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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”). Pursuant to the Court’s July 22, 2026 Order (Dkt. 555), Anthem requests that the Court (i) overrule Plaintiff’s objections to certain interrogatories and compel Plaintiff to supplement its responses to those interrogatories, and (ii) deny Plaintiff’s request to compel Anthem to revise its responses to Plaintiff’s interrogatories.

I. The Court Should Overrule Plaintiff’s Objections to Anthem’s Interrogatories.

Plaintiff’s responses (Ex. A) to 19 of Anthem’s 25 interrogatories in Anthem’s Second Set of Interrogatories (“Interrogatories”) (Ex. B) are incomplete, evasive, and rest on legally invalid objections. The common dispute across all of these objections is Plaintiff’s astonishing and legally unsupported position that, in response to Anthem’s Interrogatories, it can withhold known material facts from Anthem on which it currently intends to rely and then later present those undisclosed facts for the first time at summary judgment and/or trial. Plaintiff’s objections and evasive responses are designed to sidestep its obligation under Federal Rule of Civil Procedure 33 to disclose—and be bound by—*the facts it currently knows* and intends to rely on to prove its case. These tactics are designed to ambush Anthem later in the case by depriving it of a clear target to defend at summary judgment and/or trial. Anthem respectfully asks this Court to overrule Plaintiff’s objections and to compel Rule 33-compliant responses to the Interrogatories.

A. Plaintiff Relies on Objections That Have Been Rejected by Courts in this Circuit

Plaintiff’s “Every Material Fact” Objection.¹ Anthem’s Interrogatories include requests for the *material* facts supporting several of Plaintiff’s allegations in the Amended Complaint. Ex. B. Such interrogatories are expressly authorized by Rule 33 and both parties have served interrogatories of this type.² Fed. R. Civ. P. 33(a)(2). In response to Plaintiff’s interrogatories,

¹ Interrogatory Nos. 6-16, 19, 20, 24, and 26.

² Plaintiff propounded two interrogatories requesting “all material facts” (*see* Ex. G, Pl.’s Interrogatory Nos. 13 and 14) and thus cannot credibly object to Anthem’s use of the same formulation. Although Plaintiff contends that Anthem asserted an identical “every material fact” objection in its supplemental

Anthem disclosed all known material facts following a reasonably diligent inquiry and committed to supplementing its responses if it learned of additional facts responsive to Plaintiff's interrogatories. Plaintiff refuses to do the same. Instead, Plaintiff takes the remarkable position that it need not provide Anthem with "every material fact" supporting its allegations, even if it is currently aware of such facts, and asserts that it may wait until summary judgment or even trial to disclose them for the first time. Ex. C, Anthem's 8/20/26, Pl.'s 9/1/26, Anthem's 9/5/26, and Pl.'s 9/9/26 Emails; Ex. D, Pl.'s 8/10/26 Ltr.

Rule 33(b)(3) requires that interrogatories "be answered . . . fully," and Rule 26(e) requires supplementation when "the . . . response is incomplete[.]" Fed. R. Civ. P. 33(b)(3); 26(e). Courts in this Circuit have rejected Plaintiff's position. *Wechsler v. Hunt Health Sys., Ltd.*, 1999 WL 397751, at *11 (S.D.N.Y. June 16, 1999) (litigants "must fully disclose their positions in discovery . . . when responding to interrogatories."). Plaintiff may not deliberately withhold known facts and then surprise Anthem by later relying on those facts at trial.³ A party that fails to respond fully to interrogatories under Rule 33 or supplement its responses under Rule 26(e) may be precluded from relying on those undisclosed facts at summary judgment or trial. *In re Methyl Tertiary Butyl Ether (MTBE) Prods. Liab. Litig.*, 117 F. Supp. 3d 276, 293–94 (S.D.N.Y. 2015) ("Contention interrogatories are treated as judicial admissions which . . . estop the responding party from later asserting positions not included in its answers, . . . [f]ailure to amend a contention interrogatory pursuant to [Rule] 26(e) can bar use of a theory of liability . . .") (internal citation omitted). Plaintiff relies on *Pasternak v. Dow Kim*, 2011 WL 4552389 (S.D.N.Y. Sept. 28, 2011) to support its position, but that case is inapposite—it addressed requests for "all facts," not requests that were limited to disclosure of **material** facts. *Pasternak*, 2011 WL 4552389, at *2. Courts in this District have recognized this distinction and consider requests for all **material** facts appropriate. See *Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010) (finding requests seeking "every fact, every piece of evidence, every witness, and every application of law to fact" were overly broad, but requests for "principal or material facts" are proper). Accordingly, the Court should (i) order Plaintiff to supplement its answers with all known **material** facts responsive to Interrogatory Nos. 6 through 16, 19, 20, 24, and 26, (ii) supplement those answers in the future if it learns of new information responsive to the Interrogatories, and (iii) preclude Plaintiff from relying at summary judgment or trial on any material facts that were not disclosed pursuant to Rule 33 and Rule 26(e).

Plaintiff's "Legal Theory" Objection.⁴ Plaintiff objects that several Interrogatories call for "legal conclusions" or "a recitation of [its] legal theory."⁵ Ex. A. This objection fails as a matter

responses, Anthem confirmed that its interrogatory responses provided Plaintiff with every material fact currently known to it. Anthem also explained that, to the extent Plaintiff sought greater certainty about Anthem's position, it would amend its responses for clarity if Plaintiff would agree to meet the same standard. Ex. C, Pl.'s 9/9/26 and Anthem's 9/9/26 Emails.

³ Yesterday, Plaintiff told Anthem for the first time that it responded to Anthem's interrogatories "as fully as was reasonable." Ex. C, Pl.'s 9/9/26 Email. But this new position contradicts Plaintiff's statement during meet-and-confer discussions that it currently knows of additional facts responsive to Anthem's interrogatories that it will not provide.

⁴ Interrogatory Nos. 9, 17, 18, 19, 20, 26, and 29.

⁵ Plaintiff relies on two cases that predate the 1970 amendment to Rule 33 and are therefore inapposite. See Ex. A; Ex. D, Pl.'s 8/10/26 Ltr. Courts have held that *United States v. Maryland & Virginia Milk Producers'*

of law. Rule 33 makes clear that “an interrogatory is not objectionable merely because it calls for an opinion or contention that relates to fact or the application of law to fact.” Fed. R. Civ. P. 33(a)(2); *see* 1970 Adv. Comm. Notes (Rule 33). Only interrogatories addressing issues of “pure law,” meaning “legal issues *unrelated to the facts of the case*” are improper. *Id.* (emphasis added). Anthem’s Interrogatories do not demand that Plaintiff address issues of “pure law.” Instead, they seek the *factual bases* for Plaintiff’s allegations against Anthem. Anthem also seeks to identify the diagnosis codes that Plaintiff contends are false, why Plaintiff contends those codes are false, the facts supporting Plaintiff’s allegation that Anthem knew the codes were false and Anthem’s purported obligation to “find and delete” “inaccurate” diagnosis codes, as well as the identity of the Anthem employees who Plaintiff contends knew of the alleged falsity of those codes. *See* Am. Compl. (Dkt. 26) ¶¶ 8, 51, 54-55, 68, 154, 159. Courts in this Circuit have routinely approved such requests.⁶ Nothing about these Interrogatories calls for a recitation of Plaintiff’s legal theory; they ask only for the *currently-known facts* supporting Plaintiff’s allegations in this case. And Plaintiff cannot credibly argue that it lacks responsive information. It has investigated Anthem since 2016, filed this lawsuit in 2020, identified the attestations it alleges are false, and exhausted over two years compiling its list of allegedly false codes using Anthem’s data. If Plaintiff does not presently possess responsive facts, it should state that clearly and supplement its responses when and if it becomes aware of those facts. Accordingly, the Court should overrule this objection and compel Plaintiff to supplement its responses to Interrogatory Nos. 9, 17, 18, 19, 20, 26, and 29.

Plaintiff’s “Expert Discovery” Objection.⁷ Plaintiff objects that some of the Interrogatories prematurely seek expert discovery.⁸ *See* Ex. A; Ex. D, Pl.’s 8/10/26 Ltr.⁹ But Anthem is not

Ass’n, 22 F.R.D. 300 (D.D.C. 1958) did not “survive the [1970] amendment of Rule 33 that permits such an obviously legitimate contention inquiry.” *In re Rail Freight Fuel Surcharge Antitrust Litig.*, 281 F.R.D. 1, 4 (D.D.C. 2011). And *United States v. Renault, Inc.*, 27 F.R.D. 23 (S.D.N.Y. 1960) acknowledged that interrogatories that “might possibly call for opinion, conclusion or contention, [legal or otherwise]” could be proper. *Id.* at 29-30.

⁶ *E.g.*, *In re Facebook, Inc.*, 2016 WL 5080152 (S.D.N.Y. July 7, 2016) (interrogatories asking party “to apply their opinion of the application of the relevant law,” including what constitutes a material misstatement or omission, what knowledge defeats liability, and what constitutes compliance, were proper contention interrogatories); *Sheehy v. Ridge Tool Co.*, 2007 WL 1020742, at *1 (D. Conn. Apr. 2, 2007) (interrogatories seeking “any statutes, regulations[,] rules, ordinances or any other laws that you claim were violated” and “each and every way that you claim defendants were negligent” were proper).

⁷ Interrogatory Nos. 17, 18, 19, 20, 23, 24, and 26.

⁸ Plaintiff’s reliance on *United States ex rel. Integra Med Analytics LLC v. Laufer*, 2023 WL 4200865, at *2 (S.D.N.Y. June 27, 2023) is misplaced. In *Integra*, the interrogatories sought identification of specific patients whose discharges were overruled—information the plaintiff *did not already possess* and could not provide without conducting new analysis. *United States ex rel. Integra Med Analytics LLC v. Laufer*, 7:17-cv-09424-CS-JCM (ECF No. 189) at 15-16. Here, by contrast, Anthem has already produced claims data and medical records, and Plaintiff has already disclosed its list of allegedly false diagnosis codes—demonstrating that Plaintiff has conducted at least *some* analysis to support its claims for relief. In addition, in the Amended Complaint, Plaintiff identified seven specific diagnosis codes that it contends are false because they were not documented in the relevant medical records. Am. Compl. ¶ 154.

⁹ Plaintiff cites this Court’s February 18, 2026 Order granting medical record discovery to support its objection (Ex. D, Pl.’s 8/10/26 Ltr.), but the Court did not address—much less resolve—the scope of the parties’ obligation to respond to interrogatories pursuant to Rule 33.

seeking expert opinions or the identification of Plaintiff's experts. Rather, Anthem seeks the contentions underlying Plaintiff's claims for relief—including which claims for payment and diagnosis codes Plaintiff contends are false, why they are false, and the facts supporting Plaintiff's allegation that Anthem knew its claims for payment were false. These are the “basic factual underpinnings” of Plaintiff's case, which courts require parties to disclose even when expert discovery is forthcoming. *Gov't Emps. Ins. Co. v. Strut*, 2021 WL 230902, at *4 (W.D.N.Y. Jan. 22, 2021) (holding interrogatories seeking “which diagnoses [a party] believe[s] are false, which patients had those allegedly false diagnoses, and which documents pertain to each false diagnosis and patient” were proper and rejecting deferral based on future expert discovery). Plaintiff acknowledges its obligation to supplement its responses with later-developed expert evidence, consistent with Rule 26(e). Ex. C, Pl.'s 9/9/26 Email. For now, Anthem asks only that Plaintiff respond with the facts *it currently knows*, as required by Rule 33. Ex. E, Anthem's 7/10/26 Ltr. Nevertheless, Plaintiff seeks to hide behind the work its experts are apparently conducting and refuses to respond with the information it currently knows, asserting that it has ***no obligation whatsoever*** to provide Anthem with that information at this time. Ex. C, Anthem's 8/20/26, Pl.'s 9/1/26, Anthem's 9/5/26, and Pl.'s 9/9/26 Emails. This position finds no support in the Federal Rules. Pending expert discovery does not relieve Plaintiff of its present obligation to respond based on information reasonably available to it now. *See Xinuos, Inc. v. IBM Corp.*, 2025 WL 663064, at *1-*2 (S.D.N.Y. Feb. 28, 2025) (holding that plaintiff could not defer response to interrogatory due to forthcoming expert discovery and must respond now “based on currently available information” and “later supplement [its responses] if necessary after expert discovery”). Accordingly, the Court should (i) order Plaintiff to supplement its answers with all ***known material facts*** responsive to Interrogatory Nos. 17, 18, 19, 20, 23, 24, and 26 and (ii) supplement those responses within 30 days of serving its expert reports if it learns of new information responsive to these Interrogatories.

Plaintiff's Cross-Referenced Responses.¹⁰ Several of Plaintiff's interrogatory responses cross-reference other responses rather than providing direct, full answers. While cross-referencing is disfavored in this Circuit, *see Matalavage v. Sheriff of Niagara Cnty.*, 2023 WL 2043865, at *8 (W.D.N.Y. Feb. 16, 2023), Anthem does not object in principle to Plaintiff's cross-references if Plaintiff makes clear the cross-referenced information that is actually responsive to each interrogatory, as Anthem did in its own responses. Ex. F, Anthem's Second Supp. Resp. to Pl.'s Interrogatory Nos. 9(a), 9(b), and 10. At present, it is entirely unclear which portions of Plaintiff's cross-referenced answers are actually responsive to each interrogatory. Plaintiff has refused to specify the responsive portions or even confirm whether it contends the entirety of each cross-referenced answer is responsive. Without this clarification, Anthem cannot determine which facts constitute Plaintiff's response. Accordingly, for Interrogatory Nos. 12, 13, 19, and 20, the Court should order Plaintiff to confirm whether it is relying on the entirety of each incorporated response or identify the specific portions it contends are responsive.

Plaintiff's Reliance on Unspecified Discovery and Objection that Discovery is Not Yet Complete.¹¹ Plaintiff refuses to respond fully to several Interrogatories on the grounds that responsive information can be found in ***other, unidentified*** discovery or the Amended Complaint

¹⁰ Interrogatory Nos. 12, 13, 19, and 20.

¹¹ Interrogatory Nos. 9, 12, 13, 18, 19, 20, 23, 24, 26, and 29.

as a whole, or that Plaintiff need not respond because discovery is ongoing. Ex. A. These objections are frivolous. “It is no objection to interrogatories . . . that the information sought is within the knowledge of the [requesting] party.” *Weiss v. Chrysler Motors Corp.*, 515 F.2d 449, 456 (2d Cir. 1975) (internal citation omitted). Plaintiff “has a duty to compile information within his control and provide all information available in his responses.” *Rivera v. United Parcel Serv.*, 325 F.R.D. 542, 546 (S.D.N.Y. 2018); *see also Sheehy*, 2007 WL 1020742, at *2 (“although [a] defendant might possess fragments of the information sought by the [] interrogatories . . . , they are still entitled to the full and complete answers in interrogatory form.”). Moreover, when a party responds by identifying documents, it must “specify[] the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could.” Fed. R. Civ. P. 33(d). Plaintiff cannot vaguely wave to the three-year discovery record in the case and expect Anthem to guess which information from that substantial record Plaintiff believes is responsive. Plaintiff must respond with the information it **currently** possesses and, if it wishes to respond by reference to previously produced records, it must specify the documents responsive to Anthem’s requests consistent with Rule 33(d). Accordingly, the Court should overrule this objection to Interrogatory Nos. 9, 12, 13, 18, 19, 20, 23, 24, 26, and 29 and compel Plaintiff to supplement its responses to these Interrogatories.

II. Anthem’s Responses to Plaintiff’s Interrogatories Fully Comply with Rule 33

The difference between the parties’ interrogatory responses could not be more stark; while Plaintiff refused to provide full responses to nearly every one of Anthem’s Interrogatories, Anthem provided full responses to nearly all of Plaintiff’s interrogatories. Plaintiff has raised disputes with only **one** of Anthem’s interrogatory responses, and with the applicable date range for the responses. Both of Plaintiff’s complaints are unwarranted.

A. Interrogatory No. 23 Demands that Anthem Investigate the Chart Review Operations at its Independently-Operated Subsidiaries, Which Plaintiff Had Previously Agreed to Exclude from Prior Discovery Requests

Interrogatory No. 23 asks Anthem to “[i]dentify every Chart Review that Looked Both Ways operated by an Anthem subsidiary, affiliate, or entity acquired by Anthem.” This is an entirely new subject of discovery that the parties have consistently excluded from discovery over the past decade. Plaintiff has never sought documents or testimony from any subsidiary or any subsidiary employee—until now. Plaintiff seeks information about **all** of Anthem’s subsidiaries. In total, Anthem has over several dozen subsidiaries, many of which were largely operated independently during the relevant period.

The parties’ dispute over this effort to launch a new inquiry regarding subsidiaries after three years of discovery is also at issue in Topic (p) in Plaintiff’s Notice of Rule 30(b)(6) Deposition of Anthem, where Anthem has similarly objected to Plaintiff’s request for expansive testimony on all subsidiaries. Anthem’s arguments against that testimony are detailed in its position statement that was separately filed today. To avoid the need for the Court to review the same arguments twice, Anthem hereby incorporates by reference the arguments and evidence filed with the Court today concurrent with its opposition to Plaintiff’s motion to compel Rule 30(b)(6) testimony on subsidiaries. For the same reasons stated in that position statement, the Court should deny



Plaintiff's motion to compel a response to Interrogatory No. 23.

B. Anthem Applied an Appropriate Date Range

In its interrogatories, Plaintiff defined the “Relevant Period” as “January 1, 2010 through present,” even though its allegations concern Anthem’s business practices “between early 2014 and early 2018.” Am. Compl. ¶¶ 5, 155. Consistent with the Amended Complaint, and with the Court’s repeated guidance that the scope of discovery should track the liability period,¹² Anthem objected to Plaintiff’s definition of the “Relevant Period” and limited its responses to a date range corresponding to the approximate time period of the corporate retrospective chart review program at issue in this case, specifically from June 1, 2013 through March 1, 2017. In responding to Anthem’s Interrogatories, Plaintiff itself applied the “Relevant Period” that it defined in the Amended Complaint, which was “early 2014 to early 2018.” *See, e.g.*, Ex. A. Nevertheless, Plaintiff asserts that it is entitled to discovery from Anthem far outside the time period that Anthem operated the chart review program at issue and for several years before and after the time period Plaintiff proposed to use in its responses to Anthem’s Interrogatories. When asked if there was a specific interrogatory where it believed that discovery outside the relevant period was justified, Plaintiff refused to explain why discovery from years outside the relevant period was relevant and proportional. Instead, Plaintiff simply insisted that the Court had previously allowed discovery outside the liability period and that the broader period that the Court had allowed for those prior requests should apply to all of Plaintiff’s discovery. Ex. H, Pl.’s 9/3/26 Email. But the Court has never held that *all* discovery in this case should extend beyond the liability period. Instead, the Court simply held that there were certain requests related to the origin and design of Anthem’s chart review program that necessarily required discovery before the relevant period defined in the Amended Complaint, but that was the exception rather than the rule.¹³

It would be unduly burdensome and disproportionate to the needs of the case for Anthem to undertake the substantial burden of expanding its responses across all interrogatories absent any showing by Plaintiff that a broader time period is warranted for a specific request, let alone *every* request. If Plaintiff believed a particular interrogatory merited departure from the period it defined in its own complaint, it should have identified that interrogatory and articulated the justification. Because Plaintiff refused to do so, the Court should deny Plaintiff’s motion to compel.

¹² *See, e.g.*, 5/20/26 Hr’g Tr. 20:14-21; 3/12/24 Hr’g Tr. 69:6-10; 7/7/26 Hr’g Tr. 56:24-57:11, 61:3-5.

¹³ *See* 6/11/24 Hr’g Tr. 15:14-17 (The Court: “There’s no way that you need to go back to 2009 or 10 for all of these custodians or even all of the subject matters.”); *see* 9/10/24 Hr’g Tr. 55:11-57:11 (ordering discovery from 2009 to 2010 regarding design and implementation of the chart review program).

Dated: September 10, 2026

Respectfully submitted,

By: /s/ James A. Bowman

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Exhibit A

Document Filed Under Seal

Exhibit B

**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 SECOND 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 “Persons”), “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 request 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 must 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. “**Actual Knowledge**” shall mean “actual knowledge” as that term is used in the False Claims Act, 31 U.S.C. § 3729(b)(1)(A)(i).
3. “**Amended Complaint**” shall mean the first amended complaint filed by Plaintiff on July 2, 2020 in this Action (Dkt. No. 26).
4. “**Anthem**” shall mean “Anthem, Inc.” as used in Paragraph 11 of the Amended Complaint.
5. “**Chart Review(s)**” shall mean “the practice of reviewing medical charts to identify diagnosis codes that are supported by documentation in those charts” as used in *United States of*

America ex rel. Poehling v. UnitedHealth Group, Inc., et al., No. 2:16-cv-08697, Statement of Uncontroverted Facts, Dkt. 616-1, at 27–28 (C.D. Cal. Aug. 6, 2024).

6. “**Claim**” or “**False Claim**” shall mean “claim” as that term is defined in the False Claims Act, 31 U.S.C. §§ 3729(b)(2).

7. “**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.

8. “**Communicated**” shall mean “communication” as that term is defined in Local Civil Rule 26.3(c).

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

10. “**Describe**” shall mean a complete description of all facts which are pertinent to the act, occurrence or event in question, Including where applicable, the date, time, place, circumstance, nature, substance, description or explanation of the act, event or occurrence, and the identity of all Persons involved in the act, event or occurrence.

11. “**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.

12. “**Document(s)**” shall have the meaning set forth in Local Civil Rule 26.3(c).

13. “**Due Diligence Requirement**” shall mean “an obligation to undertake ‘due diligence’ to ensure the accuracy, completeness, and truthfulness of encounter data submitted to [CMS]” as used in Medicare Program, Medicare+Choice Program, 65 Fed. Reg. 40,170, 40,268 (June 29, 2000).

14. “**False**” shall mean “false” or “fraudulent” as those terms are used in the False Claims Act, 31 U.S.C. §§ 3729(a)(1)(A)–(B).

15. **“False Claims Act”** shall mean the False Claims Act as codified in 31 U.S.C. § 3729 *et seq.*

16. **“Good Faith Efforts”** shall mean to “mak[e] good faith efforts to certify the accuracy, completeness, and truthfulness of encounter data submitted” to CMS as used in Medicare Program, Medicare+Choice Program, 65 Fed. Reg. 40,170, 40,268 (June 29, 2000).

17. **“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.

18. **“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.

19. **“ICD Guidelines”** shall mean the “ICD-9-CM Official Guidelines for Coding and Reporting,” which can be found at https://www.cdc.gov/nchs/data/icd/icd9cm_guidelines_2011.pdf or “ICD-10-CM Official Guidelines for Coding and Reporting,” which can be found at https://www.cdc.gov/nchs/data/icd/10cmguidelines_2016_final.pdf.

20. **“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.

21. **“Including”** shall mean “without limitation” and shall be construed as broadly as possible.

22. **“Knew”** shall mean “knowing” and “knowingly” as those terms are defined in the False Claims Act, 31 U.S.C. §§ 3729(b)(1).

23. **“MAO”** or **“MAOs”** shall mean a public or private entity organized and licensed by a state as a risk-bearing entity that is certified by CMS as meeting the Medicare Advantage Contract requirements. *See* 42 U.S.C. § 1395w-28(a)(1).

24. **“Material”** shall mean “material” as defined in 31 U.S.C. § 3729(b)(4).

25. **“Medicare Advantage Contract”** shall mean “written agreement,” and/or “Part C annual agreements” as used in Paragraph 26 of the Amended Complaint.

26. **“Obligation”** shall mean “obligation” as the term is defined in the False Claims Act, 31 U.S.C. §§ 3729(b)(3).

27. **“Overpayment”** shall mean “overpayment” as the term is defined in 42 U.S.C. § 1320a-7k(d)(4)(B).

28. **“Requirement”** or **“Requirements”** shall mean that an individual or entity had or has an “obligation” as that term is used in Paragraphs 4, 8-9, 53-54, 56, 63, 65-66, 70, 80, 84, 90, 134, 137, 139, 151-54, 160, 165, and 169-71 of the Amended Complaint; “obligations” as used in Paragraphs 25-26, 51-52, 54, 57, 80, 134-35, and 150 of the Amended Complaint; and “requirements” as used in Paragraphs 51, 53, 59, 60, 62, 64, 66, 70, and 129 of the Amended Complaint.

29. **“Presented”** shall mean “presented” or “caused to be presented” as those terms are used in the False Claims Act, 31 U.S.C. §§ 3729(a)(1)(A); (b)(2)(A)(i).

30. **“Record or Statement”** shall mean “record or statement” as the term is used in the False Claims Act, 31 U.S.C. §§ 3729(a)(1)(B), (G).

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. 6

State in detail every Material fact upon which You base Your contention that “Anthem knew that the results of chart review could indicate whether or not the diagnosis codes Anthem previously submitted to CMS were accurate.” Am. Compl. ¶ 5.

INTERROGATORY NO. 7

State in detail every Material fact upon which You base Your contention that “Anthem knew that the diagnosis codes it previously submitted to CMS, but which could not be substantiated by Anthem’s retrospective chart review, had likely been reported inaccurately.” Am. Compl. ¶ 5.

INTERROGATORY NO. 8

State in detail every Material fact upon which You base Your contention that Anthem “could have readily written a computer algorithm to find inaccurately reported diagnosis codes by comparing previously-submitted codes against chart review results.” Am. Compl. ¶¶ 7, 130-32.

INTERROGATORY NO. 9

State in detail every Material fact upon which You base Your contention that Anthem was “obligat[ed] to find . . . inaccurate diagnosis codes.” Am. Compl. ¶ 8.

INTERROGATORY NO. 10

State in detail every Material fact upon which You base Your contention that Anthem “had specific notice that its own diagnosis code submissions contained a significant percentage of inaccuracies.” Am. Compl. ¶ 110.

INTERROGATORY NO. 11

State in detail every Material fact upon which You base Your contention that “Anthem knew that the chart review results from Medi-Connect could help it verify the accuracy of the previously-submitted diagnosis data.” Am. Compl. ¶ 153.

INTERROGATORY NO. 12

State in detail every Material fact upon which You base Your contention that “Anthem also was aware of significant rates of errors in the diagnosis codes it was submitting to CMS based on the provider claims.” Am. Compl. ¶ 153.

INTERROGATORY NO. 13

State in detail every Material fact upon which You base Your contention that “Anthem understood that it both had the ability and the obligation to compare the chart review results from Medi-Connect against the diagnosis codes it previously submitted to find and delete the codes that could not be validated based on the medical records.” Am. Compl. ¶ 153.

INTERROGATORY NO. 14

State in detail every Material fact upon which You base Your contention that Anthem, “by deliberately or recklessly disregarding its regulatory and contractual obligation to delete inaccurate diagnosis codes, [] knowingly concealed its obligation to refund CMS.” Am. Compl. ¶ 171.

INTERROGATORY NO. 15

State in detail every Material fact upon which You base Your contention that “[i]f CMS had known that Anthem’s attestation was false . . . CMS would have taken appropriate actions to ensure that Anthem did not receive or retain risk-adjustment payments to which it was not entitled, including by recouping payments through administrative processes, adjusting the reconciliation payments, or obtaining repayments in enforcement actions.” Am. Compl. ¶¶ 162, 167.

INTERROGATORY NO. 16

State in detail every Material fact upon which You base Your contention that “Anthem’s attestation was false because, at the time of the attestation, Anthem knew that specific diagnosis codes it had submitted for payment and never deleted were inaccurate.” Am. Compl. ¶¶ 162, 167.

INTERROGATORY NO. 17

Identify each False Claim that You allege Anthem “knowingly presented, or caused to be presented . . . for payment or approval to CMS.” Am. Compl. ¶ 159.

INTERROGATORY NO. 18

For each False Claim that You Identified in response to Interrogatory No. 17 and/or each Diagnosis Code You allege was not Documented in Medical Records, Identify and Describe with particularity what information in each Claim is False and why such information is False, Including the specific details as to why the specific information for each Claim is False.

INTERROGATORY NO. 19

For each Diagnosis Code You Identified in response to Interrogatory No. 18, state in detail every Material fact relating to Your contention that Anthem Knew that these Diagnosis Codes were “inaccurate,” “incorrect,” or “not supported by the medical record.” Am. Compl. ¶¶ 51, 54, 55, 154.

INTERROGATORY NO. 20

For each Diagnosis Code You Identified in response to Interrogatory No. 18, state in detail every Material fact relating to Your contention that “by knowingly failing to delete these . . . diagnoses, Anthem knowingly and improperly avoided its obligation to repay CMS for payments it received for these inaccurate diagnoses.” Am. Compl. ¶ 154.

INTERROGATORY NO. 21

Identify each False Record or Statement Material to a False Claim You allege Anthem “knowingly made, used, or caused to be made or used.” Am. Compl. ¶ 164.

INTERROGATORY NO. 22

Identify each False Record or Statement Material to an Obligation to repay the Government You allege Anthem “knowingly made or used.” Am. Compl. ¶ 169.

INTERROGATORY NO. 23

Identify each Overpayment that You allege Anthem “unlawfully obtained and retained from CMS.” Am. Compl. ¶¶ 1, 9, 154.

INTERROGATORY NO. 24

For each Overpayment Identified in response to Interrogatory No. 25, state in detail every Material fact relating to Your contention that it resulted in an Overpayment to Anthem.

INTERROGATORY NO. 25

Identify each of the “other instances” in which You allege Anthem’s conduct resulted in an Overpayment to Anthem. Am. Compl. ¶ 154.

INTERROGATORY NO. 26

Identify all provisions of the ICD Guidelines on which You base Your allegations at Paragraph 68 of the Amended Complaint that Anthem Presented False Claims.

INTERROGATORY NO. 27

State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Due Diligence Requirement.

INTERROGATORY NO. 28

State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Requirement to make Good Faith Efforts.

INTERROGATORY NO. 29

If You denied Request for Admission No. 253 in Anthem's First Set of Requests for Admission served concurrently herewith on May 1, 2026, Identify the Anthem employees who You contend had such Actual Knowledge.

INTERROGATORY NO. 30

If You denied Request for Admission No. 254 in Anthem's First Set of Requests for Admission served concurrently herewith on May 1, 2026, Identify the Anthem employees who You contend had such Actual Knowledge.

Dated: May 1, 2026

By: /s/ Anwar Graves

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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 May 1, 2026, I served a true and accurate copy of Defendant Anthem, Inc.'s Second 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)
Assistant United States Attorney Adam M. Gitlin, Esq. (adam.gitlin@usdoj.gov)
Assistant United States Attorney Dana Walsh Kumar, Esq. (dana.walsh.kumar@usdoj.gov)
Assistant United States Attorney Rachael Doud, Esq. (rachael.doud@usdoj.gov)
Assistant United States Attorney Harry Fidler, Esq. (harry.fidler@usdoj.gov)
Trial Attorney Martha Glover, Esq. (martha.n.glover@usdoj.gov)

Dated: May 1, 2026

/s/ Anwar Graves
Anwar Graves

Exhibit C

From: [Graves, Anwar](#)
To: [Gitlin, Adam \(USANYS\)](#); [Walsh Kumar, Dana \(USANYS\)](#); [Cayetano, Josh](#); [Jacob, Charles \(USANYS\)](#); [Doud, Rachael \(USANYS\)](#); [Fidler, Harry \(USANYS\)](#); [Aronoff, Peter \(USANYS\)](#); [Armand, Pierre \(USANYS\)](#); [Glover, Martha N. \(CIV\)](#); [Flores, Jessica \(USANYS\) 1](#)
Cc: [Deaton, David](#); [Blalack II, K. Lee](#); [Bowman, Jim](#); [Levine, Adam](#); [Sullivan, Stephen M.](#); [Steinberg, Anne](#); [Arias Gray, Elizabeth A.](#); [Burke, Christopher P.](#)
Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff
Date: Thursday, September 10, 2026 10:03:40 PM

Hi Adam,

Given the hour, we will proceed with filing. If the parties ultimately reach agreement on the issues raised in our most recent emails, we can update the Court accordingly in advance of the conference.

Best,
Anwar

O'Melveny

Anwar L. Graves

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From: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>
Sent: Thursday, September 10, 2026 9:02 PM
To: Graves, Anwar <agraves@omm.com>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>
Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jbowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>
Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Anwar,

I need to take a closer look at your email and will respond as soon as I can, but I've been focused on revising our position statement in light of the changes prompted by your message last night and our

meet and confers today. I also can't confirm by 9:00 that your email is accurate; for example, offhand, I can already tell that the reference to Interrogatory 29 in the first paragraph concerning the "legal theory" objection isn't correct, because Interrogatory 29 involved a cross reference to Anthem's RFAs and the Government primarily declined to answer on that basis, not on the basis of a "legal theory" objection as you stated below. We discussed that on the phone today. I'll need to closely review the rest of your email before providing a full response.

Best,
Adam

From: Graves, Anwar <agraves@omm.com>

Sent: Thursday, September 10, 2026 8:21 PM

To: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: [EXTERNAL] RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Hi Adam,

Following up on our earlier email. If we do not hear back from you by 9:00 p.m. ET tonight, we will assume that we have no resolution on the outstanding issues and will file our brief as drafted.

Best,
Anwar

O'Melveny

Anwar L. Graves

Partner

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From: Graves, Anwar

Sent: Thursday, September 10, 2026 5:29 PM

To: 'Gitlin, Adam (USANYS)' <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <JCayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>
Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <CBurke@omm.com>

Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Hi Adam, thanks for your email and for jumping on the phone to discuss the below issues. Below, is a summary of Plaintiff's position on the issues you raised and that we subsequently discussed.

1. "Legal theory" objection (Interrogatory Nos. 17-20, 26, and 29). Plaintiff confirmed that it asserted "legal theory" and "legal conclusion" objections to these interrogatories, but did not withhold any responsive information on the basis of these objections. Rather, any and all information withheld from Plaintiff's responses to these interrogatories was withheld solely as a result of Plaintiff's "every material fact" and "expert discovery" objections. Accordingly, Plaintiff confirmed that if the Court overrules its "every material fact" and "expert discovery" objections to these interrogatories, Plaintiff will not withhold any responsive information or refuse to supplement its responses based on its "legal theory" or "legal conclusion" objections.
2. "Premature because discovery is ongoing and not yet complete" and "responsive information resides in substantial part within Anthem's own [] productions and [] testimony" objections (Interrogatory Nos. 9, 12-13, 18-20, 23-24, 26, and 29). Plaintiff confirmed that, although it asserted these objections, it did not withhold any responsive information on these bases. Rather, any and all information withheld from Plaintiff's responses to these interrogatories were withheld solely as a result of Plaintiff's "every material fact" and/or "expert discovery" objections. Accordingly, Plaintiff confirmed that if the Court overrules its "every material fact" and "expert discovery" objections to these interrogatories, Plaintiff will not withhold any responsive information or refuse to supplement its responses based on the ground that discovery is ongoing or that responsive information resides in Anthem's own productions and testimony.
3. Cross-referencing (Interrogatory Nos. 12-13, 19-20). Plaintiff refuses to confirm whether the entirety of each incorporated response is responsive to the subject interrogatory or only a portion, and if only a portion, to identify which specific information in the incorporated answer is responsive. This issue remains In dispute and the parties will raise it with the Court.
4. Cross-referencing (Interrogatory Nos. 18 and 24). Plaintiff's responses to these interrogatories did not cross-reference other responses; the references to other interrogatories appear only in Plaintiff's objections, not in its substantive answers.

Anthem accordingly agrees there is no dispute concerning cross-referencing for these interrogatories.

5. Interrogatory No. 9. Unlike the interrogatories addressed in paragraph 1 above, Plaintiff stands on its “legal theory” and “legal conclusion” objections to this interrogatory and has not confirmed that it will refrain from withholding responsive information on those bases. In addition, Plaintiff’s interrogatory response refers Anthem to the Amended Complaint but Plaintiff refuses to identify the specific allegations in the Amended Complaint that are responsive to this interrogatory. Both issues remain in dispute and the parties will raise them with the Court.

Please confirm that we have accurately captured Plaintiff’s position.

Best,
Anwar

O’Melveny

Anwar L. Graves

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From: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>

Sent: Thursday, September 10, 2026 10:17 AM

To: Graves, Anwar <agraves@omm.com>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: RE: Defendant Anthem’s Letter Regarding Anthem’s 30(b)(6) Notice to Plaintiff

Anwar,

Thank you for your email and for confirming the areas of continued disagreement that Anthem intends to raise with the Court, including the “every material fact” and expert discovery disputes.

We'll address those two issues in our position statement.

As to the additional issues listed at the end of your email, we don't agree that many of them are appropriately raised now. You explained some of them to us for the first time last night, the evening before position statements are due, after two months of correspondence and multiple meet-and-confers.

"Legal theory" objection. Your first issue is the Government's "legal theory" objection to Interrogatory Nos. 9, 17–20, 26, and 29. As an initial matter, the Government didn't assert a legal-theory objection to two of the interrogatories on your list. The Government's responses to Interrogatory Nos. 17 and 18 object that those interrogatories call for legal conclusions as to the definition of a "false or fraudulent claim" under the False Claims Act and the falsity of diagnoses, respectively. That's a different objection, and if Anthem is raising it now (which isn't clear from your email below), Anthem would be doing so for the first time. As to the remaining interrogatories, the Government asserted the legal-theory objection in its June 24 R&Os, and Anthem had a full opportunity to raise it in its July 10 letter, but Anthem did so as to Interrogatory No. 9 only. Neither your August 20 nor your September 5 email identifies a legal-theory dispute as to any of the other interrogatories. For these reasons, we don't believe it's appropriate for Anthem to raise this issue now as to Interrogatory Nos. 17–20, 26, and 29. In addition, the Government responded to the interrogatories on your list notwithstanding its objections (with one exception, as discussed below), including Interrogatory Nos. 9, 17–20, and 26. The sole interrogatory on your list related to this issue to which the Government declined to respond is Interrogatory No. 29, and it did so because that interrogatory is conditional and the Government didn't deny RFA No. 253. If Anthem nevertheless intends to raise an objection on either of the above-referenced bases, please explain, for each of those interrogatories, what specific objection Anthem contends is improper.

Cross-referencing. Your second issue objects to the Government's purportedly cross-referenced responses to six interrogatories (Nos. 12, 13, 18, 19, 20, and 24). Similar to its July 10 letter, Anthem again identifies interrogatories whose responses do not contain cross-references. As we explained in our August 10 letter, the Government's responses to Interrogatory Nos. 18 and 24 cross-reference other interrogatories only in the objections, and only to explain that the interrogatories are cumulative and duplicative. The Government didn't decline to respond to either interrogatory on that basis, and neither response incorporates another interrogatory response. At a minimum, please explain whether Anthem intends to challenge the Government's responses to Interrogatory Nos. 18 and 24 on this basis and, if so, the basis for that challenge.

Your third issue encompasses three distinct grounds, applied collectively to ten interrogatories (9, 12–13, 18–20, 23–24, 26, and 29), without any indication of which ground Anthem contends applies to which interrogatory. Taking them in turn:

Reference to the Amended Complaint. As a threshold matter, we don't agree with the premise of this issue. Where the Government responded by referring Anthem to the Amended Complaint, it did so as part of its response, not as a basis for refusing to respond. Pointing Anthem to information that is responsive to an interrogatory isn't a refusal to respond fully, and the Government didn't decline to answer on the grounds Anthem identifies.

In any event, Anthem raised this issue as to Interrogatory No. 9 in its July 10 letter, and the Government responded to it in its August 10 letter. The parties have previously exchanged correspondence on that issue. Anthem didn't raise it as to Interrogatory Nos. 12–13, 18–20, 23–24, 26, or 29, and the Government's responses to those interrogatories don't refer Anthem to the Amended Complaint in its response. (The responses to Interrogatory Nos. 13 and 20 refer Anthem to the Government's response to Interrogatory No. 9, which in turn refers to the Amended Complaint, but those responses also cross-reference the Government's responses to several other interrogatories. And while certain other responses reference the Amended Complaint in the course of providing a response, they don't direct Anthem to the Amended Complaint in the same manner that Anthem seems to take issue with in connection with Interrogatory No. 9.) We don't understand the basis for your contention that this issue applies to the ten interrogatories that you grouped together. Please explain whether Anthem intends to raise this issue with respect to any interrogatory besides Interrogatory 9 and the basis for the objection.

Information available in Anthem's productions. We don't understand the basis for this objection. Do you take issue with the Government's objection in some interrogatory responses that responsive information "resides in substantial part within Anthem's own document productions?" If so, the Government asserted that objection in seven of the ten interrogatories you list (Nos. 12, 13, 18, 19, 20, 23, and 24), and didn't decline to respond to any of them on that basis. In response to Interrogatory Nos. 12, 13, and 19, the Government cross-referenced its responses to other interrogatories in light of the substantial overlap among them. In response to Interrogatory No. 18, the Government answered the first subpart and explained that the second subpart is premature because it implicates expert discovery. And in response to Interrogatory Nos. 20, 23, and 24, the Government explained that those interrogatories are likewise premature because they seek information that is the proper subject of expert discovery. In any event, Anthem's July 10 letter didn't challenge that objection as to any interrogatory, nor did your August 20 or September 5 emails. Anthem raised it for the first time in yesterday's email, and we don't believe it's appropriate to do so at this stage. At a minimum, please explain which interrogatories you believe reflect this issue and what about those responses is inappropriate.

"Need not respond at all because discovery is ongoing." We don't agree with your characterization of the Government's objection and aren't sure what you mean by the suggestion that the Government asserted it "need not respond at all because discovery is ongoing." To the extent you're taking issue with the Government's objection that an interrogatory is "premature because discovery is ongoing and not yet complete, and the Government may identify additional material facts," Anthem lists ten interrogatories to which this objection might apply, but only four of them—Nos. 12, 13, 19, and 20—actually contain that objection. And where the Government did assert it, the Government didn't decline to answer on that basis. In each of those four responses, the Government cross-referenced its responses to other interrogatories expressly "in light of the substantial overlap" between the interrogatories, not because discovery is ongoing. Accordingly, we don't understand how this issue applies to the remaining six interrogatories on your list, and even as to the four where the objection appears, the Government's position wasn't that it need not respond on the basis you assert. Please confirm which of the ten interrogatories Anthem contends this issue applies to and the reason the Government's response is deficient.

Because many of these issues are being raised for the first time, and because our position statements are due today, we'd like to schedule a call as soon as possible today to walk through each of them so that the Government understands what Anthem contends is deficient. Please let us know your availability today.

Best,
Adam

From: Graves, Anwar <agraves@omm.com>

Sent: Wednesday, September 9, 2026 9:48 PM

To: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <kblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: [EXTERNAL] RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Adam,

Thank you for your email. We respond to each of the points raised in your message below and identify the areas of continued disagreement that Anthem intends to raise with the Court.

1. "Every material fact" objection. Anthem's position is, and has been, that a party responding to interrogatories seeking "every material fact" must make a good-faith effort to disclose all material facts currently known to it that are responsive to the interrogatory. Anthem's response and "every material fact" objection to Interrogatory No. 14 in Plaintiff's Second Set are entirely consistent with that position, as we explained during our September 4, 2026 meet-and-confer and as Adam further confirmed today in response to Harry's September 8, 2026 correspondence. Anthem made a good-faith effort to disclose all material facts currently known to it in its response, while confirming that it would supplement its response pursuant to Rule 26(e) if it identifies additional responsive facts in the future. That is fundamentally different from Plaintiff's position, which is that it may withhold currently known responsive facts and disclose them for the first time at summary judgment or trial. If there is any ambiguity in Anthem's response to Plaintiff's Interrogatory No. 14, Anthem is prepared to amend its response to make that position more explicit.
2. Expert discovery objection. We note Plaintiff's acknowledgment that both parties have a duty to supplement under Rule 26(e) and that it will supplement consistent with the Federal Rules. Thank you for this clarification of Plaintiff's position. However, that acknowledgment does not resolve the dispute. Plaintiff's responses

continue to withhold responsive information that is currently known to it on the ground that certain interrogatories are "premature" because they seek information that is the subject of future expert discovery. The fact that experts may later develop additional responsive information does not excuse Plaintiff's obligation to respond now with currently known facts. If Plaintiff does not currently know of any responsive information and will only provide responses through supplementation after expert discovery, it must serve responses now that make this fact clear. Otherwise, this issue remains in dispute and Anthem will seek relief from the Court..

3. Interrogatory No. 17. As discussed during our August 20 and September 4, 2026 meet-and-confers, and memorialized in Anthem's August 20 and September 5, 2026 correspondence, Anthem raised the issue of reverse false claims only because *you* identified them as potentially responsive to Interrogatory No. 17 during our August 20, 2026 meet-and-confer. Specifically, when we asked why Plaintiff asserted an "expert discovery" objection to Interrogatory No. 17 if Anthem's attestations are the false claims for payment under the FCA, *you* stated that the government asserted that objection because it intends to rely on additional reverse false claims that will be identified during expert discovery. Plaintiff's refusal to now confirm or deny making that representation does not change the fact that it was made and several of us witnessed it. That said, given that Plaintiff is now asserts that reverse false claims are not responsive to Interrogatory No. 17, we will accept that representation and this issue is no longer in dispute.

In addition to the issues discussed above, and as we discussed during prior meet-and-confers and in our correspondence, Anthem intends to raise the following disputes with the court:

1. Plaintiff's "legal theory" objection to Interrogatory Nos. 9, 17-20, 26, and 29.
2. Plaintiff's refusal, with respect to its cross-referenced responses to Interrogatory Nos. 12-13, 18-20, and 24, to confirm whether it contends the entirety of the incorporated response is responsive to the subject interrogatory or only a portion and, if only a portion, what specific information in the incorporated answer is responsive to the subject interrogatory.
3. Plaintiff's refusal to respond fully to Interrogatory Nos. 9, 12-13, 18-20, 23-24, 26, and 29 on the grounds that responsive information can be found in discovery productions or the Amended Complaint, or that Plaintiff need not respond at all because discovery is ongoing.

Best,
Anwar

O'Melveny

Anwar L. Graves

Partner

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From: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>

Sent: Wednesday, September 9, 2026 2:08 PM

To: Graves, Anwar <agraves@omm.com>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Anwar,

Thanks for your email. We write in response to your email below and to clarify a few points about our position on the interrogatories.

First, as we've explained many times, many of Anthem's interrogatories effectively ask the Government to identify every piece of evidence or every material fact we may rely on in this case. That type of exhaustive, narrative-style contention interrogatory is improper, and our objections reflect established law on that point. We responded as fully as was reasonable given the breadth of the requests, but, as we explained, we may introduce additional facts at summary judgment or trial. That approach is consistent with both the nature of Anthem's interrogatories and the governing law.

Second, Anthem explained on our meet and confer last Friday that, in its responses to the Government's RFPs, it has provided all material facts known to it after a reasonable search. As an initial matter, the parties aren't similarly situated on this issue. Fourteen of the twenty-five interrogatories in Anthem's Second Set of Interrogatories (Nos. 6–16, 19–20, and 24), ask the Government to identify "every material fact" supporting a contention. By contrast, only Interrogatory No. 14 in the Government's Second Set, including subparts (a) through (d), asks Anthem to identify all material facts supporting one of its contentions. And in response to Interrogatory 14, Anthem objected on the same grounds the Government has raised, and even invoked the Government's responses to justify its position. For example, Anthem's response to Interrogatory 14(a) states that the Government's interrogatory is "improper because it demands 'all material fact' that supports Anthem's contention, in line with Plaintiff's objections to Anthem's Second Set of Interrogatories" and goes on to say that "Anthem does not represent that it is identifying every material fact related to the subject of the Interrogatory, and the response set forth

below should not be construed as exhaustive of the facts or evidence supporting Anthem's contention or that Anthem may rely on for purposes of briefing or a trial in this action." Given Anthem's objections, which mirror and invoke the Government's objections on this issue, your statements during the meet and confer don't align with Anthem's actual position.

Third, as we said on the call, in our written responses, and during prior meet and confers, several interrogatories are premature because they seek information that's the subject of expert discovery. We'll disclose expert opinions in accordance with the Court's schedule. And as with any discovery response, we recognize that both parties have a duty to supplement under Rule 26(e). If during or after expert discovery we determine that it's appropriate to supplement the Government's responses to Anthem's interrogatories, including with respect to Interrogatory 17, specifically, we'll supplement consistent with the Federal Rules.

With respect to Interrogatory 17, we don't understand why you continue to raise reverse false claims during meet and confers. The interrogatory points to paragraph 159 of the Amended Complaint, which cites 31 U.S.C. § 3729(a)(1)(A). That's not the False Claims Act provision governing reverse false claims. The Amended Complaint addresses reverse false claims separately. *See, e.g.*, Amended Complaint ¶ 169 ("The Government seeks relief against Anthem under . . . 31 U.S.C. § 3729(a)(1)(G)."). Because reverse false claims are addressed elsewhere in the Amended Complaint and aren't responsive to what Interrogatory 17 actually asks, they aren't they aren't part of our response to Interrogatory 17, and we won't be supplementing that interrogatory with reverse false claims.

Please let us know by the end of the day what issues Anthem continues to object to, and whether there are any issues beyond the three in your email below that you intend to raise with the Court.

Best,
Adam

From: Graves, Anwar <agraves@omm.com>

Sent: Saturday, September 5, 2026 1:59 PM

To: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: [EXTERNAL] RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

All,

Thanks for meeting with us yesterday, September 4, 2026, to discuss your positions regarding Plaintiff's responses and objections to Anthem's May 1, 2026 interrogatories. This email confirms our understanding of the positions Plaintiff communicated to us during our call. Please confirm by September 6, 2026 whether the below accurately reflects Plaintiff's positions as communicated on yesterday's call, or identify with specificity any characterizations you believe are inaccurate.

1. "Every material fact" objection. Plaintiff confirmed on yesterday's call that (i) it may currently be aware of additional material facts responsive to Anthem's interrogatories that were not included in the responses and objections it served on June 24, 2026; (ii) its position is that Plaintiff has no obligation to disclose "every material fact" on which it may rely—even if the facts are responsive to Anthem's interrogatories and those facts are presently known by Plaintiff—and that it may instead wait to disclose those facts for the first time at summary judgment or trial rather than disclosing those facts in its responses; and (iii) Anthem likewise need not disclose "every material fact" responsive to Plaintiff's interrogatories even if Anthem has current knowledge of those facts and may rely on them later at summary judgment or trial.
2. "Expert discovery" objection. For certain interrogatories, Plaintiff has objected that the requested information is the proper subject of expert discovery and that any responsive information will be provided through expert discovery and its expert reports. When asked whether Plaintiff would commit to supplement its responses under Rule 26(e)(1) should it learn of additional responsive information during expert discovery, Plaintiff would not commit to do so.
3. Interrogatory No. 17 (Reverse False Claims): Interrogatory No. 17 asks Plaintiff to identify each false claim that it alleges Anthem "knowingly presented, or caused to be presented . . . for payment or approval to CMS." In its response, Plaintiff identified "the attestations that Anthem submitted to CMS during the Relevant Period" as "the False Claims that Anthem knowingly presented, or caused to be presented, to CMS for payment or approval." During our August 18, 2026 meet and confer, Plaintiff represented that, beyond those attestations, it may also rely on additional, currently unidentified reverse false claims that it maintains cannot be identified until expert discovery is complete. Plaintiff further represented that it would not commit to supplementing its response to this interrogatory if its experts identify additional reverse false claims upon which Plaintiff would rely at summary judgment or trial. On yesterday's call, however, Plaintiff refused to confirm or deny whether it had previously represented that it intends to rely on additional, currently unidentified reverse false claims, and instead stated only that it "stands on its objections" to Interrogatory No. 17. Plaintiff maintained its position that it would not commit to supplementing its response to Interrogatory No. 17 pursuant to Rule 26(e) even if its experts identified additional reverse false claims upon which Plaintiff would rely at summary judgment or trial. Plaintiff only promised to "comply with the rules and its view" of them but refused to state whether "its view" of the rules required it to supplement its interrogatory responses if it learns of additional responsive information upon which it would rely at summary judgment or trial.

Best,
Anwar

O'Melveny

Anwar L. Graves

Partner

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From: Graves, Anwar

Sent: Thursday, September 3, 2026 11:03 AM

To: 'Gitlin, Adam (USANYS)' <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <JCayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <CBurke@omm.com>

Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Hi Adam,

Your response states that you don't agree with "a number of the characterizations of [your] position in [our] email," but doesn't articulate which of those characterizations are inaccurate. In addition, you did not respond to a number of questions posed in our email.

Please advise of your availability today or tomorrow morning to discuss.

Thanks,
Anwar

O'Melveny

Anwar L. Graves

Partner

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From: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>

Sent: Tuesday, September 1, 2026 2:07 PM

To: Graves, Anwar <agraves@omm.com>; Walsh Kumar, Dana (USANYS)

<Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS)

<Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry

(USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand,

Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV)

<Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim

<jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M.

<ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A.

<earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Anwar,

Thank you for your email. We don't agree with a number of the characterizations of our position in your email.

On your first point regarding "every material fact," as we explained in our responses to Anthem's Second Set of Interrogatories, we believe certain interrogatories inappropriately demand that the Government identify "every material fact" supporting its contentions, and we made clear in certain responses that the Government wasn't representing that it was identifying every material fact related to the subject of the interrogatory. Courts have recognized that these types of interrogatories—which effectively seek a detailed narrative of all supporting facts—are improper. *See Pasternak v. Dow Kim*, No. 10 Civ. 5045 (LTS) (JLC), 2011 WL 4552389, at *2 (S.D.N.Y. Sept. 28, 2011) (collecting cases). We understand that Anthem has taken a similar position in responding to the Government's interrogatories.

With respect to cross-referenced responses, as we noted on the call, we don't follow the issue you're raising. If the concern is again that our responses don't list "every material fact," our answer above applies. If instead the concern is simply the use of cross-references, we've already explained why that approach is appropriate. And we're not going to go line-by-line through our incorporated responses to identify which individual sentences are responsive. We don't think such an exercise is necessary or proportional.

On the expert-related interrogatories, your email again mischaracterizes our position. We didn't say that the Government is "not obligated to respond to the interrogatory at all" whenever expert opinions might be relevant, or that the parties have "no obligation to supplement" interrogatory responses with expert opinions disclosed in expert reports. Rather, as we said in our interrogatory responses, in our August 10 letter, and during our call, several of Anthem's interrogatories seek information that's the proper subject of expert discovery, which the Government will provide

through expert disclosures in accordance with the schedule set by the Court. *See, e.g., United States ex rel. Integra Med Analytics LLC v. Laufer*, No. 17 Civ. 9424 (CS) (JCM), 2023 WL 4200865, at *2 (S.D.N.Y. June 27, 2023) (affirming denial of motion to compel responses to interrogatories because the interrogatories “appear to be premature, as they seek information the Government will not have until expert reports are produced”).

Regarding Interrogatory 17 specifically, we stand on our objections. And with respect to Interrogatory 25, we think the language in the Amended Complaint is self-evident, but yes, it’s the Government’s understanding that the allegation regarding “other instances” refers to previously submitted diagnosis codes that Anthem knew were false as a result of its chart review program, apart from the specifically listed diagnosis codes in the Amended Complaint.

Best,
Adam

From: Graves, Anwar <agraves@omm.com>

Sent: Monday, August 31, 2026 7:22 PM

To: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>

Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>

Subject: [EXTERNAL] RE: Defendant Anthem’s Letter Regarding Anthem’s 30(b)(6) Notice to Plaintiff

Adam,

Following up on your email below—you indicated we would hear back today on the issues raised in our August 24 email. Please let us know when we can expect your response.

Best,
Anwar

O’Melveny

Anwar L. Graves

Partner

agraves@omm.com

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From: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>
Sent: Wednesday, August 26, 2026 11:51 AM
To: Graves, Anwar <agraves@omm.com>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>
Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>
Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

Anwar,

We expect to get back to you about the below by Monday.

Best,
Adam

From: Graves, Anwar <agraves@omm.com>
Sent: Monday, August 24, 2026 3:05 PM
To: Gitlin, Adam (USANYS) <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <jcayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>
Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <cburke@omm.com>
Subject: [EXTERNAL] RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

All,

Following up on our email below. We had asked to hear back by today, August 24, on whether we have accurately stated Plaintiff's positions from our meet-and-confer, as well as responses to our follow-up questions.

Please let us know whether you'll be providing that response today.

Thanks,
Anwar

O'Melveny

Anwar L. Graves

Partner

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From: Graves, Anwar

Sent: Thursday, August 20, 2026 12:22 PM

To: 'Gitlin, Adam (USANYS)' <Adam.Gitlin@usdoj.gov>; Walsh Kumar, Dana (USANYS) <Dana.Walsh.Kumar@usdoj.gov>; Cayetano, Josh <JCayetano@omm.com>; Jacob, Charles (USANYS) <Charles.Jacob@usdoj.gov>; Doud, Rachael (USANYS) <Rachael.Doud@usdoj.gov>; Fidler, Harry (USANYS) <Harry.Fidler@usdoj.gov>; Aronoff, Peter (USANYS) <Peter.Aronoff@usdoj.gov>; Armand, Pierre (USANYS) <Pierre.Armand@usdoj.gov>; Glover, Martha N. (CIV) <Martha.N.Glover@usdoj.gov>; Flores, Jessica (USANYS) 1 <Jessica.Flores@usdoj.gov>
Cc: Deaton, David <ddeaton@omm.com>; Blalack II, K. Lee <lblalack@omm.com>; Bowman, Jim <jb Bowman@omm.com>; Levine, Adam <alevine@omm.com>; Sullivan, Stephen M. <ssullivan@omm.com>; Steinberg, Anne <asteinberg@omm.com>; Arias Gray, Elizabeth A. <earias@omm.com>; Burke, Christopher P. <CBurke@omm.com>

Subject: RE: Defendant Anthem's Letter Regarding Anthem's 30(b)(6) Notice to Plaintiff

All,

Thanks for meeting with us on Tuesday to discuss your August 10, 2026 letter regarding Plaintiff's objections and responses to Anthem's May 1, 2026 interrogatories. This email confirms our understanding of the positions Plaintiff communicated to us on that call.

1. "Every material fact" objection to interrogatories. Plaintiff confirmed that it may currently be aware of additional facts responsive to Anthem's interrogatories that were not included in its responses served on June 24, 2026. When we inquired why Plaintiff believed it could withhold from its responses to the interrogatories facts of which it is currently aware, Plaintiff stated that it has no obligation to disclose "every material fact" on which it may rely—even if the facts are responsive to Anthem's interrogatories and those facts are presently known by Plaintiff—and that it may instead wait to disclose those facts for the first time at summary judgment or trial

rather than disclosing those facts in its responses. Plaintiff confirmed that this purported standard runs both ways: Anthem likewise need not disclose “every material fact” responsive to Plaintiff’s interrogatories even if Anthem has current knowledge of those facts and may rely on them later at summary judgment or trial. If we have accurately stated Plaintiff’s position, please direct us to legal authority that supports Plaintiff’s understanding of its obligations under Rule 33.

2. Cross-referenced responses. For interrogatories where Plaintiff’s response incorporates its responses to other Anthem interrogatories, Plaintiff similarly confirmed that there may be additional responsive facts that it does not believe it is obligated to disclose at this time and that it will not commit to supplementing those responses before summary judgment or trial.

Separately, for each interrogatory where Plaintiff incorporated by reference its responses to other Anthem interrogatories, please confirm whether the entirety of each incorporated response is responsive, or only a portion of the incorporated response. For example, in response to Interrogatory No. 16, Plaintiff incorporated its responses to Interrogatory Nos. 6 and 11. Please confirm whether Plaintiff considers the entirety of its responses to Interrogatory Nos. 6 and 11 to be responsive to Interrogatory No. 16, or only certain portions.

3. “Expert discovery” objection. For interrogatories where Plaintiff objected that the requested information is subject to expert discovery, Plaintiff confirmed that it will both stand on its objections and not commit to supplementing its responses following expert discovery. In other words, we understand Plaintiff’s position to be that, where expert opinions might be responsive to an interrogatory, Plaintiff is not obligated to respond to the interrogatory at all and has no obligation to supplement its response to include any facts or opinions from its experts once those opinions have been disclosed in an expert report. If this understanding is incorrect, please advise. Plaintiff also explained that, beyond identifying Anthem’s attestations as the False Claims referenced in response to Interrogatory No. 17, Plaintiff intends to rely on additional, currently unidentified reverse false claims that it says it cannot identify until expert discovery is complete. However, Plaintiff will not commit to supplementing its response to Interrogatory No. 17 to identify those reverse false claims once expert discovery concludes.
4. Interrogatory No. 25 (“other instances” of Overpayment). Interrogatory No. 25 asks Plaintiff to “[i]dentify each of the ‘other instances’ in which [it] allege[s] Anthem’s conduct resulted in an Overpayment to Anthem. Am. Compl. ¶ 154.” Plaintiff’s response states that “other instances” includes “each instance during the Relevant Period in which Anthem failed to delete a previously-submitted diagnosis code that was unsupported by the medical record documentation for a diagnosis code had

been reviewed by chart reviewer pursuant to Anthem's retrospective chart review program during the Relevant Period who had determined that the code was not supported by medical documentation, where such failure caused CMS to make a risk adjustment payment to Anthem that CMS would not have made had Anthem deleted the unsupported code." We understand this allegation in Paragraph 154 of the Amended Complaint to refer to other, specific instances of previously submitted diagnosis codes that Plaintiff alleges Anthem knew were false as a result of its corporate retrospective chart review program, apart from the specifically listed diagnosis codes that Plaintiff alleged were false in the Amended Complaint itself. During the meet and confer call, we asked Plaintiff to confirm that this understanding of the Amended Complaint and Plaintiff's response to Interrogatory No. 25 is correct.

You stated that Plaintiff would consider this question further and advise on whether Plaintiff's use of "other instances" is limited to the scenario described above.

Please let us know by Monday, August 24 if we have misstated any of Plaintiff's positions, or if a call would help clarify any of the above. Also, please respond to our follow up questions here by Monday if at all possible.

Best,
Anwar

O'Melveny

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Exhibit D



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, Third Floor
New York, New York 10007*

August 10, 2026

BY EMAIL

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David Deaton
Hannah Dunham
Zach Frieden
Jared Ginsburg
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Re: *United States v. Anthem, Inc.*, 20 Civ. 2593 (ALC) (KHP)

Dear Counsel:

We write in response to Anthem's July 10, 2026, letter regarding the Government's Responses and Objections (the "R&Os") to Anthem's Second Set of Interrogatories (the "Interrogatories"), which the Government served on June 24, 2026. Below are responses to the points that Anthem raised in its letter:

Interrogatory No. 9

Interrogatory No. 9 states: "State in detail every Material fact upon which You base Your contention that Anthem was obligated to find . . . inaccurate diagnosis codes." (citing Am. Compl. ¶ 8; alteration and quotation marks omitted).

Referring to the Amended Complaint. Anthem contends that the Government's response to Interrogatory No. 9 is "entirely circular" because it refers back to the Amended Complaint rather than stating the specific material facts supporting the Government's contention that Anthem was "obligat[ed] to find . . . inaccurate diagnosis codes." Interrogatory No. 9 (citing Am. Compl. ¶ 8). The Government's response was not circular. The Government directed Anthem to the Amended Complaint as a whole—not paragraph 8 in isolation—and the Amended Complaint identifies the sources of Anthem's obligations. Pointing Anthem to the operative pleading that sets forth the sources of the obligations is not circular reasoning; it is a direct answer to an interrogatory that, at bottom, asks about the basis of a legal duty.

That is one of the fundamental problems with Interrogatory No. 9: while the interrogatory purports to ask the Government to identify "facts," the allegation it cites references Anthem's legal obligation arising from applicable statutory, regulatory, and

contractual requirements. As the Government explained in its R&Os, an interrogatory demanding “every Material fact upon which You base Your contention” that a legal obligation exists reflects an improper request for a recitation of the Government’s legal theory. *See also DoorDash, Inc. v. City Of New York*, No. 21 Civ. 7695 (AT) (SLC), ECF 114 (S.D.N.Y. May 22, 2023) (in responding to an interrogatory, concluding that “[t]he City is not . . . required to provide case law or other legal authorities, or to provide ‘long narrative explanations’ that Plaintiffs could otherwise have sought through a deposition of a representative of the City pursuant to Federal Rule of Civil Procedure 30(b)(6)”); *United States v. Maryland & Virginia Milk Producers Ass’n*, 22 F.R.D. 300, 301–02 (D.D.C. 1958) (sustaining objection to interrogatory where it sought “a detailed statement from the plaintiff of not only its factual contentions, but also of its legal position in respect to the defense to which it refers,” which would “be, in effect, . . . a skeletonized brief on the facts and the law” and that “[i]t is not the purpose of discovery to ascertain what arguments the opposing party intends to use in support of his contentions”).

The Government also does not understand Anthem’s contention that *United States v. Renault, Inc.*, 27 F.R.D. 23 (S.D.N.Y. 1960), which the Government cited in its R&Os, does not support the Government’s objection to this interrogatory. *Renault* states: “Objections to interrogatories asking for an extremely comprehensive outline of the legal theories which plaintiff will employ are also sustained, for they would impose the burden on plaintiff of submitting a voluminous brief on the law at this early stage. Further disclosure of legal arguments will undoubtedly follow during the course of pre-trial proceedings.” *Id.* at 29–30 (citation omitted). That is exactly what Interrogatory No. 9 seeks with respect to the source of Anthem’s legal obligations.

To the extent Anthem is willing to modify Interrogatory No. 9 to narrow or clarify the information it seeks, the Government will consider it.

Interrogatory Nos. 10, 11, 14, and 16

Interrogatory No. 10 states: “State in detail every Material fact upon which You base Your contention that Anthem had specific notice that its own diagnosis code submissions contained a significant percentage of inaccuracies.” (citing Am. Compl. ¶ 110; quotation marks omitted). Interrogatory No. 11 states: “State in detail every Material fact upon which You base Your contention that Anthem knew that the chart review results from Medi-Connect could help it verify the accuracy of the previously-submitted diagnosis data.” (citing Am. Compl. ¶ 153; quotation marks omitted). Interrogatory No. 14 states: “State in detail every Material fact upon which You base Your contention that Anthem, by deliberately or recklessly disregarding its regulatory and contractual obligation to delete inaccurate diagnosis codes, [] knowingly concealed its obligation to refund CMS.” (citing Am. Compl. ¶ 171; quotation marks omitted). And Interrogatory No. 16 states: “State in detail every Material fact upon which You base Your contention that Anthem’s attestation was false because, at the time of the attestation, Anthem knew that specific diagnosis codes it had submitted for payment and never deleted were inaccurate.” (citing Am. Compl. ¶¶ 162, 167; quotation marks omitted).

Cross-referencing. Anthem’s July 10 Letter includes Interrogatory Nos. 10, 11, 14, and 16 among the interrogatories to which the Government purportedly “improperly cross-reference[d]” other responses. But that objection does not fit the Government’s responses to these interrogatories. For each, the Government provided a full, standalone answer setting forth the material facts supporting the contention at issue.

As to Interrogatory Nos. 10 and 11, the only mention of another interrogatory appears in the Government's objections, where the Government noted that Interrogatory No. 10 is cumulative and duplicative of Interrogatory No. 7, to which the Government had already responded, and that Interrogatory No. 11 is likewise cumulative and duplicative of Interrogatory No. 6. Those are proper objections, not cross-referenced answers. A party is permitted to identify when an interrogatory is cumulative and duplicative of another, *see* Fed. R. Civ. P. 26(b)(2)(C)(i), and doing so does not convert the accompanying substantive response into an "improper cross-reference."

The Government's responses to Interrogatory Nos. 14 and 16 likewise provided fulsome, standalone answers. To the extent those responses also incorporated related responses addressing overlapping subject matter by reference, that incorporation was proper given the substantial overlap among those interrogatories. *See, e.g., United States v. R.J. Zavoral & Sons, Inc.*, No. 12 Civ. 668 (MJD) (LIB), 2014 WL 12756821, at *14 (D. Minn. Apr. 23, 2014) ("The Government's incorporation by reference of its supplemental answer to Interrogatory No. 9 is entirely appropriate, as Interrogatory No. 9 is virtually identical to Interrogatory No. 39."). The Government therefore does not understand the basis for Anthem's objection to the Government's responses to Interrogatory Nos. 10, 11, 14, and 16, but is willing to meet and confer about Interrogatory Nos. 14 and 16 to the extent Anthem still takes issue with the Government's R&Os on this basis.

Interrogatory Nos. 12–13

Interrogatory No. 12 states: "State in detail every Material fact upon which You base Your contention that Anthem also was aware of significant rates of errors in the diagnosis codes it was submitting to CMS based on the provider claims." (citing Am. Compl. ¶ 153; quotation marks omitted). Interrogatory No. 13 states: "State in detail every Material fact upon which You base Your contention that Anthem understood that it both had the ability and the obligation to compare the chart review results from Medi-Connect against the diagnosis codes it previously submitted to find and delete the codes that could not be validated based on the medical records." (citing Am. Compl. ¶ 153; quotation marks omitted).

Cross-referencing. Anthem objects to the Government's responses to these interrogatories on the ground, again, that they incorporate improper cross-referencing. The cross-references are appropriate because Interrogatory Nos. 12 and 13 are extremely similar to other interrogatories. For example, Interrogatory No. 12 asks the Government to state every material fact upon which the Government bases its contention that "Anthem also was aware of significant rates of errors in the diagnosis codes it was submitting to CMS based on the provider claims." And Interrogatory No. 10 asks the Government to state every material fact upon which the Government bases its contention that Anthem "had specific notice that its own diagnosis code submissions contained a significant percentage of inaccuracies." As the Government explained in its response to Interrogatory No. 12, in light of the substantial overlap between the two interrogatories, the Government referred to its response to Interrogatory No. 10, where it had already provided a fulsome response. That response was appropriate. *See R.J. Zavoral*, 2014 WL 12756821, at *14. The same is true of Interrogatory No. 13, which seeks substantially the same information already requested by other interrogatories, as the R&Os explain.

Interrogatory No. 17

Interrogatory No. 17 states: “Identify each False Claim that You allege Anthem knowingly presented, or caused to be presented . . . for payment or approval to CMS.” (citing Am. Compl. ¶ 159; quotation marks omitted).

Expert testimony. The Government does not understand Anthem’s objections to the Government’s response to Interrogatory No. 17. Anthem states that “Plaintiff has provided no substantive information regarding: which claims for payment it contends are false.” But the Government did respond to this interrogatory and provided information about which false claims the Government alleges Anthem knowingly presented, or caused to be presented, for payment or approval to Centers for Medicare & Medicaid Services (“CMS”). The Government’s R&Os state, among other things, that “the Government contends that the False Claims that Anthem knowingly presented, or caused to be presented, to CMS for payment or approval are the attestations that Anthem submitted to CMS during the Relevant Period.” R&Os at 38.

Anthem also objected to the Government’s response to Interrogatory No. 17 on the basis that the Government stated, in its objections, that the interrogatory seeks information that the Government’s experts may provide during expert discovery, but expert discovery is not yet complete, and the deadline for the Government’s expert disclosures has not yet passed. The Government stands by this objection, but it did not refuse to answer the interrogatory on this basis and provided a response. Accordingly, the Government does not understand the basis for Anthem’s assertion.¹

Interrogatory No. 18

Interrogatory No. 18 states: “For each False Claim that You Identified in response to Interrogatory No. 17 and/or each Diagnosis Code You allege was not Documented in Medical Records, Identify and Describe with particularity what information in each Claim is False and why such information is False, Including the specific details as to why the specific information for each Claim is False.”

Expert testimony. The Government does not understand Anthem’s objection to the Government’s response to Interrogatory No. 18. As an initial matter, Interrogatory No. 18 has two subparts—the first concerning False Claims, and the second concerning the Diagnosis Codes alleged to be undocumented in the medical records. The Government responded appropriately to both.

Specifically, the Government responded to the first subpart concerning False Claims. The Government explained that “the information that is false in each attestation is Anthem’s certification that, based on best knowledge, information, and belief as of the date indicated below, all information submitted to CMS in this report is accurate, complete, and truthful,” and that this certification was false because, at the time of each attestation, Anthem knew that it had submitted inaccurate and false risk adjustment diagnosis data to CMS. R&Os at 39–40 (citation, quotation marks, and alteration omitted). Anthem’s contention that the Government provided “no substantive information” as to this subpart is therefore incorrect.

¹ Even if the Government did not provide a full response on the ground that the interrogatory calls for information that is the subject of expert discovery, the Government’s position would be appropriate for the reasons stated below in connection with Interrogatory No. 18.

The second subpart of Interrogatory No. 18—which asks the Government to identify, for each diagnosis code alleged to be unsupported, “what information . . . is False and why such information is False”—calls for precisely the analysis that the Court has held will proceed through sampling and expert discovery. In granting the Government’s motion regarding the production of medical records, the Court recognized that “[w]hether particular diagnosis codes were, in fact, supported by contemporaneous medical records is intertwined with the alleged falsity which is at the core of the Government’s allegations” and sampling “is the only practicable way to proceed in discovery at this point.” *United States v. Anthem, Inc.*, No. 20 Civ. 2593 (ALC) (KHP), 2026 WL 456597, at *2–3 (S.D.N.Y. Feb. 18, 2026).

Consistent with the Court’s order, and as the Government explained in its R&Os, the Government is reviewing a sample of diagnosis codes, for which the Court ordered Anthem to produce the associated medical records, to determine which diagnosis codes within that sample are unsupported by the medical record documentation, and the results of that review will then be extrapolated to the broader population of diagnosis codes from which the sample was drawn. The Government continues to believe that the methodology and results of that review of medical records and extrapolation analysis—including the identification of the diagnosis codes within the sample that are unsupported by the medical record documentation, the reasons each such code is unsupported, and the methodology for extrapolation—are the proper subject of expert discovery, which the Government will provide through expert disclosures in accordance with the schedule set by the Court. *See also, e.g., United States ex rel. Integra Med Analytics LLC v. Laufer*, No. 17 Civ. 9424 (CS) (JCM), 2023 WL 4200865, at *2 (S.D.N.Y. June 27, 2023) (affirming magistrate judge’s denial of motion to compel response to interrogatories because the interrogatories “appear to be premature, as they seek information the Government will not have until expert reports are produced”). Anthem’s suggestion that the Government could or should have answered this subpart ignores both the Court’s order and the sequence of discovery.

Gov’t Emps. Ins. Co. v. Strut, No. 19 Civ. 728 (JLS) (HBS), 2021 WL 230902 (W.D.N.Y. Jan. 22, 2021), does not support Anthem’s position. In that case, although the court required the plaintiffs to identify certain information in response to the defendants’ interrogatories, the court also ruled that: “[T]he only basis Plaintiffs meaningfully articulate for deferring their answers [to interrogatories] is that some interrogatories seek information that relates to expert opinions, which are better addressed during expert discovery. To that limited extent, the Court agrees. If any interrogatory seeks a response that calls for the identity of an expert or the expert’s opinion, Plaintiffs may defer their answer until they have identified their experts and proffered expert reports in accordance with the pretrial order.” *Strut*, 2021 WL 230902, at *4. That is exactly the situation here: the second subpart of Interrogatory No. 18 calls for information which falls within the scope of expert discovery. Further, the Government has explained that it will use extrapolation from a sampling process, which is entirely appropriate. For these reasons, the Government stands by its objection to this interrogatory.

Cross-referencing. Anthem also takes issue with the Government’s response based on cross-referencing. But as with the interrogatories discussed above, the Government cross-referenced only in its objections; it did not decline to respond to the interrogatory on that basis and the Government’s response, for the reasons stated above, was appropriate.

Interrogatory Nos. 19–20

Interrogatory No. 19 states: “For each Diagnosis Code You Identified in response to Interrogatory No. 18, state in detail every Material fact relating to Your contention that Anthem Knew that these Diagnosis Codes were inaccurate, incorrect, or not supported by the medical record.” (citing Am. Compl. ¶¶ 51, 54, 55, 154; quotation marks omitted). Interrogatory No. 20 states: “For each Diagnosis Code You Identified in response to Interrogatory No. 18, state in detail every Material fact relating to Your contention that by knowingly failing to delete these . . . diagnoses, Anthem knowingly and improperly avoided its obligation to repay CMS for payments it received for these inaccurate diagnoses.” (citing Am. Compl. ¶ 154; quotation marks omitted).

Expert testimony. Interrogatory Nos. 19 and 20 both ask the Government to state material facts “[f]or each Diagnosis Code You Identified in response to Interrogatory No. 18.” As explained above with respect to Interrogatory No. 18, the identification of the diagnosis codes within the sample that are unsupported by the medical record documentation, the reasons each such code is unsupported, and the extrapolation analysis are the proper subject of expert discovery, which is not yet complete. For these reasons, the Government stands by its objections to these interrogatories.

Cross-referencing. As with the interrogatories discussed above, the Government cross-referenced its prior responses only where Interrogatory Nos. 19 and 20 sought substantially the same information the Government had already provided in response to other interrogatories. That is appropriate. *See R.J. Zavoral*, 2014 WL 12756821, at *14.

Interrogatory Nos. 21–22

Interrogatory No. 21 states: “Identify each False Record or Statement Material to a False Claim You allege Anthem knowingly made, used, or caused to be made or used.” (citing Am. Compl. ¶ 164; quotation marks omitted). Interrogatory No. 22 states: “Identify each False Record or Statement Material to an Obligation to repay the Government You allege Anthem knowingly made or used.” (citing Am. Compl. ¶ 169; quotation marks omitted).

Expert testimony. As with the Government’s response to Interrogatory No. 17, the Government does not understand Anthem’s objections to the Government’s responses to Interrogatory Nos. 21 and 22. Anthem asserts that “Plaintiff has provided no substantive information regarding: . . . Anthem’s alleged false records or statements.” But the Government did respond to both interrogatories, identifying the attestations Anthem submitted to CMS during the Relevant Period as the false records or statements at issue, just as it did in response to Interrogatory No. 17. To the extent Anthem takes issue with the Government’s objection that the information requested may be the subject of expert discovery, the Government stands by that objection but did not withhold a response on that basis.

Interrogatory Nos. 23–25

Interrogatory No. 23 states: “Identify each Overpayment that You allege Anthem unlawfully obtained and retained from CMS.” (citing Am. Compl. ¶¶ 1, 9, 154; quotation marks omitted). Interrogatory No. 24 states: “For each Overpayment Identified in response to Interrogatory No. 25, state in detail every Material fact relating to Your contention that it resulted in an Overpayment to Anthem.” And Interrogatory No. 25 states: “Identify each of the other instances in which You allege Anthem’s conduct resulted in an Overpayment to Anthem.” (citing Am. Compl. ¶ 154; quotation marks omitted).

Expert testimony. As to each of Interrogatory Nos. 23, 24, and 25, Anthem objects that the Government's R&Os "provide[d] no substantive information" because the Government took the position that this information is the subject of expert discovery that is not yet complete. But as the Government explained in its R&Os and above, these interrogatories are premature because the information they seek is the proper subject of expert discovery, and the deadline for the Government's expert disclosures has not yet passed.

Cross-referencing. Anthem also objects that the Government's responses incorporate improper cross-referencing. The Government again does not understand the basis for this objection, because the Government only cross-referenced other interrogatories in its objections, and only to explain why Anthem's interrogatories were duplicative and cumulative. The Government did not decline to respond to Anthem's interrogatories on the basis that they were cumulative and duplicative.

Interrogatory Nos. 27–28

Interrogatory No. 27 states: "State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Due Diligence Requirement." Interrogatory No. 28 states: "State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Requirement to make Good Faith Efforts."

Cross-referencing. Anthem first objects that the Government's responses to these interrogatories again incorporate improper cross-referencing. But the Government's response to Interrogatory No. 27 did not contain any cross-references in either its objections or its response, so the Government does not understand the basis for Anthem's assertion as to that interrogatory. As to Interrogatory No. 28, the Government explained that, "in light of the substantial overlap with Interrogatory 27, the Government declines to set forth additional facts in response to this Interrogatory and instead refers Anthem to its response to Interrogatory 27, which is incorporated herein by reference."

How CMS Communicated Concerning Obligations. Anthem also objects that the Government "provided a partial response to these interrogatories" because "Plaintiff's response fails to answer how CMS communicated these obligations to MAOs." The Government does not understand the basis for this objection either. In the Government's response to Interrogatory No. 27, for example, the Government clearly explained that CMS communicated information to MAOs relevant to the allegations in the Amended Complaint through, among other means, the Federal Register preamble, the Medicare Managed Care Manual, and CMS regulations and final rules. Anthem does not explain why this response is purportedly insufficient. The Government is willing to meet and confer regarding the Government's responses to these interrogatories to the extent Anthem can provide more information and further clarification about its objection.

Interrogatory Nos. 29–30

Interrogatory No. 29 states: "If You denied Request for Admission No. 253 in Anthem's First Set of Requests for Admission served concurrently herewith on May 1, 2026, Identify the Anthem employees who You contend had such Actual Knowledge." Interrogatory No. 30 states: "If You denied Request for Admission No. 254 in Anthem's First Set of Requests

for Admission served concurrently herewith on May 1, 2026, Identify the Anthem employees who You contend had such Actual Knowledge.”

Anthem’s only objection to these interrogatories is that the Government declined to answer them because it did not deny the corresponding RFAs referenced in the interrogatories. Anthem contends that the Government’s position is “circular” because the Government “cannot refuse to respond to an RFA by asserting baseless objections and then use that non-response as a basis for refusing to respond to a separate, independent interrogatory.” These responses are not “circular.” Nor are Interrogatory Nos. 29 and 30 “independent” as Anthem contends; they are conditional and, by their own terms, require a response only if the Government denied RFA Nos. 253 and 254. The Government did not deny those requests, so no response to the interrogatories is required.

The Government is prepared to meet and confer regarding any of the foregoing and is available on Wednesday, Thursday, or Friday of this week. Please let us know when you are available.

Respectfully,

JAMES M. MCDONALD
United States Attorney

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Exhibit E



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July 10, 2026

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Re: *United States v. Anthem, Inc., Case No. 1:20-cv-02593-ALC (KHP) – Deficiencies in Plaintiff's Responses to Anthem's First Set of Requests for Admission and Second Set of Interrogatories*

Dear Counsel:

We write on behalf of Defendant Anthem, Inc. regarding deficiencies in Plaintiff's Responses and Objections to Anthem's First Set of Requests for Admission and Plaintiff's Responses and Objections to Anthem's Second Set of Interrogatories (Nos. 6-30), both served on June 24, 2026. Plaintiff's responses are improper in numerous respects, as detailed below. We request that Plaintiff address the deficiencies described below by no later than July 20, 2026.

I. Plaintiff Failed to Provide Substantive Responses to Nearly Two-Thirds of Anthem's RFAs

As a threshold matter, Plaintiff's responses to Anthem's RFAs are grossly inadequate. Of the 258 RFAs that Anthem served, Plaintiff provided no substantive answer to approximately 172 of them. Only RFA Nos. 201 and 211 received unqualified admissions, both of which merely conceded the undisputed proposition that coders reviewed medical records as part of Risk Adjustment Data Validation audits and audits conducted by the Office of Inspector General of the Department of Health and Human Services ("HHS-OIG"). For the reasons described below, Plaintiff's wholesale objections and refusal to respond to nearly all of Anthem's RFAs are improper.

A. Plaintiff's Boilerplate Objections are Improper (RFA Nos. 1–17, 32-53, 57-62, 66-100)

Plaintiff responded to over eighty RFAs with virtually identical boilerplate objections that are not tailored to any particular request. Instead of admitting, denying, or setting forth in detail the reasons why Plaintiff cannot truthfully admit or deny the matters stated, as required by Federal Rule of Civil Procedure 36(a)(4), Plaintiff simply recycles the same stock language across multiple RFAs. The typical response pattern consists of a string of objections—“vague and ambiguous,” “calls for a legal conclusion,” “not relevant,” and “unduly burdensome”—followed by the blanket conclusion that “the Government is not required to respond to this request.” *See, e.g.*, RFA Nos. 3, 5, 6, 9, 11-12, 14, and 16 (asserting the exact same objection, word for word, despite addressing different subjects); RFAs 7-8, 13, 15, and 17 (asserting another set of verbatim, identical objections across different requests). Unlike Anthem's responses to Plaintiff's RFAs, Plaintiff's objections did not explain the language that is purportedly vague or ambiguous in each objection or why that ambiguity made it impossible to respond to each request, nor did Plaintiff identify any burden or provide the reason why the requested admission was not relevant to the issues in the case.

Plaintiff's approach does not comply with Rule 36. *See Pegoraro v. Marrero*, 281 F.R.D. 122, 128 (S.D.N.Y. 2012) (holding that “[b]oilerplate objections that include unsubstantiated claims of undue burden, overbreadth and lack of relevancy,” coupled with no substantive response, “are a paradigm of discovery abuse.”); *United States v. Veeraswamy*, 347 F.R.D. 591, 600 (E.D.N.Y. 2024) (“boilerplate objections are improper as they fail to rise to the level of specificity required by the Rules”). A party may not avoid responding to a request for admission simply by asserting boilerplate objections. Where a party cannot admit or deny a request, it must “state in detail” the reasons why and a party resisting discovery must explain specifically why each request is objectionable; generalized, formulaic objections are insufficient. *Id.* at 128-29; Fed. R. Civ. P. 36(a)(4). Plaintiff “cannot evade its discovery obligations by simply intoning [a] . . . familiar litany” of objections. *Homeward Residential, Inc. v. Sand Canyon Corp.*, 2016 WL 11954395, at *7 (S.D.N.Y. Sept. 30, 2016).

B. Plaintiff's Relevance and Unduly Burdensome Objections are Baseless (RFA Nos. 1–17, 32-53, 57-62, 66-100, 101-106, 172-176)

The scope of discovery under Rule 26 extends to any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, and each of these RFAs seeks admissions concerning Medicare Advantage program requirements, Anthem's compliance obligations, or the Center for Medicare and Medicaid Service's (“CMS”) payment processes—all of which are directly pertinent to Plaintiff's False Claims Act (“FCA”) theories of liability. Fed. R. Civ. P. 26(b)(1); *see e.g.*, Am. Cmpl. ¶¶ 4, 25, 37, 45-48, 51-52, 58-61, 64-65, 68, 83-90; 130-32, 134-135; 153, 155-57. Plaintiff cannot reasonably contend that RFAs concerning the MA program requirements that Anthem allegedly violated and processes that Plaintiff alleged in the Amended Complaint are irrelevant. Nor can Plaintiff credibly take the position that it is unduly burdensome to admit or deny whether the regulatory framework on which its claims for relief are based imposes specific obligations on MAOs. These RFAs go to the heart of Plaintiff's theory of liability against Anthem and Plaintiff's relevance and unduly burdensome objections thus have no merit.

C. Plaintiff’s “Calls for a Legal Conclusion,” “Hypothetical,” and “Document Speaks for Itself” Objections are Improper (RFA Nos. 1–17, 19, 22–26, 32–53, 57–64, 67–100, 101–106, 110, 112–113, 172–176, 180–189, 231–237, 240, 242, 244, 246–249)

Plaintiff asserted that many RFAs “call[] for a legal conclusion rather than an admission of fact, and thus is not within the scope of Rule 36,” but these objections misconstrue the Rule. *See* Fed. R. Civ. P. 36. “A request ‘may be made to admit . . . the application of law to fact.’” *Cement & Concrete Workers Dist. Council Welfare Fund v. Manny P. Concrete Co.*, 145 F.4th 204, 209 (2d Cir. 2025) (quoting Fed. R. Civ. P. 36(a)(1)(A) and concluding that RFAs related to whether Defendants’ legal obligations were triggered were proper). Under clear controlling authority, Plaintiff’s repeated assertion that Anthem’s requests “call for legal conclusions” is meritless. Plaintiff must respond to Anthem’s RFAs seeking admissions regarding application of law to facts in this case.

Plaintiff also asserted that many RFAs either “call[] for the answer to a hypothetical” or concern hypothetical conduct and scenarios. But asking Plaintiff to admit or deny factual propositions about how risk adjustment data and diagnosis codes function within the Medicare Advantage program is not “hypothetical.” For example, RFA No. 19 asks whether a healthcare provider’s failure to submit a documented risk-adjusting diagnosis code to Anthem which was not otherwise submitted to CMS in that year will result in an Underpayment to Anthem, which is a factual question about the operation of CMS’s MA payment system, not a hypothetical scenario.

Similarly, in lieu of proper responses, Plaintiff instead directs Anthem to certain regulations, documents, or testimony, which it contends “speak for [themselves].” But “objections that documents or regulations ‘speak for themselves’ . . . are improper” and “[o]bjections that [a party] should obtain the information by independent discovery and investigation, or that the matter is already within plaintiff’s knowledge, are [] misplaced.” *Diederich v. Dep’t of Army*, 132 F.R.D. 614, 617 (S.D.N.Y. 1990). Indeed, “the purpose of requests for admissions are to seek [a party’s] agreements as to alleged fact. Whether plaintiff could obtain the information independently or whether certain facts are within plaintiff’s knowledge are irrelevant considerations.” *Id.* And an RFA that requests “the meaning of a document or government regulation is simply a request for [Plaintiff’s] admission of having understood the rule, during the period at issue, in a manner concurring with the meaning set forth by [Anthem]” and is thus entitled to a proper response. *Id.* To the extent Plaintiff disputes Anthem’s characterization of a document, Plaintiff should say so; but it still must admit, deny, or qualify the specific proposition requested to the extent the request is otherwise proper.

D. Plaintiff’s Objection that Anthem’s RFAs are Contention Interrogatories is Meritless and Inaccurate (RFA Nos. 1–17, 32–53, 67–100, 181–189, 192, 242)

Plaintiff’s objection that the RFAs are “contention interrogatories disguised as RFAs” misconstrues both Rules 33 and 36. Rules 33 and 36 serve distinct purposes: RFAs eliminate the need to prove undisputed facts, while interrogatories elicit information. *See Veeraswamy*, 347 F.R.D. at 599 (noting that “[r]equests for admissions are unlike discovery devices such as

interrogatories . . .”); *T. Rowe Price Small-Cap Fund, Inc. v. Oppenheimer & Co.*, 174 F.R.D. 38, 42 (S.D.N.Y. 1997) (explaining that “[t]he purpose of [Rule 36] is to reduce the costs of litigation by eliminating the necessity of proving facts that are not in substantial dispute, to narrow the scope of disputed issues, and to facilitate the presentation of cases to the trier of fact”); *see also* Fed. R. Civ. P. 33, 36. Plaintiff cannot avoid its obligation to admit or deny facts merely by characterizing RFAs as interrogatories. *Diederich v. Department of Army*, 132 F.R.D. 614, 616 (1990) (holding that objections to RFAs on the basis that they are interrogatories is meritless). This is not a valid basis to refuse to provide a substantive response to Anthem’s RFAs.

Moreover, Plaintiff’s assertion that “Anthem has already served the maximum number of interrogatories permitted” is factually incorrect. Anthem is entitled to 35 interrogatories pursuant to the parties’ Proposed Case Management Plan and Report of Rule 26(f) Meeting filed with the Court on April 4, 2023 (Dkt. No. 84), and Anthem has served only 30 interrogatories. Plaintiff’s position is also directly at odds with its own interrogatories to Anthem, which far exceed the parties’ agreement.

II. Plaintiff’s Interrogatory Responses Are Incomplete and Evasive

A. Interrogatory No. 9

Interrogatory No. 9 asks Plaintiff to state the material facts supporting its contention that Anthem was “obligat[ed] to find . . . inaccurate diagnosis codes.” Rather than identifying material facts supporting Plaintiff’s contention, Plaintiff referred Anthem back to the Amended Complaint. This does not respond to Anthem’s interrogatory. Rule 33(a)(2) requires interrogatories to be answered “separately and fully in writing under oath.” *See* Fed. R. Civ. P. 33(a)(2). Plaintiff’s allegation that Anthem was required to “find” inaccurate diagnosis codes is a central issue in this case that Anthem vehemently contests. Anthem is entitled to know the specific factual basis on which Plaintiff intends to rely to establish that the obligation to “find” inaccurate diagnosis codes exists, not the fact that Plaintiff has alleged in the Amended Complaint that is the case. Plaintiff’s existing response is entirely circular.

Plaintiff’s reliance on *United States v. Renault, Inc.*, 27 F.R.D. 23 (S.D.N.Y. 1960), to justify its refusal to answer Interrogatory No. 9 is misplaced. In *Renault*, the court ordered the plaintiff to provide responsive answers to interrogatories requiring it to identify the overt acts on which it intended to rely, including the dates and actors involved. *Id.* at 28. The court **overruled** Plaintiff’s objections to interrogatories seeking the factual bases for Plaintiff’s legal theories and contentions, and sustained objections only to those interrogatories seeking “every item of evidence” to be produced at trial. *Id.* at 27. Thus, as *Renault* explained, a party cannot evade its obligation to identify the factual bases for its legal theories by making generalized references to the complaint or to evidence that the requesting party could find itself. *Id.* at 28–29. *Renault* thus confirms that Plaintiff must provide a response to Interrogatory No. 9 rather than merely justify its refusal to have done so.

B. Interrogatories Nos. 17–25

These interrogatories ask Plaintiff to (i) identify each False Claim it contends Anthem submitted to CMS, (ii) state what information is false and why, (iii) state the facts supporting Anthem's alleged knowledge of falsity, (iv) state the facts regarding Anthem's alleged knowing failure to delete the allegedly false codes, and (v) identify Overpayment(s). This Court has already recognized the centrality of individual diagnosis codes to Plaintiff's FCA allegations, granting Plaintiff's own motion to obtain a sample of medical records precisely because "[w]hether particular diagnosis codes were, in fact, supported by contemporaneous medical records is intertwined with the alleged falsity which is at the core of Plaintiff's allegations." *United States v. Anthem, Inc.*, No. 20-CV-2593, 2026 WL 456597, at *2 (S.D.N.Y. Feb. 18, 2026).

In response to these interrogatories, Plaintiff asserts that they seek information that its experts may provide during expert discovery. On this basis, Plaintiff has provided no substantive information regarding: which claims for payment it contends are false (Interrogatory 17); why each claim for payment is allegedly false (Interrogatory 18); Anthem's alleged knowledge of falsity (Interrogatory 19); Anthem's alleged avoidance of its Medicare Advantage obligations (Interrogatory 20); Anthem's alleged false records or statements (Interrogatories 21–22); and the identity and amount of each alleged overpayment (Interrogatories 23–25). Plaintiff filed this lawsuit in 2020 and has been investigating Anthem since at least 2016. In litigating this case, Plaintiff has taken dozens of depositions and received massive document productions, including medical records relating to a selection of the allegedly false diagnosis codes. Is it Plaintiff's position that, after years of discovery and more than two years since it has received Anthem's claims data and chart review results, Plaintiff cannot explain why any specific diagnosis code on its list is allegedly false, or identify the resulting overpayment attributable to any code? Plaintiff has identified the attestations it contends are false claims and has produced a list of allegedly false diagnosis codes—but it has not substantiated these claims by explaining why any particular code is false, what facts support Anthem's alleged knowledge of falsity, or what overpayment resulted from any specific code. This is precisely the information these interrogatories seek.

Moreover, while expert discovery may supplement Plaintiff's responses, the mere prospect of future expert testimony does not relieve Plaintiff of its *present* obligation to respond to interrogatories based on information reasonably available to it now. *See Gov't Emps. Ins. Co. v. Strut*, 2021 WL 230902, at *4 (W.D.N.Y. Jan. 22, 2021) (holding that a party may not defer answering contention interrogatories seeking the basic factual underpinnings of its allegations on the ground that expert discovery is incomplete). Indeed, contention interrogatories require answers based on presently available information, with the understanding that responses may be supplemented. *Id.*; *See* Fed. R. Civ. P. 26(e)(1). Having long ago obtained Anthem's claims data and chart review extracts, and having now had the underlying medical records for months, Plaintiff cannot credibly contend that it lacks the ability to explain why any specific diagnosis code on its list is allegedly false or to identify the overpayment resulting from that code. These interrogatories do not ask Plaintiff to identify its claims, but rather to articulate the factual basis for those claims. Unless it is Plaintiff's position that such substantiation cannot occur without years of analysis by an outside consultant or expert, Plaintiff must respond.

In any event, none of these interrogatories "call for responses that venture into the realm of expert discovery." *Gov't Emps. Ins. Co.*, 2021 WL 230902, at *4. In *Strut*, the court expressly found that interrogatories which, like the ones posed here, "seek to understand the basic factual

underpinnings of Plaintiffs’ claims—*e.g.*, which diagnoses do Plaintiffs believe are false, which patients had those allegedly false diagnoses, and which documents pertain to each false diagnosis and patient” were proper. *Id.* The court in *Strut* admonished that—much like Plaintiff here—the plaintiffs improperly “fail[ed] to articulate any reason why it would be unfair to fully identify the factual bases for their claims at this time” and noted that, “to the extent [p]laintiffs need to correct or supplement their interrogatory responses based on information subsequently learned through [expert] discovery, they can (and must) do so in accordance with Rule 26(e).” Plaintiff has provided no valid basis for refusing to do so here and must fully respond to these interrogatories.

C. Interrogatories Nos. 10-14, 16, 18-19, 20, 23-25, 27–28

Plaintiff responded to these interrogatories by improperly cross-referencing its response to other interrogatories and maintaining that these requests are “cumulative and duplicative.” Cross-referencing another interrogatory response does not constitute a full and separate answer where the interrogatories address distinct subject matter. *See* Fed. R. Civ. P. 33(b)(3).

Separately, Interrogatories 27 and 28 ask Plaintiff to state in detail all the ways in which CMS communicated to MAOs the “Due Diligence” and “Good Faith Efforts” MA program requirements imposed on MAOs. *See* Am. Cmpl. ¶¶ 89-90. Plaintiff provided a partial response to these interrogatories, and notably objected to Anthem’s characterization of the “Due Diligence” and “Good Faith Efforts” requirements as “freestanding or standalone requirement[s]” because, according to Plaintiff, they are a “standard[s] of conduct” arising from other obligations. While this characterization has significant implications, Plaintiff’s response fails to answer how CMS communicated these obligations to MAOs. Because Plaintiff has alleged that Anthem understood its obligations pertaining to these specific MA program requirements, it must provide a complete substantive response.

D. Interrogatories Nos. 29–30

These interrogatories ask Plaintiff to identify Anthem employees who had “Actual Knowledge” of the falsity of any diagnosis code on Plaintiff’s December 11, 2025 list if Plaintiff denied RFA Nos. 253 and 254. Plaintiff refuses to answer these interrogatories because it “did not deny” the corresponding RFAs, even though it did not provide a substantive response. But Plaintiff’s position is circular. Plaintiff cannot refuse to respond to an RFA by asserting baseless objections and then use that non-response as a basis for refusing to respond to a separate, independent interrogatory. Anthem is entitled to know whether Plaintiff contends that specific Anthem employees had actual knowledge of any of the allegedly false diagnosis codes, and if so, who those employees are.

III. The Inconsistencies in Plaintiff’s Positions Throughout its Discovery Responses Further Illustrate the Impropriety of Plaintiff’s Objections

The fact that Plaintiff’s objections are arbitrary and unfounded is demonstrated by the fact that Plaintiff selectively responded to some interrogatories while categorically refusing to respond to others that were virtually indistinguishable. For example, Plaintiff extensively cited Cheri Rice’s deposition testimony in response to Interrogatory 15 to explain how CMS would have

responded to Anthem's allegedly false attestations; yet, in response to RFA Nos. 57–62, which seek admissions concerning CMS's knowledge of Anthem's business practices -- which presumably implicates Ms. Rice's knowledge and testimony -- Plaintiff objected that those requests are "premature" because Rule 30(b)(6) testimony concerning this topic is not complete. Plaintiff cannot selectively rely on CMS testimony when it supports its affirmative case while simultaneously objecting that responses to RFAs concerning CMS's knowledge of that same subject matter are somehow premature.

Plaintiff's interrogatory responses also repeatedly assert that Anthem operated a "one-way" chart review program and Anthem understood that undocumented diagnosis codes should be deleted from the CMS data systems. However, in response to RFA Nos. 71–73, Plaintiff refuses to admit or deny whether it contends that the diagnosis codes Anthem submitted through its chart review program were accurate or properly documented in medical records, asserting that these are "not the subject of this lawsuit." The accuracy of Anthem's chart review submissions is necessarily implicated by Plaintiff's theory of liability, and Plaintiff's refusal to answer such requests is nonsensical and improper.

Please serve amended responses to these interrogatories that address these deficiencies, remove the baseless objections identified above, and provide substantive responses to these interrogatories. If Plaintiff refuses to withdraw these objections and provide substantive responses, Anthem is prepared to seek relief from the Court.

IV. Anthem Will Permit Plaintiff to Defer Providing Supplemental Responses to Certain Interrogatories Until After the Rule 30(b)(6) Deposition(s) Have Been Completed

Notwithstanding the deficiencies identified above, Anthem recognizes that a significant number of interrogatories in its Second Set of Interrogatories address subjects that overlap with topics Anthem noticed for its Rule 30(b)(6) deposition of Plaintiff. Based on the Court's comments at the July 7, 2026 case management conference, and in the interest of efficiency and to avoid imposing duplicative preparation burdens on Plaintiff, Anthem is prepared to defer requiring supplemental or corrected responses from Plaintiff to the following interrogatories until after the Rule 30(b)(6) deposition(s) have been completed and the parties are able to evaluate the record on the relevant subjects with the benefit of that testimony:

- **Interrogatory No. 15** ("State in detail every Material fact upon which You base Your contention that '[i]f CMS had known that Anthem's attestation was false . . . CMS would have taken appropriate actions to ensure that Anthem did not receive or retain risk-adjustment payments to which it was not entitled, including by recouping payments through administrative processes, adjusting the reconciliation payments, or obtaining repayments in enforcement actions.' Am. Compl. ¶¶ 162, 167.)
- **Interrogatory No. 26** ("Identify all provisions of the ICD Guidelines on which You base Your allegations at Paragraph 68 of the Amended Complaint that Anthem Presented False Claims.")

- **Interrogatory No. 27** (“State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Due Diligence Requirement.”)
- **Interrogatory No. 28** (“State in detail all the ways in which CMS Communicated to MAOs each and every Medicare Advantage Requirement that You contend is imposed on MAOs by the Requirement to make Good Faith Efforts.”)

This accommodation is conditioned on Plaintiff’s agreement (i) to provide complete, substantive supplemental responses to the above-listed interrogatories within thirty (30) days after the conclusion of the Rule 30(b)(6) deposition(s), accounting for the testimony elicited and any remaining gaps; (ii) that Anthem may likewise defer responding to any of Plaintiff’s interrogatories that overlap with Rule 30(b)(6) topics until thirty (30) days after the conclusion of those depositions on the same terms; and (iii) to cure the deficiencies identified in this letter with respect to all other interrogatories and RFAs on the timeline set forth above. For the avoidance of doubt, Anthem does not waive any objection to the adequacy of Plaintiff’s existing responses to the above-listed interrogatories and reserves all rights to seek further relief from the Court if Plaintiff’s supplemental responses remain deficient.

Please advise whether it would be beneficial for the parties to meet and confer again to address any questions Plaintiff may have about Anthem’s offers of compromise in this letter.

Sincerely,

/s/ Anwar Graves

Partner

of O’MELVENY & MYERS LLP

Exhibit F

Document Filed Under Seal

Exhibit G

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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)

**PLAINTIFF UNITED STATES OF AMERICA'S
SECOND SET OF INTERROGATORIES**

PLEASE TAKE NOTICE that, pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff United States of America (the “Government”), by its attorney, Jay Clayton, United States Attorney for the Southern District of New York, hereby requests that Defendant Anthem, Inc. (“Anthem”) answer under oath the following written interrogatories, separately and fully in writing.

PLEASE TAKE FURTHER NOTICE that, pursuant to Fed. R. Civ. P. 26(e)(1)(A), Anthem is under a duty to supplement its responses to the interrogatories if Anthem discovers that

in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the Government during the discovery process or in writing.

DEFINITIONS

All defined terms used herein shall have the same meaning as the definitions set forth in the Government's Second Set of Requests for Production ("Second Set of RFPs") to Anthem, served on Anthem on May 16, 2023, as modified by any agreements between the Government and Anthem during the parties' meet and confers, with the exception of the following terms which are not defined in the Second Set of RFPs.

1. "Claims Validation" means a process for validating that any Diagnoses submitted by Anthem to CMS for Risk Adjustment are supported by medical record documentation.

2. "Unsupported" with respect to a Diagnosis Code means either: (i) the medical condition was not coded according to the International Classification of Diseases ("ICD") Clinical Modification Guidelines for Coding and Reporting (ICD-9-CM and ICD-10-CM); or (ii) the Diagnosis Code was not documented in the Beneficiary's Chart.

3. "Verscend" means Cotiviti, Inc., and all of its successors, predecessors, subsidiaries, affiliates, branches, divisions, groups, business units, business segments, operations, parent organizations, plants, and any joint ventures of which it was or is a part, and each of its present or former officers, directors, employees, representatives, and agents, acting or purporting to act on its behalf, whether or not acting within the proper scope of his or her actual authority, including but not limited to MediConnect Global, Inc., Verscend Technologies, Inc., and Verisk Health.

INSTRUCTIONS

1. Except where otherwise noted, these interrogatories require production of all information from January 1, 2010, through present (the “Relevant Period”), that is responsive to one or more of the requests below.
2. In responding to the interrogatories, You must include in Your answer all information in Your possession, custody, or control, regardless of location and regardless of whether such information is held by You, Your agents, principals, employees, representatives, or any other person acting on Your behalf.
3. If any part of the interrogatories cannot be answered in full, please answer to the extent possible, specify the reasons for the inability to answer the remainder, and state whatever information, knowledge or approximate estimates You have concerning the unanswered portion.
4. Pursuant to Rule 26 of the Federal Rules of Civil Procedure, the interrogatories shall be deemed to be continuing until and during the course of trial. Include in any such supplemental responses the date upon which and the manner in which such further or different information came to your attention.
5. If You object to any interrogatory (or any subpart thereof) on the ground of privilege, including the work product doctrine, You must provide the information required by Local Rule 26.2(a). If You assert privilege as to only part of an RFA or interrogatory, You must respond fully to the remaining portions.

INTERROGATORIES

1. For each year of the Relevant Period, state the total Risk Adjustment Payments that Anthem received from CMS attributable to Diagnosis Codes that Anthem identified in Anthem’s

Chart Review Program, and identify the methodology and data sources used to calculate that figure.

2. Identify and describe every financial or revenue-impact analysis prepared by or for Anthem during the Relevant Period concerning: (a) the implementation of a Look Both Ways Chart Review; (b) the potential Deletion of previously submitted Diagnosis Codes; or (c) the financial impact of CMS's 2014 Proposed Rule. For each, state: (i) the date; (ii) the individuals who prepared or contributed to the analysis, and the recipients; (iii) the methodology and data sources used; and (iv) the conclusions reached, including any quantification of Risk Adjustment Payments that Anthem estimated it would lose, forgo, or be required to return.

3. Identify and describe every internal Anthem discussion, proposal, plan, pilot, analysis, or decision relating to a Look Both Ways Chart Review or Claims Validation. For each, state (a) the date; (b) the participants; (c) the substance; (d) the disposition (*e.g.*, adopted, rejected, deferred); (e) the decisionmaker(s); and (f) the Bates number(s) of all related documents. Your response should include, without limitation, the January 2014 communications among Matt Cogdill and Camie Welch (ANTHEM_SDNY_00188553); the March 2014 email thread "RE: A Few Questions" (ANTHEM_SDNY_00174993-94); and the April 2014 communications referenced in Deposition Exhibit 2137 (ANTHEM_SDNY_00078200).

4. State all reasons why Anthem decided to implement a Chart Review that Looked Both Ways in or around 2018, including (a) the dates of all meetings, analyses, or communications leading to that decision; (b) the participants; (c) the ultimate decisionmaker(s); (d) the Bates numbers of all related documents; and (e) all related documents not already produced.

5. Identify each Anthem officer, executive, employee, or agent who exercised decision-making authority relating to the decision not to submit Deletion files to RAPS or EDS for

the Diagnosis Codes that Anthem identified through Anthem's Chart Review Program that Looked Both Ways (including the analyses reflected in ANTHEM_DOJ_00017771). For each, state (a) the date(s) of their participation; (b) their role; (c) the Bates numbers of all related documents; and (d) all related documents not already produced.

6. For each annual Risk Adjustment Attestation that Anthem submitted to CMS, describe all processes by which Anthem certified the accuracy, completeness, and truthfulness of the underlying Diagnosis Codes, including: (a) every step taken by or at the direction of the certifying officer prior to signing; (b) every Anthem employee, department, or vendor consulted; (c) every document, report, or analysis reviewed; (d) every sub-certification, written representation, or oral assurance received by the certifying officer; and (e) the Bates numbers of all related documents.

7. Identify every instance during the Relevant Period in which any Anthem employee, officer, director, Vendor, or consultant became aware that one or more Diagnosis Codes that Anthem had previously submitted to CMS were, or may be, Unsupported. For each, state: (a) the date; (b) the individual(s) with such awareness; (c) the basis for that awareness; (d) all action Anthem took in response; (e) the Bates numbers of all related documents; and (f) all related documents not already produced.

8. Identify and describe all action that Anthem took in response to the November 2012 email from Camie Welch (ANTHEM_DOJ_00041298) stating that "we also know that physicians do not always code accurately" and identifying "the assignment of improper dx [diagnosis] codes" as one of the "[c]ommon errors," including any investigation, audit, policy change, training, deletion of Diagnosis Codes, communication with CMS, or other corrective action, and identify by Bates number all related documents and any related documents not already produced.

9. Identify each person (including any Anthem officer, employee, director, agent, Vendor, consultant, or outside advisor) whom Anthem contends subjectively believed at any time during the Relevant Period that the principle of “actuarial equivalence” or the “fee for service adjuster” relieved Anthem of any obligation to Delete from RAPS or EDS Diagnosis Codes Anthem knew were or may be Unsupported. For each, state (a) when the person formed or expressed that belief; (b) the basis for Anthem’s contention; (c) the Bates numbers of all related documents; and (d) all related documents not already produced.

10. Identify every opinion, regulatory analysis, CMS communication, consultant report, memorandum, training material, or other written or oral advice or guidance on which Anthem has relied, in whole or in part, to support any contention by Anthem that “actuarial equivalence” or the “fee for service adjuster” justified any decision not to Delete Unsupported Diagnosis Codes from RAPS or EDS. For each, state (a) the author; (b) the date; (c) the recipient(s); (d) the substance; (e) the Bates numbers of the document; and (f) all related documents not already produced.

11. Identify, by Beneficiary identifier (HICN/MBI), date of service, ICD code, and contract number, every Diagnosis Code that Anthem submitted to CMS for Risk Adjustment Payment during the Relevant Period that Anthem knew was or may be Unsupported, but that Anthem nevertheless did not submit for Deletion from RAPS and/or EDS in reliance, in whole or in part, on the principle of “actuarial equivalence.” For each, state (a) when Anthem decided not to submit the Diagnosis Code for Deletion; (b) the Anthem officer, employee, or agent who made or approved that decision; (c) the basis for Anthem’s belief that the code was, or may be, Unsupported; (d) the Bates number(s) of all related documents; and (e) all related documents not already produced.

12. State when Anthem contends the 60-day period under 42 U.S.C. § 1320a-7k(d)(2) and 42 C.F.R. § 422.326 begins for reporting and returning a Medicare overpayment.

13. State all material facts on which Anthem bases each affirmative defense pleaded in its Answer to the Amended Complaint (ECF No. 26). For each defense, state (a) every fact supporting the defense; (b) every Anthem employee, officer, director, agent, Vendor, consultant, or outside advisor with knowledge of those facts; (c) the Bates numbers of all supporting documents; and (d) all related documents not already produced.

14. State all material facts and identify by Bates number all documents that Anthem contends support each of the following assertions: (a) Anthem's failure to Delete Diagnosis Codes previously submitted to CMS but not identified in Anthem's Chart Review Program complied with 42 C.F.R. §§ 422.310, 422.504(l), and 422.503(b)(4)(vi); (b) each annual Risk Adjustment Attestation Anthem submitted during the Relevant Period was "accurate, complete, and truthful" based on Anthem's "best knowledge, information, and belief"; (c) Anthem complied with its obligation under its EDI Agreements to "research and correct risk adjustment data discrepancies"; (d) Anthem had no obligation under 42 U.S.C. § 1320a-7k(d) or 42 C.F.R. § 422.326 to report and return overpayments based on Diagnosis Codes that Anthem's Chart Review Program failed to identify; and (e) Anthem's agreement in its annual contracts with CMS to operate its Medicare Advantage plans "in compliance with the requirements of [] applicable Federal statutes, regulations, and policies."

15. Identify, by Beneficiary identifier (HICN/MBI), date of service, ICD code, and contract number: (i) every Diagnosis Code Anthem submitted to CMS for Risk Adjustment Payment during the Relevant Period that, based on performing a Look Both Ways Chart Review, Anthem identified as not having been recorded by Anthem's Chart Review Program's coders; (ii)

out of that set of Diagnosis Codes, those that Anthem determined it was unable to verify or unlikely to be verified by medical records and thus constituted potentially Unsupported Diagnosis Codes, as defined in Anthem's correspondence to CMS, including which Diagnosis Codes Anthem concluded it was unable to verify and which Diagnosis Codes it determined were unlikely to be verified; and (c) for each, state whether Anthem submitted a Deletion to RAPS and/or EDS, and if not, why not; and (d) identify all analyses, calculations, estimates, or projections reflecting the financial impact of submitting (or having submitted) Deletions for such Diagnosis Codes.

16. Identify all trainings relating to Risk Adjustment provided to the following current or former Anthem employees: (a) Camie Welch; (b) Angele White; (c) Brian Cogdill; (d) Eric Cahow; (e) Evan Hetu; (f) Kimberly Bresnan; (g) Patricia Cabrera; (h) Robert King; and (i) Joell Keim.

17. Identify all Anthem policies relating to Risk Adjustment overpayments or the Deletion of Diagnosis Codes, including, but not limited to policy # RA107 entitled "Risk Adjustments Overpayments." For each policy, identify the effective date and policy number.

18. Identify and describe all actions (if any) taken by Anthem in response to Angele White's email to Eric Cahow, dated December 1, 2016 (ANTHEM_SDNY_00154381).

19. Describe all medical records reviewed by Anthem employees relating to the Diagnosis Codes identified on: ANTHEM_SDNY_00185032–33 before Camie Welch wrote, on February 12, 2013, "Yes, we need to delete"; and on ANTHEM_SDNY_00078792 before Patricia Cabrera wrote, "this should be deleted," and Matt Cogdill responded, "Agreed, delete all the HCC 1's for this person."

20. Describe all actions (if any) taken by Anthem in response to the statement “Which I actually believe we should be,” as set forth on ANTHEM_SDNY_R_00145233 in the Anthem document titled “WLP 2015 MA and Part D Rule Comment Grid_1 2014 (1.30.14)”.

21. Identify and describe all analyses, efforts, or studies undertaken by Anthem to determine whether it was feasible or operationally possible to compare the results of Anthem’s Chart Review Program against claims previously submitted by Anthem to CMS in order to identify whether Diagnosis Codes previously submitted by Anthem to CMS had not been identified by coders as part of Anthem’s Chart Review Program (*i.e.*, to “compare the data against claims” as set forth in the testimony of Camie Welch, Tr. 269:1-2).

22. Identify, by Beneficiary identifier (HICN/MBI), date of service, ICD code, and contract number, every Diagnosis Code Anthem deleted from RAPS or EDS on the basis that it was Unsupported; the date on which Anthem determined that the Diagnosis Code was Unsupported; the source of the medical record documentation reviewed and whether that medical record constituted the complete clinical documentation for that patient; the date on which Anthem included the diagnosis code in a “delete file,” *see* ANTHEM_SDNY_00206555, and the date on which Anthem actually submitted the deletion to CMS.

23. Identify every Anthem subsidiary, affiliate, or entity acquired by Anthem that, at any time during the Relevant Period, operated, implemented, or piloted a Claims Validation or a Chart Review that Looked Both Ways. For each such entity, state: (a) the name of the entity and its corporate relationship to Anthem; (b) the contract(s) under which the entity offered Medicare Advantage coverage; (c) the dates during which the Claims Validation or Chart Review that Looked Both Ways was in effect; and (d) whether the program resulted in the Deletion of Diagnosis Codes from RAPS and/or EDS, and if so, the volume of Diagnosis Codes Deleted and

the corresponding Risk Adjustment Payments returned to CMS; and (e) why such a program was implemented at the subsidiary, affiliate, or entity acquired by Anthem but not at Anthem during the same period.

Dated: May 1, 2026
New York, New York

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

By: /s/ Adam Gitlin
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CERTIFICATE OF SERVICE

I, Adam Gitlin, an Assistant United States Attorney for the Southern District of New York, hereby certify that on May 1, 2026, I caused a copy of the foregoing United States of America's Second Set of Interrogatories to Anthem, Inc. to be served by electronic mail upon Anthem's counsel.

By: /s/ Adam Gitlin
ADAM GITLIN
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Exhibit H

From: [Fidler, Harry \(USANY\)](#)
To: [Levine, Adam](#); [Gitlin, Adam \(USANY\)](#); [Doud, Rachael \(USANY\)](#); [Walsh Kumar, Dana \(USANY\)](#); [Jacob, Charles \(USANY\)](#); [Aronoff, Peter \(USANY\)](#)
Cc: [Bowman, Jim](#); [Graves, Anwar](#); [Burke, Christopher P.](#)
Subject: RE: Discovery dispute briefing
Date: Thursday, September 3, 2026 5:42:44 PM
Attachments: [2026.09.03 Anthem Page Limit Letter.docx](#)

All,

Following up on this afternoon's call, please find attached the draft letter to the Court regarding the page limit for the September 10 position statement. Let us know if you have any comments.

With respect to interrogatories—both Anthem's response to the Government's interrogatories, and the Government's response to Anthem's interrogatories (which Anwar raised in a separate email today)—we are available to meet and confer tomorrow after 5:30pm, on Monday (if needed), or Tuesday morning.

With respect to Anthem's interrogatory responses, we would like to meet and confer regarding your Specific Objection to Instructions No. 2, and your response to Revised Interrogatory Nos. 21 and 23. Also, please let us know when you will provide a verification for your Interrogatory responses.

In Anthem's Specific Objection to Instructions No. 2, it impermissibly redefined the Relevant Period for its response from January 1, 2010 through December 31, 2018, to June 1, 2013 through March 1, 2017. But that period does not capture the full period during which the Government alleges Anthem violated the False Claims Act, much less the full period relevant to the Government's allegations. The Government asserts that Anthem submitted false attestations as late as October 2018 that subject it to False Claims Act liability in this case. Further, Anthem began operating its chart review program in 2009. The Court has rejected Anthem's previous attempts to limit its discovery responses to the narrow time period it attempts to impose here. *See, e.g.*, Tr. of Oct. 29, 2024, Conf. at 11:5-16, 13:13-16, 27:5-9. Further, it is unclear from Anthem's response whether it is withholding any responsive information based on its objection to the Relevant Period. Please identify any interrogatory responses in which Anthem is withholding responsive information based on its objection to the definition of Relevant Period.

As to Interrogatory No. 21, Anthem responded by referencing deposition transcripts and other documents. However, it fails to identify or describe any analyses it undertook to determine whether it was feasible or operationally possible to compare the results of Anthem's Chart Review Program against claims previously submitted by Anthem to CMS in order to identify whether Diagnosis Codes previously submitted by Anthem to CMS had not been identified by coders as part of Anthem's Chart Review Program. Instead, Anthem cites to a smattering of deposition testimony and documents—most of which discuss select witnesses' views on the purported difficulty of operationalizing a two-way look chart review program and/or testimony regarding whether a two-way look review was legally required. Anthem must revise its response to identify and describe the analyses it performed during the Relevant Period.

As to Interrogatory No. 23, Anthem refused to respond claiming that commonly used phrases such as "subsidiary," "affiliate," "entity acquired by Anthem," and "operated" are ambiguous.

Anthem also claimed that responding to the interrogatory would require it to investigate practices of Anthem subsidiaries or affiliates or entities that Anthem acquired over a 16 year period. Not so. This request regards Anthem subsidiaries, affiliates, or entities acquired by Anthem *during the Relevant Period*. Anthem also refused to respond on privilege grounds but failed to provide any information to support its claim. Lastly, Anthem claims that the requested information is not relevant to the operation of Anthem's chart review program or the falsity of the at-issue diagnosis codes. However, information regarding whether a subsidiary, affiliate, or other Anthem acquired entity operated a Chart Review that Looked Both Ways during the Relevant period is relevant to Anthem's scienter and its feasibility defense.

Finally, we note that your response to Interrogatory Nos. 9(b) and 10 contain a material typo that should be corrected. The last sentence of both state that "the Government declines to set forth additional facts in response to this Interrogatory and instead refers Anthem to its response to Interrogatory 9(a), which is incorporated by reference."

Thanks,

Harry K. Fidler

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