

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

JUL 14 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

E. S., by and through her parents, R.S. and J.S., on her own behalf, and on behalf of all similarly situated individuals; JODI STERNOFF, on her own behalf, and on behalf of all similarly situated individuals,

Plaintiffs-Appellants,

v.

REGENCE BLUESHIELD; CAMBIA HEALTH SOLUTIONS, INC, FKA The Regence Group,

Defendants-Appellees.

No. 18-35892

D.C. No. 2:17-cv-01609-RAJ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Argued and Submitted November 8, 2019
Seattle, Washington

Before: GOULD and NGUYEN, Circuit Judges, and PRESNELL,** District Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Gregory A. Presnell, United States District Judge for the Middle District of Florida, sitting by designation.

Plaintiffs appeal from the district court's judgment dismissing for failure to state a claim their complaint alleging health care discrimination under the Affordable Care Act, 42 U.S.C. § 18116. We have jurisdiction pursuant to 28 U.S.C. § 1291. Pursuant to our concurrently filed opinion in *Schmitt v. Kaiser Foundation Health Plan of Washington*, No. 18-35846, we affirm the dismissal of the complaint, reverse the district court's decision not to allow amendment, and remand with instructions to grant plaintiffs leave to amend.

AFFIRMED in part, REVERSED in part, and REMANDED.