

Massachusetts Attorney
General's Office
Health Care Division

HCCA Boston Regional Conference
September 6, 2019

Eric Gold
Chief, Health Care Division

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Health Care Division

- I. Who We Are
- II. What We Do
 - A. Law Enforcement
 - B. Regulatory Monitoring / Health Policy
 - C. Mediation
 - D. Federal Litigation

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Who We Are

The Health Care and Fair Competition Bureau (HCFC) of the Office of Massachusetts Attorney General Maura Healey has five divisions:

- Antitrust Division
- False Claims Division
- Health Care Division
- Medicaid Fraud Division
- Non-Profit Organizations/Public Charities Division

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Who We Are

The Health Care Division

- Division Chief
- Deputy Chief
- Six Assistant Attorneys General
- Mediators
- Legal Analyst
- Health Care Analyst
- Paralegals
- Administrative Assistant

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Mission

To be at the forefront of health care consumer protection and advocacy.

To promote affordability and accessibility and improve the overall effectiveness of the health care system.

To help consumers understand their health care rights and to mediate consumer disputes with health care payers and providers.

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Health Care Division

I. Who We Are?

II. What We Do?

- A. Law Enforcement
- B. Regulatory Monitoring / Health Policy
- C. Mediation
- D. Federal Litigation

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Law Enforcement

- Investigating fraud & abuse
 - Pharmaceutical
 - Medical device industries
- Health insurance practices
- Health care delivery systems
- Data security practices / HIPAA Privacy

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Law Enforcement

- Consumer Protection Law – G.L. c. 93A
- Pre-suit Investigative Authority – Section 6
 - Demands for Documents
 - Sworn Testimony
- Suits for injunctive relief, restitution, civil penalties, disgorgement, fees, and costs
 - Section 4
- Resolution
 - Consent Judgment
 - Assurance of Discontinuance - Section 5

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Commonwealth v. Purdue

SUFFOLK, ss.

COMMONWEALTH OF MASSACHUSETTS,

n.

PURDUE PHARMA L.P., PURDUE PHARMA INC.,
RICHARD SACKLER, THERESA SACKLER,
KATHIE SACKLER, JONATHAN SACKLER,
MORTIMER L.A. SACKLER, ROBERT SACKLER,
DAVID SACKLER, RENE SACKLER, LIPCOURT,
PETER DOR, PAULO COSTA, CECIL PICHOT,
RALPH WINTERMAN, STEPHEN LEWIS, CRAIG
LANHAM, JOHN STEWART, MARK TIMNEY,
and RUSSELL J. GARDNA

RECEIVED
JAN 31 2019
SUPERIOR COURT
SUFFOLK COUNTY DEPARTMENT
CIVIL ACTION NO.

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT
C.A. No. 1884-cv-01808 (BSJ)

FIRST AMENDED
COMPLAINT
AND JURY DEMAND

Complaint Unfiled/Corrected Version
For The Public File
Submitted According To Court Order
January 31, 2019

a killing people across Massachusetts. Prescriptions
our health, are instead raising people's lives. Every
from the epidemic of addiction and death.
epidemic and profited from it through a web of illegal
sets doctors and patients to get more and more people
sided them to use higher and more dangerous doses.
a drug for longer and more harmful periods of time.
to keep patients away from safer alternatives. Even
its were addicted and dying. Purdue treated doctors and
. At the top of Purdue, a small group of executives led
illies.
wealth, the Attorney General asks the Court to find
e and its culpable executives pay for the harm they

ward Maria Healey, who brings this action in the
swords of Massachusetts,
separates and separates individuals who engaged in a
in Massachusetts. This Amended Complaint addresses
a each of the numerous defendants, arising from their
eachothers that involved hundreds of deaths, hundreds
six of millions of dollars.

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XX. JURY DEMAND

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Provider Billing Practices

SUFFOLK, ss.

COMMONWEALTH OF MASSACHUSETTS,

n.

PARTNERS HEALTHCARE SYSTEM,
MASSACHUSETTS EYE AND EAR IN.

ASSURANCE
FURNISHMENT

1. INTRODUCTION

1. The Commonwealth of
Healey, pursuant to her authority under
certain billing and related patient notice
System, Inc. ("PHS") and certain of its
("MEEI").
2. In lieu of litigation against
Attorney General agrees to accept this
terms and conditions contained herein.
3. Neither this Assurance
constitutes an admission by PHS, any of

"PHS and certain of the Partners Hospitals
(including MEEI) failed to disclose to
Consumers in advance of receiving health car
eservices at Partners Hospital Outpatient
Facilities that such health care services would
be billed as outpatient services which may
result in different, and potentially higher,
Consumer cost-sharing responsibility than
would be applicable for the same health care
services provided at a physician office."

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Provider Billing Practices

Physician Office and Hospital Outpatient Billing at Partners HealthCare

Physician Office Billing

When your visit takes place in a physician office, you will usually be charged only for the physician's examination, and your co-payment will usually be your only out-of-pocket cost.

We will request your co-payment when you check in for a visit.

Hospital Outpatient Billing

When your visit takes place in a hospital outpatient location, there will typically be two charges which may result in you paying more for your visit than if you are seen in a physician office. Your out-of-pocket costs could include the following:

1. You will be charged for the physician's examination, which will usually be covered by your co-payment.
2. You will also be charged by the hospital for use of hospital space, equipment, and support staff. This is commonly known as a "facility fee." Your health plan may apply these hospital charges to your annual deductible, and after using up your deductible, you may be responsible for a co-insurance payment.

You may receive a bill that combines the charges from the hospital and the physician on one line or these charges may be split into two lines, depending on the location. We will request your co-payment when you check in for your visit, and we will send you a bill for any unpaid balances after we receive payment from your insurance company.

Understanding Whether My Visit is a Physician Office Visit or a Hospital Outpatient Visit

You can find information about whether your visit is a physician office or hospital outpatient visit in notices in our waiting rooms, on the websites of our hospitals and physician groups, and in electronic appointment reminders for your scheduled visits.

Referral and Prior Authorization

For both physician office and hospital outpatient visits, your health insurer may require you to get a referral or authorization. In addition, our providers may be considered "In Network" or "Out of Network" depending on the specifics of your health insurance plan, which could affect the amount you pay.

Billing for Procedures Performed During the Visit

No matter the location, if a procedure is performed during the visit, you may have further out-of-pocket costs for additional physician's services and for use of the hospital facilities and staff, even if the procedure was performed in the same exam room as the visit with the physician. Your health plan may apply these additional physician and hospital charges to your annual deductible, and after using up your deductible, you may be responsible for an additional co-insurance payment.

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Insurance Carrier Compliance

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS. SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. _____
COMMONWEALTH OF MASSACHUSETTS, }
Plaintiff, }
v. }
AETNA HEALTH INC., }
AETNA LIFE INSURANCE COMPANY, and }
AETNA HEALTH INSURANCE COMPANY, }
Defendants. }

ASSURANCE OF F
PURSUANT TO G.L.
1. INTRODUCTION
1. The Commonwealth of Massachusetts ("AGO"), conducted an investigation into certain members' access to Behavioral Health care services.
2. In the course of this investigation, the AGO and Discontinuance ("AGD") on the terms and conditions of § 5.
3. The AGO and Aetna voluntarily agreed to

Aetna agreed to improve the accuracy of information in its provider directories and undertake measures to allow its members to more easily identify and access behavioral health care providers.

These measures include regular provider directory audits; timely correction of inaccurate information in the provider directory, including information identifying providers' availability to see new patients; and the tracking and resolution of members' complaints concerning directory inaccuracies and network provider adequacy.

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Health System Data Breach

- UMass Memorial

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, ss. SUPERIOR COURT
CIVIL ACTION NO. 16-2152-F

COMMONWEALTH OF MASSACHUSETTS
Plaintiff,
vs.
UMASS MEMORIAL MEDICAL CENTER, INC.
and
UMASS MEMORIAL MEDICAL GROUP, INC.
Defendants.

I. INTRODUCTION

1. The Commonwealth of Massachusetts, by and through the Attorney General, brings this action against defendants UMass Memorial Medical Center, Inc. ("UMMMC") and UMass Memorial Medical Group, Inc. ("UMMG").

2. The Commonwealth alleges that UMMC and UMG, in violation of G.L. c. 93A, G.L. c. 93H, and its attendant regulations, 201 C.M.R. ch. 12.00, have breached the Personal Information ("PI") and Protected Health Information ("PHI") of residents of the Commonwealth. As a result of two independent employee breaches, UMass Memorial exposed the PI and PHI of more than 15,000 Massachusetts residents.

3. The Commonwealth seeks the following relief:

- UMass Memorial Medical Group Inc.
- UMass Memorial Medical Center Inc.
- Two former employees (two separate breaches)
- Exposed the personal and health information of more than 15,000 Massachusetts residents
- G.L. 93A, G.L. 93H, HIPAA
- Payment of \$230,000
- Injunctive Relief

AS, the Attorney General has concluded an investigation into the policies, practices of UMass Memorial regarding its security of Personal Information and Health Information ("PHI") of residents of the Commonwealth;

JUDGMENT ENTERED ON DOCKET JAN 15, 2017
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 37
AND NOTICE SENT TO PARTIES PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P. 37 AS FOLLOWS

ADAMS
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Progression of Health Care Reform in Massachusetts

YEAR	MASSACHUSETTS HEALTH CARE REFORMS	
1990s	Insurance Market Reforms • Guaranteed Issue • Modified Community Rating • Pre-Existing Condition Limitations	
2006	Expansion of Insurance Coverage	
	• Individual Mandate • Employer Responsibility	• Medicaid Expansion • Insurance Exchange
2008	Chapter 305 – Cost Containment Legislation I • AG Authority to Examine Cost Trends	
2010	Chapter 288 – Cost Containment Legislation II • Transparency • Tiered/Limited Network Products • Reform of Unfair Contracting Practices	
2012	Chapter 224 – Cost Containment Legislation III • Oversight of Payment Reform & Provider Registration • Benchmark Health Spending to Gross State Product • Price Transparency for Consumers	

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AGO Cost Trends Examinations

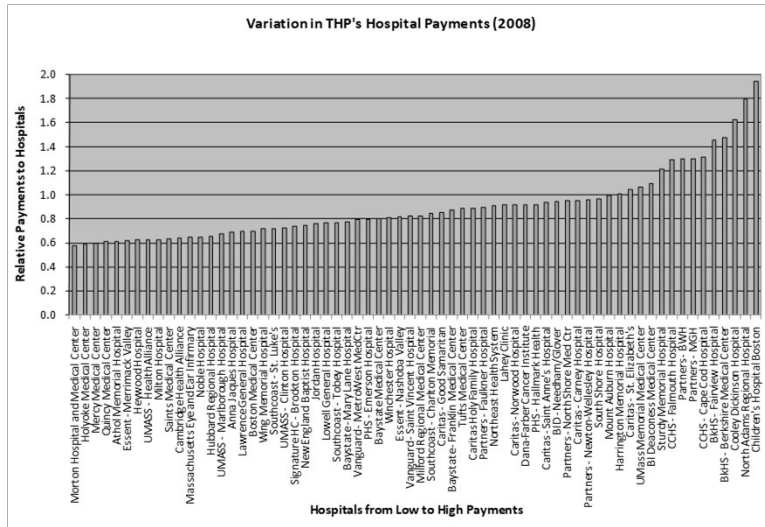
- Authority to conduct examinations:
 - G.L. c. 12, § 11N to monitor trends in the health care market.
 - G.L. c. 12C, § 17 to issue subpoenas for documents, interrogatory responses, and testimony under oath related to health care costs and cost trends.
- Findings and reports issued since 2010.
 - March 16, 2010
 - June 22, 2011
 - April 24, 2013
 - June 30, 2015
 - Sept. 18, 2015
 - Oct. 7, 2016
 - Oct. 13, 2016
 - Oct. 11, 2018

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AGO Reports Identified Wide Variation in Commercial Prices Not Explained by Differences in Quality, Complexity, or Other Common Measures of Value (2008)

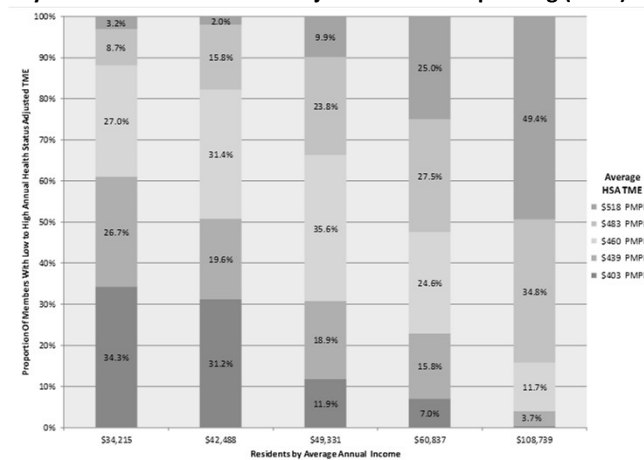


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Total Medical Spending Is Higher for the Care of Commercial Patients from Higher Income Communities Relative to Health Burden (2014)

Distribution of a Major Massachusetts Payer's Members by Income and Health Risk Adjusted Medical Spending (2014)



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Annual Increase in Commercial Drug Spending Net of Rebates (PMPM) 2013-15

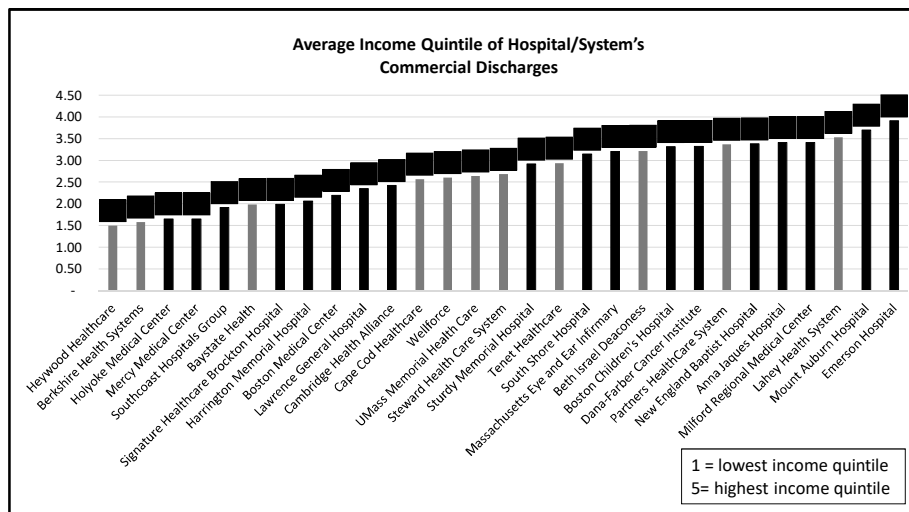
Annual Pharmaceutical Spending Trend (Per Member Per Month) 2013-2015				
	2013-2014 Trend		2014-2015 Trend	
Plan	Pre-Rebate	Net-Rebate	Pre-Rebate	Net-Rebate
Plan 1	14.3%	12.9%	6.5%	4.5%
Plan 2	11.0%	11.7%	14.6%	15.3%
Plan 3	10.2%	9.0%	11.4%	9.3%
Plan 4	21.1%	19.9%	7.7%	3.3%
Plan 5	13.4%	13.1%	10.4%	8.4%
Average	14.6%	13.7%	8.2%	6.1%
Reporting Entity	Pre-Rebate	Net-Rebate	Pre-Rebate	Net-Rebate
HPC ('13-'14) CHIA ('14-'15)	12.5%	N/A	8.5%	N/A
IMS	13.1%	N/A	12.2%	8.5%

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Among Commercial Discharges, Hospitals Serve Different Proportions of Low-Income Patients (2017)

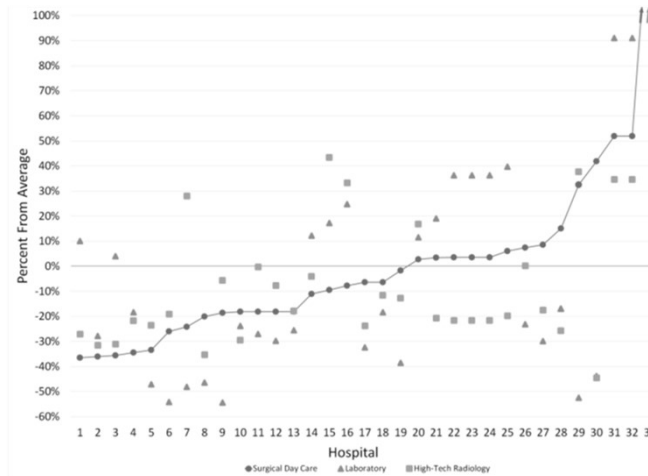


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Even Where Service Categories Align, Negotiations Over Fee Schedules Result In Significant Differences in Relative Price Across Services at a Single Hospital

Hospital Rate Multipliers for Three Outpatient Services for One Massachusetts Payer (2018)

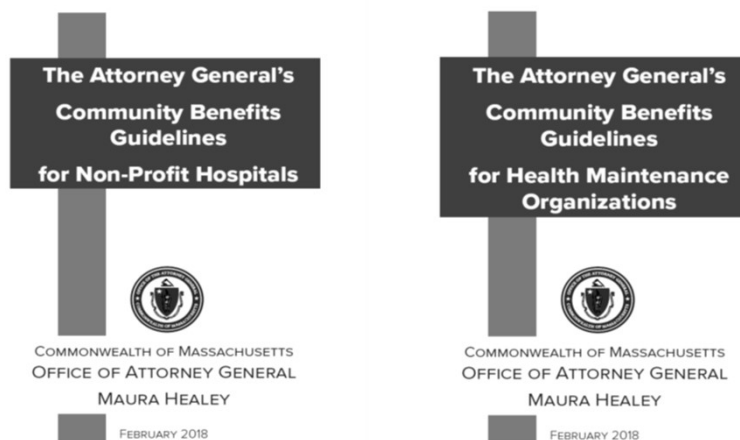


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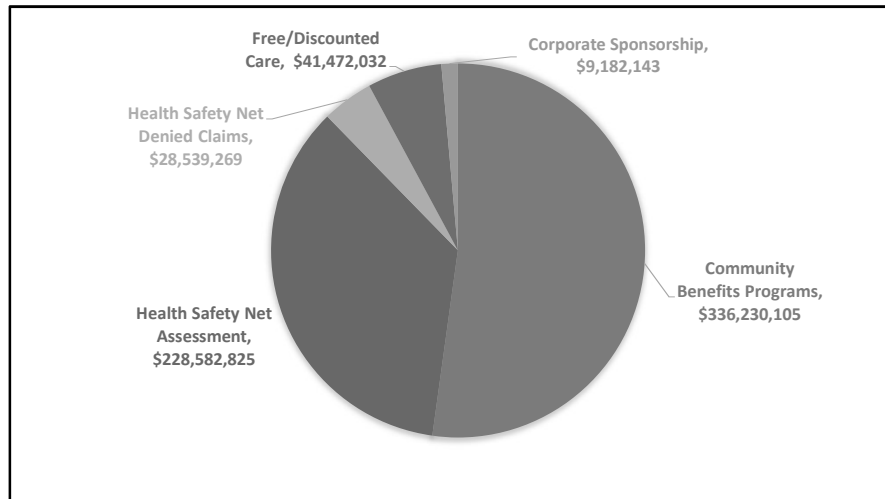
Community Benefits Guidelines



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Breakdown of 2016 Hospital Community Benefits Spending



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Principles for Updated Guidelines

1. Better Align Reporting Requirements
2. Improve Community Engagement
3. Increase Transparency
4. Facilitate Investment in Common Priorities (e.g., social determinants, statewide public health issues)
5. Encourage Regional Collaboration and Learning

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Mediation

- Source of Complaints
 - Health Care Helpline (888-830-6277)
 - 200-300 calls monthly
 - Written Complaints
 - 100+ monthly
 - Website, e-mail, US mail
 - In Person Consult
- Result
 - Mediation
 - Educating Consumers
 - Referral

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Mediation

- Voluntary Telephone Mediation
 - Patient
 - Provider
 - Insurance Company
- Financial Disputes
 - Billing
 - Hospital, Physician, Laboratory, Behavioral Health, Dental, Ambulance, Pharmacy
 - Claim Denials
 - Denial of access to care
 - Collections

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Protecting Massachusetts Health Care Markets *Commonwealth v. United States HHS*

United States Court of Appeals For the First Circuit

No. 18-1514

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff, Appellant,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX AZAR, II, in his official capacity as Secretary of the Treasury; STEVEN F. MURPHY, Secretary of the Treasury; UNITED STATES OF AMERICA, et al.

Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS.

(Hon. Nathaniel M. Gordon, District Judge)

Before:

Tessitura, Lynch, and

Callahan, JJ.

Julia E. Finkle, Assistant Attorney General, Attorney General, Jonathan B. Miller, Assistant Attorney General, and Elizabeth Cairns Fink, Special Assistant Attorney General, were on brief for the Commonwealth. Alan J. Affie, Crystal Johnson, Elizabeth J. Gorman, Melissa N. Hennessey, and Paul, Weiss, Rifkin, Whitton & Tarantino LLP on brief for the United States. Charles P. Rettig, in his Official Capacity as Commissioner of Internal Revenue, and National Family Planning and Reproductive Health Association.

[T]he Commonwealth's substantive challenges to the Departments' federal regulations are not moot. Its procedural challenge to the IFRs, however, has been mooted by the promulgation of the Final Rules, but this does not preclude the Commonwealth from asserting any procedural challenges to the Final Rules. Finally, the Commonwealth has Article III standing to challenge the Departments' actions. We vacate and remand for proceedings consistent with this opinion.

VACATED AND REMANDED.

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Protecting Massachusetts Health Care Markets *Texas v. United States (Fifth Circuit)*

Case: 18-10011 Document: 00014887-395 Page: 1 Date Filed: 03/25/2019

No. 18-10011

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

STATE OF TEXAS, STATE OF WISCONSIN, STATE OF ALABAMA, STATE OF ARIZONA, STATE OF FLORIDA, STATE OF GEORGIA, STATE OF INDIANA, STATE OF KANSAS, STATE OF LOUISIANA, STATE OF MISSISSIPPI, by and through Governor Phil Bryant, STATE OF MISSOURI, STATE OF NEBRASKA, STATE OF NORTH DAKOTA, STATE OF SOUTH CAROLINA, STATE OF SOUTH DAKOTA, STATE OF TENNESSEE, STATE OF UTAH, STATE OF WEST VIRGINIA, STATE OF ARKANSAS, NEIL HURLEY, JOHN NANTZ,

Plaintiffs - Appellants

UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES, ALEX AZAR, II, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, UNITED STATES DEPARTMENT OF INTERNAL REVENUE, CHARLES P. RETTIG, in his Official Capacity as Commissioner of Internal Revenue,

Defendants - Appellees

STATE OF CALIFORNIA, STATE OF CONNECTICUT, DISTRICT OF COLUMBIA, STATE OF DELAWARE, STATE OF HAWAII, STATE OF ILLINOIS, STATE OF KENTUCKY, STATE OF MASSACHUSETTS, STATE OF NEW JERSEY, STATE OF NEW YORK, STATE OF NORTH CAROLINA, STATE OF OREGON, STATE OF RHODE ISLAND, STATE OF VERMONT, STATE OF VIRGINIA, STATE OF WASHINGTON, STATE OF MINNESOTA,

Intervenor Defendants - Appellees

On Appeal from the United States District Court
for the Northern District of Texas
No. 4:18-cv-167-O
Hon. Reed O'Connor, Judge

STATE DEFENDANTS' OPENING BRIEF

Counsel listed on the inside cover

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Protecting Massachusetts Health Care Markets *New York v. Department of Labor* (D. C. Cir.)

Case 1:18-cv-01747-JOB Document 79 Filed 03/28/19 Page 1 of 43

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, et al.

Plaintiffs,

v.

Civil Action No. 18-1747 (JDB)

UNITED STATES DEPARTMENT OF
LABOR, et al.

Defendants.

Eleven states,
alleging that its final
Income Security Act
the Administrative Pro-
"employee;" found a
Health Plans, 83 Fed.
pt. 2510), A.R. at 1-1;
the Patient Protection
(2010).¹ The States
what ERISA's text at

"The Final Rule is clearly an end-run around the ACA. . . . But equally important for the analysis that follows, the Final Rule does violence to ERISA. The Final Rule scraps ERISA's careful statutory scheme and its focus on employee benefit plans arising from employment relationships. It purports to extend ERISA to cover what are essentially commercial insurance transactions between unrelated parties. In short, the Final Rule exceeds the statutory authority delegated by Congress in ERISA."

¹ The named defendants and the United States.
² Congress in "ACA," 124 Stat. 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

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Questions

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