

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED

May 9, 2025

KAREN MITCHELL
CLERK, U.S. DISTRICT
COURT

ELEVANCE HEALTH, INC.; COMMUNITY
INSURANCE COMPANY; FREEDOM
HEALTH, INC.; GROUP RETIREE HEALTH
SOLUTIONS, INC.; WELLPOINT
INSURANCE COMPANY; and WELLPOINT
TEXAS, INC.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of Health and Human
Services; and DR. MEHMET OZ, in his
official capacity as Administrator of the
Centers for Medicare & Medicaid Services,

Defendants.¹

Civil Action No. 4:24-cv-01064-P

DEFENDANTS' SUPPLEMENTAL APPENDIX
IN SUPPORT OF THEIR SUMMARY-JUDGMENT REPLY

<u>Exhibit</u>	<u>Page Numbers</u>
A. Supplemental Declaration of Elizabeth Goldstein	1 — 2
1. Dr. Elizabeth Goldstein's curriculum vitae	3 — 10

¹ Xavier Becerra has been substituted with Robert F. Kennedy, Jr. as Secretary of the United States Department of Health and Human Services, and Chiquita Brooks-LaSure has been substituted with Dr. Mehmet Oz as Administrator of the Centers for Medicare & Medicaid Services, pursuant to Federal Rule of Civil Procedure 25(d).

Respectfully submitted,

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Certificate of Service

On _____, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Andrea Hyatt
Andrea Hyatt
Assistant United States Attorney

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Civil Action No. 4:24-cv-01064-P

SUPPLEMENTAL DECLARATION OF ELIZABETH GOLDSTEIN

I, Elizabeth Goldstein, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Director, Division of Consumer Assessment and Plan Performance, Medicare Drug Benefit and C & D Data Group, Center for Medicare, Centers for Medicare & Medicaid Services (“CMS”), United States Department of Health and Human Services. I have held this position since October 2000. In my role, I oversee and administer the calculation of Star Ratings for Medicare Advantage and Medicare Part D Plans. Attached as Exhibit 1 is a true and correct copy of my CV. The statements made in this declaration are based on my personal

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knowledge, information contained in agency files, and information furnished to me in the course of my official duties.

2. The set of contracts subject to mean resampling differs from year to year. As an example, the table below shows that, for the Breast Cancer Screening measure, the set of contracts changes from year to year over the last five years. The table shows the number of contracts that were the same as the prior year, the number of new contracts compared to the prior year, and the number of contracts that no longer existed compared to the prior year. Any of these changes that always happen from year to year cause the same seed to be random from year to year.

	2025	2024	2023	2022	2021
# Contracts the Same as the Previous Year	478	475	464	388	388
# New Contracts Compared to Prior Year	63	46	42	87	5
# of Contracts No Longer Existing Compared to Prior Year	43	31	11	5	12

3. In considering case-mix adjusting CAHPS measures for 2025, CMS considered the following study: Cynthia Rae Bland et al., *Challenges Facing CAHPS Surveys and Opportunities for Modernization* (RTI Press 2022). This study was inadvertently excluded from the previously produced administrative record for this matter. These documents, along with the documents previously designated as the administrative record, *see* ECF No. 23, constitute the complete administrative record for this matter.

In accordance with 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21st day of April, 2025, in Baltimore, Maryland.

Elizabeth H.
Goldstein -S

Digitally signed by Elizabeth H.
Goldstein -S
Date: 2025.04.21 08:13:46 -04'00'

Elizabeth Goldstein

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SUMMARY

Over 30 years of experience in survey research, quality measurement, long-term care research, and public policy. Expertise in federal health policy, value-based purchasing programs, design and implementation of national, large-scale patient experience of care surveys in a variety of settings, development of quality measurement programs in multiple healthcare settings, including Medicare Advantage, and evaluation of large-scale health programs. Extensive experience with the design and implementation of research strategies to ensure the accuracy and validity of data collection and analysis. Demonstrated success in improving quality of care and focus on improving patient experiences for Medicare beneficiaries and other vulnerable groups.

ACADEMIC BACKGROUND

Ph.D. in Economics

University of Wisconsin

Concentration in Health Economics, Public Policy, and Econometrics

May 1993

Madison, WI

Master of Science in Economics

University of Wisconsin

May 1990

Madison, WI

Bachelor of Arts in Economics and French

Wellesley College

May 1988

Wellesley, MA

Goldstein Supp.
Decl.
Exhibit 1

RESEARCH EXPERIENCE

Centers for Medicare & Medicaid Services (CMS), Woodlawn, MD

Director, Division of Consumer Assessment and Plan Performance, Center for Medicare
October 2000 – present

*Manages a team of 15 or more researchers in the **implementation of patient experience of care and patient-outcome surveys and the calculation of the Medicare Advantage and Part D Star Ratings.***

- Oversees the national implementation of CAHPS (Consumer Assessment of Healthcare Providers and Systems) Surveys
 - Manages the development of patient experience of care and CAHPS surveys.
 - Directs the following surveys since their inception: Medicare Advantage and Prescription Drug Plan CAHPS surveys, Hospital CAHPS, Home Health CAHPS, Hospice CAHPS, In-Center Hemodialysis CAHPS, and Outpatient and Ambulatory Surgery CAHPS.
 - Develops and oversees all survey administration protocols and measure calculations used in CMS public reporting and value-based purchasing programs.
- Leads the Medicare Advantage (Part C) Star Ratings program, the calculation of the Part C and D Star Ratings, and the calculation of ratings for Medicare Advantage Quality Bonus Payments (QBPs)
 - Launched the first calculations for the Part C and D Star Ratings and QBPs at program inception, and continues to direct all calculations for these programs.
 - Since 2008, leads updates to the Part C and D Star Ratings methodology.
 - Reviews all key communications pertaining to Part C and D Star Ratings, QBPs, and related survey efforts, supporting the team answering technical questions, drawing on over three decades of experience.
- Directs the administration of all other division data collection efforts, including
 - Medicare HEDIS (Healthcare Effectiveness Data and Information Set) data collection
 - Health Outcomes Survey (HOS) implementation
 - Part C and D Disenrollment Reasons Survey
- Oversees Part D enrollment analyses for the Agency, and consumer testing for CMS quality tools.

- Supports a team of more than fifteen researchers overseeing large-scale survey efforts, measuring quality and performance for Medicare health plans, and conducting ad-hoc CMS analysis work.
- Prior to 2005, led the social marketing and consumer research activities for the Agency ensuring communication materials were written for the target audience.

Social Science Research Analyst, Health Care Financing Administration, Center for Beneficiary Choices

December 1997 – October 2000

Developed and implemented the Consumer Assessment of Health Plans Survey and led the evaluation on the National Medicare Education Program.

Social Science Research Analyst, Health Care Financing Administration, Office of Research and Demonstrations

July 1993 – December 1997

Led research studies in addition to the design and evaluation of demonstration projects related to long-term care, home health care for the Medicare population, and integrated systems of acute and long-term care such as the Program of All-inclusive Care for the Elderly, as well as developed risk-based payment models for programs such as the Social Health Maintenance Organizations, outcome-based quality assurance systems for Medicare home health agencies, and prospective payment for home health care.

Research Analyst, Center for Health Policy and Program Evaluation

August 1992 – June 1993, August 1990 - June 1991

Collaborated with D. Paul Moberg, Associate Director of the Center for Health Policy and Program Evaluation, on an economic evaluation through benefit-cost analyses of alcohol and other drug abuse treatment programs in Wisconsin.

National Institute of Mental Health, Bethesda, MD

Health Economics Trainee

August 1988 – June 1990

Worked with Burton A. Weisbrod, Director of the Center for Health Economics and Law, on research on nonprofit organizations, volunteers, and health-related topics.

Wellesley Center for Research on Women, Wellesley, MA

Researcher

May 1987 – May 1988

Worked with Ann Witte, Professor of Economics at Wellesley College, on a study of the affordability of day care in Massachusetts.

TEACHING EXPERIENCE

University of Wisconsin-Madison, Madison, WI

Teaching Assistantship

June-August 1992

Intermediate Microeconomic Theory, Department of Economics, University of Wisconsin-Madison.

PUBLICATIONS

Evaluation of Proposed New Measures for the Hospital CAHPS Survey.

M.N. Elliott, M.K. Beckett, K. Hambarsoomian, W.G. Lehrman, L.A. Giordano, E. Goldstein, and J. Brown. Medical Care. 2025.

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Survey Protocols, Response Rates, and Representation of Underserved Patients: A Randomized Clinical Trial.

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Interventions and Hospital Characteristics Associated with Patient Experience: An Update of the Evidence.

M.K. Beckett, D.D. Quigley, W.G. Lehrman, L.A. Giordano, E.H. Goldstein, C.W. Cohea and M.N. Elliott. Medical Care Research and Review. 2024.

Do Hospital Characteristics Predict Racial-and-Ethnic Disparities in Patient Experience?

M.K. Beckett, M.N. Elliott, K. Hambarsoomian, L. Tamayo, W.G. Lehrman, D. Agniel, M. Khau, E. Goldstein, L.A. Giordano, J.H. Ng, and S.C. Martino. Medical Care. 62 (1): 37-43. 2024.

Changes in Patient Experiences of Hospital Care During the COVID-19 Pandemic.

M.N. Elliott, M.K. Beckett, C.W. Cohea, W.G. Lehrman, P.D. Cleary, L.A. Giordano, C. Russ, E.H. Goldstein and L.A. Fleisher. JAMA Health Forum. 4 (8). 2023.

The Hospital Care Experiences of Older Patients Compared to Younger Patients.

M.N. Elliott, M.K. Beckett, C. Cohea, W.G. Lehrman, C. Russ, P.D. Cleary, L.A. Giordano, E. Goldstein, and D. Saliba. Journal of the American Geriatrics Society. 2022.

Inpatient Care Experiences Differ by Preferred Language within Racial/Ethnic Groups.

D.D. Quigley, M.N. Elliott, K. Hambarsoomian, S.M. Wilson-Frederick, W.G. Lehrman, D. Agniel, J.H. Ng, E.H. Goldstein, L.A. Giordano, and S.C. Martino. Health Services Research, 54 (S1): 263-274. 2019.

Medicare Advantage and Fee-for-Service Performance on Clinical Quality and Patient Experience Measures: Comparisons from three Large States.

J. Timble, C. Damberg, M. Elliott, S. Gailliot, E. Goldstein, S. Paddock, A. Bogart, and A. Hass. Health Services Research, 52(6): 2038-2060. December 2017.

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S Martino, R. Weinick, D. Kanouse, J. Brown, A. Haviland, E. Goldstein, J. Adams, K. Hambarsoomian, D. Klein, and M. Elliott. Health Services Research. 48 (2 Pt 1): 417-434. August 2012.

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M.N. Elliott, W.G. Lehrman, E.H. Goldstein, L.A. Giordano, MK. Beckett, C.W. Cohea and P.D. Cleary. Health Affairs. 29 (11): 2061-2067, 2010.

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L.A. Giordano, M.N. Elliott, E. Goldstein, W.G. Lehrman and P.A. Spencer. Medical Care Research and Review. 67: 27-37. 2010.

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W.G. Lehrman, M.N. Elliott, E. Goldstein, M.K. Beckett, D.J. Klein and L.A. Giordano. Medical Care Research and Review. 67: 38-55. 2010.

Do Hospitals Rank Differently on HCAHPS for Different Patient Subgroups?

M.N. Elliott, W.G. Lehrman, E. Goldstein, K. Hambarsoomian, M.K. Beckett and LA. Giordano. Medical Care Research and Review. 67: 56-73. 2010.

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E. Goldstein, M.N. Elliott, W.G. Lehrman, K. Hambarsoomian and L.A. Giordano. Medical Care Research and Review. 67: 74-92. 2010.

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M.N. Elliott, A.M. Zaslavsky, E. Goldstein, W. Lehrman, K. Hambarsoomian, M.K. Beckett and L. Giordano. Health Services Research. 44: 501-518. 2009.

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Nancy A. Miller, Sarah Ramsland, Elizabeth Goldstein and Charlene Harrington, Medical Care Research and Review. Vol. 58, No. 1, March 2001.

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Recidivism to the Criminal Justice System of Substance-Abusing Offenders Diverted into Treatments.

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Tax Policy Toward Nonprofit Organizations: An Eleven Country Survey.

B.A. Weisbrod and Elizabeth Mauser (Goldstein). *Voluntas*, Vol. 2, May 1991.