

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION

BLUE CROSS BLUE SHIELD
HEALTHCARE PLAN OF GEORGIA,
INC.,

Plaintiff,

v.

HALOMD, LLC, et al.,

Defendants.

Case No. 1:25-cv-02919-TWT

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' FIFTH NOTICE OF SUPPLEMENTAL AUTHORITY¹**

¹ Capitalized terms have the same meaning provided in BCBSGA's Memorandum of Law in Opposition to Defendants' Motions to Dismiss ("Opp." at ECF No. 50).

Guardian Flight LLC v. Aetna Life Insurance Company, No. 3:24-cv-00680-MPS, 2026 WL 1734646 (D. Conn. June 16, 2026) (“*Aetna*”) is wrong and did not address the issues before this Court. It involved only *state law* claims arising from (1) ineligible claims, (2) bifurcated claims, and (3) material misrepresentations in payment offers. *Id.* at *2. The court held that the NSA preempted the state law claims and that, although the “claims are consistent with the NSA’s rejection of awards derived by fraud, the statute specifies an exclusive procedure [of FAA vacatur] to challenge such awards.” *Id.* at *4.

Here, Anthem alleges a racketeering scheme to initiate thousands of ineligible disputes with knowingly false attestations in violation of RICO and ERISA, two federal laws that expressly authorize this action. AC at ¶¶ 1-10. Defendants here do not and cannot argue preemption of these federal claims. *See* 2026 WL 1734646, at *4 (conflict preemption applies “where the state law at issue stands as an obstacle to” federal law) (citation and quotes omitted). And because no party argued that the NSA limits judicial review solely to the IDRE’s payment determination—and not to schemes involving ineligible disputes—the court had no occasion to address the issues presented here.

Aetna also makes several critical errors to reach its flawed conclusion. First, it inverts the Supreme Court’s standard of review. Courts must evaluate whether Congress unequivocally foreclosed review of the challenged conduct. *Opp.* at 22-26. *Aetna* instead evaluated whether the NSA “authorizes state-law

actions for fraud and misrepresentation.” 2026 WL 1734646, at *4.

Second, Aetna disregards the plain text of the NSA. Per the NSA, IDREs are selected to perform a single task: “select one of the offers submitted” as the payment determination. 42 U.S.C. § 300gg-111(c)(5)(A). Congress tied IDRE fees directly to the payment determination process. *Id.* § 300gg-111(c)(5)(F). And Congress solely limited judicial review of “[a] determination of a certified IDR entity under subparagraph (A)” (i.e., the payment determination). *Id.* § 300gg-111(c)(5)(E)(i)(II). Given that the NSA does not contemplate or compensate IDREs for performing any task other than making a payment determination, Congress could not have clearly and convincingly foreclosed judicial review of eligibility “decision,” much less a racketeering scheme involving thousands of ineligible disputes. *See Opp.* at 22-26.

Third, *Aetna* relies on dicta from other district courts to erroneously find that the NSA “specifies an exclusive procedure to challenge [IDR] awards.” 2026 WL 1734646, at *4. But unlike other federal laws, which expressly incorporate the FAA’s procedures, the NSA only limits judicial review of the IDRE’s selection of the payment determination “except in a case described in any of paragraphs (1) through (4) of section 10(a) of title 9.” 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II); compare with, e.g., 5 U.S.C. § 580(c). *Aetna*’s decision to read the FAA’s “exclusive procedure” into the NSA violates fundamental principles of statutory interpretation. *See Opp.* at 26-29.

Dated: June 26, 2026

Respectfully Submitted,

/s/ Jason T. Mayer

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing has been prepared in Century Schoolbook, 13-point font, double-spaced, with one-inch top, bottom, left, and right margins in conformance with LR 5.1(c), NDGa.

/s/ Jason T. Mayer

CERTIFICATE OF SERVICE

I hereby certify that, on June 26, 2026, I filed a copy of the foregoing document with the Court's e-filing system, which will send electronic notification of the filing to all counsel of record.

/s/ Jason T. Mayer