

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SCAN HEALTH PLAN,

Plaintiff,

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, et al.,

Defendants.

Civ. A. No. 23-3910 (CJN)

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 administrative record and rulemaking record in this action. The certified indices of the records are 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
FOR THE DISTRICT OF COLUMBIA**

SCAN HEALTH PLAN,

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DEPARTMENT OF HEALTH AND HUMAN
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Civ. A. No. 23-3910 (CJN)

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 09:36:00 -04'00'

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

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SCAN HEALTH PLAN,

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Civ. A. No. 23-3910 (CJN)

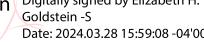
XAVIER BECERRA, Secretary of
Health and Human Services, *et al.*,

Defendants.

CERTIFICATION

I, Elizabeth Goldstein, 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, certify that, to the best of my knowledge, the materials listed in the accompanying index comprise true and correct copies of the materials considered by CMS in rendering its decision in the matter of SCAN Health Plan’s appeal of its 2025 Quality Bonus Payment Status determination for Contract H5425.

Executed this 28th day of March, 2024, in Baltimore, MD.

Elizabeth H. Goldstein 
-S Digitally signed by Elizabeth H.
Goldstein -S
Date: 2024.03.28 15:59:08 -04'00'

Elizabeth Goldstein
Director
Division of Consumer Assessment and Plan Performance
Medicare Drug Benefit and C & D Data Group
Centers for Medicare & Medicaid Services
United States Department of Health and Human Services

Adjudication Record – SCAN Health Plan v. Becerra, et al.Index

	Bates Range
Hearing Officer's Decision	SCAN-AR00001-00007
CMS's Submission to the Hearing Officer	SCAN-AR00008-00411
SCAN's Submission to the Hearing Officer	SCAN-AR00422-00444
Reconsideration Official's Decision	SCAN-AR00445-00723
CMS's Submission to the Reconsideration Official	SCAN-AR00724-00998
SCAN's Reconsideration Request	SCAN-AR00999-01003
Emails to Call Center Mailbox	SCAN-AR01004-01033
Emails from Call Center Monitoring Contractor	SCAN-AR01034-01047