly unlawful in several ways, threatens irreparable harm to Plaintiffs, and causes substantial harm to the public interest. Accordingly, under applicable law, both a temporary restraining order and preliminary injunction are warranted.

STATEMENT OF FACTS

The Affordable Care Act, among other things, sought to create a competitive private health insurance market through the creation of exchanges or "Health Insurance Marketplaces." *See Health Insurance Marketplaces*, CMS, <https://www.cms.gov/marketplace/about/overview-exchanges> (last visited Aug. 13, 2024). Through the website [healthcare.gov](https://www.healthcare.gov), consumers, agents, and brokers can search these marketplaces for qualified health plans eligible for tax credits that subsidize the consumer's healthcare costs. *See Need health insurance?*, HealthCare.gov, <https://www.healthcare.gov/get-coverage/> (last visited Aug. 13, 2024). CMS, a component of HHS, oversees implementation of the ACA and operation of the healthcare exchanges. *See Consumer Information and Insurance Oversight*, CMS, <https://www.cms.gov/marketplace/about/oversight> (last visited Aug. 13, 2024).

In addition to making [healthcare.gov](https://www.healthcare.gov) available, HHS allows private entities, known as "direct enrollment" or "enhanced direct enrollment" entities, to build their own platforms that allow consumers, agents, and brokers to access the ACA exchanges. *See Direct Enrollment and Enhanced Direct Enrollment*, CMS, <https://www.cms.gov/marketplace/agents-brokers/direct-enrollment-partners> (last visited Aug. 13, 2024). A "direct enrollment" entity builds a web interface that redirects users to [healthcare.gov](https://www.healthcare.gov) to complete an application, whereas an "enhanced direct enrollment" entity can access CMS's data directly, thereby avoiding the need to redirect users to [healthcare.gov](https://www.healthcare.gov). *Id.*

CMS approved Plaintiff Benefitalign as an "enhanced direct enrollment" entity. It delivers end-to-end technology solutions in Benefits Administration, CRM, Sales, Automation,

Broker Administration, and Shopping & Enrollment, including Private Exchanges, across all lines of business for carriers, agencies, brokers, and employers. Benefitalign offers its “BrokerEngage” platform as a white-labelled solution to carriers, agencies, and agents/brokers. Panicker Decl. ¶ 4.

Plaintiff TrueCoverage is a private health insurance marketplace for individuals, families, and employers. It is a “One-Stop-Insurance-Shop” where consumers and agents (on behalf of consumers) can shop, compare, and enroll in affordable health insurance plans. TrueCoverage offers insurance plans from more than 600 top carriers across the country. TrueCoverage is an approved web-broker pursuant to 45 C.F.R. § 155.220. In addition, through its “Inshura” brand, TrueCoverage has CMS approval to offer a free, white-labelled health plan quoting and enrollment platform, using the Benefitalign platform, to agencies and agents/brokers. Inshura does not charge agents a user subscription fee and instead makes money from referrals submitted by agents. Panicker Decl. ¶ 5.

The relationship between both Benefitalign and Inshura as direct enrollment entities, on the one hand, and CMS on the other, is governed by HHS regulations that provide limited grounds for CMS to impose a suspension.² Under applicable regulations, HHS can suspend a direct enrollment entity only if it “discovers circumstances that pose unacceptable risk to the accuracy of the Exchange’s eligibility determinations, Exchange operations, or Exchange information technology systems until the incident or breach is remedied or sufficiently mitigated to HHS’ satisfaction.” 45 C.F.R. § 155.221(e).

² CMS and Benefitalign have also entered into an Enhanced Direct Enrollment Agreement that governs the details under which Benefitalign operates a platform that interconnects with CMS. Plaintiffs are still examining the harm arising from CMS’s suspension and will amend their Complaint to seek contract damages if warranted.

After business hours on August 8, 2024, at 6:37 P.M., an official at CMS sent the following two-sentence email to Benefitalign and Inshura/TrueCoverage: “CMS is suspending EDE/DE/EBP access for Inshura/TrueCoverage and Benefitalign due to potential anomalous activity. CMS will follow up with additional communication to provide next steps.” Decl. Ex. A. CMS offered no other reason for, or information about, its decision.

For the next three weeks, Plaintiffs engaged with CMS staff and attempted to identify and resolve any concerns. Panicker Decl. ¶ 10–22. Plaintiffs answered multiple questions from CMS staff and provided all data that they requested. Panicker Decl. ¶ 18–22. To date, however, Plaintiffs’ platforms remain cut off from CMS data. Panicker Decl. ¶ 22. Yet, CMS has not identified any “circumstances that pose unacceptable risk to the accuracy of the Exchange’s eligibility determinations, Exchange operations, or Exchange information technology systems.”

CMS’s abrupt, unjustified, and unexplained suspension has created an existential crisis for Plaintiffs, who rely heavily on revenues from supporting entities that participate in the ACA marketplace. Without access to the healthcare exchanges and the data stored on them, the Benefitalign and Inshura platforms cannot function. And if the platforms cannot function, they cannot generate any revenue. They are, in effect, out of business for as long as CMS maintains its cutoff. This abrupt halt imperils the companies, and it hurts the brokers, agents, and customers who access the ACA marketplaces through Plaintiffs. Panicker Decl. ¶ 9.

Indeed, without access to CMS data Plaintiffs’ platforms cannot function, and brokers and agencies have begun switching to functioning platforms. Panicker Decl. ¶ 25. Insurance carriers are likely to do the same. Panicker Decl. ¶ 28. With open enrollment approaching quickly, that trend will accelerate if Plaintiffs’ platforms are not reinstated. Panicker Decl. ¶ 25.

As revenue evaporates, Plaintiffs risk being unable both to pay debt and to compensate employees, either of which will force Plaintiffs to cease operations. Panicker Decl. ¶ 32.

To salvage their businesses, Plaintiffs need to regain access to CMS data now, in order to avoid a mass exodus of brokers and agencies in advance of open enrollment season. Indeed, on November 1, 2024, ACA open enrollment season begins. See <https://www.healthcare.gov/quick-guide/dates-and-deadlines/>. If Plaintiffs can retain, regain, or secure new agencies and brokers in time for open enrollment, then they have a chance to survive. Panicker Decl. ¶ 26. To do so, however, Plaintiffs must regain access to CMS data immediately. Panicker Decl. ¶ 26. Otherwise, all existing brokers and agencies will migrate to functioning platforms, and Plaintiffs will not have time to regain the relationships needed to participate meaningfully in open enrollment. Panicker Decl. ¶ 26.

CMS's arbitrary suspension harms more than just Plaintiffs. With Plaintiffs' platforms shut down, brokers and agencies have lost access to a key tool that, for years, has allowed them to help consumers shop for and enroll in affordable healthcare plans. Panicker Decl. ¶ 38. Moreover, consumers who already purchased plans through Plaintiffs' platforms have lost access to their customer records, which will prevent brokers from answering important questions about the scope of consumers' coverage under their existing plans. Panicker Decl. ¶ 40. Consumers will also lose the ability to ask their brokers to make changes to their existing plans or to obtain documentation proving that they have health coverage. Panicker Decl. ¶ 40. Likewise, insurance carriers will not be able to verify that a particular consumer is actively enrolled in one of the carrier's health plans, nor will the carrier be able to answer questions about services that are covered by their plan. Panicker Decl. ¶ 41. Accordingly, because of CMS's lawless suspension of Plaintiffs' platforms, Plaintiffs' very existence is threatened, and consumers, brokers, agents,

and carriers will suffer from the loss of access to Plaintiffs' platforms. For those reasons, and those explained below, Plaintiffs seek immediate relief in order to resume providing these essential services to Americans who need affordable health insurance.

ARGUMENT

A plaintiff seeking a temporary restraining order or preliminary injunctive relief “must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014). Where, as here, a government agency is a defendant, the last two factors merge and are “one and the same, because the government’s interest *is* the public interest.” *Pursuing Am. ’s Greatness v. Fed. Election Comm’n*, 831 F.3d 500, 511 (D.C. Cir. 2016). Each of these factors justifies both a temporary restraining order and a preliminary injunction.

I. CMS’s Arbitrary Suspension Is Lawless in at Least Three Different Ways.

CMS’s suspension is unlawful in at least three different ways. First, the suspension contradicts CMS’s own regulations, which violates the Administrative Procedure Act (“APA”). Second, the suspension is an arbitrary and capricious decision, which also violates the APA. Third, the suspension deprives Plaintiffs of property in a manner that violates the Due Process clause. Because the law and facts are clear, Plaintiffs will succeed on each of these claims.

A. CMS Violated the Administrative Procedure Act by Violating HHS Regulations.

The APA provides that courts must “hold unlawful and set aside agency action” that is “not in accordance with law” or is “without observance of procedure required by law.” 5 U.S.C. §§ 706(2)(A), (D). CMS has invoked no regulatory authority for its action, because there is none. CMS may suspend a direct enrollment entity only if it “discovers circumstances that pose

unacceptable risk to the accuracy of the Exchange’s eligibility determinations, Exchange operations, or Exchange information technology systems.” 45 C.F.R. § 155.221(e). CMS has claimed no such “circumstances.” Instead, CMS initially cited only “potential anomalous activity” to justify the suspension. Decl. Ex. A. After three weeks of engagement with Plaintiffs, wherein Plaintiffs answered all CMS questions and provided all data that CMS requested, CMS *still* cannot identify any such “circumstances.” Because no relevant regulation authorizes a wholly unexplained suspension, the decision is unlawful under HHS’s own regulations. This violates the APA. *See Elevance Health, Inc. v. Becerra*, No. CV 23-3902 (RDM), 2024 WL 2880415, at *9 (D.D.C. June 7, 2024) (noting that an agency “is not free to ignore or violate its regulations while they remain in effect”) (quoting *U.S. Lines, Inc. v. Fed. Mar. Comm’n*, 584 F.2d 519, 526 n.20 (D.C. Cir. 1978)).

B. CMS Violated the Administrative Procedure Act Through its Arbitrary and Capricious Decision.

Under the APA, a court must “hold unlawful and set aside agency action” that is arbitrary or capricious or otherwise not in accordance with law or contrary to the Constitution. 5 U.S.C. § 706(2)(A).

The Supreme Court has “frequently reiterated that an agency must cogently explain why it has exercised its discretion in a given manner. . . .” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 48 (1983). And a court “must reverse an agency policy when [it] cannot discern a reason for it.” *Judulang v. Holder*, 565 U.S. 42, 64 (2011).

“[A]gency action is lawful only if it rests on a ‘consideration of the relevant factors’” and “important aspect[s] of the problem.” *Michigan v. EPA*, 576 U.S. 743, 750–52 (2015) (requiring “reasoned decisionmaking”). This means agencies must “examine all relevant factors and record evidence.” *Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 923

(D.C. Cir. 2017). In doing so, an agency cannot “entirely fail[] to consider an important aspect of the problem.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see also Am. Wild Horse*, 873 F.3d at 931 (“the Service’s Finding of No Significant Impact not only failed to take a ‘hard look’ at the consequences of the boundary change, it averted its eyes altogether”).

The suspension decision is arbitrary and capricious for at least three independently sufficient reasons.

First, the only written explanation defendants have provided for the suspension – “due to potential anomalous activity” – is so vague as to be meaningless and to constitute no reason at all. *See Decl. Ex. A*. Therefore, the Defendants have offered no explanation, let alone a cogent one, as to why they decided to suspend Plaintiffs. And their belated post-suspension verbal disclosures—that their concerns arose from a months-old IT “ticket” that prompted curiosity about a variety of IT issues—offered neither a cogent connection to their decision to suspend or any meaningful standard for reversing a suspension that was imposed based on no standard at all. Panicker Decl. ¶ 18. Even after Plaintiffs responded to all questions and provided all requested data, CMS still cannot provide *any* written explanation for the suspension. Panicker Decl. ¶ 22.

Second, the regulation governing suspension is itself so vague as to invite and encourage arbitrary and capricious decisionmaking such as this. An agency decision is arbitrary and capricious when “at base everything hangs on the fortuity of an individual official’s decision.” *Judulang v. Holder*, 565 U.S. 42, 58 (2011).

Third, the decision to suspend on the unintelligible basis of “potential anomalous activity,” without any further explanation despite extensive engagement, fails to consider an important aspect of the problem: participation in the ACA system will be deterred once other

enrollment platform providers, brokers, agents, and carriers learn that CMS can and will simply turn off access for hundreds of thousands of insured customers for any or no reason. This undermines rather than serves the statutory requirement that HHS establish procedures to allow agents and brokers to enroll eligible participants. *See* 42 U.S.C. § 18032(e).

For each of these independently sufficient reasons, the suspension decision violates the Administrative Procedures Act’s prohibition on arbitrary and capricious decisions.

C. CMS Violated the Due Process Clause of the Constitution.

“A procedural due process violation under the Fifth Amendment occurs when a government official deprives a person of property without appropriate procedural protections.” *N. Am. Butterfly Ass’n v. Wolf*, 977 F.3d 1244, 1265 (D.C. Cir. 2020). When evaluating a procedural due process claim, courts first consider “whether the plaintiff has been deprived of a protected interest in ‘liberty’ or ‘property.’” *Gen. Elec. Co. v. Jackson*, 610 F.3d 110, 117 (D.C. Cir. 2010). If so, courts then determine whether the government’s attendant procedures comport with principles of due process. *Id.* That inquiry turns to the familiar three-factor balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards,” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

Here, Plaintiffs plainly have a property interest in their businesses, which CMS’s unjustified suspension imperils. By summarily suspending Plaintiffs without any prior warning, and without providing any explanation even after Plaintiffs responded to all questions and provided all requested data, CMS’s conduct will erroneously destroy Plaintiffs’ business. And

simply giving cogent pre-deprivation notice of the reason for the suspension, with a meaningful process allowing Plaintiffs to address any such reason, would be a minimally burdensome “substitute” procedure over a wholly unjustified suspension.

Accordingly, CMS is depriving Plaintiffs of a protected property interest, and the *Matthews v. Eldridge* factors demonstrate that CMS’s suspension did not comport with Due Process.

II. CMS’s Suspension Threatens Immediate, Irreparable Harm to TrueCoverage and Benefitalign.

Plaintiffs’ platforms serve critical health insurance functions, and the revenue they generate is critical to the companies’ ongoing operations. CMS’s ongoing suspension of these platforms’ access to databases operated by CMS has already ground Plaintiffs’ business to a halt, and each day of ongoing suspension jeopardizes their ability to stay in business. Panicker Decl. ¶ 23.

The CMS suspension threatens practically all of the revenue generated by TrueCoverage and Benefitalign. Panicker Decl. ¶ 24. The platforms form the foundation for brokers and agencies to sell healthcare plans to new customers and serve existing customers. Panicker Decl. ¶ 24. Benefitalign and TrueCoverage worked with over 5,000 such brokers and agencies, each of whom simply cannot perform these functions if they do not have access to the platforms where all relevant information resides. Panicker Decl. ¶ 24. Indeed, many brokers and agencies who used Plaintiffs’ platforms have now transitioned to other EDE platforms to service and enroll customers. Panicker Decl. ¶ 25. With open enrollment rapidly approaching, that trend will only accelerate in the coming days. Panicker Decl. ¶ 25.

TrueCoverage faces the same predicament as the brokers with whom its Inshura platform works, as TrueCoverage itself is a purveyor of healthcare plans and uses the Benefitalign

platform to enroll new customers and service existing customers. Panicker Decl. ¶ 27.

TrueCoverage works with, and provides support to, over 150,000 customers. It receives at least 300 customer calls each day. Its ability to support customers without access to its platforms is in jeopardy. Panicker Decl. ¶ 27. As long as CMS makes the platforms remain non-functional, TrueCoverage cannot perform these functions, resulting in ongoing loss of revenue. Panicker Decl. ¶ 27.

The same is true for the health insurance carriers—AvMed and Sentara—that use the Benefitalign and Inshura platforms and whose operations are severely affected by the suspension of these platforms. Panicker Decl. ¶ 28. Without access to platform-based records showing which customers have health insurance plans with the carrier and what their plans cover, the carriers are hamstrung in their ability to serve existing customers. Panicker Decl. ¶ 28.

CMS's suspension, and brokers and carriers' imminent termination of their relationships with Benefitalign and TrueCoverage, will lead to cascading and irreversible harm. The ongoing suspension of these platforms risks initiating a torrent of license termination proceedings against TrueCoverage from state insurance departments. Panicker Decl. ¶ 29. Separately, TrueCoverage has a \$20 million loan from its banking partners, and is required to demonstrate a revenue stream each month to sustain that loan. But because CMS's suspension virtually destroys all revenues that TrueCoverage and Benefitalign receive, the suspension will render TrueCoverage unable to satisfy the requirements of its loan. Panicker Decl. ¶ 30. In addition, TrueCoverage works with over 100 employees whose ongoing employment is jeopardized by the CMS suspension. As revenues plummet while brokers and carriers turn to EDE platform alternatives, TrueCoverage's ability to retain its employee base will rapidly diminish. Panicker Decl. ¶ 31.

Plaintiffs have only one more chance to salvage their business. If they can restore their platforms immediately, they can potentially stave off the mass departure of their remaining brokers and agencies. They can also secure relationships with agencies and brokers who either do not currently have access to a platform, or who are looking to switch away from another platform, in advance of the ACA open enrollment period. Panicker Decl. ¶ 26. To do so, however, Plaintiffs must regain access to CMS data now, so that they can reestablish their businesses in time to secure the necessary customer relationships that will make their operations viable. Panicker Decl. ¶ 26.

III. The Balance of Equities Favors a Preliminary Injunction to Maintain the Status Quo, and CMS's Suspension Undermines the Public Interest by Chilling Consumers' Ability to Access Affordable Healthcare Plans and Receive Service for Current Health Plans.

CMS's suspension has far-reaching effects beyond its calamitous impact on TrueCoverage and Benefitalign's ability to remain in business. The platforms are important tools for consumers, often low-income individuals, who seek timely access to affordable healthcare. These platforms aggregate information about different carriers' health plan offerings and serve as a search engine to identify health plans available to that individual. Panicker Decl. ¶ 34. Health insurance brokers use the platforms to input information about potential customers who need access to healthcare, determine what health insurance plan offerings the customer is eligible for, determine if the customer is eligible for any subsidy, and enroll the customer in their chosen health plan. Panicker Decl. ¶ 34. Since CMS's suspension, brokers have been unable to access either platform and have thus been unable to sell health insurance to new customers who need it to fund their healthcare. Panicker Decl. ¶ 35. With each day that passes, more potential customers will be rebuffed in their efforts to enroll in health insurance. Panicker Decl. ¶ 35.

The ongoing suspension also has drastic impact on customers who are already enrolled in a health plan and who require service on that plan. The platforms serve as a virtual “filing cabinet” of customer records. Panicker Decl. ¶ 36. These records help determine, for example, what medical care is and is not covered by the enrolled customer’s health insurance plan. Panicker Decl. ¶ 36. Brokers cannot service current customers without access to those customer records. Panicker Decl. ¶ 36. For example, customers call brokers with questions about the scope of their existing coverage under their current health plan. Without access to the customer’s records, brokers cannot confirm for a customer whether or not a particular medical care is covered by their plan. Panicker Decl. ¶ 37. Customers may also seek to alter their health plans—for example, they may wish to add a dependent to their plan. An open enrollment health insurance period is coming up imminently—a time when many customers make adjustments to their health coverage. Without access to customer records, brokers cannot honor customers’ requests for change. Panicker Decl. ¶ 37. Similarly, health plan enrollees are often required to submit documentation proving their health plan coverage—but without access to the platforms containing those records, they cannot do so. Panicker Decl. ¶ 37.

In short, CMS’s suspension of the platforms means that new consumers face considerable obstacles in accessing affordable health coverage, while existing consumers face obstacles in exercising their benefits under their existing health plans. Panicker Decl. ¶ 38. While brokers can eventually turn to other EDE platforms to sell and service customers, they face considerable obstacles and costs in doing so. In the meantime, new customers remain unenrolled and current customers remain unserved. And if Benefitalign and TrueCoverage cannot participate in the upcoming open enrollment period, consumers will have fewer choices for their health coverage needs, and Plaintiffs’ demise will be imminent. Panicker Decl. ¶ 39.

As noted above, several health insurance carriers use these platforms to do business, and their ability to serve current customers is severely impacted by the platforms' abrupt unavailability. Panicker Decl. ¶ 41. To provide one common example, patients are required to submit insurance documentation prior to a medical appointment. The medical office commonly contacts the health insurance carrier's Provider Services line to verify coverage so that the patient can be treated. But without access to customer records stored on the platforms, carriers cannot verify whether a particular individual is actively enrolled in one of that carrier's health plan offerings, which impacts the patient's ability to receive medical treatment from the contacting medical office. Panicker Decl. ¶ 42. Similarly, an individual may contact the carrier's Member Services line to inquire about their health insurance coverage—and without access to the customer's records, the carrier cannot provide that information. Panicker Decl. ¶ 43. Enrolled customers may also contact TrueCoverage directly to request this information—TrueCoverage receives approximately 300 such calls each day. Without access to the customer's records, TrueCoverage cannot respond to the customers' inquiries. Panicker Decl. ¶ 44.

TrueCoverage also works with multiple downline agencies that license the Benefitalign and Inshura platforms. In these instances, TrueCoverage acts as an intermediary between the health insurance carrier and the downline broker agency: TrueCoverage facilitates the carrier appointments, and the revenue from the downline agencies' sales of that carrier's health plans passes to TrueCoverage, which passes it along to the downline agency that made the sale. Panicker Decl. ¶ 45. The downline agencies with which TrueCoverage works have approximately 200,000 customers they support, and their ability to support these customers without access to the platforms will be in jeopardy. Panicker Decl. ¶ 46. CMS's lawless suspension will thus lead to carriers in turn suspending payments, and any suspension of

payments by carriers to TrueCoverage will impact TrueCoverage's ability to transmit payment to downline agencies. Most such agencies are small to mid-size organizations that could not survive for more than a month if their payments are not timely released. Panicker Decl. ¶ 47. These agencies employ hundreds of individuals whose ongoing employment will be jeopardized by the suspension. Panicker Decl. ¶ 47.

CONCLUSION

For the reasons stated herein, Plaintiffs respectfully request that this Court enter a temporary restraining order and preliminary injunction enjoining CMS from enforcing its arbitrary and unwarranted suspension.

Dated: August 29, 2024

Respectfully submitted,

/s/ Amy E. Richardson

Amy E. Richardson, Esq. (DC Bar # 472284)

Walter E. Anderson, Esq. (DC Bar # 975456)

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Washington, DC 20036

Tel.: 202-730-1329

Email: arichardson@hwglaw.com

Counsel for Plaintiffs Benefitalign, LLC and TrueCoverage, LLC

Declaration of Girish Panicker

1. My name is Girish Panicker. I am over the age of 18 and am competent to testify to the matters set forth in this Declaration.

2. I am the Founder and Chairman of TrueCoverage, LLC (“TrueCoverage”). I have been employed by TrueCoverage for eight years. I am authorized to make this Declaration on behalf of TrueCoverage and Benefitalign.

Benefitalign and Inshura Platforms

3. TrueCoverage and Benefitalign operate technology platforms that allow consumers, agents, and brokers to interact with healthcare exchanges contemplated by the Affordable Care Act (“ACA”).

4. Plaintiff Benefitalign is approved as an Enhanced Direct Enrollment (“EDE”) entity that delivers end-to-end technology solutions in Benefits Administration, Customer Relationship Management, Sales, Automation, Broker Administration, and Shopping & Enrollment, including Private Exchanges, across all lines of business for carriers, agencies, brokers, and employers. Benefitalign offers its “BrokerEngage” platform as a white-labelled solution to carriers, agencies, and agents/brokers.

5. Plaintiff TrueCoverage is a private health insurance marketplace for individuals, families, and employers. It is a “One-Stop-Insurance-Shop” where consumers and agents (on behalf of consumers) can shop, compare, and enroll in affordable health insurance plans. TrueCoverage offers insurance plans from more than 600 top carriers across the country. TrueCoverage is an approved web-broker pursuant to 45 C.F.R. § 155.220. In addition, d/b/a its “Inshura” brand, TrueCoverage has Centers for Medicare and Medicaid Services (“CMS”) approval to offer a free white-labelled health plan quoting and enrollment platform, using the Benefitalign platform, to

agencies and agents/brokers. Trading as Inshura, TrueCoverage does not charge agents a user subscription fee and instead makes money from referrals submitted by agents.

6. The Benefitalign platform, which Benefitalign and TrueCoverage alike use to serve their carrier, broker, and agent customers, needs access to databases operated by the CMS in order to function.

TrueCoverage and Benefitalign's Revenues

7. The overwhelming majority of TrueCoverage and Benefitalign's revenues come from operating platforms that access the ACA exchanges.

8. TrueCoverage and Benefitalign rely heavily on revenues from supporting entities that participate in the ACA marketplace. Without the ability to access the healthcare exchanges, the companies' platforms cannot function. If the platforms cannot function, the companies cannot generate any revenue.

9. The abrupt halt to revenue generation caused by the CMS suspension imperils the companies and it hurts the brokers, agents, and customers who access the ACA marketplaces through TrueCoverage and Benefitalign. Without the revenues that will be eliminated by the suspension, TrueCoverage and Benefitalign cannot repay bank loans, pay employees, or cover other expenses.

CMS Suspension of TrueCoverage and Benefitalign Platforms

10. On Thursday, August 8 at 6:37 PM I received an email from Jeffrey D. Grant, Deputy Director for Operations for CMS. The email stated that "CMS is suspending EDE/DE/EBP access for Inshura/TrueCoverage and Benefitalign due to potential anomalous activity. CMS will follow up with additional communication to provide next steps." *See Exhibit A.*

11. I responded to Mr. Grant on Thursday, August 8 at 8:50 PM requesting a call to discuss the “potential anomalies” referenced in his email. *See Exhibit A.*

12. Mr. Grant responded on Friday, August 9 at 9:57 AM and stated, “We will be setting up a call. . . . We will reach out to you when we have found a time that we can get this on the books today.” *See Exhibit A.* I responded at 10:06 AM to confirm I would await Mr. Grant’s call. *See Exhibit A.*

13. Alarmed by the lack of substantive communication from CMS, I asked our outside counsel, Bruce Fried of Dentons, to email CMS and see if CMS would speak with him. He exchanged emails with Jeff Grant of CMS on the afternoon of August 9, 2024, in which Mr. Grant advised Mr. Fried that CMS would “not be setting up any discussion until Monday at this point.” *See Exhibit B.* Mr. Fried then advised Mr. Grant that TrueCoverage “request[s] that CMS end TrueCoverage’s suspension immediately given the lack of information that has been provided, that the suspension is based, at least in part, on ‘potential’ activities, and that TrueCoverage is already confronting irreparable harm as a result.” *See Exhibit B.*

14. Neither Mr. Fried nor I received any further response from Mr. Grant on Friday, August 9 or Monday, August 12. On Tuesday, August 13, at 9:40 AM, I contacted Mr. Grant again to express my extreme concern that CMS’s unexplained decision “is devastating to our business, our employees, our downline agencies, and customers. In fact, it threatens to imminently put us out of business.” *See Exhibit A.* I received an out of office message from Mr. Grant instructing me to contact Bradley Lowery at CMS. *See Exhibit C.* I forwarded my message to Mr. Lowery and received an out of message from him. *See Exhibit A; Exhibit D.* I then forwarded my message to Megan Pringle and Patrick Seaman at CMS requesting an urgent response and received an out of office message from Ms. Pringle, as well. *See Exhibit A; Exhibit E.*

15. Mr. Grant then responded and said that Mr. Fried's urgent request to speak with CMS "temporarily delayed our ability to speak with you as we needed to verify what our response to his request should be. We now need to confirm with you that Bruce Fried is indeed representing your company and would like to know how you would like to proceed here." *See Exhibit A.*

16. I responded confirming that Mr. Fried and Denton's represents our companies and again reiterated that TrueCoverage is "very eager to discuss the matter with you through any channel that CMS is willing to use" *See Exhibit A.*

17. Mr. Grant then replied with an offer to speak the afternoon of August 13, 2024 to have "a specific discussion of what we have found," but warned of unspecified further delay if we brought legal counsel to the call. *See Exhibit A.*

18. Given the extreme urgency, I agreed to forgo the assistance of counsel in order to find out what concerns had led CMS to suspend our companies. Late afternoon on August 13, 2024, I participated in a conference call among a group of IT professionals for Benefitalign and a group from CMS. For the first time, we learned that CMS personnel had developed some concerns arising from a "ticket" that had been submitted through an undisclosed CMS system some months before that apparently raised unspecified concerns about sensitive information being exposed or exported from our companies' systems. CMS personnel did not share that "ticket" with us. Instead, CMS IT personnel asked our team questions about the location of servers on which we stored Personally Identifiable Information obtained from CMS systems, the relationship among US and overseas affiliated companies, and the ability of agents or other authorized users to export data from our systems. We answered their questions, then immediately convened a second meeting among our respective experts to address more detailed concerns about systems architecture and other technical matters.

19. CMS requested specific documentation from Benefitalign and TrueCoverage's technical team, which we provided to CMS on Tuesday, August 13 following the call with CMS. On Wednesday August 14 at 10:07 AM, I followed up with Mr. Grant to ask if CMS had any additional questions. *See* Exhibit F. I did not receive a response and followed up with Mr. Grant again at 10:58 AM with another request for an update. Exhibit F. Mr. Grant did not respond until 5:26 PM, at which time he merely stated that the CMS team "have some questions and will be looking to set up a follow up with your team. We are not in a position to talk about a reconnection timetable without having made the determinations that we need to make. Keith is going to reach out to the group email where the information was exchanged." *See* Exhibit F.

20. Later in the day on August 14, at 8:36 PM, I contacted Mr. Grant to express concern regarding media disclosures from CMS's press office regarding "anomalous activity" by EDE entities associated with Speridian, that CMS "has suspended the connections between the FFM/SBM-FPs and Inshura/TrueCoverage and Benefitalign," and that "the suspensions will continue while the 'anomalous activity' is researched." *See* Exhibit G. I reiterated to Mr. Grant that "the suspension is having catastrophic consequences for our business, our clients who rely on our platform and most importantly customers. The impact is multiplying by the hour." *See* Exhibit G. Given that impact, I asked Mr. Grant for a timetable for reinstatement. As to that request, Mr. Grant responded on August 15 at 10:09 AM, and replied, "As for a timetable, that would depend on the results of our current work. To provide a timetable would presume to know the results of research that is not yet complete. If we got to a point where the research said we should reconnect, we would do so in fairly short order." Exhibit G.

21. On August 15, several representatives from Benefitalign attended a 10:00 AM call with various CMS representatives, including Keith Busby. Following that call, Kalpit Dantara of

TrueCoverage provided additional information regarding VPN solutions used by the organization. *See* Exhibit H. Mr. Paradis followed up on behalf of CMS to request additional data relating to these VPN solutions, and Mr. Dantara provided that additional data later in the day on August 15. On Friday, August 16, Mr. Paradis requested additional information regarding the VPN solutions, which Mr. Dantara provided on Monday, August 19. Mr. Paradis responded the following day with additional questions and requests for data, which Manal Mehta of Benefitalign provided on Thursday, August 22. *See* Exhibit H. The following Wednesday, August 28, Mr. Paradis responded with another request for additional information. *See* Exhibit H.

22. CMS has yet to offer a written explanation as to why the platforms remain suspended or offer any meaningful explanation for the suspension. Nor has CMS provided any indication of when or under what circumstances it might lift its suspension. To date, the platforms remain cut off from CMS data.

Impact of CMS Suspension on TrueCoverage and Benefitalign

23. CMS's ongoing suspension of Benefitalign and TrueCoverage's access to databases operated by CMS has already ground Plaintiffs' ability to do business to a halt, and each day of ongoing suspension jeopardizes their ability to stay in business.

24. The CMS suspension threatens practically all of the revenue generated by TrueCoverage and Benefitalign. The platforms form the foundation for brokers and agencies to sell healthcare plans to new customers and serve existing customers. Benefitalign and TrueCoverage work with over 5,000 such brokers and agencies, each of whom simply cannot perform these functions if they do not have access to the platforms where all the relevant information resides.

25. Indeed, in the days since the CMS suspension, many brokers and agencies that previously used the Benefitalign and/or Inshura platforms have turned to other, functioning, EDE platforms

to enroll customers, resulting in a substantial, overwhelming loss of revenue to Benefitalign and TrueCoverage. With the open enrollment period quickly approaching, this trend will accelerate if Plaintiffs' platforms are not reinstated.

26. The ACA open enrollment period begins November 1, 2024. The only hope for TrueCoverage and Benefitalign to salvage their business is to regain access to CMS data in advance of the ACA open enrollment period's start on November 1, in order to restart their businesses, secure new customers, and secure the relationships with agencies and brokers needed to participate in the open enrollment season. If TrueCoverage and Benefitalign can retain, regain, or secure new agencies and brokers who either do not have current access to a platform or are looking to switch away from another platform in advance of open enrollment, then the businesses have a chance to survive. Otherwise, all existing brokers and agencies will migrate to functioning platforms. Without immediate access to CMS data, TrueCoverage and Benefitalign will not have time to secure the relationships they need to participate meaningfully in the open enrollment season. If TrueCoverage and Benefitalign are unable to participate in the upcoming enrollment period, the business's demise will be imminent.

27. TrueCoverage itself is a purveyor of healthcare plans and uses the Benefitalign platform to enroll new customers and service existing customers. TrueCoverage works with, and provides support to, over 150,000 customers. It receives at least 300 customer calls each day. Its ability to support customers without access to its platforms is in jeopardy. As long as CMS makes the platforms remain non-functional, TrueCoverage cannot perform these functions, resulting in ongoing loss of revenue.

28. The same is true for the health insurance carriers—AvMed and Sentara—that use the Benefitalign and Inshura platforms and whose operations are severely affected by the suspension

of these platforms. Without access to platform-based records showing which customers have health insurance plans with the carrier and what their plans cover, the carriers are hamstrung in their ability to serve existing customers.

29. Ongoing suspension of these platforms also risks initiating a torrent of license termination proceedings against TrueCoverage from state insurance departments.

30. TrueCoverage has a \$20 million loan from its banking partners and is required to demonstrate a revenue stream each month to sustain that loan. But because CMS's suspension virtually destroys all revenues that TrueCoverage and Benefitalign receive, the suspension will render TrueCoverage unable to satisfy the requirements of its loan.

31. TrueCoverage works with over 100 employees whose ongoing employment is jeopardized by the CMS suspension. As revenues plummet while brokers and carriers turn to EDE platform alternatives, TrueCoverage's ability to retain its employee base will rapidly diminish.

32. As revenue evaporates, TrueCoverage and Benefitalign risk being unable both to sustain its loan and to compensate its employees, either of which will force them to cease operations.

Impact of CMS Suspension on Consumers and Other Third Parties

33. The suspension also threatens to deny consumers access to affordable healthcare plans, prevent brokers and agents from accessing customer records, and deny insurance carriers and doctors the ability to confirm the existence and scope of customers' health coverage.

34. The platforms are important tools for consumers, often low-income individuals, who seek timely access to affordable healthcare. These platforms aggregate information about different carriers' health plan offerings and serve as a search engine to identify health plans available to that individual. Health insurance brokers use the platforms to input information about potential

customers who need access to healthcare, determine what health insurance plan offerings the customer is eligible for, determine if the customer is eligible for any subsidy, and enroll the customer in their chosen health plan.

35. Since CMS's suspension, brokers have been unable to access either platform and have thus been unable to sell health insurance to new customers who need it to fund their healthcare. With each day that passes, more potential customers will be rebuffed in their efforts to enroll in health insurance.

36. The suspension will also have drastic impact on customers who are already enrolled in a health plan and who require service on that plan. The platforms serve as a virtual "filing cabinet" of customer records. These records help determine, for example, what medical care is and is not covered by the enrolled customer's health insurance plan. Brokers cannot service current customers without access to those customer records.

37. For example, customers call brokers with questions about the scope of their existing coverage under their current health plan. Without access to the customer's records, brokers will be unable to confirm for a customer whether or not particular medical care is covered by their plan. Customers may also seek to alter their health plans—for example, they may wish to add a dependent to their plan. An open enrollment health insurance period is coming up imminently—a time when many customers make adjustments to their health coverage. Without access to customer records, brokers will be unable to honor customers' requests for change. Similarly, health plan enrollees are often required to submit documentation proving their health plan coverage—but without access to the platforms containing those records, they will be unable to do so.

38. CMS's suspension of the platforms means that new consumers face considerable obstacles in accessing affordable health coverage, while existing consumers face obstacles in exercising their benefits under their existing health plans. With the Benefitalign and Inshura platforms shut down, brokers and agencies have lost access to a key tool that, for years, has allowed them to help consumers shop for and enroll in affordable healthcare plans.

39. If Benefitalign and TrueCoverage go out of business, they will be unable to participate in the upcoming open enrollment period, leaving consumers with fewer choices for their health coverage needs.

40. Moreover, consumers who already purchased plans through Plaintiffs' platforms have lost access to their customer records, which will prevent brokers from answering important questions about the scope of consumers' coverage under their existing plans. Consumers will also lose the ability to make changes to their existing plans or to obtain documentation proving that they have health coverage.

41. Likewise, insurance carriers will be unable to verify that a particular consumer is actively enrolled in one of the carrier's health plans, nor will the carrier be able to answer questions about services that are covered by their plan. Several health insurance carriers use these platforms to do business, and their ability to serve current customers is severely impacted by the platforms' abrupt unavailability.

42. To provide one common example, patients are required to submit insurance documentation prior to a medical appointment. The medical office commonly contacts the health insurance carrier's Provider Services line to verify coverage so that the patient can be treated. But without access to customer records stored on the platforms, carriers will be unable to verify whether a particular individual is actively enrolled in one of that carrier's health plan offerings,

which impacts the patient's ability to receive medical treatment from the contacting medical office.

43. Similarly, an individual may contact the carrier's Member Services line to inquire about their health insurance coverage—and without access to the customer's records, the carrier will be unable to provide that information.

44. Enrolled customers may also contact TrueCoverage directly to request this information—TrueCoverage receives approximately 300 such calls each day. Without access to the customer's records, TrueCoverage will be unable to respond to the customers' inquiries.

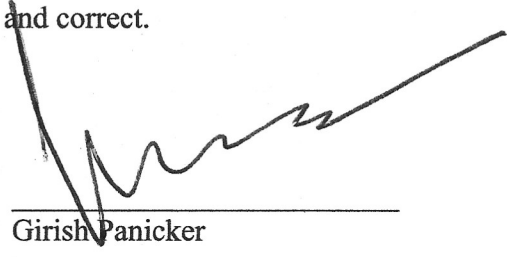
45. TrueCoverage also works with multiple downline agencies that license the Benefitalign and Inshura platforms. In these instances, TrueCoverage acts as an interface between the health insurance carrier and the broker agency: TrueCoverage facilitates the carrier appointments, and the revenue from the downline agencies' sales of that carrier's health plans passes to TrueCoverage, which passes it along to the downline agency that made the sale.

46. The downline agencies with which TrueCoverage works have approximately 200,000 customers they support, and their ability to support these customers without access to the platforms will be in jeopardy.

47. CMS's abrupt suspension will thus lead to carriers in turn suspending payments, and any suspension of payments by carriers to TrueCoverage will impact TrueCoverage's ability to transmit payment to downline agencies. Most such agencies are small to mid-size organizations that could not survive for more than a month if their payments are not timely released. These agencies employ hundreds of individuals whose ongoing employment will be jeopardized by the suspension.

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

Date: August 29, 2024



Girish Panicker

Exhibit A

RE: EDE/DE/EBP Suspension

Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Tue 8/13/2024 9:37 AM

To: Girish Panicker <girish.panicker@speridian.com>; Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>
Cc: Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

We will schedule a call with you this PM. We will not have our lawyers on as this is going to be a specific discussion of what we have found. If you bring legal counsel we will have to get our legal team together and that will take more time to set up. Look for an appointment for early afternoon.

Jeff

Jeffrey D. Grant

Deputy Director for Operations

Center for Consumer Information and Insurance Oversight

Centers for Medicare & Medicaid Services

From: Girish Panicker <girish.panicker@speridian.com>**Sent:** Tuesday, August 13, 2024 11:08 AM**To:** Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>**Cc:** Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>; Fried, Bruce Mer in <bruce.fried@dentons.com>**Subject:** RE: EDE/DE/EBP Suspension

Jeff,

Yes, Bruce/Dentons represents us. We're very eager to discuss the matter with you through any channel that CMS is willing to use, including Bruce, who is copied here.

Sincerely,

Girish

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>**Sent:** Tuesday, August 13, 2024 10:41 AM**To:** Girish Panicker <girish.panicker@speridian.com>; Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>**Cc:** Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>**Subject:** RE: EDE/DE/EBP Suspension

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

Good morning,

We were contacted last Friday afternoon by Bruce Fried, saying that he and his firm, Denton, were representing your company. He also said that he was aware that you had asked for a meeting and then requested that we speak with him before we talk with you. That has temporarily delayed our ability to speak with you as we needed to verify what our response to his request should be. We now need to confirm with you that Bruce Fried is indeed representing your company and would like to know how you would like to proceed here.

Jeff

Jeffrey D. Grant
Deputy Director for Operations
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services

From: Girish Panicker <girish.panicker@speridian.com>
Sent: Tuesday, August 13, 2024 10:02 AM
To: Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>
Cc: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>
Subject: FW: EDE/DE/EBP Suspension

Megan/Patrick,

Please see my urgent message to Jeff Grant below. I am forwarding this to you as per Mr. Lowery out-of-office message. Would you please respond as soon as possible?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Tuesday, August 13, 2024 9:58 AM
To: bradley.lowery@cms.hhs.gov
Cc: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: FW: EDE/DE/EBP Suspension

Dear Mr. Lowery,

Please see my urgent message to Jeff Grant below. I am forwarding this to you as per his out-of-office message. Would you please respond as soon as possible?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Tuesday, August 13, 2024 9:40 AM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Dear Jeff,

Five days have now passed since your August 8, 2024 email informing me that "Inshura/TrueCoverage and Benefitalign EDE access has been suspended due to "potential anomalous activity" You said in that email, "CMS will follow up with additional communication to provide next steps." In your last communication on Friday, August 09th 2024, you mentioned that you will be scheduling a call to discuss the matter, but we have heard nothing.

As you know, your unexplained decision to cut off our companies from EDE, DE, and EBP is devastating to our business, our employees, our downline agencies, and customers. In fact, it threatens to imminently put us out of business. This is an emergency for us.

What does "potential anomalous activity" mean?

When will you restore our access?

Do you have any concerns about our companies' participation in EDE, DE, and EBP? If so, what are they?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Friday, August 9, 2024 10:06 AM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Thanks Jeff. Really appreciate your quick response. Will wait for your call.

Meanwhile, I have asked the team to hold off their communication with the clients till we get some clarity and direction from CMS.

Girish

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Sent: Friday, August 9, 2024 9:57 AM
To: Girish Panicker <girish.panicker@speridian.com>
Subject: RE: EDE/DE/EBP Suspension

You don't often get email from jeffrey.grant1@cms.hhs.gov. [Learn why this is important](#)

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

We will be setting up a call. I have to coordinate with the CMS information systems security team in a different office from CCIIO and a few others. We will reach out to you when we have found a time that we can get this on the books today.

Jeff

From: Girish Panicker <girish.panicker@speridian.com>
Sent: Thursday, August 8, 2024 8:50 PM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Jeff,

I just saw this email which is very concerning. Can you please let us know what these potential anomalies are so that we can review them? This has serious business consequences for us as well as the partners who use the platform.

If you are available, I would like to get on a quick call with you first thing in the morning OR as per your convenience to understand this better

Girish Panicker

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Sent: Thursday, August 8, 2024 6:37 PM
To: girish.panicker <girish.panicker@benefitalign.com>

Cc: Tamara White <tamara.white@speridian.com>; Sonu Rajamma <sonu.sr@benefitalign.com>

Subject: EDE/DE/EBP Suspension

You don't often get email from jeffrey.grant1@cms.hhs.gov. [Learn why this is important](#)

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@benefitalign.com immediately if you suspect it's a suspicious email.

CMS is suspending EDE/DE/EBP access for Inshura/TrueCoverage and Benefitalign due to potential anomalous activity. CMS will follow up with additional communication to provide next steps.

Jeffrey D. Grant
Deputy Director for Operations
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services

Exhibit B

From: [Fried, Bruce Merlin](#)
To: [Grant, Jeff \(CMS/CCIIO\)](#)
Subject: Re: Please call me
Date: Friday, August 9, 2024 5:43:15 PM

Jeff,

Thanks very much for getting back to me.

By way of background, my colleagues at Dentons and I have been assisting TrueCoverage following it's been named as a defendant in the Florida lawsuit.

We have exercised significant due diligence and have found nothing to suggest that TrueCoverage or its associated companies have been involved in any way in improper or even questionable activities regarding churning or switching ACA enrollees or misleading those interested in possible enrollment. In fact, based on our due diligence, we feel quite comfortable that TrueCoverage has taken proactive steps to prevent improper activities by brokers, and, when improper activities have been found, they have terminated those brokers from their EDE system.

I was very surprised and more than a bit disappointed when I was informed of TrueCoverage being suspended from EDE activities as result of "potential anomalous activities." While I understand a more detailed notice is forthcoming, in my time at HCFA and during the many years of my representing organizations facing enforcement actions by CMS, I have never heard of CMS imposing sanctions for "potential" improper activities. On that basis, alone, I would ask CMS to rescend the suspension of TrueCoverage.

As you can imagine, with TrueCoverage being suspended from the EDE system, brokers seeking to use TrueCoverage are finding it inaccessible and are already turning to other means of enrolling people. The longer the suspension applies, the greater the number of brokers who will turn elsewhere. The irreparable harm resulting from this loss of business jeopardizes the existence of TrueCoverage and its associated companies.

Similarly, it is our understanding that CMS is to notify the state insurance commissioners regarding suspensions of this sort. We ask that you delay any notification to state insurance commissioners until such time as TrueCoverage is informed of the "potential anomalous activities" and is provided with an opportunity to address CMS's concerns.

Indeed, we request that CMS end TrueCoverage's suspension immediately given the lack of information that has been provided, that the suspension is based, at least in part, on "potential" activities, and that TrueCoverage is already confronting irreparable harm as a result.

Finally, on behalf of TrueCoverage, we request a direct meeting with you too fully review these issues and address CMS' concerns.

Thanks again for your consideration. I look forward to hearing from you. Please call me if I can provide any additional information.

Best regards,

Bruce
Office: 202-408-9159
Mobile: 202-744-2393

Bruce Merlin Fried

Partner

 +1 202 408 9159

Assistant: Patricia L. Parris +1 202 408 6943

Washington, DC

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Sent: Friday, August 9, 2024 5:03:51 PM

To: Fried, Bruce Merlin <bruce.fried@dentons.com>

Subject: Re: Please call me

[WARNING: EXTERNAL SENDER]

Hi Bruce,

Could you please let me know the nature of what you want to discuss? We will not be setting up any discussion until Monday at this point.

Jeff

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From: Fried, Bruce Merlin <bruce.fried@dentons.com>

Sent: Friday, August 9, 2024 3:11:54 PM

To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Subject: Please call me

Jeff,

I would appreciate it if you would give me a call. My colleagues and I at Dentons are counseling TrueCoverage regarding the EDE issues. I understand that TrueCoverage's CEO has asked to meet with you. I think it would be helpful if we touched base prior to that.

Thanks, Jeff

Bruce

202-744-2393

Bruce Merlin Fried

Partner

 +1 202 408 9159

bruce.fried@dentons.com | [Bio](#) | [Website](#)

Assistant: Patricia L. Parris +1 202 408 6943

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Exhibit C

Automatic reply: EDE/DE/EBP Suspension

Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Tue 8/13/2024 9:40 AM

To: Girish Panicker <girish.panicker@speridian.com>

This message has originated from an External Source. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

I am away from the office from Monday August 12 through Friday, August 16 on official travel to a couple of conferences. I return to the office August 19. I will have intermittent access to email or internet this week.

If you need immediate assistance, please contact bradley.lowery@cms.hhs.gov.

Thank you,

Jeff Grant

Deputy Director for Operations

Center for Consumer Information and Insurance Oversight

Centers for Medicare & Medicaid Services

Exhibit D

Automatic reply: EDE/DE/EBP Suspension

Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>

Tue 8/13/2024 9:58 AM

To: Girish Panicker <girish.panicker@speridian.com>

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

I'm currently out of the office, will return on Wednesday, 08/14/24.

For our CCIIO/FO Senior Leadership's availability or urgent requests please contact Megan Pringle at Megan.Pringle@cms.hhs.gov and Patrick Seaman at Patrick.Seaman@cms.hhs.gov.

For scheduling please contact Everett Smith at Everett.Smith@cms.hhs.gov or Lourdes Antezana at Lourdes.Antezana1@cms.hhs.gov.

Any urgent Timecard Issues please contact Christina Johnson at Christina.Johnson@cms.hhs.gov and Paola Roos at Paola.Roos@cms.hhs.gov.

Thank you so much,
Brad Lowery

Exhibit E

Automatic reply: EDE/DE/EBP Suspension

Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>

Tue 8/13/2024 10:02 AM

To: Girish Panicker <girish.panicker@speridian.com>

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

Thank you for your email. I am out of the office without access until Monday August 12th, and then at a conference with limited access to email through Friday August 16th. If your message is in regards to scheduling time with CCIIO's senior leadership team, please contact Brad Lowery (Bradley.Lowery@cms.hhs.gov). If it pertains to an urgent matter that cannot await my return, please reach out to Patrick Seaman (Patrick.Seaman@cms.hhs.gov). Otherwise, I will respond to your message as soon as possible.

Thanks,

Megan

Megan Pringle

Special Assistant to the Deputy Director for Operations

CCIIO/CMS

Megan.Pringle@cms.hhs.gov | 443.862.5595

Pronouns: she/her

Exhibit F

Re: EDE/DE/EBP Suspension

Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Wed 8/14/2024 5:26 PM

To: Girish Panicker <girish.panicker@speridian.com>

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

Girish,

Keith and his team have some questions and will be looking to set up a follow up with your team. We are not in a position to talk about a reconnection timetable without having made the determinations that we need to make. Keith is going to reach out to the group email where the information was exchanged.

I have been in meetings with insurance commissioners all day and so not been able to reply as promptly as usual.

Jeff

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From: Girish Panicker <girish.panicker@speridian.com>

Sent: Wednesday, August 14, 2024 10:58:01 AM

To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Subject: Re: EDE/DE/EBP Suspension

Jeff,

Sorry to bother you again. Is there any update from Keith and team? It would be helpful if we understand the timeline for getting things back up. I would like to provide all the clients some more clarity on timeline.

Girish

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From: Girish Panicker <girish.panicker@speridian.com>

Sent: Wednesday, August 14, 2024 10:07:46 AM

To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Subject: Re: EDE/DE/EBP Suspension

Jeff

I understand Keith and team have received all documents they requested from my tech team. Let me know once you had a chance to talk with Keith and if he has any additional questions .

Girish

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From: Girish Panicker <girish.panicker@speridian.com>
Sent: Tuesday, August 13, 2024 2:55 PM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Jeff,

Thanks for arranging the call. My phone # is 609 351 0034. Please call me when you get a chance. I am available anytime today.

Girish

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Sent: Tuesday, August 13, 2024 11:58 AM
To: Girish Panicker <girish.panicker@speridian.com>; Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>
Cc: Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

We are scheduling for 2:30. Please have any relevant, knowledgeable operations, security and/or systems staff attend as we will be discussing technical findings.
Jeff

From: Girish Panicker <girish.panicker@speridian.com>
Sent: Tuesday, August 13, 2024 10:02 AM
To: Pringle (she/her), Megan (CMS/CCIIO) <Megan.Pringle@cms.hhs.gov>; Seaman, Patrick (CMS/CCIIO) <patrick.seaman@cms.hhs.gov>
Cc: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Lowery, Bradley (CMS/CCIIO) <Bradley.Lowery@cms.hhs.gov>
Subject: FW: EDE/DE/EBP Suspension

Megan/Patrick,

Please see my urgent message to Jeff Grant below. I am forwarding this to you as per Mr. Lowery out-of-office message. Would you please respond as soon as possible?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Tuesday, August 13, 2024 9:58 AM
To: bradley.lowery@cms.hhs.gov
Cc: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: FW: EDE/DE/EBP Suspension

Dear Mr. Lowery,

Please see my urgent message to Jeff Grant below. I am forwarding this to you as per his out-of-office message. Would you please respond as soon as possible?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Tuesday, August 13, 2024 9:40 AM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Dear Jeff,

Five days have now passed since your August 8, 2024 email informing me that “Inshura/TrueCoverage and Benefitalign EDE access has been suspended due to “*potential anomalous activity*” You said in that email, “CMS will follow up with additional communication to provide next steps.” In your last communication on Friday, August 09th 2024, you mentioned that you will be scheduling a call to discuss the matter, but we have heard nothing.

As you know, your unexplained decision to cut off our companies from EDE, DE, and EBP is devastating to our business, our employees, our downline agencies, and customers. In fact, it threatens to imminently put us out of business. This is an emergency for us.

What does “*potential anomalous activity*” mean?

When will you restore our access?

Do you have any concerns about our companies’ participation in EDE, DE, and EBP? If so, what are they?

Sincerely,

Girish Panicker

From: Girish Panicker
Sent: Friday, August 9, 2024 10:06 AM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Thanks Jeff. Really appreciate your quick response. Will wait for your call.

Meanwhile, I have asked the team to hold off their communication with the clients till we get some clarity and direction from CMS.

Girish

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Sent: Friday, August 9, 2024 9:57 AM
To: Girish Panicker <girish.panicker@speridian.com>
Subject: RE: EDE/DE/EBP Suspension

You don't often get email from jeffrey.grant1@cms.hhs.gov. [Learn why this is important](#)

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We will be setting up a call. I have to coordinate with the CMS information systems security team in a different office from CCIIO and a few others. We will reach out to you when we have found a time that we can get this on the books today.

Jeff

From: Girish Panicker <girish.panicker@speridian.com>
Sent: Thursday, August 8, 2024 8:50 PM
To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Subject: RE: EDE/DE/EBP Suspension

Jeff,

I just saw this email which is very concerning. Can you please let us know what these potential anomalies are so that we can review them? This has serious business consequences for us as well as the partners who use the platform.

If you are available, I would like to get on a quick call with you first thing in the morning OR as per your convenience to understand this better

Girish Panicker

From: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>
Sent: Thursday, August 8, 2024 6:37 PM
To: girish.panicker <girish.panicker@benefitalign.com>
Cc: Tamara White <tamara.white@speridian.com>; Sonu Rajamma <sonu.sr@benefitalign.com>
Subject: EDE/DE/EBP Suspension

You don't often get email from jeffrey.grant1@cms.hhs.gov. [Learn why this is important](#)

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This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@benefitalign.com immediately if you suspect it's a suspicious email.

CMS is suspending EDE/DE/EBP access for Inshura/TrueCoverage and Benefitalign due to potential anomalous activity. CMS will follow up with additional communication to provide next steps.

Jeffrey D. Grant
Deputy Director for Operations
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services

Exhibit G

Re: CMS EDE Suspension

Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Thu 8/15/2024 10:09 AM

To: Girish Panicker <girish.panicker@speridian.com>

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

Girish,

A reporter reached out to CMS and asked about the disconnections. We gave a very short reply saying that we had noted anomalous activity and were currently researching. We don't normally share our press statements with other parties, and the contents are known if the reporter decides to publish anything.

As for a timetable, that would depend on the results of our current work. To provide a timetable would presume to know the results of research that is not yet complete. If we got to a point where the research said we should reconnect, we would do so in fairly short order.

Jeff

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From: Girish Panicker <girish.panicker@speridian.com>

Sent: Wednesday, August 14, 2024 8:36:26 PM

To: Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>

Subject: CMS EDE Suspension

Jeff,

We just received information from a reporter that, while we have been working in good faith to address your questions about our systems, CMS's press office is telling the press that there is some "anomalous activity" by two Enhanced Direct Enrollment (EDE) entities associated with Speridian Global Holdings (Speridian). The press office is also telling the media that CMS has suspended the connections between the FFM/SBM-FPs and Inshura/TrueCoverage and Benefitalign. It also stated that the suspensions will continue while the "anomalous activity" is researched. As we have previously explained, the suspension is having catastrophic consequences for our business, our clients who rely on our platform and most importantly customers. The impact is multiplying by the hour. The statement by CMS's press office obviously amplifies this impact and the harm to everyone involved. Can you please explain why CMS decided to make these disclosures to the media? Please provide me with a copy of any media disclosures, including this press office statement, about our companies.

Given this escalation, we need to have some timetable for reinstatement in place by tomorrow.

Girish

Exhibit H

RE: CMS/Speridian

Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>

Wed 8/28/2024 12:13 PM

To: Manal Mehta <manal.mehta@benefitalign.com>

Cc: Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>; Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>; Ashwini Deshpande <ashwini.deshpande@Truecoverage.com>; Hunt, Patrick (CMS/OIT) <Patrick.Hunt@cms.hhs.gov>; Busby, Keith (CMS/OIT) <Keith.Busby@cms.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>; Sonu S. Rajamma <sonu.sr@speridian.com>; Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>; Girish Panicker <girish.panicker@speridian.com>; Tamara White <tamara.white@benefitalign.com>; Berry, Dawn (CMS/OIT) <Dawn.Berry@cms.hhs.gov>; Kalpit Dantara <kalpit.dantara@Truecoverage.com>; Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; CMS CCIIO Office of the Director <CCIIOOfficeoftheDirector@cms.hhs.gov>; Shynihan Muhammed <shynihan.muhammed@benefitalign.com>; Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>

You don't often get email from david.paradis1@cms.hhs.gov. [Learn why this is important](#)

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@speridian.com immediately if you suspect it's a suspicious email.

All,

Thank you for your continued support. Can you please provide the below?

- Please provide all available VPC Flow Logs for all AWS accounts under the control of Speridian/BenefitAlign/True Coverage in raw form with no filters applied.
- Speridian/True Coverage previously indicated that access to AWS infrastructure is restricted to authorized employees in CONUS with whitelisted IP addresses. CMS SOC has determined that IP addresses associated with anonymizing VPN services have been considered allowed traffic. Please provide a list of all whitelisted IP addresses and documentation on the standard procedure to verify and vet IP addresses to whitelist.
- Speridian/True Coverage previously indicated that the VPN services they operate apply geofencing controls to prevent users who are OCONUS from accessing the VPN. Please provide details on any controls in place that disallow the use of anonymizing VPN services that mask the true geolocation of the user who is attempting to connect to your VPN.
- Please provide details and documentation on the implementation of geographic restrictions for all traffic exiting the VPN, if any are in place.
- Please provide details and policy on the acceptable use of TeamViewer within your environment, if any exist.

Regards,

-Dave

David V. Paradis

Primary contact # (443)764-4514

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From: Manal Mehta <manal.mehta@benefitalign.com>

Sent: Thursday, August 22, 2024 10:25 AM

To: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>

Cc: Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>; Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>; Ashwini Deshpande. <ashwini.deshpande@Truecoverage.com>; Hunt, Patrick (CMS/OIT) <Patrick.Hunt@cms.hhs.gov>; Busby, Keith (CMS/OIT) <Keith.Busby@cms.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>; Sonu S. Rajamma <sonu.sr@speridian.com>; Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>; Girish Panicker <girish.panicker@speridian.com>; Tamara White <tamara.white@benefitalign.com>; Berry, Dawn (CMS/OIT) <Dawn.Berry@cms.hhs.gov>; Kalpit Dantara <kalpit.dantara@Truecoverage.com>; Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; CMS CCIIO Office of the Director <CCIIOOfficeoftheDirector@cms.hhs.gov>; Shynihan Muhammed <shynihan.muhammed@benefitalign.com>
Subject: Re: CMS/Speridian

Hello David:

Please find attached responses to your questions below.

Files referenced are available in the dropbox folder shared for previous queries. Link [Benefitalign Documents To CMS](#)

We believe it would be better to have a call sometime today if you have additional questions.

Thanks,
Manal.

From: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>

Date: Tuesday, August 20, 2024 at 3:29 PM

To: Kalpit Dantara kalpit.dantara@Truecoverage.com , Busby Keith (CMS/OIT) Keith.Busby@cms.hhs.gov , CMS CCIIO Office of the Director CCIIOOfficeoftheDirector@cms.hhs.gov , Montz Ellen (CMS/CCIIO) Ellen.Montz@cms.hhs.gov , Grant Jeff (CMS/CCIIO) jeffrey.grant1@cms.hhs.gov , Girish Panicker girish.panicker@speridian.com , Manal Mehta manal.mehta@benefitalign.com , Ashwini Deshpande ashwini.deshpande@Truecoverage.com , Sonu S. Rajamma sonu.sr@speridian.com , Shynihan Muhammed shynihan.muhammed@benefitalign.com , tamara.white@benefitalign.com tamara.white@benefitalign.com , Nettles Leslie (CMS/OIT) Leslie.Nettles1@cms.hhs.gov , Dorsey Kevin Allen (CMS/CCIIO) Kevin.Dorsey@cms.hhs.gov , Lyles Darrin (CMS/CCIIO) Darrin.Lyles@cms.hhs.gov , Kania Michael (CMS/OIT) michael.kania@cms.hhs.gov
Cc: Hunt Patrick (CMS/OIT) Patrick.Hunt@cms.hhs.gov , Berry Dawn (CMS/OIT) Dawn.Berry@cms.hhs.gov , Paradis David (CMS/OIT) David.Paradis1@cms.hhs.gov

Subject: RE: CMS/Speridian

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Kalpit,

Thank you for the additional information – the teams have some additional questions and requests for data;

- To confirm, where is the CRM physically located? Please provide evidence of it's physical location.

The CRM application is hosted in the AWS data center located in the US-EAST-1 region. Evidence of physical location in dropbox. Filename 'CRM location evidence.png'

- **What steps does a CRM operator take to input data into the EDE?**

The licensed agent who is EDE ID Proofed is himself/herself the CRM operator [CRM Operator] and has to login with credentials into BrokerEngage [EDE] and be authenticated first. Both CustomerEngage [CRM] and BrokerEngage [EDE] are separate platforms, have separate credentials and each needs their own authorizations.

Once authenticated in BrokerEngage, the agent has to complete ID Proofing [Experian] before the EDE component is enabled or can be accessed as part of initial setup. BrokerEngage is also integrated with NIPR and agents state licensing information is automatically set up/updated in BrokerEngage. Agents cannot quote or see plans for states that they are not licensed in.

Additional controls/authorization rules;

1. There are two Roles in BrokerEngage: Producer Role and Agency Admin Role. Producers can only view / manage their own Book of Business [BoB], i.e. their own customers. Agency Admin can view and manage the BoB of all producers within the agency.
2. Irrespective of Role, EDE is only enabled if the user is ID Proofed.
3. Additionally, FFM certified agents who are actively servicing marketplace customers are required to link their FFM account [OKTA linking] with the platform account for security.
4. Only one active user per credentials is allowed. If a user tries to login while another session is active, the old session is terminated after prompting the user.
5. Inactivity timeouts are set to 5 mins by default. Users can configure it to different times but cannot exceed 30 mins.
6. Additionally, agents can enable 2 factor authentication for added security.

- **Where does a CRM operator get the data to input into EDE?**

>> The licensed agent who is EDE ID Proofed [CRM Operator] gets the data to input into EDE from the customer. The customer is typically on the phone and customer consent is obtained prior to working on and prior to submitting their application. See file: BrokerEngage: Customer Consent

- **Is there any data processing, collection or trending occurring for this effort outside of the CONUS?**

>> There is no data processing, collection or trending occurring for this effort outside of the CONUS. BrokerEngage [EDE] cannot be accessed from outside the US.

- **Please explain in detail all methodologies to access your AWS console to include any connection requirements.**

Access to AWS infrastructure is restricted to authorized employees in CONUS with whitelisted IP addresses. Users access the AWS console via a web browser, where they must log in using their unique credentials. To further enhance security, multi-factor authentication is enforced for all users, requiring an additional verification code generated by an authentication app, in addition to their password.

- **Please provide evidence of ownership behind AWS Account ID 26280443682 - BenefitAlign, True Coverage, Speridian or other?**

>> Above Account ID is owned by Benefitalign. Evidence of same is provided in dropbox. Filename – ‘Evidence of ownership.png’

- **Provide a description for FortiClient VPN, Palo Alto VPN, and the backup solution and their specific use cases?**

>> We have implemented VPN solution with whitelisted IP addresses for securing our AWS infrastructure, particularly when employees are working from home. This approach offers robust protection by insulating our network from the public internet. FortiClient is used for our current primary and backup VPN service, and we are in the process of transitioning to Palo Alto's VPN solution as part of our cloud-first strategy. This shift is driven by the advanced security features offered by Palo Alto, which provide more comprehensive protection that better aligns with our evolving security requirements.

- **Please provide the full logs for BOTH FortiClient VPN's and the PA VPN in raw form.**

Full logs of all VPN's available in dropbox. Foldername ‘Activity Log’

- **Where you have indicated that the third VPN is used for backup, we require evidence that this third VPN is not receiving any traffic**

>> Screenshot of activity log provided in dropbox. Filename – ‘Backup FortiClient VPN Logs.png’

- **Why do we see a user logging into the AWS console on June 30 from one VPN endpoint, and then a different VPN endpoint on August 13?**

>> The user, who is a member of the AWS Infrastructure Admin team was evaluating an alternate VPN service, and has not been used since.

- **Do you have any VPN/proxy/anonymizer access disabled through all of your VPN solutions?**

>> Yes. Evidence provided in screenshot available in dropbox. Foldername - 'VPN Security'

- **Please explain in detail how your geofencing restrictions are implemented across all available VPN platforms**

FortiClient VPN applies geofencing at the VPN gateway level within the SSL VPN settings, allowing connections only from US-based IP addresses. To safeguard against proxies and anonymizers, application security has been implemented in the FortiClient application, blocking proxy traffic at the host level.

Palo Alto VPN applies geofencing at both the security policy and gateway levels. Only traffic originating from US-based IP addresses will be allowed to connect through the gateway.

Both security policy and proxy block rule screenshot available in dropbox. Foldername: 'VPN Security'

- **Do you handle CMS data via email? If so, what data?**

The BrokerEngage [EDE] Platform does send out emails triggered based on different events in quoting and enrollment process. Typically, these emails include quotes/proposals, plan comparisons, enrollment confirmations etc. We have attached a document with screenshots & notes that describes the events and the emails. We are not sure about the question about what constitutes CMS data but the document includes email examples generated from the BrokerEngage EDE Platform. Filename: BrokerEngage: Agent Experience & Communications

- **When CMS data requires emailing, who receives it and at what email addresses? Please provide evidence.**

The emails generated from the BrokerEngage EDE Platform are sent to the related customer and/or to the Agent on Record. Filename: BrokerEngage: Agent Experience & Communications and BrokerEngage: Customer Consent

- **When CMS data requires emailing, who sends it and from what email addresses? Please provide evidence.**

>> All emails that are sent from the platform are systematically generated and go out from noreply@benefitalign.com. Please see attached document for samples. Filename: BrokerEngage: Agent Experience & Communications and BrokerEngage: Customer Consent

- **Do you use any O365 technologies to handle, process or direct CMS data?**

The BrokerEngage EDE Platform does not use any O365 technologies to handle, process or direct any emails that are sent from the platform.

Again, we believe it would be better to have a call to go over any additional questions you may have. Thank you.

Regards,

-Dave

David V. Paradis

Primary contact # (443)764 4514

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From: Kalpit Dantara <kalpit.dantara@Truecoverage.com>

Sent: Monday, August 19, 2024 12:04 AM

To: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>; Busby, Keith (CMS/OIT) <Keith.Busby@cms.hhs.gov>; CMS CCIIO Office of the Director <CCIIOOfficeoftheDirector@cms.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Girish Panicker <girish.panicker@speridian.com>; Manal Mehta <manal.mehta@benefitalign.com>; Ashwini Deshpande <ashwini.deshpande@Truecoverage.com>; Sonu S. Rajamma <sonu.sr@speridian.com>; Shynihan Muhammed <shynihan.muhammed@benefitalign.com>; tamara.white@benefitalign.com; Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>; Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>; Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>; Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>

Cc: Hunt, Patrick (CMS/OIT) <Patrick.Hunt@cms.hhs.gov>; Berry, Dawn (CMS/OIT) <Dawn.Berry@cms.hhs.gov>

Subject: RE: CMS/Speridian

Hi David,

Please see responses inline below. Files referenced are available in the dropbox folder shared for previous queries. Link [Benefitalign Documents To CMS](#)

Appreciate if we can get on a call sometime tomorrow to discuss and bring this to a logical conclusion.

-Kalpit

From: Paradis, David (CMS/OIT) David.Paradis1@cms.hhs.gov

Date: Friday, August 16, 2024 at 2:08 PM

To: Kalpit Dantara kalpit.dantara@Truecoverage.com , Busby, Keith (CMS/OIT) Keith.Busby@cms.hhs.gov , CMS CCIO Office of the Director CCIOOfficeoftheDirector@cms.hhs.gov , Montz, Ellen (CMS/CCIO) Ellen.Montz@cms.hhs.gov , Grant, Jeff (CMS/CCIO) jeffrey.grant1@cms.hhs.gov , Girish Panicker girish.panicker@speridian.com , Manal Mehta manal.mehta@benefitalign.com , Ashwini Deshpande Ashwini.deshpande@truecoverage.com , Sonu S. Rajamma sonu.sr@speridian.com , Shynihan Muhammed Shynihan.Muhammed@benefitalign.com , tamara.white@benefitalign.com tamara.white@benefitalign.com , Nettles, Leslie (CMS/OIT) Leslie.Nettles1@cms.hhs.gov , Dorsey, Kevin Allen (CMS/CCIO) Kevin.Dorsey@cms.hhs.gov , Lyles, Darrin (CMS/CCIO) Darrin.Lyles@cms.hhs.gov , Kania, Michael (CMS/OIT) michael.kania@cms.hhs.gov
Cc: Hunt, Patrick (CMS/OIT) Patrick.Hunt@cms.hhs.gov , Berry, Dawn (CMS/OIT) Dawn.Berry@cms.hhs.gov , Kania, Michael (CMS/OIT) michael.kania@cms.hhs.gov
Subject: RE: CMS/Speridian

This message has originated from an **External Source**. Please use proper judgment and caution before attending it. Please report it to phishing.report@truecoverage.com immediately if you suspect it's a suspicious email.

Kalpit,

Thank you for the additional information!

- Please provide the VPN logs for the other two VPN's

As mentioned in previous email, the other hosted VPN is a backup VPN and has not been used and does not have any relevant logs. Log from Palo Alto VPN is available in the dropbox. Filename 'PaloAltoVPN Log.csv'

- Why do you only maintain three weeks of VPN logs

3 weeks is the current retention policy. Having said that, open to suggestions on an optimal retention policy. Happy to make the necessary changes once we have an agreement.

- Please provide any Geofencing rules applied to all VPN solutions

>> Screenshot Of VPN Geofencing rules available in dropbox. Filenames 'FortiClient - VPN Geo fencing.png', 'Palo Alto - VPN Geo Fencing 1.png', 'Palo Alto - VPN Geo Fencing 2.png', 'Palo Alto - VPN Geo Fencing 3.png', 'Palo Alto - VPN Geo Fencing 4.png'

- Please provide ruleset from VPNs

Ruleset provided in dropbox. Filename 'SPAWSFWL-0001.conf' and 'Palo Alto Geo Fencing rule.png'

- Please provide any logs with destinations on 158.73.0.0/16, 198.179.4.0/24 or 198.179.3.0/24

>> Having looked at our logs, we don't see any access to the above IP ranges. If you have any further specifics on this request including timeframe in question, happy to dig in further. Screenshots of our search provided in dropbox. Filename 'Logs to Destination Ips.docx'

- Does BenefitAlign/True Coverage have monitoring in place for users utilizing VPN services or accessing resources from OCONUS? If so what is it and can a log be provided?

Our firewall is configured to serve as a VPN gateway with geofencing capabilities, allowing only employees located in the U.S. region to connect to the VPN and access resources.

- Based on the original description of the issue, one of the things we will want to see is queries generated by the CRM platform that target CMS data in EDE - including the source IP address and username the query originated from.

>> There are no queries from CustomerEngage [Our CRM Platform] that can access any EDE data within BrokerEngage [EDE Platform]. There are entities that reside outside the EDE Object Model that can be created or updated from CustomerEngage. Below use case will help you understand the interactions:

Agent gets a call [Lead] and this creates a Lead record in CustomerEngage [CRM].

The Lead is nurtured and if it is disposed as an "Opportunity", it creates a Customer Record [basic profile information like name, phone # etc] and a related Opportunity record in CustomerEngage.

The customer record is synced into BrokerEngage [EDE].

The agent can navigate to BrokerEngage and see the newly created Customer Record.

The agent then can create Quotes/Proposals in BrokerEngage.

If the customer wants to enroll, the EDE Flow is initiated in BrokerEngage by the agent.

When the application is completed and submitted, the BrokerEngage Customer Record Status is updated to reflect the enrolled status.

This customer status is synced back to CustomerEngage and the opportunity is updated to Sold status.

If it is helpful, we can setup a demo to walk you through the sales workflow.

- Please provide an explanation of your firewall configuration rules in Fortigate to better understand whether or not the rules are correctly configured to prevent access from OCONUS, and where exactly this firewall sits in their network.

>> Our VPN configuration enforces stringent geofencing policies, blocking all connection attempts from IP addresses located outside the United States. VPN authentication is restricted to users within the U.S. region. Upon successful authentication, the firewall applies rules that permit traffic exclusively from these validated users, ensuring that only U.S.-based entities can access the network resources through the VPN. VPN and WAF firewalls sit at the perimeter level.

- Have you enabled a WAF rule to block VPN and proxy traffic <https://docs.aws.amazon.com/waf/latest/developerguide/aws-managed-rule-groups-ip-rep.html#aws-managed-rule-groups-ip-rep-anonymous> and can you provide evidence of such?

No, the IP reputation anonymous rule is not enabled on our WAF. Again, we are happy to work with your team on any recommendations.

Regards,

-Dave

David V. Paradis

Primary contact # (443)764 4514

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From: Kalpit Dantara <kalpit.dantara@Truecoverage.com>

Sent: Thursday, August 15, 2024 6:22 PM

To: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>; Busby, Keith (CMS/OIT) <Keith.Busby@cms.hhs.gov>; CMS CCIIO Office of the Director <CCIIOOfficeoftheDirector@cms.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Girish Panicker

<girish.panicker@speridian.com>; Manal Mehta <manal.mehta@benefitalign.com>; Ashwini Deshpande <Ashwini.deshpande@truecoverage.com>; Sonu S. Rajamma <sonu.sr@speridian.com>; Shynihan Muhammed <Shynihan.Muhammed@benefitalign.com>; tamara.white@benefitalign.com; Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>; Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>; Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>; Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>
Cc: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>; Hunt, Patrick (CMS/OIT) <Patrick.Hunt@cms.hhs.gov>; Berry, Dawn (CMS/OIT) <Dawn.Berry@cms.hhs.gov>
Subject: Re: CMS/Speridian

Hi David,

We have added the requested data in the dropbox shared yesterday.

[Benefitalign Documents To CMS](#)

The file name is FSFADOM3-FGT_elog_TC-VPN.csv. Please note that the VPN logs are only retained for 3 weeks.

This log contains the employees from your list who have accessed AWS through the Forticlient VPN (54.157.134.187).

The other two VPNs have not been used by any of these employees.

The employees that are not in this log file have accessed AWS through our Albuquerque, NM office network.

Also - not all employees on your list have access to BenefitAlign BrokerEngage/Inshura EDE platforms as they work on other applications.

If you have questions, we are available to meet at your convenience.

-Kalpit

From: Kalpit Dantara kalpit.dantara@Truecoverage.com

Date: Thursday, August 15, 2024 at 1:20 PM

To: Paradis, David (CMS/OIT) David.Paradis1@cms.hhs.gov , Busby, Keith (CMS/OIT) Keith.Busby@cms.hhs.gov , CMS CCIIO Office of the Director CCIIOOfficeoftheDirector@cms.hhs.gov , Montz, Ellen (CMS/CCIIO) Ellen.Montz@cms.hhs.gov , Grant, Jeff (CMS/CCIIO) jeffrey.grant1@cms.hhs.gov , Girish Panicker girish.panicker@speridian.com , Manal Mehta manal.mehta@benefitalign.com , Ashwini Deshpande

<Ashwini.deshpande@truecoverage.com>, Sonu S. Rajamma <sonu.sr@speridian.com>, Shynihan Muhammed <Shynihan.Muhammed@benefitalign.com>, tamara.white@benefitalign.com <tamara.white@benefitalign.com>, Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>, Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>, Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>, Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>
Cc: Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>, Hunt, Patrick (CMS/OIT) <Patrick.Hunt@cms.hhs.gov>, Berry, Dawn (CMS/OIT) <Dawn.Berry@cms.hhs.gov>
Subject: Re: CMS/Speridian

Hi David,

Let me have my team work on getting this data to you.

-Kalpit

From: Paradis, David (CMS/OIT) David.Paradis1@cms.hhs.gov
Date: Thursday, August 15, 2024 at 11:58 AM
To: Kalpit Dantara kalpit.dantara@Truecoverage.com , Busby, Keith (CMS/OIT) Keith.Busby@cms.hhs.gov , CMS CCIIO Office of the Director CCIIOOfficeoftheDirector@cms.hhs.gov , Montz, Ellen (CMS/CCIIO) Ellen.Montz@cms.hhs.gov , Grant, Jeff (CMS/CCIIO) jeffrey.grant1@cms.hhs.gov , Girish Panicker girish.panicker@speridian.com , Manal Mehta manal.mehta@benefitalign.com , Ashwini Deshpande Ashwini.deshpande@truecoverage.com , Sonu S. Rajamma sonu.sr@speridian.com , Shynihan Muhammed Shynihan.Muhammed@benefitalign.com , tamara.white@benefitalign.com tamara.white@benefitalign.com , Nettles, Leslie (CMS/OIT) Leslie.Nettles1@cms.hhs.gov , Dorsey, Kevin Allen (CMS/CCIIO) Kevin.Dorsey@cms.hhs.gov , Lyles, Darrin (CMS/CCIIO) Darrin.Lyles@cms.hhs.gov , Kania, Michael (CMS/OIT) michael.kania@cms.hhs.gov
Cc: Paradis, David (CMS/OIT) David.Paradis1@cms.hhs.gov , Hunt, Patrick (CMS/OIT) Patrick.Hunt@cms.hhs.gov , Berry, Dawn (CMS/OIT) Dawn.Berry@cms.hhs.gov
Subject: RE: CMS/Speridian

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Kalpit,

Thank you for the additional information!

Could we request a copy of the last three months of logs from each of these VPN solutions that show the timestamped true source IP's connecting, translation to specific VPN IP's and what they connected to – Narrowed by the following list of users?

amit.kumar1@speridian.com

boravancha.manogna@speridian.com

girish.sasidharan@speridian.com

jerin.george@speridian.com

manish.awasthi@speridian.com

muhammad.ahmed@speridian.com

prakash.moni@speridian.com

raghavendra.kumar@speridian.com

rakesh.rathi@speridian.com

rakesh.reddy@speridian.com

rana.pratap@speridian.com

sabari.chandran@speridian.com

siva.radhakrishnan@benefitalign.com

sonu.rajamma

sreekanth.g@speridian.com

sreekumar.venukumar1@speridian.com

sumankumar.patra@speridian.com

syed.nijamuddin@speridian.com

umar.farooque@speridian.com

venu.telagathoti@speridian.com

Regards,

-Dave

David V. Paradis

Primary contact # (443)764-4514

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From: Kalpit Dantara <kalpit.dantara@Truecoverage.com>

Sent: Thursday, August 15, 2024 10:45 AM

To: Busby, Keith (CMS/OIT) <Keith.Busby@cms.hhs.gov>; Kalpit Dantara <kalpit.dantara@Truecoverage.com>; CMS CCIIO Office of the Director <CCIIOOfficeoftheDirector@cms.hhs.gov>; Montz, Ellen (CMS/CCIIO) <Ellen.Montz@cms.hhs.gov>; Grant, Jeff (CMS/CCIIO) <jeffrey.grant1@cms.hhs.gov>; Girish Panicker <girish.panicker@speridian.com>; Manal Mehta <manal.mehta@benefitalign.com>; Ashwini Deshpande <Ashwini.deshpande@truecoverage.com>; Sonu S. Rajamma <sonu.sr@speridian.com>; Shynihan Muhammed <Shynihan.Muhammed@benefitalign.com>; tamara.white@benefitalign.com; Nettles, Leslie (CMS/OIT) <Leslie.Nettles1@cms.hhs.gov>; Paradis, David (CMS/OIT) <David.Paradis1@cms.hhs.gov>; Dorsey, Kevin Allen (CMS/CCIIO) <Kevin.Dorsey@cms.hhs.gov>; Lyles, Darrin (CMS/CCIIO) <Darrin.Lyles@cms.hhs.gov>; Kania, Michael (CMS/OIT) <michael.kania@cms.hhs.gov>

Subject: Re: CMS/Speridian

Hi Keith,

We have confirmed that there are 3 VPN solutions being used by the organization 2 FortiClient solutions hosted inhouse and a Palo Alto solution used as a SaaS product.

-Kalpit

From: Keith.Busby@cms.hhs.gov

When: 9:00 AM - 10:00 AM August 15, 2024

Subject: CMS/Speridian

Location: <https://cms.zoomgov.com/j/1602119654?pwd=RbZ0g15kA0lJG8mBATuh8EDbeXlnj.1>

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**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

BENEFITALIGN, LLC; AND
TRUECOVERAGE, LLC,

Plaintiffs,

v.

CENTERS FOR MEDICARE AND
MEDICAID SERVICES;

XAVIER BECERRA, in his official capacity
as Secretary of Health and Human Services;

THE U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

CHIQUITA BROOKS-LASURE, in her
official capacity as Administrator of the
Centers for Medicare & Medicaid Services;

Defendants.

Case No.:

**CERTIFICATE OF COUNSEL IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY
INJUNCTION AND REQUEST FOR EXPEDITED HEARING**

Pursuant to LCvR 65.1(a) of the Rules of the United States District Court for the District of Columbia, I, Amy Richardson, hereby certify that I have provided notice of this Motion for Temporary Restraining Order and Preliminary Injunction and Request for Expedited Hearing (“Motion”) via electronic mail to counsel for the U.S. Department of Health and Human Services who has previously communicated with Plaintiffs regarding to this matter. In addition, as described in the Certificate of Service accompanying that Motion, Plaintiffs have served Defendants with copies of the Motion and all pleadings and papers filed in the action to date.

Dated: August 29, 2024

Respectfully submitted,

/s/ Amy E. Richardson

Amy E. Richardson, Esq. (DC Bar # 472284)

Walter E. Anderson, Esq. (DC Bar # 975456)

HWG LLP

1919 M Street NW, 8th Floor

Washington, DC 20036

Tel.: 202-730-1329

Email: arichardson@hwglaw.com

*Counsel for Plaintiffs Benefitalign, LLC and
TrueCoverage, LLC*

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

BENEFITALIGN, LLC; AND
TRUECOVERAGE, LLC,

Plaintiffs,

v.

CENTERS FOR MEDICARE AND
MEDICAID SERVICES;

XAVIER BECERRA, in his official capacity as
Secretary of Health and Human Services;

THE U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES;

CHIQUITA BROOKS-LASURE, in her official
capacity as Administrator of the Centers for
Medicare & Medicaid Services;

Defendants.

Case No.:

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION AND REQUEST FOR
EXPEDITED HEARING**

This matter is before the Court on the motion of Plaintiffs Benefitalign, LLC and TrueCoverage, LLC (d/b/a Inshura) to temporarily enjoin the Centers for Medicare and Medicaid Services ("CMS") from suspending Plaintiffs' access to CMS' Data Services Hub ("CMS Network").

Upon due consideration of the Complaint and Motion for Temporary Restraining Order and Preliminary Injunction and Request for Expedited Hearing, the Court finds that Plaintiffs are likely to succeed on the merits, that immediate and irreparable injury, loss, and damage will result to Plaintiffs if the motion is not granted, and that the balance of equities favors enjoining the CMS's suspension.

Therefore, for these reasons, and for good cause show, it is hereby

ORDERED that Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction and Request for Expedited Hearing is GRANTED; and it is further

ORDERED that Defendants are enjoined from enforcing their suspension of Plaintiffs from CMS' Data Services Hub, and must restore Plaintiffs' access to such systems immediately; and it is further

ORDERED that Defendants are enjoined from preventing Plaintiffs from participation in ACA marketplaces; and it is further

ORDERED, in accordance with Fed. R. Civ. P. 65(b)(2), that this temporary restraining order shall expire fourteen days after its entry upon the docket, unless extended for good cause shown.

Dated: August __, 2024

United States District Judge