

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

COMMUNITY INSURANCE COMPANY d/b/a  
ANTHEM BLUE CROSS AND BLUE SHIELD,

Plaintiff,

v.

HALOMD, LLC et al.,

Defendants.

1:25-cv-00388-MWM

**PLAINTIFF’S RESPONSE TO  
DEFENDANTS’ FOURTH NOTICE OF SUPPLEMENTAL AUTHORITY<sup>1</sup>**

*Blue Cross Blue Shield of Tex. v. HaloMD, LLC*, No. 5:25-cv-00132-RWS (E.D. Tex. May 22, 2026) (“*HaloMD TX*”) follows two erroneous district court opinions (*see* ECF Nos. 53-1, 57-1) to opine that “inherent in the NSA’s bar of judicial review of payment determinations is a limitation on the review of eligibility decisions.” *Id.* at 7 This is wrong for at least two reasons.

First, the NSA only limits judicial review of “[a] determination of a certified IDR entity under subparagraph (A)[.]” 42 U.S.C. § 300gg-111(c)(5)(E)(i)(II). In subparagraph (A), the NSA states that an IDRE will be selected to make a payment determination. *Id.* § 300gg-111(c)(5)(A). And per the NSA, IDREs are only compensated for making a payment determination. *Id.* § 300gg-111(c)(5)(F). Nothing in the NSA suggests that Congress intended for eligibility decisions to be “inherent” in “[a] determination of a certified IDR entity under subparagraph (A).”

The Departments’ regulations prove this point. Per the regulations, IDREs must confirm eligibility. 45 C.F.R. § 149.510(c)(1)(v). But the Departments could have, for example, decided to confirm eligibility themselves. If they had, eligibility decisions obviously would not be “[a]

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<sup>1</sup> Capitalized terms have the same meaning provided in Anthem’s Memorandum of Law in Opposition to Defendants’ Motions to Dismiss (“Opp.” at ECF No. 47).

determination of a certified IDR entity under subparagraph (A).” The Departments’ regulations cannot alter Congress’s intentions with the Judicial Review Provision. And the regulations only limit judicial review of payment determinations, not eligibility decisions. Opp. at 22-23.

Second, *HaloMD TX* compounds its error by failing to apply the standard of review dictated by the Supreme Court. Courts must presume Congress intended to preserve judicial review absent clear and convincing statutory text to the contrary. Opp. at 21-23. The inquiry is not whether Congress “intend[ed] to *impliedly provide* an avenue for challenging eligibility decisions while expressly foreclosing judicial review of . . . payment determinations.” *HaloMD TX* at 7-8 (emphasis added). The inquiry is whether Congress clearly and convincingly intended to *bar* any judicial review of a racketeering scheme involving thousands of fraudulent eligibility attestations in violation of RICO and other laws. It did not. Opp. at 21-23; *see* ECF Nos. 53-1, 57-1.

Finally, *HaloMD TX*’s conclusion “Plaintiff’s claims are an impermissible collateral attack on the IDR awards” (*HaloMD TX* at 8-9) is wrong for at least three reasons. First, the collateral attack doctrine prevents parties from circumventing the exclusive remedy for challenging a dispute resolution determination, such as an arbitration award subject to the FAA’s procedures. Opp. at 26-28. The NSA contains no exclusive procedures or remedies regarding IDR payment determinations or otherwise, so the doctrine does not apply. Opp. at 24-28. Second, the IDR payments determinations at issue in this case are not “binding” because they involve “a fraudulent claim or evidence of misrepresentation of facts presented to the IDR entity involved regarding such claim.” 42 U.S.C. § 300gg-111(c)(5)(E)(i). No authority suggests the collateral attack doctrine can apply to non-binding dispute determinations. Third, the court acknowledged that requests for prospective injunctive relief does not implicate the collateral attack doctrine. *HaloMD TX* at 13. Unlike the *HaloMD TX* plaintiff, here, Anthem may seek injunctive relief through ERISA. AC at ¶¶ 291-98.

Dated: May 26, 2026

Respectfully Submitted,

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