

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

STATE OF TEXAS, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

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Civil Action No. 7:15-cv-00151-O

FINAL JUDGMENT

On March 5, 2018, the Court granted in part and denied in part the parties’ cross-motions for summary judgment. Mem. Op. & Order 62, ECF No. 88. The Court declared that “[b]ecause 42 C.F.R. § 438.6(c)(1)(i)(C) (2002) delegates legislative power in violation of the United States Constitution and the [Administrative Procedure Act], . . . it is set aside as ‘contrary to the constitutional right, power, privilege, or immunity,’ and ‘in excess of statutory jurisdiction, authority, or limitations, short of statutory right.’” *Id.* (quoting 5 U.S.C. § 706(2)(B)-(C)). As the Court recognized, 42 C.F.R. § 438.6(c)(1)(i)(C) (2002) has been recodified, *id.* at 62 n.57; the relevant provision is now located at 42 C.F.R. § 438.2 (definition of “Actuary”) and 42 C.F.R. § 438.4(b)(6).

On August 21, 2018, the Court granted in part and denied in part Plaintiffs’ Motion for Entry of Final Judgment and for Reconsideration of the Court’s dismissal of their claims for refunds and other rulings. Order 17, ECF No. 100. The Court found that “Plaintiffs are entitled to equitable disgorgement of their HIPF payments” for 2014 through 2016. *Id.* at 14.

In a Joint Status Report and subsequent Joint Notice, the parties provided the Court with their agreement as to reasonable approximations of the amount each Plaintiff State paid to account for its managed care organizations’ Health Insurance Providers Fee payments for Medicaid and

CHIP premiums for 2014–2016 for the purposes of the Court’s award of equitable disgorgement in this matter. ECF Nos. 144, 146. The parties agreed that the methodology used to reach these amounts may not be used against any party in future official or unofficial administrative or judicial proceedings. Joint Status Report 3, ECF No. 144. As an aside, the Court appreciates the parties’ diligence, professionalism, and hard work to resolve this complicated matter. Specifically, the parties agreed to the following amounts:

State	2014	2015	2016	Total
TX	\$82,189,553.00	\$105,738,576.00	\$108,050,362.00	\$295,978,491.00
KS	\$13,657,121.00	\$22,495,820.00	\$20,403,057.00	\$56,555,998.00
LA	\$12,290,652.02	\$17,014,999.26	\$34,495,921.88	\$63,801,573.16
IN	\$4,421,245.00	\$4,537,910.00	\$7,751,354.00	\$16,710,509.00
WI	\$6,992,133.83	\$7,572,784.14	\$8,653,911.11	\$23,218,829.08
NE	\$5,392,992.00	\$9,412,689.00	\$8,329,962.00	\$23,135,643.00

On July 19, 2019, the Court denied Plaintiffs’ motion for an award of prejudgment and postjudgment interest. Order 5, ECF No. 152.

In accordance with the parties’ agreement and the Court’s prior orders, it is therefore **ORDERED, ADJUDGED, and DECREED** that Plaintiffs’ Motion for Summary Judgment is **GRANTED in part and DENIED in part**; Defendants’ Motion for Summary Judgment is **GRANTED in part and DENIED in part**; Plaintiffs’ Motion for Entry of Final Judgment and for Reconsideration of the Court’s Dismissal of Their Claims for Refunds and Other Rulings is **GRANTED in part and DENIED in part**. The Court further **DECLARES and SETS ASIDE** 42 C.F.R. § 438.2 (definition of “Actuary”) and 42 C.F.R. § 438.4(b)(6) as “**contrary to constitutional right, power, privilege, or immunity,**” under 5 U.S.C. § 706(2)(B). The Court

further **ORDERS** Defendants to pay each Plaintiff the following amounts, and to submit the payments for processing within 30 days of this Final Judgment unless execution of the judgment is stayed pending appeal:

Texas: \$295,978,491.00

Kansas: \$56,555,998.00

Louisiana: \$63,801,573.16

Indiana: \$16,710,509.00

Wisconsin: \$23,218,829.08

Nebraska: \$23,135, 643.00

All such other relief requested by Plaintiffs that is not specifically granted herein is **DENIED**. Nothing herein shall be construed to affect the parties' reservation of their rights to appeal all orders and rulings in this case, including liability, the availability of disgorgement (but not the amount of any equitable disgorgement as set forth above) or any other remedy, the availability and calculation of any pre-judgment or post-judgment interest, and any other issue. See Joint Status Report 3, ECF No. 144.

SO ORDERED on this **30th day of July, 2019**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE