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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

C. P., by and through his parents, Patricia Pritchard and Nolle Pritchard, individually and on behalf of others similarly situated; and PATRICIA PRITCHARD,

Plaintiff,

v.

BLUE CROSS BLUE SHIELD OF ILLINOIS,

Defendant.

CASE NO. 3:20-cv-06145-RJB

AMENDED ORDER CERTIFYING CLASS

This matter comes before the Court *sua sponte* on review of the record. The Court has reviewed the record and is fully advised.

On November 9, 2022, a class was certified in this case. Dkt. 113. The Court issued an order noting that orders on class certifications can be amended before final judgment under Fed. R. Civ. P. 23(c)(1)(C) and that the one entered in this case should have included the “class claims, issues and defenses.” Dkt. 119. The Plaintiffs were ordered to file a proposed amended

1 order. *Id.* On November 29, 2022, the Plaintiffs filed a proposed order recommending that the
2 Court adopt the claims and relief sought as they appear in the Amended Complaint. Dkt. 131.

3 The order certifying a class in this case should be amended (with the newly added
4 provisions in bold) to read as follows:

5 The class is composed of all individuals who:

6 (1) have been, are, or will be participants or beneficiaries in an
7 ERISA self-funded “group health plan” (as defined in 29 U.S.C. §
8 1167(1)) administered by Blue Cross Blue Shield of Illinois during
the Class Period and that contains a categorical exclusion of some
or all Gender-Affirming Health Care services; and

9 (2) were, are, or will be denied pre-authorization or coverage of
10 treatment with excluded Gender Affirming Health Care services

11 DEFINITIONS:

12 “Class Period” means November 23, 2016 through the termination
of the litigation.

13 “Gender-Affirming Health Care” means any health care service—
14 physical, mental, or otherwise—administered or prescribed for the
treatment of gender dysphoria; related diagnoses such as gender
15 identity disorder, gender incongruence, or transsexualism; or
gender transition. This includes but is not limited to the
16 administration of puberty delaying medication (such as
gonadotropin-releasing hormone (GnRH) analogues); exogenous
17 endocrine agents to induce feminizing or masculinizing changes
 (“hormone replacement therapy”); gender-affirming or “sex-
18 reassignment” surgery or procedures; and other medical services or
preventative medical care provided to treat gender dysphoria
19 and/or related diagnoses, as outlined in World Professional
Association for Transgender Health, Standards of Care for the
20 Health of Transsexual, Transgender, and Gender Nonconforming
People, 7th Version (2012).

21 **The class asserts claims that Blue Cross Blue Shield of Illinois violated the**
22 **anti-discrimination provision of the Affordable Care Act, 42 U.S.C. § 18116,**
23 **when it administered discriminatory exclusions of gender-affirming care in a**
24 **self-funded health care plans governed by the Employee Retirement Income**
Security Act of 1974.

1 The class seeks declaratory relief. They seek an order enjoining Blue Cross
2 Blue Shield of Illinois from administering or enforcing health benefit plans
3 that exclude coverage for gender-affirming health care, including applying or
4 enforcing the plans' exclusions of services for, or leading to, gender
5 reassignment surgery,' and other similar exclusions during the class period,
6 now and in the future. The class seeks an order requiring Blue Cross Blue
7 Shield of Illinois to reprocess denied pre-authorizations and claims for
8 gender affirming care under the relevant self-funded health care plans
9 without applying the discriminatory exclusions, and when medically
10 necessary and meeting the other terms and conditions of the relevant plans,
11 provide coverage (payment) for those denied pre-authorizations and claims
12 that were based solely on exclusions for gender affirming care.

13 Blue Cross Blue Shield of Illinois raises several defenses, including that the
14 anti-discrimination provision of the Affordable Care Act, 42 U.S.C. § 18116
15 does not apply to it, and even if it did, its third-party administration of the
16 exclusions was not discriminatory. Blue Cross Blue Shield also contends that
17 it is protected by the Religious Freedom Restoration Act.

18 Plaintiff C.P., by and through his parents, is appointed as class representative, and

19 Eleanor Hamburger and Daniel Gross of Sirianni Youtz Spoonemore Hamburger,
20 as well as Jennifer Pizer and Omar Gonzalez-Pagan of the Lambda Legal Defense
21 and Education Fund are appointed as class counsel.

22 The reasoning from the prior order (Dkt. 119) applies.

23 **IT IS SO ORDERED.**

24 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
to any party appearing pro se at said party's last known address.

Dated this 12th day of December, 2022.



ROBERT J. BRYAN
United States District Judge