

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

ELEVANCE HEALTH, INC., ANTHEM
INSURANCE COMPANIES, INC., BLUE
CROSS OF CALIFORNIA, WELLPOINT
HEALTH PLANS, INC., WELLPOINT
INSURANCE COMPANY, and WELLPOINT
IOWA, INC.

Plaintiffs,

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES and
CENTERS FOR MEDICARE & MEDICAID
SERVICES

Defendants.

Civil Action No. 2:26-cv-00061-LGW-
BWC

PLAINTIFFS' MOTION FOR ENTRY OF A BRIEFING SCHEDULE

COMES NOW Plaintiffs Elevance Health, Inc., f/k/a Anthem Inc. ("Elevance Health"), along with its affiliated entities Anthem Insurance Companies, Inc., Blue Cross of California, Wellpoint Health Plans, Inc., Wellpoint Insurance Company, and Wellpoint Iowa, Inc. (collectively with Elevance Health, "Plaintiffs"), by and through their undersigned counsel, hereby file this Motion for Entry of a Briefing Schedule, showing the Court as follows:

1.

On July 1, 2026, Plaintiffs filed a Complaint, asserting claims against Defendant United States Department of Health and Human Services and Defendant Centers for Medicare & Medicaid Services (collectively, "Defendants") under 5 U.S.C. § 706(2)(A), (C), (D), and 42 C.F.R. § 422.164.

2.

On July 7, 2026, Plaintiffs filed a Motion for Preliminary Injunction and Brief in Support, along with accompanying declarations. Plaintiffs served Defendants with this Motion on July 8, 2026.

3.

Plaintiffs' Motion explained that to avoid being irreparably harmed, and to avoid losing the window to rebid on its Contract Year 2027 contracts with more generous benefits offering, relief is needed on around August 14, 2026. To give context to that date and the sense of urgency, CMS finalizes Medicare Advantage bids at or around that time. The additional quality bonus payments and rebate retentions that would result from recalculated Star Ratings are generally used to increase benefits, decrease premiums, and offer quality improvement activities—all of which are accounted for in the bid. After that date, the window of opportunity for Plaintiffs to modify their bids and be more competitive for Contract Year 2027 will close.

4.

On July 9, 2026, this Court ordered the parties to engage in a judicial settlement conference. The Court administratively stayed the case until further Order of the Court. *See* Doc. 16, Order.

5.

The next day, on July 10, 2026, Judge Epps conducted a mediation status conference with the parties.

6.

Pursuant to the status conference, Judge Epps directed the parties to inform the Court by email the following information by close of business on Monday, July 13, 2026: (1) the date chosen for mediation; (2) the deadline for mediation statements; (3) the timing of Defendants'

communication of its opening proposal to Plaintiffs, if possible to communicate prior to the mediation; and (4) the proposed schedule, to be requested in a consent motion, for briefing the Motion for Preliminary Injunction in the event Mediation is unsuccessful. *See* Doc. 24, Minutes from July 10, 2026 Status Conference.

7.

The parties reached agreement on all aspects required by Judge Epps except a post-mediation briefing schedule in the event mediation fails. Mediation is scheduled to occur July 24, 2026 in Augusta before Judge Epps with confidential mediation statements and a preliminary offer from CMS required to occur in advance of this date.

8.

However, the parties did not reach an agreement regarding the proposed schedule for briefing the Motion for Preliminary Injunction in the event Mediation is unsuccessful. The parties collectively provided their positions on post-mediation briefing to Judge Epps in the email attached as **Exhibit A**. Elevance Health proposed Defendants file their response to Plaintiffs' Motion for Preliminary Injunction on July 27; Plaintiffs would reply by July 31 and the matter would be ripe for hearing in the beginning of August. Defendants' proposal was that their time to respond to Plaintiffs' Motion remains stayed until after mediation is completed, after which time, their Response to Plaintiffs' Motion for Preliminary Injunction be due August 6, 2026, or thirteen (13) days after Mediation.

9.

Defendants' proposed briefing schedule unreasonably compresses briefing and risks causing irreparable harm to Elevance Health as the parties would need to complete briefing, hold a hearing and receive an Order all within eight (8) days of Defendants filing their initial response.

There is no need to incur such risk. Here, good cause exists to dual track the Preliminary Injunction briefing with the mediation as doing so is consistent with the Court's Order and the best way to preserve the parties' rights. Absent the Administrative Stay, CMS's Response Brief would have been due July 23. Elevance Health's proposed July 27 response deadline gives CMS extra time to complete briefing and still allows the parties and the Court an opportunity to fully assess the positions in advance of the hearing. Finally, Elevance Health believes CMS's drafting a response brief during the Administrative Stay could potentially facilitate resolution as it would require a detailed analysis by CMS in advance of mediation.

10.

CMS takes the position that there is no urgency here, but the government's position ignores the practical realities of ensuring that Plaintiffs, if they were to prevail, can revise their bids to account for the increased revenue and become more competitive in the market. CMS has not stated that bids can be submitted after the close of the bid review period that completes in mid-August, which means that any changes in benefits, premium, or other quality improvement programs would not be finalized for CY2027.

11.

For the reasons set forth above, and because time is of the essence in the event Mediation is unsuccessful, Plaintiffs propose the following briefing schedule:

- a. Defendants shall respond to Plaintiffs' Motion for Preliminary Injunction by **July 27, 2026**;
- b. Plaintiffs shall file a reply to Defendants' Opposition by **July 31, 2026**.

- c. The Court set a hearing date when it has availability sometime after July 31, 2026. As to the hearing date, Elevance Health respectfully requests the Court set the hearing in sufficient time to allow for an order to issue on or before August 14, 2026.

12.

Accordingly, Plaintiffs respectfully request the Court to enter the Proposed Order, which is filed simultaneously with this Motion.

Respectfully submitted this 14th day of July, 2026.

/s/ Benjamin H. Brewton

Benjamin H. Brewton
Georgia Bar No. 002530
bbrewton@balch.com
Jena C. Lombard
Georgia Bar No. 213734
jlombard@balch.com
Balch & Bingham LLP
801 Broad Street, Suite 800
Augusta, Georgia 30901
Telephone: (706) 842-3711
Facsimile: (866) 258-8984

T. Joshua R. Archer
Georgia Bar No. 021208
jarcher@balch.com
James L. Hollis
Georgia Bar No. 930998
jhollis@balch.com
Balch & Bingham, LLP
30 Ivan Allen Jr. Blvd. NW, Suite 700
Atlanta, Georgia 30308
Telephone: (404) 962-3585
Facsimile: (866) 332-8969

Daniel W. Wolff (admitted *pro hac vice*)
DWolff@crowell.com
D.C. Bar No. 486733
Crowell & Moring LLP
600 Fifth Street NW
Washington, DC 20001
Telephone: (202) 624-2621

Steven D. Hamilton (admitted *pro hac vice*)
StevenHamilton@crowell.com
Illinois Bar No. 6289663
Crowell & Moring LLP
300 N. LaSalle Drive, Suite 2500
Chicago, IL 60654
Telephone: (312) 379-7615

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on July 14, 2026, I electronically filed Plaintiffs' Motion for Entry of a Briefing Schedule with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

Otto Woelke Leithart
U.S. Attorney's Office
P.O. Box 8970
Savannah, GA 31412
woelke.leithart@usdoj.gov

/s/ Benjamin H. Brewton
Benjamin H. Brewton
Georgia Bar No. 002530
bbrewton@balch.com

Attorney for Plaintiffs

From: Brewton, Benjamin H.
Sent: Monday, July 13, 2026 5:03 PM
To: Courtney_Capps@gas.uscourts.gov
Cc: Leithart, Woelke (USAGAS); Wolff, Daniel W.; Hamilton, Steven; Archer, Joshua; Hollis, Jim; Brewton, Benjamin H.
Subject: Elevance Health, Inc. et al v. Department of Health and Human Services et al. / Case No. 2:26-cv-00061-LGW-BWC

Ms. Capps, Below please find the parties' response to the Court's Order entered on July 10 which I would appreciate you forwarding to Judge Epps. Thank you. Ben

Judge Epps:

As required by the Court's 7/10/2026 minute order (Doc. # 24), the parties write to inform the Court of the following:

- (1) The parties agree on **July 24, 2026** as the mediation date. The mediation will take place at the Federal courthouse in Augusta. It may be necessary for some party representatives to participate via teleconference.
- (2) The parties will submit confidential mediation statements by 6:00 pm EDT on **July 21, 2026**.
- (3) CMS will submit its proposed resolution to Elevance and the Court by 6:00 pm EDT on **July 22, 2026**.
- (4) The Parties were unable to agree on a proposed briefing schedule for the motion for preliminary injunction in the event mediation is unsuccessful. The Parties' positions on the briefing schedule are as follows:
 - a. Elevance Health:
 - i. **Timing:** CMS responds to Plaintiffs' Motion for Preliminary Injunction by **July 27, 2026**. Elevance files its Reply by **July 31, 2026**. The Court sets the hearing date as soon as possible after July 31, 2026.
 - ii. **Rationale:** As set forth in Plaintiffs' Motion for Preliminary Injunction, if Elevance Health prevails on its Motion, CMS would need to recalculate the applicable Star Rating and complete other steps before Elevance Health can finalize a new 2027 bid. Time is of the essence on this process. To avoid irreparable harm, Elevance Health needs a decision to be rendered on or around August 14, 2026. Elevance Health believes dual tracking the Preliminary Injunction briefing is consistent with the Court's Order and the best way to preserve the parties' rights. Absent the Administrative Stay, CMS's Response Brief would have been due July 23. Elevance Health's proposed July 27 response deadline gives CMS extra time to complete briefing and allows the parties and the Court an opportunity to fully assess the positions in advance of the hearing. Finally, Elevance Health believes CMS's drafting a response brief during the Administrative Stay could potentially facilitate resolution as it would require a detailed analysis by CMS in advance of mediation.

- iii. **Requested Relief:** Elevance Health would like file a Motion with the Court tomorrow seeking an order on the briefing schedule set forth above.
- b. CMS:
 - i. **Timing:** Defendants respond to Plaintiffs' Motion for Preliminary Injunction within 13 days after the mediation. (Defendants have no objection to any specific timeline for Plaintiffs' Reply.)
 - ii. **Rationale:** Defendants submit that the Court has already decided that briefing on the preliminary injunction is not appropriate at this time; instead, the Order stayed all deadlines so that the parties could focus on mediation. Plaintiffs' proposal, by contrast, explicitly requires Defendants to begin briefing while also preparing for the mediation. This conflicts with the Court's Order. Nevertheless, Defendants understand that getting a post-mediation briefing schedule in place has value to the Plaintiffs and do not object in principle to such a briefing schedule. Thus, Defendants proposed to Plaintiffs that, if the mediation is unsuccessful, their response deadline should re-start, and Defendants should have 13 days in which to file their response. This represents the ordinary 14-day response time (with one day subtracted for the time between service of the motion and the Court's Order). Plaintiffs' proposal that Defendants file their response one business day after the mediation is neither feasible nor in line with the Court's instructions that the case be stayed for mediation.
 - iii. **Requested Relief:** If Plaintiffs file a motion seeking relief from the Court's order administratively staying the case, Defendants intend to respond with a proposed briefing schedule that would begin only if mediation is unsuccessful.



Benjamin H. Brewton, Partner, Balch & Bingham LLP
801 Broad Street • Suite 800 • Augusta, GA 30901
t: +1 (706) 842-3711 c: +1 (706) 825-6721 f: +1 (706) 842-3720 e: bbrewton@balch.com
www.balch.com

CONFIDENTIALITY: This email and any attachments may be confidential and/or privileged and are therefore protected against copying, use, disclosure or distribution. If you are not the intended recipient, please notify us immediately by replying to the sender and double deleting this copy and the reply from your system.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

ELEVANCE HEALTH, INC., ANTHEM
INSURANCE COMPANIES, INC., BLUE
CROSS OF CALIFORNIA, WELLPOINT
HEALTH PLANS, INC., WELLPOINT
INSURANCE COMPANY, and WELLPOINT
IOWA, INC.

Plaintiffs,

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES and
CENTERS FOR MEDICARE & MEDICAID
SERVICES

Defendants.

Civil Action No. 2:26-cv-00061-LGW-
BWC

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR
ENTRY OF A BRIEFING SCHEDULE**

Before the Court is Plaintiffs' Motion for Entry of a Briefing Schedule. [Doc. ____]. Plaintiffs request the Court to grant deadlines for the Defendants to Respond to Plaintiffs' Motion for Preliminary Injunction and for Plaintiffs to Reply to Defendants' Opposition. Given the time constraints associated with this case, and for good cause, the Motion is **GRANTED**. The Court enters the following briefing schedule to govern the pleading deadlines in this case:

1. Defendants shall respond to Plaintiffs' Motion for Preliminary Injunction by **July 27, 2026**;
2. Plaintiffs shall file a reply to Defendants' Opposition by **July 31, 2026**;
3. The Court will hold a Hearing on Plaintiffs' Motion for Preliminary Injunction at _____ on the ____ day of August, 2026.

IT IS SO ORDERED this ____th day of July, 2026

Honorable Lisa Godbey Wood
United States District Judge
For the Southern District of Georgia

Proposed Order Prepared By:

Benjamin H. Brewton
Georgia Bar No. 002530
bbrewton@balch.com

Jena C. Lombard
Georgia Bar No. 213734
jlombard@balch.com

Balch & Bingham LLP

801 Broad Street, Suite 800
Augusta, Georgia 30901
Telephone: (706) 842-3711
Facsimile: (866) 258-8984

T. Joshua R. Archer
Georgia Bar No. 021208
jarcher@balch.com

James L. Hollis
Georgia Bar No. 930998
jhollis@balch.com

Balch & Bingham, LLP

30 Ivan Allen Jr. Blvd. NW, Suite 700
Atlanta, Georgia 30308
Telephone: (404) 962-3585
Facsimile: (866) 332-8969

Daniel W. Wolff (admitted *pro hac vice*)
DWolff@crowell.com
D.C. Bar No. 486733

Crowell & Moring LLP

600 Fifth Street NW
Washington, DC 20001
Telephone: (202) 624-2621

Steven D. Hamilton (admitted *pro hac vice*)
StevenHamilton@crowell.com
Illinois Bar No. 6289663

Crowell & Moring LLP

300 N. LaSalle Drive, Suite 2500
Chicago, IL 60654
Telephone: (312) 379-7615
Counsel for Plaintiffs