

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LAURA BRISCOE, KRISTIN	)	
MAGIERSKI, and EMILY ADAMS, on	)	
behalf of themselves and all others	)	
similarly situated,	)	
	)	Case No. 1:16-cv-10294
Plaintiffs,	)	
	)	Judge John Robert Blakey
v.	)	
	)	
HEALTH CARE SERVICE	)	
CORPORATION and BLUE CROSS AND	)	
BLUE SHIELD OF ILLINOIS,	)	
	)	
Defendants.	)	

**HEALTH CARE SERVICE CORPORATION’S  
NOTICE OF SUPPLEMENTAL AUTHORITY**

On December 23, 2019 in *Condry, et al. v. UnitedHealth Group, Inc., et al.*, Case No. 17-cv-00183-VC (N.D. Cal.), the U.S. District Court for the Northern District of California denied class certification with respect to certain UnitedHealthcare entities’ (collectively, “United”) implementation of the Affordable Care Act’s (“ACA”) lactation support benefit. (*See* Dec. 23, 2019 Order, Dkt. 262, attached hereto as Ex. A (“*Condry* Order”).) Importantly, the *Condry* court rejected certification of substantially similar classes to those Plaintiffs are seeking here,<sup>1</sup> finding that:

- The evidence did not support a uniform policy where 12% of out-of-network claims were covered in full. Here, the evidence demonstrates that 75% of all paid claims (in-network and out-of-network) were paid in full.

*See Condry* Order at 4-5; *see also* Dkt. 100-3, Ex. C to Def.’s Resp. in Opp’n

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<sup>1</sup> Compare Dkt. 95 at 15 to *Condry* Dkt. 222 at 1-2. The *Condry* plaintiffs limited their second attempt at class certification to out-of-network claims because the court had rejected the inclusion of in-network claims in denying their first attempt at certification. *Condry* Dkt. 213 (Order Denying Plaintiffs’ First Motion) at 2-3.

to Pls.' Mot. for Class Certification (Bourgeois Decl.) at ¶ 7.

- It “makes no sense” to include members who never submitted claims because there is no named plaintiff who is typical of such members. *Condry* Order at 4. This is true here as well.
- No plaintiff had standing to seek injunctive relief because they were no longer plan participants or, in the case of the proposed intervener (a current plan participant), had not demonstrated that she planned to use the service in the future. *See Condry* Order at 3-4 and *Condry* Dkt. 259 (Dec. 19, 2019 Order Denying Motion to Intervene) at 2, attached here as Ex. B. Here, Briscoe and Adams are no longer plan participants, and Magierski offered no evidence that she would use the service in the future.

Accordingly, HCSC respectfully requests this Court take the *Condry* Order into account in deciding Plaintiffs' motion for class certification and grant such other relief as the Court deems just and proper.

Dated: December 30, 2019

Respectfully submitted,

By: /s/ Rebecca R. Hanson

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