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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of the U.S. Department of
Health and Human Services, *et al.*,

Defendants.

Case No. 3:26-cv-7991

**NOTICE OF PRODUCTION OF
ADMINISTRATIVE RECORD**

NOTICE OF PRODUCTION

On October 1, 2026, Defendants produced the complete Administrative Record for the Department of Health and Human Services' final rule entitled "*Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program*," published in the Federal Register at 91 Fed. Reg. 29,256, to Plaintiffs' counsel through the State of California's designated file sharing site. Attached to this Notice is the Index of that Administrative Record and its Certification. The Record is voluminous, exceeding 11,000 pages and measuring more than 700 megabytes. To upload the Administrative Record to ECF would require breaking it into at least 14 separate attachments, using the fifty-megabyte filing limit listed on the District's website. Due to the impracticability of electronic filing, the Government obtained Plaintiffs' consent to transmit the Administrative Record to them through a digital file sharing service.

1 Defendants likewise will mail a FedEx package to the Court, which will contain a flash drive with
2 the Administrative Record uploaded to it. Should the Court prefer an invitation to access the files on Box,
3 or any other medium, please contact undersigned counsel at Jordan.A.Hulseberg2@usdoj.gov or at (202)
4 598-3856.

5 DATED: 10/1/26

6 Respectfully submitted,

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State of California v. Kennedy, No. 3:26-cv-07991-TLT (N.D. Cal.)

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| 2. Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program; Final Rule, 91 Fed. Reg. 97, 29562 (May 20, 2026) | Bates: 000196-000547 |
| | |
| 3. Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program; Correction; 91 Fed. Reg. 138, 49567 (July 21, 2026) | Bates: 000548-000550 |

B. Comments

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| 1. Timely Comments Received | Bates: 000551-006396 |
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C. Other Materials Considered

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| 1. Office of Management and Budget (OMB) Circular No. A-25 Revised (1993) | Bates: 006397-006406 |
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| 2. Centers for Medicare & Medicaid Services (CMS) Updated 2019 Benefit Year Final HHS Risk Adjustment Model Coefficients. (July 27, 2018) | Bates: 006407-006425 |
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| 3. CMS. Final 2021 Benefit Year Final HHS Risk Adjustment Model Coefficients. (May 12, 2020) | Bates: 006426-006451 |

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5. CMS. 2023 Benefit Year Final HHS Risk Adjustment Model Coefficients. (May 6, 2022) Bates: 006469-006486
6. OMB. Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2026. (May 30, 2025) Bates: 006487-006509
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17. CMS. Final HHS-Developed Risk Adjustment Model Algorithm “Do It Yourself (DIY)” Software Instructions for the 2024 Benefit Year (April 9, 2025 Update) Bates: 007086-007114

18. CMS. Summary Report On Individual And Small Group Market Risk Adjustment Transfers For The 2024 Benefit Year. (July 23, 2025) Bates: 007115-007160
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23. Wolitzky, S.; Gasteirer, A. Massachusetts Health Connector's comments on the proposed 2024 Payment Notice. (Jan. 30, 2023) Bates: 007367-007368
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28. CMS. 2024 Benefit Year Protocols ACA HHS Risk Adjustment Data Validation. Section 13.3.1.3.3 Calculate Error Rates. (May 20, 2025) Bates: 007524-007757
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- 104.** Fang, H., Frean, M., Sylwestrzak, G., and Ukert, B. *Trends in Disenrollment and Reenrollment Within US Commercial Health Insurance Plans, 2006-2018*. *JAMA Network Open*. (Feb. 24, 2022) Bates: 009463-009473
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- 106.** Pope, G.C., et al. *Risk Transfer Formula for Individual and Small Group Markets Under the Affordable Care Act*. 4 *Medicare and Medicaid Research Review* E1–E23 (2014) Bates: 009487-009509
- 107.** DOL. *FAQs about Affordable Care Act Implementation Part V and Mental Health Parity Implementation*. (Dec. 22, 2010) Bates: 009510-009516
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- 109.** Pugh, Tom. *How to Switch German Health Insurance and Save Money*. *The Local Germany*. (Jan 2, 2026) Bates: 009532-009536
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- 114.** Collins, S.; Gupta, A. *State of Health Insurance in the U.S.: 2024 Biennial Survey*. *The Commonwealth Fund*. (Nov. 21, 2024) Bates: 009575-009596

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- 161.** SBA. Table Of Size Standards. (n.d.) Bates: 010794-010834
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- 163.** Office of Information and Regulatory Affairs. Accounting Methods under Executive Order 14192. (n.d.) Bates: 010840-010841
- 164.** CMS. Failure to File and Reconcile Data for Plan Year 2025. (2025) Bates: 010842-010843
- 165.** OMB. Circular A-4. (Sept. 17, 2003) Bates: 010844-010891

- 166.** CBO. Health Insurance and Its Federal Subsidies: CBO and JCT's June 2024 Baseline Projections. (June 2024) Bates: 010892-010894
- 167.** Enumah, S. J., & Chang, D.C. (2021). *Predictors of Financial Distress Among Private U.S. Hospitals*. The Journal of Surgical Research 267, 251–259. (Nov. 2021) Bates: 010895-010903
- 168.** CMS. The Center for Consumer Information & Insurance Oversight: Advance Payments of the Premium Tax Credit (APTC) Audits. (Oct. 2, 2024) Bates: 010904-010907
- 169.** CMS. Standardized Plan Options and Non-Standardized Plan Option Limits and Exceptions. (April 2, 2025) Bates: 010908-010915
- 170.** CMS. OE 2025: Returning enrollee outcomes (June 2025) Bates: 010916-010919
- 171.** CMS. Monthly SEP Report 01-03-2025 (2025) Bates: 010920
- 172.** CMS. Monthly SEP Report 10-03-2025 -by SEP type. (2025) Bates: 010921
- 173.** CMS. Enrollees Without Claims. (April 28, 2025) Bates: 010922
- 174.** Malani, A.; et. al. *Improper Enrollment in the ACA Individual Market: Evidence from Zero-Claimer Patterns 2017-2024*. Duke Margolis Health Policy Center. (May 1, 2026) Bates: 010923-010963
- 175.** CMS. Eligible Noncitizen Population Analysis (2026) Bates: 010964
- 176.** CMS. Health Insurance Exchanges 2025 Open Enrollment Report. (2025) Bates: 010965-010984
- 177.** OMB, Information Collection Review, OMB Control No. 0938-1190. (n.d) Bates: 010985
- 178.** CMS Model forms, OMB Control Number: 0938-1438, Expiration Date: 07/31/2028. (n.d.) Bates: 010986-010990
- 179.** CMS. Percentage of One-Year Enrollees Who Fail to Reconcile (2026) Bates: 010991
- 180.** CMS Projections of National Health Expenditures and Health Insurance Enrollment: Methodology and Model Specification (June 24, 2026) Bates: 010992-011023
- 181.** CMS National Health Expenditures by Type of Service and Source of Funds: Calendar Years 1960 to 2034 (n.d.). Bates: 011024-011048

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| 184. Executive Order 14192, 90 Fed. Reg. 24. (Feb. 6, 2025) | Bates: 011268-011270 |
| 185. Executive Order 12866, 58 Fed. Reg. 190. (Sep. 30, 1993) | Bates: 011271-011280 |
| 186. CMS Qualified Health Plan Issuer Application Instructions Plan Year 2027. (August 2026) | Bates: 011281-011497 |
| 187. CMS, 2024 UDS Data, HRA (Sept. 18, 2026) | Bates: 011498 |

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR. In his official
Capacity as Secretary of the United States
Department of Health and Human Services, *et*
al.,

Defendants.

Case No. 3:26-cv-07991-TLT

**CERTIFICATION OF THE
RULEMAKING RECORD**

I, Renee Swann, Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, United States Department of Health and Human Services, certify that, to the best of my knowledge, the documents described in the accompanying index comprise the administrative record for the “Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program” rule finalized and published in the Federal Register on May 20, 2026 (with a correction published on July 21, 2026), including all public comments submitted in response to the proposed rule published on February 11, 2026.

Executed this 30th day of September 2026, in Baltimore, Maryland.

RENEE L. SWANN -S Digitally signed by RENEE L. SWANN -S
Date: 2026.09.30 10:30:02 -04'00'

Renee Swann, Deputy Director
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