

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

HUMANA INC., and AMERICANS FOR
BENEFICIARY CHOICE,

Plaintiffs,

v.

Civil Action No. 4:24-cv-01004-O

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES; CENTERS FOR
MEDICARE & MEDICAID SERVICES;
XAVIER BECERRA, in his official capac-
ity as Secretary of Health and Human Ser-
vices; and CHIQUITA BROOKS-
LASURE, in her official capacity as Ad-
ministrator of the Centers for Medicare and
Medicaid Services,

Defendants.

JOINT MOTION TO AMEND BRIEFING SCHEDULE

Pursuant to the Court's December 12, 2024 Order, ECF No. 29, the parties jointly move the Court for an order amending the current briefing schedule, Order, ECF No. 18.

The parties propose the briefing schedule be amended as follows:

- **January 10, 2025:** Defendants file an amended administrative record and certified index. The amended record will contain all the materials currently part of the administrative record, ECF No. 19, as well as the following three additional categories of materials:
 - (1) the materials the Centers for Medicare & Medicaid Services provided on December 4, 2024 in response to Plaintiffs' counsel's September 25, 2024 Freedom of Information Act request (as redacted);
 - (2) de-identified contract-level data that the Centers for Medicare & Medicaid Services used to calculate the cut points for each of the 2025 Star Ratings measures; and

- (3) a line-item entry (or entries) for the data Plaintiff Humana submitted to the Centers for Medicare & Medicaid Services for consideration as part of the 2025 Star Ratings Program. If Plaintiffs choose to include this data as part of the proceedings in this case, they agree to redact the data in compliance with applicable federal privacy laws, such as the Health Insurance Portability and Accountability Act.

Before filing the amended administrative record, Defendants will provide Plaintiffs' counsel a draft of the proposed certified index, provide Plaintiffs a reasonable opportunity to provide input, and collaborate with Plaintiffs' counsel in good faith to ensure the materials in the amended administrative record are consistent with the parties' agreement about the contents of the amended administrative record.

The parties agree that the administrative record will not contain CMS CAHPS survey data.

The parties have jointly stipulated to the contents of the administrative record in this case to accommodate time constraints and other practical considerations. By filing this motion, neither Plaintiffs nor Defendants concede that the administrative record consists of all data and materials that otherwise might be required under the Administrative Procedure Act.

- **January 21, 2025:** Plaintiffs file a motion for summary judgment
- **February 7, 2025:** Defendants file a combined opposition and cross-motion
- **February 19, 2025:** Plaintiffs file a combined reply and opposition
- **February 28, 2025:** Defendants file a reply

The parties propose this amended briefing schedule in the view that it will allow the Court time to render a decision by **April 7, 2025**. Should the Court wish to schedule a hearing on the motion, counsel are available during the month of March 2025, with the exception of March 10-14, 2025.

The parties further agree that, as part of this briefing schedule, Plaintiffs will not file further amendments to their complaint, Plaintiffs waive the requirement that Defendants file an answer to the complaint, and the parties agree that Defendants may raise

threshold objections to the complaint, such as objections to venue, in their opposition/cross motion.

A proposed scheduling order is submitted to the Court contemporaneous with this motion.

Dated: December 16, 2024

Respectfully submitted,

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Certificate of Service

On December 16, 2024, 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