

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

HUMANA INC. *and* AMERICANS FOR
BENEFICIARY CHOICE,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

Case No. 24-cv-01004-O

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.3, Plaintiffs Humana Inc. and Americans for Beneficiary Choice move for an order granting summary judgment in their favor on Counts II through V of the Amended Complaint, Dkt. 21.¹ Plaintiffs seek an order declaring unlawful and vacating Humana's 2025 Star Ratings for all contracts adversely impacted by the Centers for Medicare & Medicaid Service's unlawful inclusion of three test calls—call IDs D0900533, D1100955, and C0701002—in its 2025 Accuracy & Accessibility study. Plaintiffs respectfully request that the Court grant summary judgment in their favor, set aside Humana's 2025 Star Ratings for all contracts adversely impacted by calls D0900533, D1100955, and C0701002, and remand the matter to the agency for recalculation of Humana's 2025 Star Ratings and quality bonus payments.

¹ Following review of the amended administrative record, plaintiffs have elected not to seek summary judgment on Count I of the Amended Complaint, which alleged CMS committed errors in its technical calculation of the 2025 cut points.

The Court should further declare that the policies challenged in this case, including the delegation of regulatory power to a private third party, are unlawful.²

Dated: January 21, 2025

Respectfully submitted,

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² Consistent with Local Rule 56.3(b), the matters required by Local Rule 56.3(a) are set forth in the accompanying brief in support of Plaintiffs' motion.