

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELEVANCE HEALTH, INC., et al.

Plaintiffs,

v.

XAVIER BECERRA,
Secretary of Health and Human Services, et
al.,

Defendants.

Civil Action No. 23-3902 (RDM)

NOTICE OF FILING CERTIFIED LIST OF THE CONTENTS OF THE RECORD

Pursuant to Local Civil Rule 7(n)(1), Defendants hereby submit the certified list of the contents of the rulemaking record in this action. The certified index is attached hereto.

Dated: March 29, 2024

Respectfully submitted,

MATTHEW M. GRAVES, D.C. Bar #481052
United States Attorney

BRIAN P. HUDAK
Chief, Civil Division

By: /s/ Douglas C. Dreier

DOUGLAS C. DREIER
D.C. Bar #1020234
Assistant United States Attorney
601 D Street, NW
Washington, DC 20530
(202) 252-2551

Attorneys for the United States of America

OF COUNSEL:

SCOTT SASJACK

Attorney

U.S. Dept. of Health and Human Services

330 Independence Ave., S.W.

Washington, D.C. 20201

(202) 619-0435

scott.sasjack@hhs.gov

ALEXANDER R. WHITE

Attorney

U.S. Dept. of Health and Human Services

330 Independence Ave., S.W.

Washington, D.C. 20201

(202) 619-0182

alexander.white@hhs.gov

SAMUEL R. BAGENSTOS

General Counsel

JANICE L. HOFFMAN

Associate General Counsel

SUSAN MAXSON LYONS

Deputy Associate General Counsel for Litigation

U.S. Dept. of Health and Human Services

**IN THE UNITED STATES DISTRICT COURT
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Plaintiffs,

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XAVIER BECERRA,
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CERTIFICATION OF THE ADMINISTRATIVE RULEMAKING RECORD

I, Martique Jones, Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services (“CMS”), United States Department of Health and Human Services, certify that, to the best of my knowledge, the materials listed in the accompanying index comprise the administrative rulemaking record for the above-captioned case, which concerns the application of Tukey outlier deletion in the 2024 Star Ratings and the rerunning of the prior year’s cut points (from the 2023 Star Ratings) with Tukey outlier deletion for purposes of calculating the guardrails in the 2024 Star Ratings. *See* 85 Fed. Reg. 33,796, 33,830-36 (June 2, 2020).

Executed this 29th day of March 2024, in Baltimore, Maryland.

Martique S. Jones -S Digitally signed by Martique S. Jones -S
Date: 2024.03.29 09:32:09 -0400

Martique Jones
Director
Regulations Development Group
Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services
United States Department of Health and Human Services

INDEX TO THE RULEMAKING RECORD FOR
Elevance Health, Inc. v. Becerra, No. 23-3902 (D.D.C.)
SCAN Health Plan v. Dept. of Health and Human Services, No. 23-3910 (D.D.C.)

I. Federal Register Documents and Public Comments

A. The Tukey Outlier Deletion Final Rule

1. Medicare and Medicaid Programs; Contract Year 2021 and 2022 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicaid Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly, 85 Fed. Reg. 9,002 (Feb. 18, 2020) (Proposed rule)
Bates: 000001
2. Public Comments
Bates: 000260
3. Medicare Program; Contract Year 2021 and 2022 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan, 85 Fed. Reg. 33,796 (June 2, 2020) (Final Rule)
Bates: 001025

B. The Technical Amendment

1. Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, 87 Fed. Reg. 79,452 (Dec. 27, 2022) (Proposed rule)
Bates: 001141
2. Public Comments
Bates: 001737
3. Medicare and Medicaid Programs; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly, 88 Fed. Reg. 22,120 (Apr. 12, 2023) (Final Rule)
Bates: 002479

II. CMS December 19, 2022 Simulations and Memorandum Bates: 002705

III. Documents from RAND MA and Part D Contract Star Ratings Technical Expert Panel, May 31, 2018 Meeting Bates: 002716