

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

CHRISTINA ALEXANDER, *et al.*

Plaintiffs,

v.

XAVIER BECERRA, Secretary of Health and
Human Services,

Defendant.

Case No.: 3:11-cv-1703-MPS

NOTICE OF PROPOSED CLARIFICATION OF JUDGMENT IN CLASS ACTION

The Court in this class action has required class counsel to provide the class with notice of the attached proposed clarification of the judgment. In accordance with the Court's Order, class counsel is hereby attaching to this notice:

- A copy of the proposed clarification (Attachment 1);
- A copy of the Court's Order (Attachment 2)

If class members have any questions or comments about the proposed clarification, they should contact class counsel by one of the following methods:

Email: communications@medicareadvocacy.org

Telephone: (860) 456-7790

Mail: Center for Medicare Advocacy, Attn: Class Counsel
 P.O. Box 350
 Willimantic, CT 06226

As class counsel will be reporting back to the Court 30 days from the date of this notice, if you wish to contact class counsel please do so by November 25, 2022 if possible.

DATED: October 31, 2022

Respectfully submitted,

/s/ Alice Bers

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Attorneys for Plaintiffs and Class Counsel

Attachment 1

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

CHRISTINA ALEXANDER, *et al.*

Plaintiffs,

v.

XAVIER BECERRA, Secretary of Health and
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Case No.: 3:11-cv-1703-MPS

JOINT PROPOSED CLARIFICATION OF JUDGMENT

The parties file this joint proposed clarification in response to the Court's Order of October 18, 2022 (ECF 495) and consistent with their Joint Status Report filed October 14, 2022 (ECF 490) and the discussion during the telephonic status conference with the Court on October 17, 2022. The parties proposed this clarification in the interest of facilitating and streamlining the retrospective appeals process ordered by the Court, and reducing administrative burden.

The parties propose the following clarification:

The Judgment (ECF 441) is hereby clarified as follows:

This clarification applies to class members with "retrospective" claims – that is, class members whose claims accrued prior to the availability of the procedural protections set forth in the Judgment (*see* Judgment ¶ 5) – who were enrolled in Part B coverage at the time of their hospitalization. If a class member enrolled in Part B coverage at the time of their hospitalization prevails in appealing a retrospective claim, the Secretary is not required to adjust the payment for the underlying hospital services, including any applicable deductible and coinsurance amounts, and the Secretary may make Part A payment for covered SNF services without any such adjustments to the payment for the underlying hospital services.

Class counsel will provide notice of this proposed clarification to the class in the manner directed by the Court.

DATED: October 31, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney
General

MICHELLE R. BENNETT
Assistant Branch Director

/s/ Elizabeth Tulis
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Attorneys for Plaintiffs and Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2022, a copy of the foregoing Joint Proposed Clarification of Judgment, was filed electronically and served by mail on anyone unable to accept the electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Alice Bers
ALICE BERS
Center for Medicare Advocacy

Attachment 2

U.S. District Court

District of Connecticut

Notice of Electronic Filing

The following transaction was entered on 10/18/2022 at 5:56 PM EDT and filed on 10/18/2022

Case Name: Bagnall et al v. Sebelius

Case Number: [3:11-cv-01703-MPS](#)

Filer:

WARNING: CASE CLOSED on 03/26/2020

Document Number: 495(No document attached)

Docket Text:

ORDER. As discussed during the telephonic status conference yesterday, within 14 days the parties shall file on the docket a proposed clarification of the Court's judgment consistent with the discussion on yesterday's call and with the discussion in the joint status report filed on October 14. See ECF No. 490 at 2 (asking the Court to clarify whether "for Medicare beneficiaries with Part B coverage, a retrospective appeals process encompassing both hospital claims and SNF claims is required by the Court's order" or whether the claims of beneficiaries with Part B coverage addressed in the retrospective appeals process "may instead be limited to Part A coverage for SNF care").

Immediately after the proposed clarification is filed on the docket, class counsel shall provide notice of the proposed clarification to the class, including by publishing the proposed clarification on the websites of the organizations with which class counsel are affiliated and by sharing the proposed clarification with other organizations that interact with class members. The notice should include (1) a statement that the Court has required class counsel to provide notice of the proposed clarification to the class, (2) a copy of this order, (3) a copy of the proposed clarification as docketed, (4) an indication that if class members have questions or comments, they should contact class counsel, and (5) contact information for class counsel. 30 days after the proposed clarification is filed on the docket, class counsel shall file a notice stating: (1) the steps they took to provide notice to the class, including the dates and websites of any publication of the proposed clarification; (2) quantitative information showing the extent to which class members might have viewed the proposed clarification, such as website traffic information or email inquiries; (3) a summary of any responses received from class members about the proposed clarification; and (4) copies of the notice published on any websites.

Signed by Judge Michael P. Shea on 10/18/2022.(Britt, Joshua)