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File Number:

April 14, 2026

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**VIA ELECTRONIC DELIVERY AND COURT FILING**

The Honorable Katharine H. Parker  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 750  
New York, New York 10007

**Re: United States of America v. Anthem, Inc., 1:20-cv-02593-ALC-KHP**

Dear Judge Parker:

We represent Defendant Anthem, Inc. (“Anthem”) in the above-referenced action. We write concerning Anthem’s targeted request for discovery about audits of medical records conducted by the Centers for Medicare and Medicaid Services (“CMS”) and the Office of Inspector General for the U.S. Department of Health and Human Services (“HHS-OIG”). Specifically, Anthem asks the Court for leave to serve a single Request for Production (“RFP”) that accompanies four interrogatories that Anthem served on April 3, 2026. *See* Declaration of William T. Buffalo Ex. 1 (as-served interrogatories); Ex. 2 (draft RFP).

**I. Anthem is Entitled to Discovery Concerning CMS and HHS-OIG Audits of Medical Records That Were Also Reviewed by Anthem’s Vendor as Part of its Corporate Retrospective Chart Review Program.**

In response to the Court’s February 18, 2026 Order granting Plaintiff medical record discovery (Dkt. 441), Anthem provided Plaintiff with drafts of four interrogatories and one RFP seeking information about a discrete set of medical records that were both reviewed by Anthem’s vendor as part of Anthem’s chart review program and audited by CMS or HHS-OIG. CMS and HHS-OIG audited these records in the normal course of business to validate health conditions by determining whether certain risk-adjusting diagnosis codes were documented in those records in a manner that complied with applicable diagnosis coding and documentation standards.

Anthem’s four interrogatories ask Plaintiff to identify the health conditions that were either validated or not validated during these CMS and HHS-OIG audits, and where the audits validated the health conditions, the specific diagnosis codes documented in the medical records that validated the health conditions. The associated RFP simply seeks the documents, including any underlying medical records, that reflect Plaintiff’s responses to the interrogatories. These documents will show how CMS or HHS-OIG interpreted and applied diagnosis coding and documentation standards to the audited medical records in order to validate the health conditions. The parties have met and conferred on two occasions regarding this discovery, but Plaintiff has



categorically refused to produce any responsive information, despite Anthem's offers to engage in negotiations regarding the scope of these requests.

## **II. The Requested Discovery is Relevant to Plaintiff's Interpretation and Application of Applicable Diagnosis Coding and Documentation Standards to Medical Records, which is Now the Focus of Plaintiff's Proof of Falsity.**

As the Court knows, Plaintiff now intends to prove falsity under the False Claims Act ("FCA") by reviewing a sample of provider medical records and arguing that, based upon its interpretation of applicable diagnosis coding and documentation standards, the medical records do not document the at-issue diagnosis codes. As Anthem has already explained, the very nature of this undertaking will involve a series of technical and subjective judgment calls about how to apply vague diagnosis coding and documentation standards to dense and opaque medical records; this exercise will inevitably lead to a series of record-by-record disputes where Plaintiff will present a particular interpretation while Anthem offers an opposing view. *See* 3/17/2026 Tr. 26:9-35:1.

Discovery into how CMS and HHS-OIG conducted this same analysis during their respective medical record audits, wherein they (i) reviewed medical records for Anthem beneficiaries that were also reviewed as part of Anthem's chart review program and (ii) made determinations as to whether particular diagnosis codes were documented in those medical records, is probative to the determination of falsity under Plaintiff's new method of proof. *See* Buffalo Decl. ¶¶ 17-18. In some cases, the very same diagnosis codes that Plaintiff now alleges are false, were actually documented in the medical records that CMS or HHS-OIG audited to validate the associated health conditions for Anthem beneficiaries. *Id.* ¶ 18. Notably, even Plaintiff considers these audits relevant to this dispute. In its disclosures pursuant to Federal Rule of Civil Procedure 26, Plaintiff identified "[d]ocuments related to risk adjustment data validation audits of Defendant's MAOs performed by CMS and HHS-OIG" as evidence upon which it may rely to support its claims for relief. *See* Buffalo Decl. Ex. 3 (Pl.'s Supplemental and Amended Rule 26(a) Disclosures) at 5.

Plaintiff nonetheless argues that Anthem's discovery requests seek irrelevant information because Plaintiff purportedly removed any diagnosis codes that were reviewed during these audits from its current list of at-issue codes. This argument fails for several reasons.

First, Plaintiff is simply wrong; Anthem has verified that Plaintiff has *not* removed all such diagnosis codes from its list of allegedly false codes. Buffalo Decl. ¶ 17-18. Second, Plaintiff intends to rely on these audits to support its claims for relief against Anthem. Plaintiff cannot, on the one hand, rely on these audits to support its allegations against Anthem while, on the other hand, argue that Anthem is not entitled to discover information about these audits.

Third, the probative value of this discovery extends beyond the specific diagnosis codes that Plaintiff contends are false. It also lies in understanding how, why, and in what manner CMS and HHS-OIG interpreted and applied diagnosis coding and documentation standards to provider medical records *outside* of the litigation context. Anthem is entitled to show, for example, that: (i) Plaintiff—motivated by a desire to validate its sample and theory of the case—applied different interpretations of applicable coding and medical record documentation standards than CMS and HHS-OIG did in the ordinary course of the MA program; (ii) CMS and HHS-OIG validated



Anthem-submitted codes at higher rates than Plaintiff does in this litigation; and (iii) specific medical records are treated differently than similarly situated records in these agency audits.

Other courts have recognized that evidence about these CMS and HHS-OIG audits are not only relevant to the theory of FCA liability asserted in this case but are highly material to the core legal issues in dispute. The Special Master's March 3, 2025 Report and Recommendation in *US ex rel. Poehling v. UnitedHealth Group*, 16-cv-8697 (C.D. Cal.) ("*Poehling*") cited CMS's audit results as critical evidence supporting the recommendation to grant UnitedHealth Group's motion for summary judgment because it undermined the government's theory of falsity. *See* Report & Recommendation, *Poehling*, 16-cv-8697 ECF No. 631 (Mar. 3, 2025) at 29-30. Such evidence is even more relevant here, where Plaintiff's new method for proving falsity under the FCA is predicated on the very same kind of medical record review that CMS and HHS-OIG performed in these agency audits.

### **III. Anthem Cannot Obtain This Discovery by Other Means.**

The information that Anthem seeks is not contained in the documents that Plaintiff produced from the *Poehling* litigation. Neither CMS nor HHS-OIG has shared detailed information with Medicare Advantage Organizations ("MAOs") about the exact diagnosis coding and medical record documentation standards used in their respective audits during the full timeframe at issue here, nor have they provided any information about how those standards were applied in practice. MAOs, like Anthem, were only provided with the audit results themselves, which did not reveal the diagnosis coding and documentation standards applied during the audits or how those standards were interpreted during the audits for specific health conditions and medical records. The results simply show whether a health condition, not a diagnosis code, was validated.

The requested discovery is also proportional because it is limited to only those medical records that were both reviewed as part of Anthem's chart review program and audited by CMS or HHS-OIG. And Anthem has not requested all records relating to those audits, only those records that reflect Plaintiff's responses to the four targeted interrogatories. This information would not be burdensome for Plaintiff to produce. Plaintiff is aware of the existence of this information and has determined that it may rely upon it to support its claims for relief against Anthem. Moreover, Plaintiff's description of its attempts to remove audited diagnosis codes from its list of allegedly false codes demonstrates that it can readily identify the specific diagnosis codes and associated documentation about which Anthem seeks discovery.

Anthem therefore has good cause to seek discovery concerning these CMS and HHS-OIG audits. Until Plaintiff decided to rely on medical records to prove falsity rather than a mismatch between chart review data and diagnosis data that Anthem submitted to CMS, Anthem had no need to take detailed discovery of diagnosis coding and medical record documentation standards. But once the Court permitted Plaintiff to pursue medical record discovery, those standards became central to the ultimate resolution of this case. While Anthem is willing to meet and confer with Plaintiff about the scope of the requested discovery, Anthem cannot adequately present its defenses without discovery regarding these medical record audits. Anthem therefore respectfully requests that the Court grant it leave to serve its single RFP that accompanies the interrogatories that Anthem already served regarding these audits.



Dated: April 14, 2026

Respectfully submitted,

By: /s/ James A. Bowman

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No. 1:20-cv-02593-ALC-KHP

**DECLARATION OF WILLIAM  
T. BUFFALOE IN SUPPORT OF  
DEFENDANT ANTHEM, INC.'S  
POSITION STATEMENT  
CONCERNING GOVERNMENT  
AUDITS OF MEDICAL  
RECORDS FOR ANTHEM  
BENEFICIARIES**

I, William T. Buffaloe, declare and state as follows:

1. I am Counsel at O'Melveny & Myers LLP ("O'Melveny"), which is counsel for Defendant Anthem, Inc. ("Anthem") in the above-captioned matter. I am licensed to practice law in the District of Columbia and was admitted to practice *pro hac vice* in the above-captioned action on May 19, 2025.

2. I submit this declaration in support of Anthem's Position Statement Concerning Government Audits of Medical Records for Anthem Beneficiaries (the "Position Statement"). I have personal knowledge of the facts set forth herein and, if called to testify, could and would do so competently.

3. During the period from 2015 through 2021, the Centers for Medicare and Medicaid Services ("CMS") conducted Risk Adjustment Data Validation ("RADV") audits of medical records for Medicare Advantage ("MA") program beneficiaries enrolled in Anthem MA plans and the Office of Inspector General for the U.S. Department of Health and Human Services

(“HHS-OIG”) conducted a compliance audit of medical records for MA program beneficiaries enrolled in Anthem MA plans.

4. I am familiar with Anthem’s corporate retrospective chart review program (“Chart Review Program”), which is described in the Amended Complaint. During the period at issue, Anthem’s vendor collected medical records from healthcare providers in connection with Anthem’s Chart Review Program (“Chart Review Medical Records”). In the Amended Complaint, Plaintiff contends that Anthem failed to delete allegedly false diagnosis codes submitted to Anthem by healthcare providers which later Anthem passed along to CMS. Plaintiff alleges that Anthem had knowledge that the diagnosis codes were false because those codes were not documented in the Chart Review Medical Records that were collected and reviewed by Anthem’s vendor in connection with Anthem’s Chart Review Program.

5. I have reviewed the Court’s Order, dated July 24, 2024, stating that “[b]y December 30, 2024, the Plaintiff will provide Defendant with a list of allegedly false diagnosis codes or allegedly false claims for payment or overpayments.” (Dkt. 243). Plaintiff nevertheless sought and obtained a substantial extension of this deadline from the Court.

6. On May 5, 2025, Plaintiff delivered to Defendant via a secure physical data box its first list of allegedly false diagnosis codes or allegedly false claims for payment or overpayments as instructed by the Court’s July 24, 2024 Order (“First List”).

7. On August 13, 2025, Plaintiff delivered to Defendant via secure electronic file transfer a revised list of allegedly false diagnosis codes or allegedly false claims for payment or overpayments (“Second List”).

8. On December 11, 2025, Plaintiff delivered to Defendant via secure electronic file transfer a further revised list of allegedly false diagnosis codes or allegedly false claims for payment or overpayments (“Third List”).

9. Plaintiff’s First, Second, and Third Lists identify MA beneficiaries enrolled in Anthem MA plans for whom allegedly false diagnosis codes were submitted to CMS for dates of service (“DOS”) between January 1, 2012 and December 31, 2015 (the “Relevant DOS Period”).

10. On February 18, 2026, over Anthem’s objections, the Court granted Plaintiff leave to “seek[] to obtain a sample of medical records associated with the diagnosis codes it contends were falsely submitted.” (Dkt. 441).

11. Counsel for Anthem has compared the Chart Review Medical Records with the medical records for the Relevant DOS Period that were submitted by Anthem to CMS for the RADV audits and to HHS-OIG for the compliance audit that are referenced in Paragraph 3.

12. On March 20, 2026, in response to the Court’s February 18, 2026 Order, Anthem provided Plaintiff with four interrogatories that sought information from Plaintiff about the results of CMS RADV audits and the results of the HHS-OIG compliance audit of medical records for the Relevant DOS period that were also Chart Review Medical Records (“Interrogatories”). Anthem also provided Plaintiff with a single Request for Production (“RFP”) that sought the documents, including any underlying medical records, reflecting Plaintiff’s responses to the Interrogatories.

13. Attached as Exhibit 1 to this declaration is a true and correct copy of the Interrogatories that were formally served upon Plaintiff on April 3, 2026.<sup>1</sup>

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<sup>1</sup> “Exhibit A” and “Attachment A,” as referenced in the Definitions section of the Interrogatories, are not included in Exhibit 1 because Attachment A contains Protected Health Information. These documents can be made available upon request.

14. Attached as Exhibit 2 to this declaration is a true and correct copy of the single RFP for which Anthem is now seeking leave to serve upon Plaintiff. The RFP included in Exhibit 2 is identical to the single RFP described above in Paragraph 12.

15. Attached as Exhibit 3 to this declaration is a true and correct copy of Plaintiff's Supplemental and Amended Rule 26(a) Disclosures, dated March 13, 2026.

16. On March 25, 2026, counsel for Plaintiff met and conferred with counsel for Anthem regarding the Interrogatories and the RFP. During that conference, counsel for Plaintiff stated that Plaintiff had removed from its First, Second, and Third Lists all allegedly false diagnosis codes that were included in medical records that were submitted by Anthem to CMS for RADV audits or to HHS-OIG for the compliance audit.

17. Counsel for Anthem has evaluated and compared the information in Plaintiff's First, Second, and Third Lists and the results of the CMS RADV audits and the HHS-OIG compliance audit of medical records for Anthem beneficiaries for the Relevant DOS Period. Based upon this evaluation and comparison, Anthem's counsel has determined that certain allegedly false diagnosis codes included in Plaintiff's First, Second, and Third Lists are also included in the medical records that were submitted by Anthem to CMS for RADV audits and to HHS-OIG for the compliance audit.

18. As part of the aforementioned evaluation and comparison, Anthem's counsel also concluded that CMS or HHS-OIG validated in their respective medical record audits some of the allegedly false diagnosis codes included on Plaintiff's First, Second, and Third Lists.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on April 14, 2026 in Washington, District of Columbia

By: William T. Buffalo  
William T. Buffalo

# **Exhibit 1**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No.: 1:20-cv-02593-ALC-KHP

Assigned to Hon. Andrew L. Carter, Jr.

**DEFENDANT ANTHEM, INC.’S FIRST SET OF INTERROGATORIES TO PLAINTIFF  
UNITED STATES OF AMERICA**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Local Civil Rules 26.3, 26.4, and 33.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (“Local Civil Rules”), Defendant Anthem, Inc. (“Anthem”), by and through its undersigned attorneys, hereby requests that Plaintiff United States of America (“Plaintiff” or “You” / “Your”) respond in writing and under oath to the Interrogatories set forth below (collectively, “Interrogatories” and individually, “Interrogatory”) within 30 days of the service of these Interrogatories, to the offices of O’Melveny & Myers LLP, 1625 Eye Street, N.W., Washington, D.C. 20006-4061.

The following Definitions and Instructions shall govern the Interrogatories, as well as responses to the Interrogatories.

**DEFINITIONS**

The Interrogatories incorporate by reference the definitions and rules of construction set forth in Local Civil Rule 26.3.

The following terms as used in the Interrogatories have the definitions mandated by Local Civil Rule 26.3(c): “Communication,” “Concerning,” “Document,” “Identify” (as used with respect to “Person”), “Identify” (as used with respect to “Documents”), “Parties,” and “Person.” The Interrogatories shall be interpreted in compliance with the rules of construction set forth in Local Civil Rule 26.3(d), including with respect to use of the terms “all,” “any,” and “each” (which “shall be construed as encompassing any and all”), the use of the terms “and” and “or” (which “shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope”), and the use of the singular form of any word (which includes the plural and vice versa). The Interrogatories shall also be interpreted in compliance with Local Civil Rule 26.4(b): “Discovery requests shall be read reasonably in the recognition that the attorney serving them generally does not have the information being sought and the attorney receiving them generally does have such information or can obtain it from the client.”

The following terms shall have the meanings set forth below whenever used in any Interrogatory.

1. “**Action**” shall mean the above-captioned case, *United States of America v. Anthem, Inc.*, Case No. 1:20-cv-02593-ALC-KHP (S.D.N.Y.).
2. “**Amended Complaint**” shall mean the first amended complaint filed by Plaintiff on July 2, 2020 in this Action (Dkt. No. 26).
3. “**Anthem**” shall mean “Anthem, Inc.” as used in Paragraph 11 of the Amended Complaint.

4. **“Anthem’s Chart Review Program”** shall mean the retrospective chart review program conducted by Anthem’s Medicare Programs Revenue & Reconciliation business unit through its third-party Vendor, Verscend Technologies, Inc. (“Verscend”).<sup>1</sup>

5. **“Attachment A”** shall mean the attached list of Beneficiary and Date of Service Year combinations that Identifies the Beneficiaries whose Medical Records for the Identified Date of Service Year were collected by Verscend in connection with Anthem’s Chart Review Program and also submitted to CMS or HHS-OIG for a RADV Audit or the HHS-OIG Audit.

6. **“Associated”** shall mean connected with, related to, or linked.

7. **“Beneficiary”** shall mean a “beneficiary” or “beneficiaries” as those terms are used in Part C of Title XVIII of the Social Security Act, 42 U.S.C. § 1395w-21 et seq., as limited to “beneficiaries” enrolled in an Anthem, Inc. Medicare Advantage contract.

8. **“CMS”** shall mean “Centers for Medicare and Medicaid Services” as that term is defined in 45 C.F.R. § 160.103, its departments, components, agents, representatives, contractors, and all other Persons acting on its behalf.

9. **“Communication”** shall have the meaning set forth in Local Civil Rule 26.3(c), subject to any limitations imposed in the Protocol for Electronically Stored Information (“ESI Protocol”) that the Parties entered into in this Action (Dkt. No 99).

10. **“Concerning”** shall have the meaning set forth in Local Civil Rule 26.3(c).

11. **“Date of Service”** shall mean “date of service” or “dates of service” as used in Paragraph 39 of the Amended Complaint.

12. **“Date of Service Year”** or **“DOS year”** shall mean “date of service year” or “DOS year” as used in Paragraph 39 of the Amended Complaint.

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<sup>1</sup> Verscend currently does business as Cotiviti, Inc., and previously did business as Verisk Health, Inc. and MediConnect Global, Inc. (collectively referred to herein for consistency, as “Verscend”).

13. **“Diagnosis Codes”** shall mean “ICD diagnosis codes” as used in Paragraph 36 of the Amended Complaint and shall encompass all Diagnosis Codes listed in ICD-9 or ICD-10.

14. **“Document”** or **“Documents”** shall have the meaning set forth in Local Civil Rule 26.3(c), subject to any limitations imposed in the ESI Protocol.

15. **“Elevance Health”** shall mean “Elevance Health, Inc.” as used in the Notice of Intermediate Sanctions.

16. **“HHS”** shall mean the United States Department of Health and Human Services, as used in Paragraph 10 of the Amended Complaint, including its agencies, departments, agents, representatives, contractors, consultants, and all other Persons acting on its behalf.

17. **“HHS-OIG”** shall mean the Office of the Inspector General for HHS, its departments, components, agents, representatives, contractors, consultants, and all other Persons acting on its behalf.

18. **“HHS-OIG Audit”** shall mean the HHS-OIG audit described in the report entitled *Medicare Advantage Compliance Audit of Specific Diagnosis Codes That Anthem Community Insurance Company, Inc. (Contract H3655) Submitted to CMS*, which is dated May 2021 and covers Date of Service years 2014 through 2015 and has a report label of A-07-19-01187. (attached hereto as Exhibit A).

19. **“Hierarchical Condition Category”** or **“HCC”** means “Hierarchical Condition Category” or “HCC” as used in Paragraph 31 of the Amended Complaint.

20. **“ICD-9”** shall mean the *International Classification of Diseases, Ninth Revision, Clinical Modification*, Volumes 1 and 2, including the index and tabular list of Diagnosis Codes, for the period from October 16, 2002 through September 30, 2015, as referenced in 45 C.F.R. § 162.1002.

21. **“ICD-10”** shall mean the *International Classification of Diseases, Tenth Revision, Clinical Modification*, Including the index and tabular list of Diagnosis Codes, for the period on and after October 1, 2015, as referenced in 45 C.F.R. § 162.1002.

22. **“Identify”** or **“Identified”** shall mean to describe with particularity, Including, with respect to an HCC, the specific model version of the HCC, such as model version 12 or model version 22, and with respect to a Diagnosis Code, whether ICD-9 or ICD-10. When used Concerning Documents, these terms shall have the meaning set forth in Local Civil Rule 26.4.

23. **“Include(s)”** and **“Including”** shall mean “without limitation” and shall be construed as broadly as possible.

24. **“Mapped To”** shall mean “mapped to” as used in Paragraphs 154(a), 154(b), 154(c), 154(d), 154(e), 154(f), and 154(g) of the Amended Complaint.

25. **“Medical Record”** or **“Medical Records”** shall mean “medical records” or “medical record” as used in Paragraphs 92, 93, and 94 of the Amended Complaint.

26. **“Notice of Intermediate Sanctions”** shall mean the February 27, 2026 “Notice of Imposition of Intermediate Sanctions (Suspension of Enrollment and Communications) for Medicare Advantage-Prescription Drug Plan Contract Numbers: H0544, H0629, H0907, H1212, H1423, H1607, H1894, H1947, H2441, H2593, H2687, H2836, H3240, H3447, H3536, H3655, H4003, H4004, H4036, H4161, H4346, H4471, H4694, H4704, H4909, H5422, H5427, H5431, H5471, H5594, H5828, H5854, H6078, H6316, H6988, H7093, H7220, H7522, H8432, H8552, H8849, H9065, H9219, H9525, and R5941” sent to Elevance Health by CMS.

27. **“Parties”** shall have the meaning set forth in Local Civil Rule 26.3(c).

28. **“Person”** shall have the meaning set forth in Local Civil Rule 26.3(c).

29. **“Risk Adjustment Data Validation Audits”** or **“RADV Audits”** or **“RADV Audit”** shall mean “Risk Adjustment Data Validation audits” or “RADV Audits” or “RADV Audit” as used in Paragraphs 91, 93, 95, 96, 97, 138, 140, and Footnote 15 of the Amended Complaint.

30. **“Validated”** shall mean “validated” as used in Paragraph 92 of the Amended Complaint and page 7 of the HHS-OIG Audit report attached hereto as Exhibit A.

### **INSTRUCTIONS**

1. The use of a verb in any tense shall be construed as the use of the verb in all other tenses as necessary to bring within the scope of each Interrogatory all information that might otherwise be construed to be outside its scope.

2. For each Interrogatory response, You shall furnish all information that is available to You, including information in the possession, custody, or control of Your agents, employees, or representatives.

3. You shall answer each Interrogatory separately and fully in writing, under oath, setting forth the question in full followed by each answer.

4. If You cannot respond to the Interrogatories in full after exercising due diligence to obtain the information to do so, You must so state and respond to the Interrogatories as fully as possible.

5. If You assert any ambiguity in interpreting an Interrogatory, the definitions, or the instructions applicable thereto, then such assertion shall not be utilized by You as a basis for refusing to respond. Rather, You shall set forth in a part of Your response the language deemed to be ambiguous and the interpretation chosen or used in responding to the Interrogatory.

6. If You contend that any Interrogatory is objectionable in whole or in part, then You must state with particularity each objection, the basis for it, and the categories of information to which the objection applies, and respond to the Interrogatory insofar as it is not deemed objectionable.

7. If a privilege or immunity is asserted with respect to any Interrogatory, or You refuse to disclose any information requested herein on any other ground, then state the basis for Your assertion that such information need not be disclosed with such specificity as will permit the Court to determine the legal sufficiency of Your objection or position, and, for each such assertion of privilege or immunity, describe the basis for such assertions in a manner consistent with procedure(s) to be negotiated and agreed upon by the Parties and Local Civil Rule 26.2.

8. If You object to any portion of an Interrogatory on the ground of privilege or immunity, You must state the part to which the assertion of privilege or immunity applies and respond to the remainder of the Interrogatory.

9. All Interrogatory responses for which You choose to exercise the option to produce Documents or other writings pursuant to Rule 33(d) shall describe each responsive Document in sufficient detail to permit Anthem to locate and Identify it, such as by referring to specific control numbers, and You shall afford Anthem a reasonable opportunity to examine, audit, or inspect such Documents and to make copies, compilations, abstracts, or summaries of them.

10. Where an Interrogatory asks for a date, an amount, or any other specific information, if the precise date, amount, or other specific information is unknown to You, please approximate the information requested as precisely as You are reasonably capable of doing, and indicate that You have done so.

11. If You believe the meaning of any term in an Interrogatory is unclear, then You must assume a reasonable meaning, state what that assumed meaning is, and respond to the Interrogatory according to that assumed meaning, consistent with Local Civil Rule 26.4(b).

12. These Interrogatories are continuing in nature. You are under a duty to supplement Your responses to these Interrogatories pursuant to Rule 26(e)(1) with such additional information as You or any Persons acting on Your behalf may hereafter obtain that will augment, clarify, or otherwise modify the responses now given to these Interrogatories.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1**

Identify each HCC Validated and each HCC not Validated in a RADV Audit that Mapped To a Beneficiary-DOS Year listed in Attachment A.

### **INTERROGATORY NO. 2**

For each Validated HCC Identified in response to Interrogatory No. 1, Identify all Diagnosis Codes that Validated the HCC, Including all Associated Dates of Service and Medical Records.

### **INTERROGATORY NO. 3**

Identify each HCC Validated and each HCC not Validated in the HHS-OIG Audit that Mapped To a Beneficiary-DOS Year listed in Attachment A.

### **INTERROGATORY NO. 4**

For each HCC Identified in response to Interrogatory No. 3, Identify all Diagnosis Codes that Validated the HCC, Including all Associated Dates of Service and Medical Records.

### **INTERROGATORY NO. 5.**

Identify all Persons who participated in the decision to issue the Notice of Intermediate Sanctions against Elevance Health.

Dated: April 3, 2026  
Washington, D.C.

By: /s/ Anwar Graves

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

CASE NO. 1:20-cv-02593-ALC (KHP)

Assigned to Hon. Andrew L. Carter, Jr.

DISCOVERY MATTER

**CERTIFICATE OF SERVICE**

I, Anwar Graves, certify that on April 3, 2026, I served a true and accurate copy of Defendant Anthem Inc.'s First Set of Interrogatories to Plaintiff United States via electronic mail to Plaintiff's counsel of record:

Assistant United States Attorney Pierre Armand, Esq. (pierre.armand@usdoj.gov)  
Assistant United States Attorney Peter Max Aronoff, Esq. (peter.aronoff@usdoj.gov)  
Assistant United States Attorney Charles Salim Jacob, Esq. (charles.jacob@usdoj.gov)  
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Assistant United States Attorney Rachael Doud, Esq. (rachael.doud@usdoj.gov)  
Assistant United States Attorney Harry Fidler, Esq. (harry.fidler@usdoj.gov)

Dated: April 3, 2026  
Washington, D.C.

/s/ Anwar Graves  
Anwar Graves

# **Exhibit 2**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

Case No.: 1:20-cv-02593-ALC-KHP

Assigned to Hon. Andrew L. Carter, Jr.

**DEFENDANT ANTHEM, INC.’S THIRD SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO PLAINTIFF UNITED STATES OF AMERICA**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Rules 26.3 and 26.4 of the Local Rules of the United States District Court for the Southern and Eastern Districts of New York (“Local Civil Rules”), Defendant Anthem, Inc. (“Anthem”), by and through its undersigned attorneys, hereby requests that Plaintiff United States of America (“Plaintiff” or “You” / “Your”) produce the documents requested below (the “Request”) within 30 days of the service of the Request, to the offices of O’Melveny & Myers LLP, 1625 Eye Street, N.W., Washington, D.C. 20006-4061.

The following Definitions and Instructions shall govern the Request, as well as responses to the Request.

**DEFINITIONS**

The Request incorporates by reference the definitions and rules of construction set forth in Local Civil Rule 26.3.

The following terms as used in the Request have the definitions mandated by Local Civil Rule 26.3(c): “Communication,” “Concerning,” “Document,” “Identify” (as used with respect to “Person”), “Identify” (as used with respect to “Documents”), “Parties,” and “Person.” The

Request shall be interpreted in compliance with the rules of construction set forth in Local Civil Rule 26.3(d), including with respect to use of the terms “all,” “any,” and “each” (which “shall be construed as encompassing any and all”), the use of the terms “and” and “or” (which “shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope”), and the use of the singular form of any word (which includes the plural and vice versa). The Request shall also be interpreted in compliance with Local Civil Rule 26.4(b): “Discovery requests shall be read reasonably in the recognition that the attorney serving them generally does not have the information being sought and the attorney receiving them generally does have such information or can obtain it from the client.”

The following terms shall have the meanings set forth below as used in the Instructions and the Request.

1. **“Action”** shall mean the above-captioned case, *United States of America v. Anthem, Inc.*, Case No. 1:20-cv-02593-ALC-KHP (S.D.N.Y.).
2. **“Amended Complaint”** shall mean the first amended complaint filed by Plaintiff on July 2, 2020 in this Action (Dkt. No. 26).
3. **“Anthem”** shall mean “Anthem, Inc.” as used in Paragraph 11 of the Amended Complaint.
4. **“Concerning”** shall have the meaning set forth in Local Civil Rule 26.3(c).
5. **“Document”** and **“Documentation”** shall have the meaning set forth in Local Civil Rule 26.3(c), subject to limitations imposed in the Protocol for Electronically Stored Information (“ESI Protocol”) that the Parties entered into in this Action (Dkt. No 99).
6. **“Parties”** shall have the meaning set forth in Local Civil Rule 26.3(c).

7. **“Produce”** or **“Production”** shall mean “produce” or “production” as used in Rules 26 and 34 of the Federal Rules of Civil Procedure.

### **INSTRUCTIONS**

1. The use of a verb in any tense shall be construed as the use of the verb in all other tenses as necessary to bring within the scope of the Request all information that might otherwise be construed to be outside its scope.

2. The Request extends to any Documents in the possession, custody, or control of, and/or that can be obtained by, Your employees, agents, or representatives.

3. Each non-identical copy of a responsive Document, whether different from the original because of indications of the recipient(s), handwritten notes, marks, attachments, marginalia, or any other reason, is a separate Document that must be Identified.

4. Documents must be Produced in a manner consistent with the ESI Protocol.

5. If You cannot respond to the Request in full after exercising due diligence to secure the Documents requested, You must so state and respond to the Request as fully as possible. If there are no Documents responsive to the Request, You must provide a written response so stating.

6. If You object to any part of the Request and withhold any Documents on the basis of any objections, You must provide a written response so stating. To the extent that part of the Request does not fall within the scope of Your objections, You must Produce Documents responsive to that part of the Request.

7. If any Document or portion of any Document responsive to the Request is withheld under an assertion of privilege or upon any other ground, list each such Document (or portion of such Document) on a privilege log in a manner consistent with the ESI Protocol and Local Civil Rule 26.2.

8. If a portion of any Document responsive to the Request is withheld under assertion of privilege pursuant to the preceding instruction, any non-privileged portion of such Document must be Produced with the portion asserted to be privileged redacted.

9. You are to Produce each Document requested in its entirety, without deletion or excision, except as qualified by the preceding instructions, regardless of whether You consider the entire Document to be relevant or responsive to the Request.

10. If You believe the meaning of any term in the Request is unclear, then You must assume a reasonable meaning, state what that assumed meaning is, and respond to the Request according to that assumed meaning, consistent with Local Civil Rule 26.4(b).

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 37**

Documents sufficient to reflect Your responses to Interrogatory Nos. 1, 2, 3, and 4 of Anthem's First Set of Interrogatories to Plaintiff United States of America, served on April 3, 2026.

Dated: [Insert Date]  
Washington, D.C.

By: /s/ **DRAFT**

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ANWAR GRAVES, *Pro Hac Vice*  
WILLIAM BUFFALOE, *Pro Hac Vice*  
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*Attorneys for Defendant Anthem, Inc.*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHEM, INC.,

Defendant.

CASE NO. 1:20-cv-02593-ALC (KHP)

Assigned to Hon. Andrew L. Carter, Jr.

DISCOVERY MATTER

**CERTIFICATE OF SERVICE**

I, Anwar Graves, certify that on [Insert Date], I served a true and accurate copy of Defendant Anthem Inc.'s Third Set of Requests for Production to Plaintiff United States via electronic mail to Plaintiff's counsel of record:

Assistant United States Attorney Pierre Armand, Esq. (pierre.armand@usdoj.gov)  
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Assistant United States Attorney Harry Fidler, Esq. (harry.fidler@usdoj.gov)

Dated: [Insert Date]

/s/ **DRAFT**  
Anwar Graves

# **Exhibit 3**

JAY CLAYTON  
United States Attorney for the  
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By: PIERRE ARMAND  
PETER ARONOFF  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
-v-  
  
ANTHEM, INC.,  
  
Defendant.

No. 20 Civ. 2593 (ALC) (KHP)

**UNITED STATES OF  
AMERICA'S SUPPLEMENTAL AND  
AMENDED RULE 26(a)  
DISCLOSURES**

Pursuant to Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure, the United States of America, by its attorney, Jay Clayton, United States Attorney for the Southern District of New York, makes these disclosures based on information currently available to the United States Department of Justice ("DOJ") and the United States Department of Health and Human Services' subparts, the Centers for Medicare and Medicaid Services ("CMS") and the Office of Inspector General ("HHS-OIG"). The United States reserves the right to amend, modify, and supplement these disclosures as information becomes available through discovery or further investigation.

In making these disclosures, the United States does not waive, and expressly reserves, the right to assert, either in discovery or at trial, any valid objection to the discovery of any information

or the admissibility of any evidence, including without limitation objections based on privileges and doctrines such as the joint prosecution or common interest doctrine, the investigative files or law enforcement privilege, the work product doctrine, informant's privilege, the attorney-client privilege, the deliberative process privilege, protections afforded by Fed. R. Civ. P. 26(b), or any other applicable basis for invoking a privilege or doctrine that may be lawfully asserted. The United States also expressly reserves and maintains any and all objections it may have as to the relevancy, materiality, or propriety of any discovery and as to the admissibility, relevancy, materiality, or any grounds relating to the use of information or documents for motion practice or at trial.

These disclosures are not intended either to disclose the identity of expert witnesses that the United States may use in this case, nor documents or information, if any, used by any experts in this case. The United States will make disclosures regarding expert witnesses in compliance with the Federal Rules of Civil Procedure and the schedule set by the Court.

**I. Names and, if known, addresses and telephone numbers of individuals likely to have discoverable information supporting the United States' claims.**

The United States has identified the individuals in the chart attached hereto as Exhibit A as likely to have discoverable information that the United States may use to support its claims. This chart is not intended to be a chart of witnesses to be called by the United States at trial and the United States reserves the right to call at trial or rely on the testimony of any individual identified by any party in their disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i) or deposed by any party during this matter. The United States reserves the right to amend, modify, or supplement this disclosure as discovery proceeds and new information becomes available. The United States also notes that this disclosure does not include its experts, who will be disclosed in

compliance with the Federal Rules of Civil Procedure and the scheduling order issued by this Court.

**II. A description of documents, electronically-stored information (“ESI”), and tangible things, by category, in the possession, custody, or control of the United States that may be used to support its claims.**

The United States has identified the following categories of documents and ESI that are located at DOJ, CMS, and/or HHS-OIG and may be used to support its claims or defenses in this action (unless they would be solely for impeachment). Most of the documents and ESI on which the United States may rely have been or will be produced by Defendant to the United States and, with respect to those documents and ESI, the United States is not identifying their locations. The United States also reserves its right to use to support its claims or defenses any documents identified by Defendant in its disclosures and/or any documents produced by the United States to Defendant in this action. In addition, the United States reserves the right to further supplement the categories of documents and ESI as discovery proceeds and new information becomes available or as other events may require.

- (1) The documents referenced in the United States’ Amended Complaint in this action. These documents are in DOJ’s possession.
- (2) The documents produced by Defendant to the United States in the investigation leading to this action or in this action. These documents are in DOJ and Defendant’s possession.
- (3) The documents produced by third parties to the United States in this action. These documents are in DOJ and Defendant’s possession.
- (4) The Annual Part C Agreements between Defendant and CMS. Defendant is in possession of these agreements. CMS also possesses these agreements. They are also contained in CMS’ web-enabled information system called the Health Plan

Management System (“HPMS”), which can be accessed by Defendant at <https://hpms.cms.gov/>.

- (5) The Electronic Data Interchange (“EDI”) Agreements described in Paragraphs 79 to 82 of the Amended Complaint. Defendant is in possession of those agreements. CMS’ contractor, Palmetto GBA, also possesses these agreements. Palmetto GBA is located at CSSC Operations, P.O. Box 100275, Columbia, South Carolina 29202 and its telephone number is (877) 534-2772.
- (6) The Medicare Part C and D regulations, the Medicare Managed Care Manual (all years), the Risk Adjustment Data Technical Assistance for Medicare Advantage Organizations Participant Guide and the related Training Guides (all years), similar guides and training materials relating to CMS’ Encounter Data System, and other regulatory materials. Among many other things, these documents (i) define, govern, and relate to Medicare Advantage Organizations’ participation in Parts C and D of the Medicare Program, their entitlement to risk adjustment payments from Medicare, and the requirements and obligations that they have with respect to the submission of valid data and the deletion of invalid data; and (ii) relate to CMS’ Risk Adjustment Processing System and/or its Encounter Data System and provide instructions on their use. These documents are located at CMS and at Palmetto GBA. Copies are also publicly available at [www.cms.gov](http://www.cms.gov) and at [www.csscooperations.com](http://www.csscooperations.com).
- (7) The International Classification of Diseases (“ICD”) Clinical Modification Guidelines for Coding and Reporting (“ICD-9-CM” & “ICD-10-CM”). These coding guidelines are publicly available at <https://www.cms.gov/Medicare/Coding/ICD10/index.html> and <https://www.cms.gov/Medicare/Coding/ICD9ProviderDiagnosticCodes/codes>.

- (8) Defendant's Risk Adjustment Attestations and documents relating thereto. Defendant is in possession of these documents. The Attestations are also located and contained in HPMS, which can be accessed at <https://hpms.cms.gov/>.
- (9) Risk adjustment data claims submissions made by the Defendant to CMS and claims and payment data based on those submissions. The claims and payment data are in Defendant's possession. CMS and HHS-OIG also possess this data.
- (10) Communications between Defendant and CMS relating to risk adjustment claims and payment issues such as the deletion of invalid diagnostic data and to RADV audits. These documents are located at CMS and also in Defendant's possession.
- (11) Documents related to risk adjustment data validation audits of Defendant's MAOs performed by CMS and HHS-OIG. These documents are located at CMS and HHS-OIG.
- (12) The Notice of Imposition of Intermediate Sanctions (Suspension of Enrollment and Communications) for Medicare Advantage-Prescription Drug Plan Contract Numbers: H0544, H0629, H0907, H1212, H1423, H1607, H1894, H1947, H2441, H2593, H2687, H2836, H3240, H3447, H3536, H3655, H4003, H4004, H4036, H4161, H4346, H4471, H4694, H4704, H4909, H5422, H5427, H5431, H5471, H5594, H5828, H5854, H6078, H6316, H6988, H7093, H7220, H7522, H8432, H8552, H8849, H9065, H9219, H9525, and R5941, dated February 27, 2026, and the related record. These documents are in DOJ and Defendant's possession.
- (13) Transcripts and exhibits for witnesses who testified as part of the United States' investigation that led to the filing of this lawsuit or who testified in this action. These documents are in DOJ and Defendant's possession.

(14) All documents produced by the Government to the Defendant in this action. These documents are in DOJ and Defendant's possession.

### **III. Computation of damages claimed by the United States.**

The United States' damages in this case are based on the United States' allegation that Defendant repeatedly violated the False Claims Act, including by: (1) knowingly submitting or causing to be submitted false claims to the Medicare Advantage program for Medicare Advantage beneficiaries; (2) knowingly making, using, or causing to be made or used, false records or statements material to such claims; (3) knowingly making or using false records or statement material to an obligation to repay the Government; and (4) knowingly concealing and knowingly and improperly avoiding an obligation to repay the Government. As detailed in the Amended Complaint, from at least 2014 through at least 2018, Defendant improperly submitted thousands of risk-adjusting diagnosis codes to CMS as claims for payment.

Due to the complex nature of the damages resulting from Defendant's scheme, the United States will utilize an expert to assist in modeling damages. The United States will supplement its disclosures when its estimate of damages becomes available, and according to the case schedule ordered by the Court.

Under the False Claims Act, the United States is entitled to recover three times the amount of damages which it sustained because of Defendant's violations of the statute. The False Claims Act also provides for statutory penalties for each instance on which Defendant either submitted a false claim or caused a false claim to be submitted to the United States. For violations occurring between September 29, 1999, and November 2, 2015, the civil penalty amounts range from a minimum of \$5,500 to a maximum of \$11,000 for each violation of the False Claims Act. 28 C.F.R. § 85.3; 64 Fed. Reg. 47,099, 47,103 (1999). For violations occurring after November 2, 2015, and

assessed after December 13, 2021, the civil penalty amounts range from a minimum of \$11,803 to a maximum of \$23,607. 28 C.F.R. § 85.5. Such penalty amounts are subject to adjustment for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

In the alternative, the United States will also seek damages under its common law causes of action of unjust enrichment and payment by mistake. These damages will be determined in the same manner described above.

**IV. Insurance agreements.**

The requirements set forth in Rule 26(a)(1)(A)(iv) are not applicable to the United States in this matter.

Dated: New York, New York  
March 13, 2026

JAY CLAYTON  
United States Attorney for the  
Southern District of New York  
*Attorney for the United States of America*

By: /s/ Rachael Doud  
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