Dr. Richard Cordero, Esq.

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

2165 Bruckner Blvd., Bronx, NY 10472-6506
Dr.Richard.Cordero_Esq@verizon.net
tel. +1(718)827-9521; follow @DrCorderoEsq

June 3, 2022

Medicare Appeals Council, Department of Health & Human Services
Departmental Appeals Board, MS 6127, Medicare Operations Division
330 Independence Ave., S.W., Cohen Building, Room G-644, Washington, DC 20201

Erin Brown, Esq.: This office has failed to acknowledge receipt of my May 22 Statement on Appeal HHS, OMHA Centralized Docketing 1001 Lakeside Avenue, Suite 930 Cleveland, OH 44114-2316 tel. (216)462-4121; Medicare.Appeals@hhs.gov	Office of Medicare Hearings and Appeals Phoenix Field Office Att.: Team Yanohira 230 N. 1st Avenue, Suite 302 Phoenix, AZ 85003-1706 tel. (833)636-1476; fax (602)379-3038
Office of the Project Director Medicare Managed Care & PACE Reconsideration Project; and Maximus Federal Services Medicare Part C QIC 3750 Monroe Avenue, Suite 702 Pittsford, NY 14534-1302 tel. (585) 348-3300; toll-free (844)559-6743 fax: (585) 425-5292	EmblemHealth and its officers, including but not limited to: Sean Hillegass, Grievance & Appeals Supervisor, tel. (646)447-0617; Stefanie Macialek, G&A Specialist, tel. (646) 447-6109; Melissa Cipolla, G&A Sr. Specialist, tel. (646)447-7026; Shelly Bergstrom, Quality Risk Management, tel. (631)844-2691; SHillegass@EmblemHealth.com, Stefanie.Macialek@emblemhealth.com, M_Cipolla@emblemhealth.com, SBergstrom@emblemhealth.com

Appeal to the Medicare Appeals Council
from OMHA Phoenix Office ALJ Dean Yanohira's denial of the recusal petition of Appellant Dr. Richard Cordero, Esq., and the ALJ's disregard of the objection to the hearing date given that Dr. Cordero is on grand jury duty[†]

Medicare ALJ hearing # 3-1081 7205 455; ECAPE Id. E1021112
HMO EmblemHealth in cases 100 6295 et al.

A. Denial of the recusal petition by rubberstamping a form

1. Dr. Richard Cordero, Esq., Appellant, resident in New York City, filed with the OMHA offices above-identified the Statement on Appeal attached hereto and dated May 21, 2022.

2. The Statement's first sentence introduces PART I, which bears the following title:

Upon the shocking complaint that Ms. Deniese Elosh, Legal Assistant to ALJ Dean Yanohira, to whom this case has been assigned, filed against Appellant Dr. Richard Cordero, Esq., with the Federal Protective Services!, Dr. Cordero petitions for the recusal or disqualification of ALJ Yanohira and for the transfer of this case out of the OMHA office in Phoenix, AZ

3. ALJ Yanohira mailed a form rubberstamped with his digital signature, dated May 27, 2022, and attached hereto where he denied Appellant Dr. Cordero's recusal petition. That denial does not mention a single ground for Dr. Cordero's petitioning the ALJ's recusal. Moreover, ALJ Yanohira

[†] http://Judicial-Discipline-Reform.org/*OL2*/DrRCordero-Medicare_Appeals.pdf

did not even refer to Dr. Cordero's objection to the hearing date, namely, June 14, 2022, due to his current service on a grand jury in New York City.

a. Upon receiving that rubberstamped form on May 31, Dr. Cordero called ALJ Yanohira's office and recorded a message protesting his form on both grounds.

b. The ALJ simply had Legal Administrative Specialist Cesar Morales, tel. (602)603-8599, email Dr. Cordero on May 31, another form, to wit, RESPONSE TO NOTICE OF HEARING, infra, with the instruction "Please review the attached form to request a new ALJ. Please ensure you mark the check box in section 6".

c. If ALJ Yanohira had bothered to read the first sentence of Dr. Cordero's Statement faxed to him at (602)379-3038 on May 22, he would have realized that Dr. Cordero had requested a new ALJ, and that requiring him to fill out the RESPONSE form was superfluous and intentionally burdensome as wasteful of Dr. Cordero's time and effort. In fact, the NOTICE OF HEARING mailed to Dr. Cordero and dated May 11 provides thus: "You are encouraged, but not required, to use the enclosed *Response* to *Notice* of *Hearing* (form OMHA-I02) when responding." The information that it requested was provided in the Statement.

d. It follows that ALJ Yanohira did not even read the petition for his recusal, which was contained in Dr. Cordero's Statement. He denied it robotically by rubberstamping a fiat.

4. Canon 2 of the Code of Conduct for U.S. Judges mandates that "Judges must avoid every impropriety and even the appearance of impropriety". The Code provides also as follows:

> **Compliance with the Code of Conduct**
> Anyone who is an officer of the federal judicial system authorized to perform judicial functions is a judge for the purpose of this Code. All judges should comply with this Code except as provided below [concerning "A. Part-time Judge…B. Judge Pro Tempore…C. Retired Judge"; bold letters in the original]

5. Even the justices of the Supreme Court recognize that they must accord their conduct with legal rules, such as those at 28 U.S.C. §455 on recusal, and ethical rules. In fact, Chief Justice John G. Roberts, Jr., wrote in his 2021 Year-End Report on the Federal Judiciary, page 3-4, as follows:

> We are duty-bound to strive for 100% compliance because public trust is essential, not incidental, to our function. Individually, judges must be scrupulously attentive to both the letter and spirit of our rules, as most are.

6. Such strict compliance is guided by this tenet of the administration of justice: "Justice should not only be done, but should manifestly and undoubtedly be seen to be done". *Ex parte McCarthy*, [1924] 1 K. B. 256, 259 (1923). Cf. "Justice must satisfy the appearance of justice", *Aetna Life Ins. v. Lavoie et al.*, 475 U.S. 813; 106 S. Ct. 1580; 89 L. Ed. 2d 823 (1986).

7. What ALJ Yanohira let it be seen in his denial was not his consideration of the grounds of the recusal petition. The only appearance that he manifested in his denial was that of his rubberstamped digital signature on a form. Justice Thurgood Marshall put it this way in his dissent in *Greenholtz v. Inmates of the Nebraska Penal & Correctional Complex*, 442 U.S. 1, 40 (1979): "[A]n inability to provide any reasons suggests that the decision is, in fact, arbitrary".

8. ALJ Yanohira let himself be seen exercising "power [, which] corrupts", and when it is reasonless, it is arbitrary and capricious. When it is allowed to be exercised unaccountably, it becomes riskless, thus "absolute power [, which] corrupts absolutely", as stated by Lord Acton in his letter to Bishop Mandell Creighton, April 3, 1887.

9. How many times has ALJ Yanohira used the same or similar self-indulgent form to lazily deny a petition for recusal without having to bother to read the petitioner's grounds for recusal? Eventually, the same question can be asked with respect to his colleagues.

10. By merely rubberstamping a form for denying a recusal petition, ALJ Yanohira disposed of a petition without considering its merits. Since his denial was not based on the law, it is ultra vires.

11. Thus, ALJ Yanohira's denial constitutes an abuse of power in excess of his discretion. He could not have exercised discretion to decide a petition that he had not even read.

12. By denying the recusal petition without even reading it, ALJ Yanohira deprived Appellant Dr. Cordero of his due process right to be heard in his own cause before judicial power was exercised upon him. His conduct was in defiance of "traditional notions of fair play and substantial justice"; *International Shoe Co. v. Washington*, 326 U.S. 310 (1945).

13. By denying a petition for recusal without even reading it, never mind considering its merits, ALJ Yanohira has foreshadowed how he will dispose of the instant appeal: by exercising arbitrary and capricious power with disregard for any legal arguments or even material facts giving rise to legitimate issues, such as those in Dr. Cordero's Statement on Appeal[†], which is incorporated herein by reference as though it were set forth in full.

14. As a result, ALJ Yanohira has detracted from a fundamental element of judicial process: trust in the fairness and impartiality of the judge. In this regard, Canon 2 of the Code of Conduct provides:

> A. *Respect for Law.* A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
>
> COMMENTARY
>
> **Canon 2A.** An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.

B. Action requested

15. Therefore, Appellant Dr. Cordero respectfully requests that the Council:

    a. vacate ALJ Yanohira's denial of Dr. Cordero's recusal petition;

    b. disqualify and remove ALJ Yanohira from this case in its entirety;

    c. transfer this case from the Office of Medicare Hearings and Appeals in Phoenix, Arizona, to an office in the City of New York for an in-person hearing; otherwise, to the OMHA office in Arlington, VA, for a video tele conference hearing;

    d. assign this case to an ALJ unrelated to ALJ Yanohira by any personal relations and who:

        1) unambiguously rejects the gang mentality manifest in the expression "an attack on one of our brothers or sisters of the robe is an attack on all of us";

        2) is guided by his or her oath of office under 28 U.S.C. §453, to "administer justice without respect to persons [who "attack brothers"], and do equal right to the poor [in means to defend their rights and health] and to the rich [in connections with ALJ fellows and my Medicare employer], and [ ] will faithfully and impartially discharge and perform all the duties incumbent upon me as [ALJ] under the Constitution and

[†] http://Judicial-Discipline-Reform.org/*OL2*/DrRCordero-Medicare_Appeals.pdf

laws of the United States";

e. join EmblemHealth as an indispensable party in interest in the role of appellee;

f. require the parties to file with OMHA and serve on Dr. Cordero their answer to his Statement on Appeal by June 22, which he served on them on May 22 by email or fax;

g. hold to have lost by default any party that has failed to answer the Statement on Appeal;

h. allow Dr. Cordero 30 days from the receipt of such answer to file and serve his reply;

i. send Dr. Cordero a copy of any and all documents relevant to this case that have already been, and may in future be, created, including all text, graphs, emails, voice mail, photos, videos, recorded phone conversations, such as those involving:

   1) Emblem staff;
   2) Dr. Cordero;
   3) Maximus Federal Service, which wrote to Dr. Cordero on January 21, 2022: *"Medicare hired us…We work for Medicare. We do not work for the health plan"*;
   4) the New York University College of Dentistry;
   5) Medicaid;
   6) HHS;
   7) the New York Human Resources Administration (HRA);
   8) Federal Protective Services;
   9) ALJ Dean Yanohira;
   10) Deniese Elosh, legal assistant to ALJ Yanohira;
   11) etc.

j. build a record that includes all such documents with a view to its submission on appeal to a district court;

k. suspend the hearing scheduled for June 14, because Dr. Cordero will be on a grand jury;

l. provide for discovery to be had and completed before the hearing is scheduled;

m. ensure that the hearing is conducted 'in the interest of justice', rather than in the interest of Maximus, which is the only party that could have requested 'disposition in 90 days' on an emergency basis, which Dr. Cordero never requested and was not even given the option to request it on the Maximus's form for requesting an ALJ hearing;

n. provide for any appeal from a decision by the Council or an ALJ to lie in the U.S. District Court for the Southern District of NY or the NY State district court in the Bronx, New York.

I, Dr. Richard Cordero, Esq., declare pursuant to 28 U.S.C. §1746 and under penalty of perjury that to the best of my knowledge the foregoing statements are true and correct.

Executed on June 4, 2022
Bronx, New York

Dr. Richard Cordero, Esq.

Dr. Richard Cordero, Esq.
Dr.Richard.Cordero_Esq@verizon.net , DrRCordero@Judicial-Discipline-Reform.org ,
CorderoRic@yahoo.com
2165 Bruckner Blvd., Bronx, NY 10472
tel. 1(718)827-9521

31may22

Department of Health and Human Services
OFFICE OF MEDICARE HEARINGS AND APPEALS
Phoenix, AZ

Appeal of:	**R. CORDERO**	OMHA Appeal No.:	**3-10817205455**
Beneficiary:	**R. CORDERO**	Medicare Part:	C
Medicare No.:	*****Q8WV67**	Before:	**Dean Yanohira** Administrative Law Judge

ORDER DENYING REQUEST FOR ALJ RECUSAL

The Appellant objects to the undersigned ALJ as the assigned judge for his appeal and requests that the undersigned ALJ recuse himself from the above-referenced appeal for reasons stated in his position statement dated May 21, 2022.

42 C.F.R. § 405.1026(a) states: "An ALJ or attorney adjudicator cannot adjudicate an appeal if he or she is prejudiced or partial to any party or has any interest in the matter pending for decision."

The undersigned ALJ has not had any prior personal communication, interaction or dealings with the Appellant that would cause bias or prejudice against him in any way. Any matters or communications that do not involve the undersigned ALJ directly with the Appellant will not have any impact on the impartiality and fairness of the adjudication of the Appellant's appeal.

Therefore, the Appellant's request is **DENIED**.

MAY 27 2022

SO ORDERED

Dean R. Yanohira -S Digitally signed by Dean R. Yanohira -S

Dean Yanohira
Administrative Law Judge

DEPARTMENT OF
HEALTH & HUMAN SERVICES

Office of Medicare Hearings and Appeals
Phoenix Federal Building and Courthouse
230 N. 1st Avenue
Phoenix, AZ 85003

Official Business
Penalty for Private Use, $300

PHOENIX AZ 852
27 MAY 2022PM 5 L

FIRST CLASS

UNITED STATES POSTAGE
U.S. OFFICIAL MAIL
PENALTY FOR
PRIVATE USE $300
PITNEY BOWES
02 1P $ 000.53⁰
0000007247 MAY 27 2022
MAILED FROM ZIP CODE 85003

RICHARD CORDERO
2165 BRUCKNER BLVD
BRONX NY 10472-6506

10472-550665

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of Medicare Hearings and Appeals

RESPONSE TO NOTICE OF HEARING

Instructions: Complete sections 2 through 8 below, as applicable, and return this form to the assigned Administrative Law Judge (ALJ) **within 5 days of receiving the notice of hearing**. For expedited Part D hearings, contact the ALJ at the telephone number provided at the top of the notice of hearing **or** complete and return this form to the assigned ALJ **within 2 days of receiving the notice of hearing.** The return mailing address and fax number are at the top of the notice of hearing. You do not need to include the notice of hearing with your response.

Please note that only a party to the hearing may call witnesses; object to the time, place, or type of hearing; object to the statement of issues to be decided at the hearing; or object to the assigned ALJ (sections 4 through 6 below). Non-party participants are not permitted to call witnesses and may not file objections.

Section 1: Hearing information. [TO BE COMPLETED BY THE OFFICE OF MEDICARE HEARINGS AND APPEALS]

OMHA Appeal Number	Appellant	
3-10817205455	Dr. Richard CORDERO, Esq.	
Type of Hearing: ☒ Telephone ☐ Video-Teleconference (VTC) ☐ In-Person	Assigned ALJ: ALJ Yanohira	
Hearing Day of Week: Tuesday	Hearing Date: 6/14/2022	Hearing Time: 10:00 AM
Telephone Hearing Call-in Number (*if applicable*): (833) 419-1926	Passcode or Collaboration Code (*for telephone hearing*): 43358550##	
VTC or In-Person Hearing Address (*if applicable*)	City	State / ZIP Code

Section 2: What is the responding party's or participant's information? (*Representative information in next section*)

Name (*First, Middle initial, Last*)	Firm or Organization (*if applicable*)	Telephone Number	
Dr. Richard Cordero, Esq.		(718) 827-9521	
Mailing Address	City	State	ZIP Code
2165 BRUCKNER BLVD	Bronx	NY	10472-6506

If the respondent is an entity or organization, please list all individuals who plan to attend the hearing and the capacity in which they are attending *(attach a continuation sheet if necessary)*:

Section 3 : What is the representative's information? (*Skip if you do not have a representative*)

Name	Firm or Organization (*if applicable*)	Telephone Number	
Mailing Address	City	State	ZIP Code

Section 4: Will you be present at the time and place shown above? (*Check one*)

☐ **I will be present at the time and place shown on the notice of hearing.** If an emergency arises after I submit this response and I cannot be present, I will notify the ALJ at the telephone number shown at the top of the notice of hearing as soon as possible.

☒ **I cannot be present at the time and place shown on the notice of hearing and would like to request that my hearing be rescheduled.** I understand that the ALJ has the discretion to change the time and place of the hearing as long as my explanation for my request to reschedule meets the good cause standard for changing the time and place of the hearing. (For example, good cause may be found due to an inability to attend the hearing because of a serious physical or mental condition, incapacitating injury, or death in the family or if severe weather conditions make it impossible to travel to the hearing. *See* 42 C.F.R. sections 405.1020(f) and (g), and 42 C.F.R. sections 423.2020(f) and (g) for additional circumstances that may establish good cause.) I understand that if I am the appellant and the hearing is postponed at my request, the time between the originally scheduled hearing date and the new hearing date is not counted toward any applicable adjudication period.

I would like to reschedule my hearing for the following date and time, and I have good cause to reschedule my hearing because:

See Part I: Upon the shocking complaint that Ms. D. Elosh, Legal Assistant to ALJ Yanohira, filed against Dr. Cordero with the Federal Protective Services!, Dr. Cordero petitions for the recusal or disqualification of ALJ Yanohira and a case transfer...

☐ **I want to waive my right to appear at the ALJ hearing.** (*Please complete form OMHA-104 and attach it to this response.*)

PSC Publishing Services (301) 443-6740. EF

Section 5: Do you intend to call any witnesses to provide testimony at the hearing?

☐ No.

☒ Yes, I intend to call the following witnesses *(attach a continuation sheet if necessary)*:

I can only determine whom to call after the parties answer my Statement, which I have served on them. Cf. subheading 10, infra

Section 6: Do you object to any of the following conditions? (*Check all that apply*)

☒ **I object to the type of hearing scheduled.** If you are an unrepresented beneficiary or enrollee, and a telephone hearing is scheduled, you have the right to request that a VTC hearing be held instead if VTC technology is available. For all other parties, if a telephone hearing is scheduled, the ALJ may find good cause for an appearance by VTC if he or she determines that VTC is necessary to examine the facts or issues involved in the appeal.

If a telephone or VTC hearing is scheduled and the party, including an unrepresented beneficiary or enrollee, requests that an in-person hearing be held instead, the ALJ, with the agreement of the Chief ALJ or designee, may find good cause for an in-person hearing if VTC or telephone technology is not available, or if special or extraordinary circumstances exist.

I object to the type of hearing scheduled and request a (*check one*) ☐ VTC ***or*** ☐ in-person hearing because:

See subheading, infra, 8. Objection to a phone hearing and petition that it be a VTC hearing

Note: No explanation is required if you are an unrepresented beneficiary or enrollee requesting a VTC hearing.

☒ **I object to the issues described in the notice of hearing.** I understand that I must send a copy of my objection to the issues to all the other parties who were sent a copy of the notice of hearing, and to CMS or a CMS contractor that elected to be a party to the hearing (if you do not have these addresses, please contact the ALJ's adjudication team at the telephone number shown in the letterhead of the notice of hearing). I understand that the ALJ will make a decision on my objection either in writing, at a prehearing conference, or at the hearing.

I object to the issues described in the notice of hearing because:

See subheadings 11-17, infra.
I respectfully request a list of the names of all the individuals and entities that have elected to be a party to this hearing, and that their physical and digital addresses together with their phone numbers be stated.

☒ **I object to the ALJ assigned to my appeal.** I understand that an ALJ cannot adjudicate an appeal if he or she is prejudiced or partial with respect to any party or has an interest in the matter pending for decision, and that I may object to the ALJ assigned to my appeal for these reasons. I understand that the ALJ will consider my objection and decide whether to proceed with the appeal or withdraw. I understand that if I object to the ALJ assigned to my appeal, and the ALJ subsequently withdraws from the appeal, another ALJ will be assigned, and any applicable adjudication time frame will be extended by 14 calendar days.

I object to the assigned ALJ because:

See Part I, infra. Section 7: Require parties to file an answer by June 22, 2022, to my below Statement, which I served on them by May 22, 2022, and allow me to serve on them and the ALJ my reply by July 22, 2022, provided by that time the VTC hearing has been transferred out of the Phoenix office to NYC or VA, and an ALJ unrelated to that office has been assigned.

Section 7: If you are the appellant, do you want to waive or extend the time frame to decide your appeal? (*If yes, check one*)

☐ **I want to waive the time frame for the ALJ to decide my appeal.** I understand that by waiving this time frame, the ALJ does not have to decide my appeal within any applicable adjudication period that would otherwise apply.

☒ **I want to extend the time frame for the ALJ to decide my appeal.** I want the time frame to be extended _____ calendar days beyond any applicable adjudication period. See the 2nd sentence of the paragraph above Section 7: If you...

Section 8: Sign and date this form.

Party, Participant or Representative Signature	Date
Dr. Richard Cordero, Esq.	May 31, 2022

Privacy Act Statement

The legal authority for the collection of information on this form is authorized by the Social Security Act (section 1155 of Title XI and sections 1852(g)(5), 1860D-4(h)(1), 1869(b)(1), and 1876 of Title XVIII). The information provided will be used to further document your appeal. Submission of the information requested on this form is voluntary, but failure to provide all or any part of the requested information may affect the determination of your appeal. Information you furnish on this form may be disclosed by the Office of Medicare Hearings and Appeals to another person or governmental agency only with respect to the Medicare Program and to comply with Federal laws requiring the disclosure of information or the exchange of information between the Department of Health and Human Services and other agencies.

If you need large print or assistance, please call 1-855-556-8475

Transmission Log

p Sunday, 05-22-2022 23:27 1

Date	Time	Type	Job #	Length	Speed	Fax Name/Number	Pages	Status
05-22-2022	23:18	SCAN	322	24:20	14400	6023793038	64	OK -- V.17 1B31

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, NY 10472-6506

Office of Medicare Hearings and Appeals
Phoenix Field Office
Att.: Team Yanohira
230 N. 1st Avenue, Suite 302
Phoenix, AZ 85003-1706
Phone: (833)636-1476; Fax (602)379-3038

Transmission Log

p Sunday, 05-22-2022 23:55 1

Date	Time	Type	Job #	Length	Speed	Fax Name/Number	Pages	Status
05-22-2022	23:27	SCAN	324	41:47	14400	5854255292	64	OK -- V.17 1M31

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, NY 10472-6506

Office of the Project Director
Medicare Managed Care &
PACE Reconsideration Project; and
Maximus Federal Services
Medicare Part C QIC
3750 Monroe Avenue, Suite 702
Pittsford, NY 14534-1302
Tel: (585) 348-3300; Fax: (585) 425-5292

Dr. Richard Cordero, Esq.

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

2165 Bruckner Blvd., Bronx, NY 10472-6506
Dr.Richard.Cordero_Esq@verizon.net
tel. +1(718)827-9521; follow @DrCorderoEsq

May 21, 2022

Office of Medicare Hearings and Appeals Phoenix Field Office: Att.: Team Yanohira 230 N. 1st Avenue, Suite 302 Phoenix, AZ 85003-1706 Phone: (833)636-1476; Fax (602)379-3038	Health and Human Services OMHA Centralized Docketing 1001 Lakeside Avenue, Suite 930 Cleveland, OH 44114-2316 tel. (866)236-5089; Medicare.Appeals@hhs.gov
Office of the Project Director Medicare Managed Care & PACE Reconsideration Project; and Maximus Federal Services Medicare Part C QIC 3750 Monroe Avenue, Suite 702 Pittsford, NY 14534-1302 Tel: (585) 348-3300; Toll-free (844)559-6743 Fax: (585) 425-5292	EmblemHealth and its officers, including but not limited to: Sean Hillegass, Supervisor Grievance & Appeals, tel. (646)447-0617; Stefanie Macialek, Specialist, G&A, tel. (646)447-6109; Melissa Cipolla, Sr. Specialist, G&A, tel. (646)447-7026; Shelly Bergstrom, Quality Risk Management, tel. (631)844-2691 SHillegass@EmblemHealth.com, Stefanie.Macialek@emblemhealth.com, M_Cipolla@emblemhealth.com, SBergstrom@emblemhealth.com

PART I

Upon the shocking complaint that Ms. Deniese Elosh, Legal Assistant to ALJ Dean Yanohira, to whom this case has been assigned, filed against Appellant Dr. Richard Cordero, Esq., with the Federal Protective Services!, Dr. Cordero petitions for the recusal or disqualification of ALJ Yanohira and for the transfer of this case out of the OMHA office in Phoenix, AZ

and

PART II

Statement of Appellant Dr. Richard Cordero, Esq., for consideration in his appeal from the decisions of HMO EmblemHealth in cases 100 6295 et al., and of Maximus Federal Services.

Medicare ALJ hearing # 3-1081 7205 455; ECAPE Id. E1021112

TABLE OF CONTENTS

PART I

A. ALJ Yanohira's Legal Assistant Elosh complained about Dr. Cordero to the Federal Protective Service.....2

1. Statement of facts 3

2. Grounds for petitioning ALJ Yanohira's recusal and a change of venue 5
3. Harm from being entered in Homeland Security's suspects database 6
4. Relief requested concerning the complaint and the case 7

B. EmblemHealth's and its more than 15 supervisors' negligence 9

5. Inequality of treatment: 5 days for Appellant to respond v. 30 days + option to extend them for EmblemHealth and Maximus to decide 11
6. Maximus's ex parte communications with the ALJ 13
7. Objection to assigning the ALJ hearing to OMHA's office in Phoenix, AZ 14
8. Objection to a phone hearing and petition that it be a VTC hearing 15
9. Objection to the hearing date: Dr. Cordero will be on grand jury duty 15
10. The need for discovery to identify witnesses 15
11. Maximus Federal Services' substitution for Emblem and controlling rules; and suppression of claims 16
12. Emblem and Medicare condone illegal balance billing 20
13. Maximus, though the appellee, self-servingly stated the appeal 22
14. Emblem & NYU College of Dentistry save money by wearing down mil-lions of claimants or make money while indifferent to patients' needs 22
15. NYU College of Dentistry only cared for what it could bill, not for the patient's needs 25
16. Unfair surprise 26
17. The other claims are part of "the totality of circumstances" 27
18. Compensatory and punitive damages sought 28

C. Action requested 28

****

PART I

A. ALJ Yanohira's Legal Assistant Elosh complained about Dr. Cordero to the Federal Protective Service

1. On Tuesday, May 17, 2022, Dr. Richard Cordero, Esq., Appellant, received a phone call from the Federal Protective Services in Phoenix, AZ, by Inspector Cory Hogan, tel. (602)514-7130. Inspector Hogan said that he was investigating a complaint lodged with his office by the Legal Assistant to Administrative Law Judge (ALJ) Dean Yanohira, Deniese Elosh, against Dr. Cordero because he had made multiple phone calls to her and was harassing her. Dr. Cordero was shocked!
2. Hereinafter is his side of the story and some of its consequences, among them the recusal of ALJ

Yanohira and the transfer of the hearing out of his Medicare office in Phoenix, AZ, to another elsewhere, preferably one in or near New York City.

1. Statement of facts

3. On Tuesday, May 3, 2022, Dr. Cordero found on his phone answering machine a message recorded by a female caller who identified herself as Deniese Elosh, Legal Assistant to ALJ Yanohira, concerning Dr. Cordero's request for a Medicare hearing. She asked Dr. Cordero to call her back at his earliest convenience, preferably that same day, at (602)603-8609. When Dr. Cordero arrived in his office later that day, he called Ms. Elosh. Hence, she opened the door for him to call her and to expect a prompt callback.
4. Their conversation on May 3, lasted 1 hour and 46 minutes. Legal Assistant Elosh said that she had called to schedule the hearing that he had requested. Dr. Cordero found it extremely odd that his hearing had been assigned to the Medicare office in Phoenix, Arizona, rather than to New York City, where his HMO, EmblemHealth, the headquartered, and where relatively near, in Pittsford, New York, the reviewer of his case, Maximus Federal Services, is located.
5. Dr. Cordero said that Legal Assistant Elosh, as a lawyer, knew the doctrine of forum non conveniens and his invocation of it to request a change of venue of the hearing to New York City.
6. Legal Assistant Elosh volunteered to copy down Dr. Cordero's objections to submit them to ALJ Yanohira. Dr. Cordero expressed his thanks to her for taking the initiative to do so and said that he would wait in silence while she took down each of the objections that he had raised. This explains why the conversation lasted one hour and 46 minutes. Ms. Elosh said that she would submit her email to the ALJ and either he would send his written comments to Dr. Cordero or she would call him to let him know what the ALJ had said.
7. Legal Assistant Elosh kept referring only to Maximus without mentioning EmblemHealth. Dr. Cordero complained that he had been dealing with Emblem for eight months, not Maximus; that Maximus had only sent him a letter identifying itself as the reviewer of the decision of Emblem to deny the medical services that he had requested and stating that it would be Maximus who would inform Dr. Cordero of its decision…but it never did! Indeed, it was upon only upon his repeated complaint to EmblemHealth Grievance and Appeals supervisor Sean Hillegass, tel. (646)447-0617, that the latter had emailed Dr. Cordero a copy of Maximus's decision affirming Emblem's denial of the requested service.
8. Dr. Cordero went on to state how odd he found it that his hearing was going to be scheduled but he, the Appellant, had neither been asked nor given the opportunity to file his statement on appeal. In fact, it was Maximus who had sent him the ALJ hearing request form and it did not mention anything whatsoever about the requester having an opportunity to submit anything to an ALJ, let alone the address where the Appellant could send anything.
9. Legal Assistant Elosh replied that the hearing would be based on "*the* case file" that Maximus had filed with Medicare. What!? Dr. Cordero expressed his astonishment that the hearing would be based on the claim or claims that the appellee had chosen to appeal and the documents that it had filed to support them, rather than on the Appellant's claims and supporting documents. Moreover, how could a party communicate "the case files" to the ALJ without serving a copy on Dr. Cordero?
10. Dr. Cordero said that Legal Assistant Elosh, as a lawyer herself, had to be aware that such conduct amounted to ex part communication with the judge. It also involved denial of due process, for he had not been given notice of the claims before the judge and opportunity to defend, never mind

that he was the appellant, not the appellee. He said that by the time they got to the hearing that Legal Assistant Elosh wanted to schedule, ALJ Yanohira would have been influenced by whatever "case file" EmblemHealth and Maximus had file and the hearing would be only an exercise in rubberstamping his foregone decision on the appeal. In addition, for Dr. Cordero to learn only at the hearing what claims and documents had been submitted by the appellee to the ALJ would constitute an unfair surprise, depriving Dr. Cordero of the opportunity to prepare his answer to them.

11. Hence, Dr. Cordero requested that Legal Assistant send him a copy of "the case file" submitted by Maximus. She said that she could not do that because there were too many pages for her to copy and print. He asked how many there were. She said over a hundred. What! Where did they come from? He said that he could not imagine that over the course of his dealings with EmblemHealth he had exchanged with it so many. He added that he suspected that Maximus had thrown into the file any manual of Medicare rules, although he had never received a copy of it and Emblem had not used them as the basis for its dealings with him.

12. So, he asked that she send him "the case file" on a flash stick; as an attachment by email; or by uploading them to a Medicare or ALJ platform. But she said that the only other way she could send them was on a CD. He replied that for years computer have stopped shipping with a CD reader; and that his computer did not have one; and that he would be forced to procure one. She said that the only way she could send him a copy was on a CD. He relented and they agreed that she would send him a CD bearing Maximus's "case file".

13. Legal Assistant Elosh said that the hearing would be conducted by phone, not even by video conference. Dr. Cordero protested, for a hearing by phone would make it impossible to perceive the rich non-verbal language accompanying any oral statement made by parties, lawyers, witnesses, and the ALJ.

14. Assistant Elosh assured Dr. Cordero that she would let ALJ Yanohira know about all his objections and would make sure that Dr. Cordero got the ALJ's comments.

15. Surprisingly, on Friday, May 6, 2022, Dr. Cordero received a UPS package. The sender was OMHA Phoenix Field Office…Phoenix, AZ 85003". It contained two reams of paper. Each had a pink sticky labeled "Part 1" and "Part 2", respectively. There was no explanatory note or the name of the sender, much less a signature. So, purportedly, they were Maximus's "case file". No CD was in the package.

16. The next communication was a call from Legal Assistant Elosh on Wednesday, May 11. She was adamant that the only purpose of the call was to schedule the hearing. She would not explain why she had sent Dr. Cordero Maximus's filing or filings on hardcopy and would not even listen to his request that she abide by their agreement to send them on a CD, for which Dr. Cordero had already procured an external CD reader. Nor would she discuss what comments, if any, ALJ Yanohira had made on her email to him that she had written on May 3. Then the communication cut off as Dr. Cordero was speaking.

17. Dr. Cordero waited for her to call him back, but she did not do so. He called her back, but she would not pick up the phone. Hence, he recorded a message on her answering machine. When she failed to call him back, he looked up the phone number of the OMHA office in Phoenix. He only reached the answering machine of Legal Administrator Officer Tamara. He recorded a message, but she did not return his call. He called her back, but only reached Ms. Tamara's answering machine. He recorded a message stating that after the conversation between Legal Assistant Elosh

and him had cut off, he had left three messages on the Legal Assistant's answering machine to make sure that she understood that he did want a hearing and had not waived his right to it and asking that she send him on a CD Maximus's filings.

18. Legal Assistant Elosh called Dr. Cordero on Friday, May 13. She was even more recalcitrant and would not discuss anything other than the scheduling of the hearing. She refused to tell Dr. Cordero whether her last name was spelled with ch or sh. She would not state the last name of Legal Administrator Tamara. She would not agree to send him a CD with Maximus's filings. At his insistence, she told him that the hearing was scheduled for June 14. Dr. Cordero told her that her constant interrupting him when he was speaking, her unnecessary secrecy, and her incomprehensible refusal to discuss anything other than the scheduling of the hearing would be brought to Administrator Tamara's attention in the complaint that he would file against her. Defiant, she said, 'file your complaint' and she terminated the conversation.

19. On Tuesday, May 17, Inspector Cory Hogan of the Federal Protective Services called Dr. Cordero to tell him that Legal Assistant Elosh had filed a complaint against him alleging that he had called her multiple times and harassed her. Dr. Cordero could hardly believe it. Inspector Hogan said that he wanted to hear Dr. Cordero's side of the story. Dr. Cordero told him what is stated hereabove.

20. Inspector Hogan offered to talk to his supervisor to see whether the supervisor could:

    a. send Dr. Cordero a CD containing the Maximus's "case file";

    b. cause a change from a phone to a video conference hearing;

    c. extend the time for Dr. Cordero to file his statement of appeal from 5 days to the equal of the 30 days that both Emblem and Maximus had informed him they had to reach a decision on his appeal, which period they could extend if they deemed it necessary;

    d. cause a change of venue of the hearing to New York City.

21. Inspector Hogan and Dr. Cordero agreed that the former would call the latter the following day after 2:00 p.m. Mountain Time. Inspector Hogan did precisely that. He said that his supervisor would see to it that the CD was sent and a video conference held; however, he could do nothing about extending time or changing venue. There was no mention of Legal Assistant Elosh's complaint. Inspector Hogan was friendly, courteous, and professional. The outcomes of his intercessions with his helpful and understanding supervisor were very much appreciated by Dr. Cordero. He thanks both of them.

2. Grounds for petitioning ALJ Yanohira's recusal and a change of venue

22. The principles applicable to the petition for ALJ Yanohira to recuse himself or be disqualified is that the character of the principal is reflected in the character of his agent, for he chooses to work with people whose character and conduct he approves. "The appointer covers up for his appointee, lest he incriminates his vetting procedure for failure to detect an incompetent or dishonest candidate or is tainted by the kind of people from whom he seeks his appointees because 'birds of the same feather fly together'". Hence, 'If you see the agent, you see his principal'.

23. It is highly improbable that Legal Assistant Elosh took it upon herself to lodge a complaint against Dr. Cordero with the Federal Protective Services without ever discussing the matter with ALJ Yanohira. But if she did, she revealed no sense of hierarchy and proportionality, and no concern for, or capacity to foresee, the repercussions of her acts. Those are serious defects; and they are disqualifying ones in a person that works in a court, where it is essential to possess and apply

correctly a keen understanding of procedural steps, a balancing test to weigh competing interests, and foreseeability.

24. Reasonably assuming that Legal Assistant Elosh brought her complaint first to ALJ Yanohira, did the latter find it sufficient to hear only her side of the story to believe that her account of Dr. Cordero's words was so accurate and his conduct so menacing that although they only communicated by phone, the hearing was scheduled to be conducted by phone, and he lives 2,409 miles away from Phoenix in New York City, his words constituted such clear and present danger that the ALJ deemed his Assistant justified in seeking the protection of the Federal Protective Services?

25. That is the uniformed police division of the United States Department of Homeland Security! Legal Assistant Elosh has made Dr. Cordero look like a terrorist or a person with a tendency toward committing a violent crime. There may now be a file opened on him that makes Homeland Security suspect him of engaging in such menacing conduct that a complaint against him was filed by a member of a federal entity, and a court at that, expected to be able to balance the weight and sufficiency of the evidence?

26. What every day act, such as boarding a flight or entering the premises of a political rally or even a Tops-like supermarket, will be enough to trigger a check on Dr. Cordero by any federal or state law enforcement authority with access to the Homeland Security database of terrorists and violent people? Dr. Cordero is a lawyer. Will his entering a court trigger such check on him? Who will ever believe him if he tried to dismiss Legal Assistant Elosh's complaint against him by lamely saying "that was only a misunderstanding"? Would you like to have Homeland Security open a file on you?

27. Legal Assistant Elosh has damaged Dr. Cordero's reputation and put him at risk of suffering further and substantial harm. She has defamed him. That weighs him down. She has inflicted on him injury in fact.

3. Harm from being entered in Homeland Security's suspects database

28. Did any Federal Protective Services supervisor or inspector consult with ALJ Yanohira as a result of his Legal Assistant's complaint about Dr. Cordero? Were the supervisor and inspector convinced by the ALJ that Dr. Cordero posed a danger that went beyond his exercise of freedom of speech to constitute a threat of bodily harm that warranted the swift intervention of the Federal Protective Services?

29. One can reasonably assume that the impression that ALJ Yanohira has of Dr. Cordero is that described by his Legal Assistant: a man so abusive and menacing that his Legal Assistant had to be protected by the Federal Protective Services, the way the justices of the Supreme Court now have to be protected from those for and against abortion who threaten them and their families.

30. Indeed, on May 16, 2022, it became known that a man having threatened to shoot out his school was questioned by the police for only 15 minutes and dismissed on his excuse that what he had said was "only a joke". But he went to the Tops supermarket in Buffalo, NY, and kill 10 people and wounded three more. One can reasonably assume that now all law enforcement authorities will be overly cautious in investigating every complaint. They will keep every single one of them on their database so that whenever in future any complaint whatsoever is run through the database every matching complaint can be called up and a stronger case can be made to apply to a judge for either a search and seizure or arrest warrant or both against the complained-about person.

31. Those who learn nothing from what is happening around them and cannot use it to foresee and protect themselves from what can happen in future can only suffer the realization of Murphy's Law: "Everything that can go wrong will".

32. ALJ Yanohira must take responsibility for the hiring, supervision, and disciplining of his Legal Assistant, Ms. Elosh. If he fails to do so, then he can reasonable be presumed to be unlikely to hold EmblemHealth responsible for the hiring, supervision, and disciplining of the more than 15 Emblem supervisors(¶40 below) who have handled Dr. Cordero's claim for medical services so inadequately that it is now before him.

33. Legal Assistant Elosh works in a court-like setting and inevitably with lawyers. She should and is expected to be temperamentally and by practice capable of dealing with the arguments of lawyers and what is inherent in them, that is, lawyers' inclination to be argumentative. There is no justification for distorting a lawyer being argumentative into being such a public threat as to warrant a complaint to the Federal Protective Services and the opening of a file on him by Homeland Security.

34. Lawyers are by temperament, training, and practice argumentative. They are expected to defend their clients zealously. They object in open court to the rulings of judges; even argue with them; and complain about judges by taking their decisions up on appeal on a charge, for instance, of abuse of discretion and belittling lawyers, parties, and witnesses. It is unreasonable to expect lawyers to adopt a submissive attitude when dealing with judges' legal assistants.

35. An impartial observer with knowledge that ALJ Yanohira knows or is likely to know that his Legal Assistant required protection from Dr. Cordero by the Federal Protective Services will probably conclude that ALJ Yanohira has an unfavorable first impression of Dr. Cordero. Such an observer can objectively be concerned that ALJ Yanohira has been so negatively influenced by his Legal Assistant's hearsay account of what Dr. Cordero said to her and how he said it that he could harbor animosity toward Dr. Cordero. The observer could even be apprehensive that the ALJ might abuse his power: "*You bully!* I will teach you a lesson: Don't you ever mess with my Assistant!" His attitude could be: "If at the hearing I get even a whisper from you of disrespect to me, *I'll make you regret it!*"

36. There is probable cause to believe that the ALJ is already and will be biased against Dr. Cordero at the hearing and in disposing of this case.

    a. The Supreme Court has indicated that recusal does not require proof of actual bias, but rather a showing of circumstances "in which experience teaches that the **probability** of actual bias on the part of the judge or decision-maker is too high to be constitutionally tolerable." (emphasis added) *Withrow v. Larkin*, 421 U.S. 35, 47 (1975).

    b. In *Caperton v. Massey*, slip opinion, 556 U. S. __(2009), the Supreme Court "stressed that it was not required to decide whether in fact [the judge] was influenced [by one of the litigants]. The proper constitutional inquiry is whether sitting on the case then before [him] would offer a possible temptation to the average judge to lead him not to hold the balance nice, clear and true. [Where] the **probability** of actual bias rises to an unconstitutional level [recusal is required]." (internal quotations omitted; *Caperton*, pages 8-9, 16) "Circumstances and relationships must be considered." (id., 10); (emphasis added).

4. Relief requested concerning the complaint and the case

37. Therefore, Dr. Cordero respectfully requests:

a. that ALJ Dean Yanohira recuse himself from any aspect of the case at hand because the appearance of bias has undermined Dr. Cordero's trust in him; otherwise, that he be disqualified;

b. that in order to avoid testing the judicial class loyalty of ALJ Yanohira's colleagues and the need to avenge his recusal, this case be transferred out of the OMHA Phoenix office. There is precedent supporting this concern:

    1) U.S. District Judge Gonzalo Curiel was presiding over the Trump University case. In June 2016, Candidate Trump did not like one of his rulings and referred to him disparagingly as "the so-called judge of Mexican heritage", who could not be impartial because Trump wanted to build a wall between the U.S. and Mexico. He kept campaigning on issuing a ban on Muslim travel to the U.S. Upon receiving more than 62.5 million votes and becoming president, he issued that ban as one of his first executive orders in 2017.

    2) Yet, Judge James Robart of the U.S. District Court in Seattle, Washington State, in the Ninth Circuit, suspended P. Trump's Muslim travel ban *nationwide* and a panel of three circuit judges –although two would have sufficed– sustained the suspension *nationwide*.

    3) Subsequently, more than 60 federal judges and even Supreme Court justices as well as their state counterparts ruled against or dismissed at least 86 cases filed by Trump and his allies challenging the 2020 presidential election results.

    4) When Then-Appellate Judge, Now-Justice Neil Gorsuch went to the Senate to pay courtesy visits to the senators that would deal with the confirmation of his nomination to the Supreme Court by President Trump, he was asked what he thought about the President's disparaging reference to Judge Curiel. Judge Gorsuch reportedly remarked that "An attack on one of our brothers and sisters of the robe is an attack on all of us".

    5) If this is what judges can do to the President of the United States, there can hardly be any limit to what they can do to a regular party in a case that has significantly less exposure by the media to public…at least for the time being.

    6) Given that the hearing is almost a month away and that Dr. Cordero's statement on appeal has not been processed, this is the most opportune time to change the venue of the hearing and avoid a likely ground for appeal.

c. that this case be removed from the expedited calendar, where Legal Assistant Elosh said that this case had been placed at the request of Maximus, and be placed in the regular calendar.

    1) Maximus's self-serving interest in having this case speedily terminated must not be allowed to prevail upon the OMHA's duty to safeguard the integrity of judicial process and a judges' duty to administer justice under law;

d. that in the interest of justice and judicial economy, the venue of this case be changed to a convenient forum to all the parties, and that such forum be the City of New York; otherwise, a city in the same time zone as New York, such as Washington, DC, or one even closer;

e. that a copy be sent on a CD to Dr. Cordero of everything in the file in this case, including:

1) any filing or filings by Maximus Federal Services, EmblemHealth, and any other party; and

2) any materials concerning the complaint about Dr. Cordero to the Federal Protective Services, whether such materials were prepared or filed by Legal Assistant Elosh, ALJ Yanohira, or any other person, including an officer of the Federal Protective Services or Homeland Security;

e. that if the venue of the hearing is changed to New York City or Newark, NJ, the hearing be held in person, but that if it is changed to another city, the hearing be conducted via video conference;

e. that an order be issued to the Federal Protective Services and Homeland Security to state whether there exists in their or anybody else's possession any file, record, or statement known by whatever name concerning Legal Assistant Elosh's complaint against Dr. Cordero; and that a copy of the order be included in the case file and sent to each party, including Dr. Cordero;

f. if there exists any such file, record, or statement known by whatever name, that an order be issued to the Federal Protective Services, Homeland Security, and any other entity in possession of it to produce a copy of it certified to be true and complete; and that it be added to the record of this case and sent to each party, including Dr. Cordero;

g. that cognizance be taken of the fact that after all the circumstances surrounding Legal Assistant Elosh's complaint against Dr. Cordero are known, and the nature, extent, and gravity of the injury that the complaint has inflicted or may inflict on him are determined, Dr. Cordero may request other relief and assert appropriate causes of action.

38. I, Dr. Richard Cordero, Esq., declare pursuant to 28 U.S.C. §1746 and under penalty of perjury that to the best of my knowledge the foregoing statements are true and correct.

Executed on May 21, 2022
Bronx, New York

Dr. Richard Cordero, Esq.

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, New York 10472-6506
Dr.Richard.Cordero_Esq@verizon.net ,
DrRCordero@Judicial-Discipline-Reform.org , CorderoRic@yahoo.com
tel. 1(718)827-9521

****

PART II

B. EmblemHealth's and its more than 15 supervisors' negligence

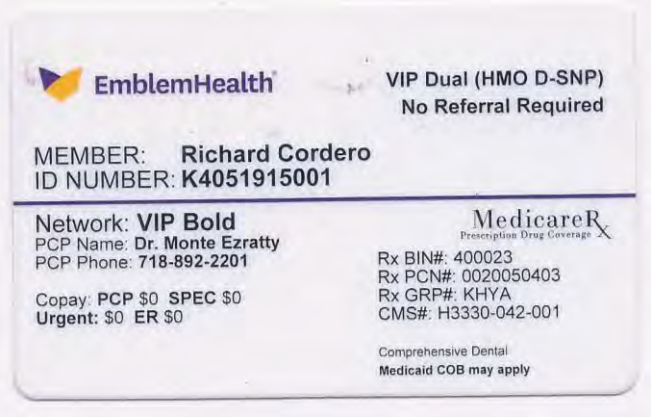
39. This case began on September 8, 2021, when Dr. Cordero's crown on tooth #19 came off. This initial claim for medical services gave rise to other claims. All of them are referred to as "the case".

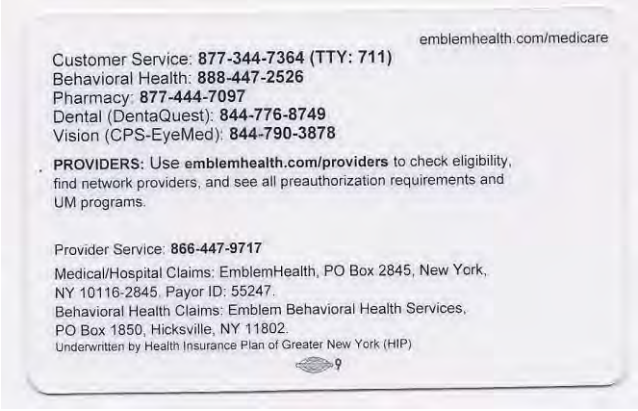
40. That same day, Dr. Cordero contacted his HMO, namely, EmblemHealth. The latter, also referred to as Emblem, is a reference to both the entity and its more than 15 supervisors who have dealt

with this case, including but not limited to the following:

1. Ms. Jessica (Jessie) Ebeng in The Philippines; tel. (877)344-7364
2. Nick Edwards in The Philippines; tel. (877)344-7364, ext. 19467
3. Kevin Buttler in The Philippines
4. Chris Osorno in The Philippines; (877)344-7364, ext. 19479
5. Eps G. in The Philippines; (877)344-7364, ext. 17913
6. Joseph Sanches Lomocso in The Philippines; j_lomocso@emblemhealth.com
7. Sergio Diaz, DentaQuest; tel. (844)776-8749
8. Supervisor Joan in The Philippines, who at Dr. Cordero's request transferred his call to the U.S.
9. Susan S. in Emblem's "New York Ship"; tel. (800)447-8255
10. Tamika Simpson in the NY Ship
11. Thomas Gray in the NY Ship
12. Melissa Cipolla, Sr. Specialist, Grievance and Appeals Department; tel. (646)447-7026
13. Sean Hillegass, Supervisor at the Grievance and Appeals Department; tel. (646)447-0617
14. Ms. Darwin Quipit Arcilla, ref. 112 096 55
15. May E. in The Philippines
16. Shelley Bergstrom, Quality Risk Management; tel. (631)844-2691
17. Sandy Yang, Specialist, Grievance and Appeals Department; tel. (646)447-4380
18. Murugan Sudalai; letter of March 15, 2022,
19. Stephanie Macialek, Specialist, Grievance and Appeals; tel. (646)447-6109

41. From the beginning, what controlled the discussion with the Emblem supervisors was precisely what medical services providers require prospective services recipients to show the moment the latter contact the former: the insurance card provided by the insurer. The card provided to Dr. Cordero by EmblemHealth is quite unambiguous as to payment by Dr. Cordero and dental care:





42. The card states "Comprehensive Dental Medicaid COB may apply". The first half of the Emblem

supervisors with whom Dr. Cordero spoke did not even know what "COB" meant. At his insistence one of them found out that it means 'Coordination of Medicaid and Medicare Benefits".

43. Emblem dragged out for months its decision on Dr. Cordero's claim to deal with tooth #19, which was referred to as the need for 'an implant'. A main reason for that delay was that no supervisor would take ownership of the case. So, with every new supervisor the case had to be restarted since none of them had bothered to review whatever notes the previous supervisors had made or the letters, emails, and attachments in the case file. None care what the next supervisor would do with the case. Their attitude was "Not my case" and "Out of my hands, out of my mind".

44. Dr. Cordero repeatedly submitted by email to Emblem written statements establishing the medical necessity of the implant which he had received from both the Endodontics Clinic and the Periodontics Clinic of New York University College of Dentistry; the Jacobi Medical Center Dental Department; and his PCP, Dr. Monte Ezratty.

45. Unreasonably, Emblem and its supervisors dragged out the decision on the coverage of the implant even though Dr. Cordero was telling each of them that he was in pain because as a result of the gap in his teeth and the need for him to chew only on one side of his mouth he was time and again biting his tongue and chewing the inner side of his cheek near tooth #19.

46. Emblem Grievance and Appeals supervisor Hillegass recognized the substandard way in which Emblem had handled this case when in his letter of December 29, 2021, to Dr. Cordero he wrote thus:

> We reviewed the call logs from your contact with the EmblemHealth and DentaQuest Customer Service centers. It does appear from the records that there was a significant amount of back and forth in trying to determine if the providers you wished to see for these services were participating or non-participating, and what sort of coverage is available for this service. On behalf of both EmblemHealth and DentaQuest I apologize that there was much difficulty in this and for any frustration it caused. We realize you have a choice when it comes to your health insurance provider, and we value you as a member. We value you as a member and continually strive to resolve any issues you may have as efficiently and clearly as possible. We're sorry you were not afforded that in these calls.

47. The Emblem card, the statements of more than 15 Emblem supervisors, and the statements of four medical services providers in Emblem's network raised in Dr. Cordero the reasonable expectation that the implant would be "comprehensively" covered. Thus, Dr. Cordero charges Emblem with negligent hiring, training, supervising, and controlling, of not just its receptionists at customer service centers, but even its supervisors; reckless management of his case with callous indifference to his pain and suffering; and unfair surprise.

5. Inequality of treatment: 5 days for Appellant to respond v. 30 days + option to extend them for EmblemHealth and Maximus to decide

48. The Notice of Hearing from the Office of Medicare Hearings and Appeal states on page 2 of 6 as follows:

> **You must respond to this notice within 5 calendar days of receipt. You are encouraged, but not required, to use the enclosed Response to Notice of Hearing** (form OMHA-I02) when responding.

(bold letters in the original)

49. No similar notice of OMHA could be found giving Maximus Federal Services any period of time, never mind only 5 days, to file with OMHA the request for an ALH hearing from a member of a Health Plan, in this case Dr. Cordero, together with the case file.

50. By contrast, the letter of Maximus to Dr. Cordero of January 21, 2022, states this:

> Medicare hired us to review your appeal….
>
> **We will send you a letter with our decision**
>
> You **do not** have to call or write to us to find out our decision. We will review the information in your file and send you the decision as soon as possible. (bold letters in the original)

51. OMHA did not put a time constraint on the reviewer that it hired. In spite of its expertise in this field, Maximus did not reach its decision until February 15, 2022, that is, 25 days later.

52. OMHA gives itself a comfortably long period to act. So, Maximus wrote in its letter of April 15, 2022, to Dr. Cordero:

> If you have questions about your ALJ hearing request, the Office of Medicare Hearings and Appeals will be happy to help you. Please wait a minimum of 30 days from the date of this letter prior to contacting them.

a. Maximus knows that OMHA "will be happy to help" because Maximus is an insider that can speak to how OMHA 'feels'. So it stated in its letter to Dr. Cordero of January 21, 2022: "We work for Medicare". Maximus is not an independent and disinterested party.

b. For its part, Medicare and OMHA will rather bend the evidence and the rules in their favor to avoid admitting that it vetted and employed an incompetent or dishonest entity, thus rendering itself liable for failing its duty to ensure proper hiring, supervision, and disciplining of its employees; and for failing to apply its own rules honestly as a fiduciary in the interest of its insureds.

53. For its part, EmblemHealth, via its Grievance and Appeals Specialist Sandy Yang, tel. (646)447-4380, informed Dr. Cordero in her letter of February 3, 2022, as follows:

> We received your grievance on January 20, 2022….
>
> You filed this grievance because:
>
> > You had contacted EmblemHealth and DentaQuest multiple times regarding your dental implant issue. However, no one calls you back regarding the issue.
>
> We will review your grievance. We will send a letter with our decision within 30 calendar days of receiving it.
>
> We may extend this time frame up to 14 calendar days…if we need more information and the delay may help you. We will let you know if extra days are needed.

54. The same timeframe is applied by EmblemHealth Grievance and Appeals Specialist Stefanie Macialek, tel. (646)447-6109, in her letter to Dr. Cordero of April 22, 2022.

55. When OMHA gives appellants the unreasonably short period of 5 days to respond, it expects

appellants to drop everything that they are doing and do the only thing that they can do in that time: cobble together something like a response. That is OMHA's intent: To allow appellants so little time that they cannot craft a meaningful and effective response.

56. The intent to hinder a meaningful and effective response is evidenced by the fact that neither Maximus nor OMHA served on Dr. Cordero the case file that was sent to the ALJ. What a blatant denial of the due process requirement of notice and opportunity to defend! Sending the case file only to the ALJ amounted to an ex parte communication with him. Dr. Cordero protested to Ms. Deniese Elosh, Legal Assistant to ALJ Dean Yanohira, when she called him on May 3, 2022, to schedule the hearing. She said that there were so many pages in the file that she could not print them. After some discussion, they agreed that she would send him a copy of the file on a CD. But she did not keep her part of the agreement: She sent him two reams of printed paper, well over 100 sheets!

57. Can you imagine the time necessary to take even a first look at them? He has done what he has been able to within the unreasonably short time allowed.

58. This unequal amount of time that OMHA gives itself and it close partners, on the one hand, and appellants, on the other hand, augurs badly for the way that the ALJ hearing that OMHA has set up will handle the constitutional requirements of due process of law and equal protection of the law.

59. Dr. Cordero objects to having been give an unreasonably short period of time to respond and the disruption that it has wrecked in his activities.

6. Maximus's ex parte communications with the ALJ

60. This appeal was assigned to Administrative Law Judge Dean Yanohira (hereinafter ALJ Yanohira or the ALJ). His legal assistant, Ms. Deniese Elosh, tel. (602)603-8609, called Dr. Cordero on Tuesday, May 3, 2022, to schedule the hearing. In their conversation, Dr. Cordero found out that the appeal would only consider whether Maximus Federal Services (Maximus), the entity to which EmblemHealth had referred its denial of an implant for tooth #19, made the right decision pursuant to the Medicare rules. Maximus affirmed Emblem's denial.

61. According to Legal Assistant Elosh, Emblem is not a party to this appeal. It was Maximus that sent OMHA and the ALJ a case file with over 100 sheets of paper concerning this case, so many that she could not print them and send them to him. Those pages constitute the 'record' that will be considered at the hearing; nothing else will: The only issue before the ALJ will be whether the Medicare rules was properly applied in denying Dr. Cordero the implant for tooth #19.

62. The form to request an ALJ hearing is a Maximus form, not an official Medicare or OMHA form. It neither requires nor offers the opportunity for the appellant to submit any documents or even a statement of claims.

63. As a result, when the hearing is held, the ALJ will have already made up his mind based only on whatever Maximus chose to include in its case file.

64. All of this is appalling and unacceptable from a factual and legal point of view.

65. For the past eight months since September 8, 2021, Dr. Cordero has dealt with EmblemHealth, which is the real party in interest as appellee.

66. Dr. Cordero has never dealt with Maximus. One day, that is, January 31, 2022, he received in the

mail a letter from Maximus dated January 21, 2022. Before that time, the name of Maximus was not mentioned by the Emblem supervisors(¶40 above). That letter stated the following, using bold letters as shown next:

> **We will send you a letter with our decision**
>
> You **do not** have to call or write to us to find out our decision. We will review your file and send you our decision.

67. But Maximus never communicated its decision to Dr. Cordero.

68. Dr. Cordero complained about it when he spoke on the phone with EmblemHealth Grievance and Appeal Department supervisor Sean Hillegass. He said that he had received Maximus's decision. Dr. Cordero asked that he email it to him. He said that he would. But supervisor Hillegass failed to do so.

69. Dr. Cordero had to call supervisor Hillegass again. Again, he agreed to email it to him. Dr. Cordero told him that we would state on the phone until he saw on his computer that the email with the Maximus decision attached to it had arrived. Only then did Dr. Cordero receive that decision: April 12, 2022. Supervisor Hillegass said that he would see to it that the date of that conversation between them would be taken as the date when Dr. Cordero had received Maximus's decision and from which any appeal period would start to run.

70. Dr. Cordero promptly used the only means available for filing a request for an ALJ hearing, that is, Maximus's request form. He mailed it.

71. In the more than 52 hours spent on the phone with the Emblem supervisors(¶40 above) that have dealt with his case, the Medicare rules were never mentioned as dispositive of Dr. Cordero's claim.

72. What was mentioned at Dr. Cordero's insistence was the EmblemHealth id. card(¶41 above), which on its front side states the following:

> "VIP Dual (HMO D-SNP)…
>
> Comprehensive Dental; Medicaid COB may apply".

73. It is shocking that the Emblem supervisors and medical service providers with whom Dr. Cordero spoke did not know what those statements meant. It was only at his instigation that some supervisors researched those statements and came back with this hesitant answer: They could not find out what "VIP" stands for. "Dual" means Medicaid and Medicare. "D-SNP" means "Dual Special Need Plan". "Comprehensive Dental" is quite explicit. "Medicaid COB" means "Coordination of Benefits" between Medicaid and Medicare; but not even these supervisors knew to what extent it applied in Dr. Cordero's case. That is what they promised to find out but failed to do so.

74. This means that an entity with which Dr. Cordero had never dealt, that is, Maximus, has substituted the party, EmblemHealth, with which he has dealt for eight months, since September 8, 2021; chooses the issues and claims on appeal; and even sends the ALJ whatever it deems 'the case file' on this case, but fails to serve that file on Dr. Cordero, who, though the appellant, is not even asked or given the opportunity to submit what he wants to have reviewed at the ALJ hearing.

7. Objection to assigning the ALJ hearing to OMHA's office in Phoenix, AZ

75. OMHA has assigned the case to its office in Phoenix, Arizona! Why did it not assign the case to an office in or close to New York City, where Dr. Cordero lives and EmblemHealth has its

headquarters; and is much closer to where Maximus is located, namely, Pittsford, New York?

76. The three-hour difference between Phoenix and New York City makes communications unnecessarily difficult.

77. In the same vein, the 2,409 miles that separate New York City from Phoenix, Arizona, makes it practically impossible for a hearing in person.

78. If OMHA saw fit to locate one of its offices in Arizona, where the population of the whole state is only 7.28 million people, then it must certainly have a hearings office in New York City, where more than 8,500,000 people reside. But if OMHA's purpose was precisely to make it difficult for its insureds to participate in ALJ hearings, then placing an office in Phoenix, AZ, and assigning it jurisdiction to cases originating in New York makes sense. Why did OMHA not assign this case to its office in Arlington, VA 22202?

79. In the all but certain event of an appeal to a district court, where will venue lie? If at that time, the appeal can be filed in New York City, then the instant appeal can also be transferred here.

80. Dr. Cordero invokes the doctrine of forum non conveniens to petitions for a change of venue to an office in the same time zone as New York.

8. Objection to a phone hearing and petition that it be a VTC hearing

81. The hearing is scheduled to be held by phone and Ms. Deniese Elosh, Legal Assistant to ALJ Dean Yanohira, informed Dr. Cordero when she called him on May 3, 2022, to schedule the hearing, that it cannot be held via video conference. She had no explanation to justify her denial of Dr. Cordero's petition that the type of hearing be changed to a VTC one.

82. A phone hearing renders it impossible to perceive any body language, which accounts for as much as 70% of non-verbal communication.

83. Dr. Cordero invokes the doctrine of forum non conveniens to petitions for a transfer to an office in New York City or Newark, NJ, to which parties can inexpensively travel, for an ALJ hearing in person; otherwise, to an office where the hearing can be conducted via video tele conference.

9. Objection to the hearing date: Dr. Cordero will be on grand jury duty

84. The ALJ hearing has been scheduled for June 14. However, from May 23 to June 17, 2022, Dr. Cordero will be discharging his duty to serve on a grand jury, as shown in the Exhibits.

85. Moreover, the ALJ hearing must not be heard until Emblem and Maximus have answered this statement of Dr. Cordero and he has had the opportunity to read it and be prepared to deal with it at the hearing; and if need be, even research and write a reply and file and serve it.

10. The need for discovery to identify witnesses

86. If the opposing parties accept all of Dr. Cordero's contentions, there will be no need for discovery and it will be possible to move to a damages and settlement phase. By contrast, if they deny all his contentions, discovery will be necessary to determine the nature, extent, and gravity of their negligence, breach of the insurance agreement, abuse of the appeal process, etc. This will involve contacting as many as possible of, in general, Emblem insured members, and in particular, those members whose appeals have been reviewed by Maximus, the reviewer hired by Medicare and, as

such, hardly an independent and disinterested party.

87. In the same vein, Dr. Cordero cannot draw up any list of witnesses, cf. ¶40 above, until the opposing parties have answered this statement.

88. It can be reasonably assumed that both Emblem and Maximus suspected that Dr. Cordero, a lawyer, would ask for discovery and such kind of it. This would explain why Maximus failed to send Dr. Cordero its decision of February 15, 2022, affirming Emblem's denial of an implant in tooth #19; and why after Dr. Cordero complained to Emblem supervisor Sean Hillegass that he had not received any decision and Mr. Hillegass told him that he would email it to him, he failed to do so. Dr. Cordero had to call Mr. Hillegass again and ask that he email it to him. Discovery can show a pattern of conduct revealing an effort to make Dr. Cordero and other Emblem members miss their deadline for requesting an ALJ hearing.

89. Did Maximus take it upon itself to request, without serving notice on Dr. Cordero, an expedited hearing so as to constrain the process leading up to an ALJ decision to 90 days?

90. These are but a few questions that discovery must answer before the hearing can be scheduled. Their answer will determine whether Emblem, Maximus, and Medicare have abused their superior bargaining power and proceeded in bad faith to deny Dr. Cordero and so many other members due process of law in violation of their civil rights.

91. Thanks to proper discovery that takes its due time, an ALJ will have the opportunity to write an opinion that makes a name for him or her. There are millions of Medicare and Medicaid insureds that have suffered and are suffering from Covid and long Covid. Many more will suffer if *Roe v. Wade* is overturned. Perhaps the newly discovered monkey pox will only add to their misery. All share the mood of the *MeToo!* and the BLM movements, and the protests against police brutality and socio-economic inequality. That mood is one of intolerance of any form of abuse. The anxiety stoked by inflation, food insecurity, lack of baby formula, and evictions provoked by skyrocketing rent, will contribute to inflaming 'the summer of rage'. The ALJ…or the district judge who writes an informed and courageous opinion that exposes how big entities abuse those who cannot afford lawyers and are not well connected will become nationally recognized by a grateful *We the* ordinary *People* as their Champion of Justice.

11. Maximus Federal Services' substitution for Emblem and controlling rules; and suppression of claims

92. Emblem denied the implant for tooth #19. Dr. Cordero protested. Surprisingly, Emblem Grievance and Appeals Department took the initiative to lodge an appeal. The appeal was handled by Maximus Federal Services, also referred to as Maximus, an entity that the more than 15 Emblem supervisors(¶40 above) had not mentioned in their discussions with Dr. Cordero.

93. Maximus sent Dr. Cordero a letter dated January 21, 2022, where it stated the following:

> We are Maximus Federal. We are experts on appeals. Medicare hired us to review the file and decide if the health plan made the correct decision. We work for Medicare. We **do not** work for the health plan….You do not have to call or write to us to find out our decision. We will review your file and send you our decision. [emphasis in the original]

94. Given that self-description, Maximus and its employees cannot claim that they are an independent and disinterested party. Their loyalties are to the entity for which they work: "We work for

Medicare".

95. But weeks went by without Maximus communicating with Dr. Cordero in any way. He complained to Emblem Grievance and Appeals supervisor Sean Hillegass. The latter told him that he had received Maximus's decision affirming Emblem's denial. They agreed that Mr. Hillegass would email Dr. Cordero Maximus's decision. But he failed to do so. Dr. Cordero had to call him again on April 12, 2022, and told him that he would wait on the phone until receiving the email with Maximus's decision.

96. Maximus decision was contained in a three-page letter dated February 15, 2022. It affirmed Emblem's denial of the implant for tooth #19. It was based on the Medicare rules, which Emblem supervisors had never mentioned as the controlling basis for deciding whether the implant would be covered. It was accompanied by a Maximus's form to request an ALJ hearing; it was not an official Medicare form.

97. In fact, as late as March 15, 2022, Emblem Murugan Sudalai sent Dr. Cordero a letter stating "Your claim was reviewed and processed correctly in accordance with your EmblemHealth agreement", rather than with the Medicare rules.

98. If it was so clear in the EmblemHealth agreement that the implant for tooth #19 would not be covered, Emblem could have told Dr. Cordero and had the duty to tell him when he first called Emblem on September 8, 2021, so that he could investigate other ways of dealing with the pain and the need for an implant. But its supervisors did not bother, or did not know how to, look up the Emblem agreement and search for whatever provision dealt with dental services.

99. The following are some noteworthy points in Maximus's February 15 affirmance:

    a. Maximus used a long series of highly technical terms to state what was not covered by Medicare. The Emblem supervisors(¶40 above) did not use those terms and it is very doubtful that they know what they mean. They simply referred to "the implant".

    b. Maximus did not make any reference to any effort by Emblem or itself to 'coordinate benefits with Medicaid'. However, Dr. Cordero received from Mr. Hillegass on April 18, 2022, nine pages of the "2021 Evidence of Coverage for EmblemHealth VIP Dual or EmblemHealth VIP Dual Select.". In the phone discussions with over 15 Emblem supervisors, they did not refer to it, but if they did, it was only in passing and not as controlling and dispositive material. In pertinent part, it provides as follows:

        1) page 114: "Members who qualify for Medicare and Medicaid are known as "dual eligibles." As a dual eligible member, you are eligible for benefits under both the federal Medicare Program and the New York State Medicaid Program. The Original Medicare and supplemental benefits you receive as a member of this plan are listed in Section 2.1."

        2) page 118. "Dental. Medicaid covers preventive, prophylactic and other dental care, services, supplies, routine exams, prophylaxis, oral surgery (when not covered by Medicare), and dental prosthetic and orthotic appliances required to alleviate a serious health condition, including one which affects employability."

    c. It follows indisputably from the above that Medicaid covers medical services that Medicare does not. Emblem's own card(¶41 above) states "Comprehensive Dental…Medicaid COB [Coordination of Benefits] may apply". Merely citing some Medicare rules is not dispositive of this case at all. Emblem had to "coordinate" with Medicaid. It failed to do so completely and so did Maximus.

d. Maximus's hearing request form accompanying its February 15 affirmance neither requested from Dr. Cordero nor gave him the opportunity to state his case to the OMHA or the Administrative Law Judge (ALJ). As a result, Emblem and Maximus under the watch of OMHA have created the situation blatantly contrary to due process where after months of negligently handling this case, Emblem exonerates itself by resorting to the same trick as its supervisors had: It passed 'the hot potato case' to Maximus just as they passed it forward to yet another supervisor. Thereby Emblem has arbitrarily and self-servingly substituted Maximus for the real party in interest: itself.

e. For its part, Maximus, which appears as the appellee, is the one that arbitrarily and self-servingly has substituted Appellant Dr. Cordero's claims for the one that it deems it can have summarily disposed of, to wit, the implant of tooth #19.

f. This explains why Dr. Cordero's emails, e.g., of March 9, 14, and 31, April 12, 18, and 19, 2022, are not included in the case file that Emblem and Maximus submitted to the ALJ through OMHA. They would have described other claims. They have engaged in the self-serving manipulation of the claims before the ALJ.

100. Thus, Dr. Cordero charges Emblem and Maximus with frustrating in their own interest his reasonable expectation that the implant would be covered.

101. However, that is not the only issue at stake by any means. Shortly after September 8, 2021, three other medical services by providers in Emblem's network were deemed necessary:

a. an annual visit by Dr. Cordero to an Emblem PCP;

b. an examination of his eyes by an ophthalmologist;

c. an examination by a specialist in internal medicine

Emblem	Maximus	Medicare

See exhibits 14 through 32

12. Emblem and Medicare condone illegal balance billing

102. Dr. Cordero's visits to medical services providers gave rise to a practice that revealed a pattern of illegality: each of them engaged in balance billing. That is the illegal practice of a medical services provider billing the insured for what was not paid by the insurer whose insurance it takes, despite having contractually agreed to accept as full payment the amount stated in the insurer's schedules of payment. An Emblem informational letter covering the quarter January 1-March 31, 2022, states: "Amount providers have billed: $19,708; Amount Emblem has approved: $1,544.57". Hence providers' interest in balance billing even if it is illegal.

103. The medical services providers took Dr. Cordero as a patient with notice of his EmblemHealth plan, which is identified in the Emblem insurance card(¶41 above). It indicates that his copay is $0, his deductible is $0, and coordination between Medicaid and Medicare must be had to determine which pays for what.. That card was the first thing that the providers requested when he contacted them to make an appointment. He even emailed them a photocopy of that card.

104. Yet, providers repeatedly billed Dr. Cordero. He repeatedly protested to them and to a top supervisor of the EmblemHealth Grievance and Appeals Department, Mr. Sean Hillegass. With the latter Dr. Cordero spoke on the phone and sent emails itemizing the instances of balance bills, evidencing them in attachments containing scanned copies of the bills; e.g., emails of March 9, 14, and 31, April 12, 18, and 19, 2022.

105. The latter assured Dr. Cordero that after contacting the providers, he realized that they were not properly informed of Dr. Cordero's $0 copay and deductible plan -which is impossible since they saw his card- and that they had assured Mr. Hillegass that they would not balance bill Dr. Cordero any further…only to do so again.

106. Mr. Hillegass even put the onus on Dr. Cordero to inform providers of the terms of his Emblem insurance plan, thus implying that it was Dr. Cordero's fault that they had balance billed him because he had failed to inform them thereof. Not only did Dr. Cordero inform them, but also Emblem members do not have a legal or contractual obligation to do anything other than show their card to medical services providers. What else can they possibly do? Supervise their billing departments?

107. Given the disregard by providers of information that they received from, and assurances that they gave to, Emblem, requiring members to inform providers of their plans is bound to be ineffectual to force them to abide by the plans, which they have agreed to. It is a disingenuous blame-shifting requirement.

108. It is Emblem that has the means of forcing medical services providers in its network to abide by their network contract with Emblem and its no balance billing provision. One of the harshest means is, of course, to terminate its contract with them and remove them from its network. But that is precisely what works the other way around: Providers can threaten Emblem to leave its network and no longer serve its members if it insists on enforcing on them the no balance billing provision of the law and their contract. That is not in Emblem's financial interest. Thus, it avoids the threat by condoning providers' illegal balance billing, the legal and contractual rights of its own members notwithstanding, in other words, "let the members deal themselves with the balance billers…or else".

109. That means that if a member does not pay the balance bill, the balance biller can send the unpaid bill to a collection agency for collection. That is exactly what Weill Cornell Medicine did, tel. (855)880-0343, account 100 626 394. It sent Dr. Cordero's unpaid balance bill to debt collector

Harris & Harris of Chicago, tel. (866)314-8305, reference 5100 8886. In addition, it has informed at least one credit reporting bureau, namely, Experian, that he failed to pay that bill. As a result, his excellent credit report score has been lowered. That constitutes injury in fact.

110. Balance billing can also be engaged in by an entity servicing, not an EmblemHealth member, but rather an in-Emblem's-network provider of medical services to that member. So, his in-network PCP Monte Ezratty at Park South Medical, tel. (718)892-2201, sought the service of a laboratory that is not in the network. The latter, QuestDiagnostics, (866)697-8378, billed the PCP, client # 4805 4915 X010 2150, who in turn forwarded the bill to Dr. Cordero. The PCP could have avoided this balance billings by contacting QuestDiagnostics to make sure that it would accept Emblem's schedule of payment or by finding out from Emblem and using an in-network laboratory.

111. But the last thing that Emblem wants is to drive a medical services provider out of its network by making it aware that it was its fault to use an out of network entity and that the provider must pay the bill of the entity or the unpaid balance. To avoid such outcome, Emblem condones the billing of its member by the entity despite knowing that the entity has no right to do so. Again, Emblem told Dr. Cordero that it had fixed the problem…only for QuestDiagnostics to send a balance bill this time directly to Dr. Cordero!, account number 1168 8225-QQUD1-10. Of course, there is no privity of contract between QuestDiagnostics and Dr. Cordero.

112. Likewise, Northwell Health, tel. (516)876-5555, balance billed Dr. Cordero, account number 1570 1127-3.

113. The pattern of balance billing is indisputably established. So much so that it supports probable cause to believe that what EmblemHealth has condoned three times in only Dr. Cordero's case is not only a pattern: Repeated condonation becomes known and expected in the field and degenerates into implicit or explicit coordination between Emblem and providers. Such practice betrays a complicit corporate policy. It is reminiscent of implicit market leader price fixing prohibited under antitrust law. It follows that Emblem must have injured many of its members.

114. Emblem had the duty not to abuse the appeal process by withholding from it the balance bill claim. But to advance its own interest it failed that duty: It is in Emblem's interest to condone balance billing so as to avoid forcing its network medical services providers to accept as full payment the amount stated in its schedules, lest they leave its network. Thus, Dr. Cordero charges Emblem with a conflict of interests that prevents it from working as a fiduciary on behalf of him and all others similarly situated.

115. Medicare, for its part, is directly affected by balance billing because if medical services providers can bill Medicare beneficiaries for what Medicare does not pay, then its schedules of what it pays for those services are meaningless and their contractual acceptance by providers as the statement of the total amount of money for which they agree to provide those services is illusory.

116. Medicare has tens of millions of insureds. Many must have complained about being balance billed. How many times the same providers have balance billed its insureds? Thus, Medicare has known and by proceeding with due diligence would have known about the practice. It was its duty to put an end to it. But it did not. Its condonation of providers' circumvention of its schedules by balance billing renders it a party to the providers' breach of law and liable to the insureds that have been balance billed.

117. If Medicare condones balance billing so as not to give providers cause not to accept its insurance, then it too has a conflict of interests between protecting its acceptability as a health services insurer and enforcing the law on behalf of its insureds.

13. Maximus, though the appellee, self-servingly stated the appeal

118. Maximus stated in its letter to Dr. Cordero of April 21, 2022, the following:

> We have sent the case file to the Department of Health and Human Services, Office of Medicare Hearings and Appeals Centralized Docketing office at the address below. The Hearings Office will tell you when and where the hearing will take place.

119. "The case file" had, among others, two claims, one concerning the implant for tooth #19 and the other balance billing. Those claims were physically intertwined in emails, attachments, letters, and phone conversations. So are other claims, e.g., the problems with the acceptability by merchants of its Over the Counter (OTC) card and the reduced monthly allowance deposited on it.

120. Maximus knew and by proceeding with due diligence would have known about all the claims.

121. To preserve its impartiality and act in good faith, Maximus had the duty to submit to the ALJ all claims on appeal, if for no other reason than to ensure that all claims could be considered by the ALJ; that they would form part of the record regardless of whether and if so, how, the ALJ disposed of them; and that they could be reviewed on appeal to a district court.

122. Instead, Emblem and Maximus abused their control over the appeal and submitted to the ALJ only the claim on the implant, whose denial by Emblem Maximus had affirmed by examining only Medicare rules.

123. Maximus all but ensured its win on that single implant claim by simply overwhelming the ALJ with over a hundred pages of Medicare rules, although the Emblem supervisors, who hardly knew their own Emblem agreement, never considered that manual dispositive of the implant claim in their discussions with Dr. Cordero.

124. Maximus complicitly substituted 'the rules of the game' at the end of it for those that Emblem had applied, namely, the plan agreement. Thereby both could escape accountability and liability for their handling of Dr. Cordero's case. That would include the negligence and incompetence of Emblem supervisors, who could not look up Emblem's plan agreement and tell Dr. Cordero with certainty right on his first call on September 8, 2021, whether it covered implants.

125. Likewise, Maximus did not make any reference to the way Emblem dealt with its own dental services administrator, i.e., DentaQuest; or the New York College of Dentistry, described infra.

126. As a result, either the claims not raised by Maximus are lost to Dr. Cordero or he is forced to litigate them piecemeal in a separate proceeding. The latter is inefficient, expensive, and wasteful of judicial resources.

127. Due to Emblem's and Maximus's manipulation of claims and parties, and OMHA's condonation of it, the ALJ hearing does not comport with "traditional notions of fair play and substantial justice"; *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). Thus, Dr. Cordero charges them with denying him due process of law and abuse of process and of their superior bargaining position.

14. Emblem & NYU College of Dentistry save money by wearing down millions of claimants or make money while indifferent to patients' needs

128. On September 8, 2021, the crown of one of Dr. Cordero's teeth, whose identification as molar # 19 is relevant, came off. The resulting empty interdental space has caused him to repeatedly bite

his tongue and chew the inner side of his cheek on the side of #19. He has been in pain ever since.

129. That same day, Dr. Cordero contacted his HMO, EmblemHealth, to find out what to do. The fact that his call was automatically routed to its outsourced call center in The Philippines is indicia of its policy of putting money ahead of adequate care. Indeed, it is well known that the quality of customer service provided by call centers in The Philippines and to a similar extent in India is dismal. So much so that companies have retrieved their customer service to call centers in the U.S. Likewise, companies make it a point of their advertising that 'we offer U.S.-based customer service'.

130. EmblemHealth's 'U.S.-based customer service' is by no means of effective higher quality. This is due to that service being pervaded by same attitude that pervades Emblem: nobody takes ownership of a problem, which is handled by whoever picks up the call. As a result, nobody has knowledge of what has occurred before and nobody cares what will happen after that call, for the caller is 'not my case'. Consequently, nobody feels accountable for the service that was or was not provided.

131. In fact, more than 15 Emblem supervisors(¶40 above), thus excluding first level 'pick-up the phone' representatives', i.e., receptionists, have dealt with Dr. Cordero! He has spent on the phone with them more than 52 hours. This does not count the number of hours that He has had to invest in writing emails, scanning letters, and preparing attachments. All of this is properly documented and dated. In addition, phone conversations with Emblem are recorded.

132. The required treatment includes the extraction of the tooth root that held the crown post; the building of a root with cadaver bone powder; the insertion in it of a post; and the mounting on it of an enamel crown. This is referred to as an implant. Its estimated cost is over $5,000…for one single tooth.

133. The fact that a crown came off means that a root canal had been performed and that in that canal a metal post had been inserted to hold the crown. Without the post, that root canal is an open conduit of saliva, food, and mouth germs to the jaw. That causes the jaw to become infected. Without treatment, the medical condition can only worsen substantially. It can lead to the jaw becoming so infected that surgery is needed to scrape infected bone and prevent infection spread. Just the mention of that surgery is enough to cause panic in anybody who has undergone a root canal procedure.

134. To prevent crunching food into the canal, you need to masticate only with the other side of your mouth. This leads to muscular pain and misalignment of the jaws. It aggravates the problem of biting your tongue and chewing the inner side of your cheeks. Progressively, you dread having to eat.

135. The coming off of the crown eliminates any resistance to the tooth above it. That tooth grows down into the space previously occupied by the crown…and when you open your mouth, you look like a freak! Does that image of yourself cause you anguish and aggravate your suffering?

136. Emblem gave Dr. Cordero the reasonable expectation that it would pay for the implant because the membership card that it sent him states on its front side "VIP Dual (HMO D-SNP)… Comprehensive Dental; Medicaid COB may apply". It is understandable if you have no idea what that means; but it is shocking that the supervisors with whom Dr. Cordero spoke ignore it too. It was only at his insistence that some supervisors researched those terms and came back with this hesitant answer: "Dual" means Medicaid and Medicare. "D-SNP" means "Dual Special Need Plan", though they did not know what "Need" was referred to or in what way it was "Special". "Comprehensive Dental" is quite explicit. "Medicaid COB" means "Coordination of Benefits" between Medicaid and Medicare; but not even these supervisors knew to what extent it applied in

this case.

137. Because even supervisors did not know, did not care to find out, and failed to call back, Dr. Cordero had to keep calling Emblem. Moreover, he had to obtain "preauthorization" from it before incurring an expense that would cost over $5,000…for a single medical procedure that did not take into account his need for other medical services.

138. As a result of those many phone calls, Dr. Cordero's case was referred to Emblem's Grievance and Appeal Department (G&A).

139. Dr. Cordero found out that Emblem itself does not make any dental treatment decisions. Rather, it sends its cases to its "agent", DentaQuest. Emblem alleged that DentaQuest had not made any decision because it had not received any statement concerning this case and it could only work on statements sent to it directly by the providers of medical services.

140. That was an unbelievable excuse, for Dr. Cordero had repeatedly sent one supervisor after another email attachments containing the cost estimates drawn up after evaluation by Jacobi Medical Center Dental Department, NYU College of Dentistry, and the statement of medical necessity of his Primary Care Physician (PCP). They are in the EmblemHealth's network of medical services providers. None of these providers even knew DentaQuest given that they only dealt with Emblem itself.

141. EmblemHealth relented and submitted the statements that Dr. Cordero had sent it to DentaQuest. It denied preauthorization. He insisted that Emblem was required to provide the service because that was what its statement "Comprehensive Dental" led a customer to expect and what even supervisors had led him to expect.

142. But Emblem supervisor Thomas Gray in the NY Ship told him that there was nothing else that Emblem could do because the procedures of its Grievance and Appeal Department had been exhausted.

143. Dr. Cordero refused to accept that self-serving explanation. It appears that as a result of his unwavering refusal to accept it, his case was referred to Emblem Grievance and Appeal Department Sean Hillegass. He contacted Dr. Cordero by letter dated December 29, 2021(supra ¶46).

144. Eventually, Emblem informed Dr. Cordero that it would refer his case to an external reviewer. That turn out to be Maximus Federal Services. In its letter of January 21, 2022, Maximus stated that his case had been submitted to it and, it would communicate to him its decision once it had concluded its review, and that he need not contact it.

145. Time went by without Maximus sending Dr. Cordero its decision. He complained to Emblem supervisor Hillegass. Surprisingly, he told Dr. Cordero that Emblem had received Maximus's decision. Dr. Cordero asked him to forward it to him by email. He agreed to do so. However, days went by without Dr. Cordero receiving the Maximus decision.

146. Dr. Cordero called supervisor Hillegass and complained about it. He said that he would send it to Dr. Cordero again. The latter told him that he would stay on the phone until he could tell Mr. Hillegass that he had received it. Mr. Hillegass volunteered the statement that he would see to it that the current date would go on the record as the date when Dr. Cordero had received it. That date was important so that Dr. Cordero would not be found to have missed the deadline for his next move: to request a hearing before an Administrative Law Judge. EmblemHealth and Maximus had tried to make Dr. Cordero miss that deadline, which Maximus had not even stated in its

affirmance of Emblem's denial of preauthorization to cover the implant.

147. When Dr. Cordero received that emailed Maximus decision, he was astonished: It confirmed Emblem's denial on the grounds that according to Medicare rules Emblem was not required to provide treatment for a molar, such as tooth # 19 is! How arbitrary and capricious it is not to provide treatment for that tooth while providing it for other teeth, and that in spite of the statement of medical necessity provided by the experts of three independent medical services providers whom Emblem had paid for examining Dr. Cordero physically in their medical offices, as opposed to merely reviewing a case file.

148. Emblem knew or by its supervisors exercising due diligence would have known from day one, i.e., September 8, 2021, had they checked not only Emblem's applicable health insurance agreement, but also the Medicare rules, that it did not have to cover a tooth # 19 implant.

149. Instead, it kept stringing Dr. Cordero along so that the protracted procedure would wear him down and cause him to drop the case altogether without Emblem having to submit it to Maximus, never mind exposing itself to an ALJ hearing. Emblem did that intentionally, for a fundamental principle of torts provides that "People are deem to intend the foreseeable consequences of their acts". Emblem and its more than 15 supervisors(¶40 above) had dragged out the preauthorization decision for eight months!

15. NYU College of Dentistry only cared for what it could bill, not for the patient's needs

150. It appears that the NYU College of Dentistry submitted to EmblemHealth a bill for each of the two evaluations that Dr. Cordero had to undergo:

151. At its Endodontics Clinic on the 7th Floor (W7), the head of the Clinic and a dentist doing postgraduate work evaluated the crown that had come off and the root of the tooth. They determined that the former could not be reimplanted and the latter had to be extracted; tooth # 19 had to be replaced by a prothesis, that is, a root and post prepared at another Clinic and the crown that their Clinic would build and mount thereon. They told Dr. Cordero that they would submit their estimate of the treatment needed to Medicaid and EmblemHealth. But there is no evidence that they or the manager of the Endodontics Clinic did anything other than bill for the endodontic evaluation.

152. The other evaluation by NYU College of Dentistry was performed at its Periodontics Clinic on the 5th Floor (W5). The dentist doing post-graduate studies in dental surgery concluded that the root of tooth # 19 had to be removed because it was fractured and would not hold a new post; the jaw had to be scraped through "curettage"…*the horror of it!*, never mind that the root had to be rebuilt with cadaver bone powder; and a post had to be inserted in it. She drew up an estimate; the manager of that Clinic was going to submit it to EmblemHealth and Medicaid. Again, there is no evidence that the Periodontics Clinic manager did anything other than bill for the periodontic evaluation.

153. Neither of the Clinics informed Dr. Cordero of what they had or had not done. When he inquired of them, nobody knew anything about any such request for preauthorization. They kept him in the dark, knowing full well that he was waiting on the decision of Medicaid and EmblemHealth to their request for preauthorization, and that he would wait in vain because they had not submitted it at all.

154. There emerges a pattern of those two clinics performing a common policy of the College: They billed EmblemHealth for what they knew it would pay, that is, their respective evaluation, but did not waste resources or time submitting an estimate and requesting preauthorization from Medicaid

since they knew that Medicaid would not pay for it. If this was known to the College, then with all the more reason it was known to both EmblemHealth and its DentaQuest "agent".

155. The clinics had superior knowledge that alerted them to the fact that while waiting, Dr. Cordero would continue to be in pain and with an aggravating medical condition, but they did not care. What a callous, self-serving attitude at his expense. Instead of receiving medical treatment, well over half a year later he is facing an administrative law procedure.

16. Unfair surprise

156. This appeal must not be reduced to a determination of whether that was a correct application of the Medicare rules, a book that was not even mentioned by any of the 14 EmblemHealth supervisors that have dealt with Dr. Cordero for eight months since September 8, 2021. That would constitute unfair surprise. It amounts to changing the dispositive rules of the game towards the end of the game to secure a successful outcome for EmblemHealth and Medicare. Thus, the Medicare rules are not outcome determinative.

157. What is more, Emblem is precluded from raising them in its defense. Maximus cannot arbitrarily and belatedly introduce them as the standard of its review of Emblem's decision or that of the ALJ. Emblem waived them as a defense.

158. Laches by conduct precludes Emblem from raising those rules in its defense.

159. Emblem's failure to invoke and apply the Medicare rules for the past eight months establishes its negligent and incompetent handling of this case.

160. EmblemHealth has superior knowledge of what controls its decision to provide a requested medical service. Had it trained its supervisors properly, they would have known on September 8, 2021, and should have known had they proceeded with due diligence, what was and was not covered by its insurance plan. Hence, EmblemHealth proceeded negligently.

    a. The following incident is very revealing: Whenever Dr. Cordero called Emblem from the coming off of the crown in tooth #19 on September 8, 2021, his calls landed in Emblem' call center in The Philippines. But the supervisors would not call him back with the information about coverage of an implant that they had said they would research and communicate to him.

    b. When he called again on November 23, 2021, he landed again in The Philippines. He asked to be transferred to the U.S., but the receptionist did not know how to do that, transferring him instead to the call center in India. The Emblem people there were unable to transfer the call to the U.S. Dr. Cordero landed back in The Philippines. He asked to be transferred to a supervisor. That alone took a long time.

    c. Finally, supervisor Joan in The Philippines took the call. Dr. Cordero explained to her the situation and asked her to transfer him to the U.S. It took her more than an hour to get somebody to pick up the phone in the U.S.! The New York Ship took the call and routed it to supervisor Susan S., tel. (800)447-8255.

    d. That means that when even Emblem supervisors, never mind receptionists, cannot find an answer to a member's question, they do not waste time and effort trying to communicate with their superiors in the U.S. They either make up an answer or promise the member to research the question and call back, which they hardly ever do.

d. The converse of this is that the Emblem supervisors in the U.S. could not care less what their Philippine colleagues -if they consider them such- do or not do. No U.S. supervisor with any experience in dealing with the Emblem people in The Philippines would come up with the idea of calling them up for advice. Hence, they leave members to deal for themselves with those in the call center in The Philippines. Emblem has failed to properly hire, supervise, and discipline the people there.

161. EmblemHealth misled Dr. Cordero by stating to him that the "Coordination of Benefits" referred to on the front of its card meant that what Medicare did not pay, Medicaid would. But Emblem did not coordination at all. Hence, he was unfairly surprised to learn that the ALJ hearing would not even concern Medicaid, and that the ALJ has neither knowledge nor authority to determine what portion of the necessary medical treatment Medicaid should or need not cover.

162. In fact, the "medical necessity" of an implant in tooth #19 was ascertained and submitted in writing to EmblemHealth by Dr. Cordero's Primary Care Physician (PCP), Dr. Monte Ezratty; by Jacobi Medical Center Dental Department; and New York University College of Dentistry. Therefore, to pretend now that the controlling standard for determining whether the EmblemHealth's or the Maximus's decision was not whether the implant was "medically necessary", but rather whether those decisions are in accordance with the Medicare rules constitutes unfair surprise through bait and switch fraud.

17. The other claims are part of "the totality of circumstances"

163. The medical necessity of an implant in tooth #19 is by no means the only medical services claim dealt with EmblemHealth for the past eight months. There are other claims at stake; e.g.

a. negligent hiring, supervision, and disciplining of supervisors

b. substandard management of this case by more than 15 Emblem supervisors

c. condonation of balance billing to protect its own network and acceptability

d. failure to coordinate Medicare and Medicaid benefits

e. dental benefits that Emblem advertises that it covers beyond those of Medicare and Medicaid

f. complicit corporate policy that turned contracts agreed and relied upon into illusory promises

g. the arbitrary and capricious denial of coverage for tooth #19 but not for tooth #20 and others

h. denial of medical services in disregard for generally accepted standards of medical care

i. the substitution of Maximus for Emblem

j. the manipulation of the contents of the case file, excluding Dr. Cordero's emails

k. the ex parte communication of the case file to the ALJ without serving it on Dr. Cordero

l. the failure to uphold appellant's right to set the claims on appeal

m. Maximus's and Emblem's effort not to communicate Maximus's decision to Dr. Cordero

n. bad faith dealing, which warrant punitive damages

o. reckless indifference to Dr. Cordero's persistent pain and suffering

p. loss of last chance to provide adequate medical services to mitigate further harm

q. intentional infliction of foreseeable emotional distress

r. the need for an answer to this statement to avoid being ambushed at the hearing

s. the need for discovery to identify witnesses

t. the need to constitute a proper record for appeal to the district court

u. the partiality of Maximus toward its employer, Medicare

164. These and other claims form part of "the totality of circumstances". They must be weighed judicially to establish the balance of equities. The duty of the ALJ is to administer justice rather than to rubberstamp what OMHA, Maximus, and Emblem have foisted upon him.

165. Without considering those claims at the ALJ hearing, an opposing party may unfairly surprise Dr. Cordero later on by pretending that he waived all other claims by not raising them timely at the ALJ hearing and making them part of the appealable record.

18. Compensatory and punitive damages sought

166. Emblem and Maximus have caused Dr. Cordero compensable harm. It includes:

a. waste of effort and time for eight months;

b reckless indifference that allowed the missing crown to cause him to repeatedly bite his tongue and chew the inner side of his cheeks;

c. the illegal balance billing has lowered his credit rating and portrayed him as delinquent in paying his debt

d. their intentional infliction of emotional distress that they, as members of the medical services community, knew and are presumed to know they would inflict upon him due to their conduct

e. false advertisement

f. fraud

g. bad faith dealing

167. The parties must be jointly and severally held liable to pay Dr. Cordero compensatory and punitive damages.

C. Action requested

168. Therefore, Dr. Cordero respectfully request that:

169. the ALJ send him a copy of any and all documents, including all text, graphs, voice mail, photos, video, etc., that it has already received and may in future receive for this case from any entity, whether they have been or may be filed by a person, Maximus, EmblemHealth, Medicare, Medicaid, the Human Resources Administration, etc.;

170. the document be sent on an easily accessible medium, such as by giving him access to a Medicare portal where they have been uploaded; or be sent to Dr. Cordero on a flash stick or microchip; otherwise, on a CD;

171. the ALJ or OMHA transfer this case from the office in Phoenix, Arizona, to an office in the City

of New York; otherwise, to the OMHA office in Arlington, VA;

172. the hearing be conducted in person if in New York City; otherwise, via video tele conference;

173. discovery be had before the hearing is scheduled;

174. the date of the hearing be suspended because Dr. Cordero has grand jury duty until June 17, 2022;

175. the hearing be conducted 'in the interest of justice', rather than in the interest of Maximus, which is the only party that could have requested 'disposition in 90 days' on an emergency basis, which Dr. Cordero never requested and was not even given the option on the ALJ hearing request form to request it;

176. EmblemHealth be joined as an indispensable party in interest in the role of appellee;

177. the hearing be held in harmony with "traditional notions of fair play and substantial justice" so that Dr. Cordero, the appellant, be the one that sets the claims on appeal, including this statement;

178. each appellee be required to answer this statement, lest a non-answering appellee lose the appeal by default;

179. Dr. Cordero be allowed to file a reply to each answer;

180. a case file be built that includes this and similar statements; Maximus's case file; and:

    a. the recorded conversations between Emblem receptionists and supervisors, and Dr. Cordero;

    b. any ex parte conversation with the ALJ or any legal assistant or clerk in his OMHA office;

    c. all emails exchanged between Emblem, Dr. Cordero, Maximus, Medicare, Medicaid, OMHA, the ALJ, and any other party concerning this case;

181. such file be:

    a. considered by the ALJ;

    b. available for submission on appeal to a district court and any other adjudicatory entity;

    a. Any appeal from the ALJ's decision may lie in the U.S. District Court for the Southern District of New York or the New York State district court in the Bronx, New York.

182. I, Dr. Richard Cordero, Esq., declare pursuant to 28 U.S.C. §1746 and under penalty of perjury that to the best of my knowledge the foregoing statements are true and correct.

Executed on May 21, 2022
Bronx, New York

Dr. Richard Cordero, Esq.

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, New York 10472-6506
Dr.Richard.Cordero_Esq@verizon.net ,
DrRCordero@Judicial-Discipline-Reform.org , CorderoRic@yahoo.com
tel. 1(718)827-9521

End Page

Transmission Log

p Sunday, 05-22-2022 23:27 1

Date	Time	Type	Job #	Length	Speed	Fax Name/Number	Pages	Status
05-22-2022	23:18	SCAN	322	24:20	14400	6023793038	64	OK -- V.17 1B31

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, NY 10472-6506

Office of Medicare Hearings and Appeals
Phoenix Field Office
Att.: Team Yanohira
230 N. 1st Avenue, Suite 302
Phoenix, AZ 85003-1706
Phone: (833)636-1476; Fax (602)379-3038

Transmission Log

p Sunday, 05-22-2022 23:55 1

Date	Time	Type	Job #	Length	Speed	Fax Name/Number	Pages	Status
05-22-2022	23:27	SCAN	324	41:47	14400	5854255292	64	OK -- V.17 1M31

Dr. Richard Cordero, Esq.
2165 Bruckner Blvd.
Bronx, NY 10472-6506

Office of the Project Director
Medicare Managed Care &
PACE Reconsideration Project; and
Maximus Federal Services
Medicare Part C QIC
3750 Monroe Avenue, Suite 702
Pittsford, NY 14534-1302
Tel: (585) 348-3300; Fax: (585) 425-5292

EmblemHealth®

EMBLEMHEALTH DENTAL AND VISION NETWORK

DENTAL

Emblem Health has partnered with DentaQuest to arrange your routine dental care needs beginning January 1, 2017.

EmblemHealth members must choose a dentist in the DentaQuest Network for preventive and restorative dental care such as routine checkups, X-rays, fillings, root canals, crowns and more. If you need help finding a dentist, call DentaQuest Customer Service at **1-844-776-8748** Monday through Friday, 8 am to 5 pm, for the most up-to-date network information.

Dental treatment that is medical in nature (for example, fracture repair, tumor removal, treatment of accidental injury and congenital disease management) will still be coordinated by EmblemHealth. You can visit **emblemhealth.com** or call EmblemHealth Customer Service at **1-855-283-2146** Monday through Friday, 8 am to 6 pm (excluding major holidays) to find a participating dentist for medical dental treatment. If you use a TTY/TDD, call **711**.

VISION

EmblemHealth has partnered with EyeMed Vision Care for your eye care benefits starting January 1, 2017.

EmblemHealth members must choose an eye care provider in the EyeMed network. If you need help finding an eye care provider, call EyeMed Customer Service at **1-877-324-2791** Monday through Saturday, 7:30 am to 11 pm, and Sunday 11 am to 8 pm.

You can also call EmblemHealth Customer Service at **1-855-283-2146** Monday through Friday, 8 am to 6 pm (excluding major holidays). If you use a TTY/TDD, call **711**.

KEEP THIS UPDATE WITH YOUR MEMBER HANDBOOK.

EmblemHealth insurance plans are underwritten by Group Health Incorporated (GHI), HIP Health Plan of New York (HIP) and HIP Insurance Company of New York.

45-8870PD 1/17

EmblemHealth

55 Water Street, New York, NY 10041-8190

Important Plan Information

December 29, 2021

Richard Cordero
2165 Bruckner Blvd
Bronx, NY 10472

Member Name: Richard Cordero
Member ID number: K4051915001
Case ID: 824311
Plan Name: EMBLEMHEALTH VIP DUAL (HMO SNP)

Dear Richard Cordero:

This letter is in acknowledgement of and in response to your grievance (complaint) that you filed with us on November 30, 2021.

Based upon our review, you stated that you had attempted to find out how much EmblemHealth, Medicare and Medicaid would pay for the extraction, implant and crown on tooth 19 since September 8th, 2021 and did not receive any resolution in your inquiry.

We reviewed the call logs from your contacts with the EmblemHealth and DentaQuest Customer Service centers. It does appear from the records that there was a significant amount of back and forth in trying to determine if the providers you wished to see for these services were participating or non-participating, and what sort of coverage is available for these services. On behalf of both EmblemHealth and DentaQuest I apologize that there was so much difficulty in this and for any frustration it caused. We realize you have a choice when it comes to your health insurance provider, and we value you as a member. We value you as a member and continually strive to resolve any issues you may have as efficiently and clearly as possible. We're sorry you were not afforded that in these calls.

Please be advised, a prior approval request was processed by DentaQuest and a decision was made to deny the services for tooth number 19 on December 12, 2021 by Dr. Benn Lieberman. A copy of the letter is enclosed for your reference. You have the right to appeal this denial within 60 days of the date of issue. Please review your appeal rights attached to this letter. Please note this decision is based on your Medicare benefits under your VIP Dual plan, and you may have additional benefits with Medicaid. You would need to contact the state Medicaid program directly for authorization.

-continued-

In addition to these issues, you requested detailed information regarding your dental benefits, Over-the-Counter (OTC) benefits, Colonoscopy procedure/surgery and Eye care benefits. Our records show that you are enrolled in the EmblemHealth VIP Dual (HMO SNP) plan, effective January 01, 2021. Please see the enclosed copy of the benefit information you requested.

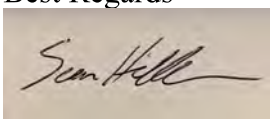
You can also review and/or download a complete copy of your Evidence of Coverage (EOC) / your contract via our website at: **emblemhealth.com/plans/medicare-advantage.**

If you have questions, please call me directly at 646-447-0617, 9:00 a.m. to 5:00 p.m., Monday to Friday. Or, call Customer Service at 1-877-344-7364 (TTY: 711). Our hours are 8:00 a.m. to 8:00 p.m., seven days a week, except Major Holidays. A representative will be happy to help.

If you'd like to learn more about your plan, log into emblemhealth.com 24 hours a day, 7 days a week.

We're committed to supporting you.

Best Regards



Sean Hillegass
Supervisor
Grievance & Appeals

31jan22

MAXIMUS Federal

The Appeal Number is: 1-10817205455

January 21, 2022

RICHARD CORDERO
2165 BRUCKNER BLVD
BRONX, NY 10472

Medicare
Managed Care & PACE
Reconsideration
Project

Date(s) of Service: not yet provided

Dear RICHARD CORDERO:

This letter is about **your appeal to EMBLEMHEALTH (Health Plan).**

You asked the Health Plan to **provide a medical item or service**. The Health Plan denied your request and you appealed the denial. Medicare hired us to review your appeal. The Health Plan sent us your file to decide if they made the correct decision. **We will review the information in your file** and send you the decision as soon as possible.

What we do

First we have to **decide if your case is really an appeal** (most cases are appeals). If the case is really an appeal, we will decide if the Health Plan made the correct decision. We will review Medicare rules and the agreement between you and the Health Plan to decide your case. We do this to see if the Health Plan should pay for or give you the medical service. If the Health Plan says that an item or service is "not medically necessary", we may ask a doctor to review your file and help with our decision.

We will send you a letter with our decision

You **do not** have to call or write to us to find out our decision. We will review your file and send you our decision.

For more information about appeals

If you have questions please call Medicare at 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048. **To check the status of your appeal and learn more about the appeal process, visit our website at www.medicareappeal.com.**

cc: STEFANIE MACIALEK, EMBLEMHEALTH

Reviewing Medicare Appeals

Maximus Federal
Medicare Managed Care & PACE Reconsideration Project
3750 Monroe Avenue, Suite 702
Pittsford, NY 14534-1302
Tel: (585) 348-3300
Fax: (585) 425-5292
www.medicareappeal.com

Who We Are

We are Maximus Federal. We are experts on appeals. Medicare hired us to review the file and decide if the health plan made the correct decision. ***We work for Medicare.*** *We do not work for the health plan.*

Office of the Project Director
Medicare Managed Care & PACE Reconsideration Project

Enrollee: Nondiscrimination Notice - The Centers for Medicare & Medicaid Services (CMS) doesn't exclude, deny benefits to, or otherwise discriminate against any person on the basis of race, color, national origin, disability, sex, or age. If you think you've been discriminated against or treated unfairly for any of these reasons, you can file a complaint with the Department of Health and Human Services, Office for Civil Rights by:

- Calling 1-800-368-1019. TTY users should call 1-800-537-7697.
- Visiting hhs.gov/ocr/civilrights/complaints.
- Writing: Office for Civil Rights, U.S. Department of Health and Human Services, 200 Independence Avenue SW, Room 509F, HHH Building, Washington, D.C. 20201

EmblemHealth

21 Mar 22

55 Water Street, New York, NY 10041-8190

March 15, 2022

Richard Cordero
2165 Bruckner Blvd
Bronx, NY 10472

95

Provider Name:	Forrest Manheimer
Member Name:	Richard Cordero
Member ID #:	*********01
Claim #:	21D869938100
Date of Service:	12/08/2021
Case ID #:	12372750

Dear Richard Cordero,

Your claim was reviewed and processed correctly in accordance with your EmblemHealth agreement.

If you have questions, call **877-344-7364 (TTY: 711)**. Our hours are 8 a.m. to 8 p.m., seven days a week. A Customer Service representative will be happy to help.

Sincerely,

Murugan Sudalai
Customer Service Representative

Package ID: 00000000015362943

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies.
EmblemHealth Services Company, LLC provides administrative services to the EmblemHealth companies.

Medicaid Covered Services	Additional Details
Certain Mental Health Services	Medicaid covers the following mental health services: • Intensive Psychiatric Rehabilitation Treatment Programs • Day Treatment • Continuing Day Treatment • Case Management for Seriously and Persistently Mentally Ill (sponsored by state or local mental health units) • Partial Hospitalizations • Assertive Community Treatment (ACT) • Personalized Recovery Oriented Services (PROS)
Comprehensive Medicaid Case Management	Medicaid covers Comprehensive Medicaid Case Management (CMCM), which provides "social work" case management referral services to a targeted population. A CMCM case manager will assist a client in accessing necessary services in accordance with goals outlined in a written case management plan.
Consumer Directed Personal Assistance	Medicaid covers services of home health aide or skilled nursing tasks by a consumer directed personal assistant under the instruction, supervision and direction of the Medicaid members or their designated representative.
Dental	Medicaid covers preventive, prophylactic and other dental care, services, supplies, routine exams, prophylaxis, oral surgery (when not covered by Medicare), and dental prosthetic and orthotic appliances required to alleviate a serious health condition, including one which affects employability.
Directly Observed Therapy for Tuberculosis (TB) Disease	Medicaid covers Tuberculosis Directly Observed Therapy (TB/DOT), which is the direct observation of oral ingestion of TB medications to assure patient compliance with the physician's prescribed medication regimen.
Medical Social Services	Social Services Medical social services include assessing the need for, arranging for and providing aid for social problems related to the maintenance of a patient in the home where such services are performed by a qualified social worker and provided within a plan of care.
Medicaid Pharmacy Benefits	Medicaid covers select drug categories excluded from the Medicare Part D benefit. For a full list of Medicaid reimbursable drugs, visit www.emedny.org/info/formfile.aspx
Methadone Maintenance Treatment Programs (MMTP)	Medicaid covers MMTP, consisting of drug detoxification, drug dependence counseling, and rehabilitation services which include chemical management with methadone.

MAXIMUS Federal

April 21, 2022

The Appeal Number is: 1-10817205455

29apr22d

Richard Cordero, MD
2165 Bruckner Blvd
Bronx, NY 10472

Medicare
Managed Care & PACE
Reconsideration
Project

RE: Enrollee: R. Cordero
Medicare Number: XXXXXXXWV67

Dear Richard Cordero, MD:

MAXIMUS Federal Services has received your request for an Administrative Law Judge (ALJ) Hearing.

We have sent the case file to the Department of Health and Human Services, Office of Medicare Hearings and Appeals Centralized Docketing office at the address below. The Hearings Office will tell you when and where the hearing will take place.

HHS OMHA Centralized Docketing
1001 Lakeside Avenue, Suite 930
Cleveland, OH 44114-2316
866-236-5089

If you have questions about your ALJ hearing request, the Office of Medicare Hearings and Appeals will be happy to help you. Please wait a minimum of 30 days from the date of this letter prior to contacting them.

Please note that MAXIMUS Federal Services does not decide if you are eligible for a hearing, or when or where your hearing will take place. If you have any questions about these issues contact the Office of Medicare Hearings and Appeals at the address above or you can call 1-800-MEDICARE for additional assistance.

Sincerely,

MAXIMUS Federal Services

cc: H3330: HEALTH INSURANCE PLAN OF GREATER NEW YORK

Reviewing Medicare Appeals

MAXIMUS Federal Services
Medicare Part C QIC
3750 Monroe Ave. Suite 702
Pittsford, NY 14534-1302
Tel: 585-348-3300
Toll-free: 844-559-6743
Fax: 585-425-5292
www.medicareappeal.com

Who We Are

We are MAXIMUS Federal Services. We are experts on appeals. Medicare hired us to review the file and decide if the health plan made the correct decision. ***We work for Medicare.*** *We do not work for the health plan.*

Office of the Project Director
Medicare Managed Care & PACE Reconsideration Project

29apr22a

EmblemHealth

55 Water Street, New York, NY 10041-8190

Important Plan Information

April 22, 2022

RICHARD CORDERO
2165 BRUCKNER BLVD
BRONX, NY 10472

Member name: Richard Cordero
Member ID number: K4051915001
Service provided to: Richard Cordero
Health care professional: Multiple
Service Date: Multiple
Inquiry number: 1006295
Type of service: Multiple
Plan Name: EmblemHealth VIP Dual (HMO SNP)

Dear Richard Cordero:

Thank you for choosing EmblemHealth.

We received your grievance on April 13, 2022. You have the right to file a grievance, or complaint, if you are not happy with the care or service you get from your plan.

You filed this grievance because:

- you are upset that you are receiving bills for cost sharing responsibilities

We will review your grievance. We will send a letter with our decision within 30 calendar days of receiving it.

We may extend this time frame up to 14 calendar days if you ask for more time or if we need more information and the delay may help you. We will let you know if extra days are needed.

If you have questions, please call me directly at 646-447-6109, 9:00 a.m. to 5:00 p.m., Monday to Friday. Or, call Customer Service at 1-877-344-7364 (TTY: 711). Our hours are 8:00 a.m. to 8:00 p.m., seven days a week, except Major Holidays. A representative will be happy to help.

-continued-

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies, EmblemHealth Services Company. LLC provides administrative services to the EmblemHealth companies.

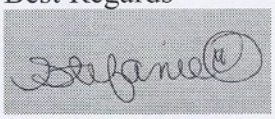
29apri/22 b

EmblemHealth
Richard Cordero
Case # 1006295
April 22, 2022

If you'd like to learn more about your plan, log into emblemhealth.com 24 hours a day, 7 days a week.

We're committed to supporting you.

Best Regards



Stefanie Macialek
Specialist
Grievance & Appeals

enc: Return envelope

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies, EmblemHealth Services Company. LLC provides administrative services to the EmblemHealth companies.

The NYS Unified Court System would like to assure you that your health and safety remain a top priority for us as we resume essential court operations, including jury service.

When you appear at the courthouse please bring your own mask, pen/pencil and any books/magazines/electronic devices and chargers that you would like to use during downtime. Protective measures related to cleaning and social distancing have been implemented at our courthouses. For more information please visit: www.nyjuror.gov/bronx

If you are currently experiencing flu like symptoms or: you have recently tested positive for COVID-19, have been directed to quarantine by a healthcare professional, have recently had close contact with a person diagnosed with COVID-19, or have returned from international travel in the last 10 days, please **DO NOT** appear at the courthouse. Contact your Commissioner of Jurors to discuss rescheduling your service if the above conditions apply to you. There are some exceptions for close contact and travel, **which may require you to bring proof of vaccination or test results to enter the courthouse**. For more information, please visit www.nycourts.gov *'Protocols For Entering Courthouses'*.

A

Kevin Rothermel, Acting Bronx County Clerk
851 Grand Concourse
Bronx, NY 10451

RETURN SERVICE REQUESTED

**PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE PAID
ALBANY, NY
PERMIT NO. 940**

IMPORTANT: JURY SUMMONS ENCLOSED

PLEASE OPEN AND READ CAREFULLY – BRING THIS ENTIRE FORM WITH YOU

Juror Index: 035171326 G157

Richard Cordero
2165 Bruckner Blvd PH
Bronx, NY 10472-6506

B

CBIFSP1 10472

BRONX COUNTY

Richard Cordero G157

05/19/2022
035171326

D **JUROR ID**

JUSTICE	TERM	YEAR	HOLIDAY(S)
HON. BUSCHING	6TH	2022	MEMORIAL DAY JUNETEENTH

PANEL	STARTS		ENDS	HOLIDAY OFF
A	5-23-22		6-17-22	MEMORIAL DAY
B	---------		--------	
C	5-31-22		6-24-22	MEMORIAL DAY JUNETEENTH
D	6-06-22		7-01-22	JUNETEENTH
E	5-23-22		6-17-22	MEMORIAL DAY
F	5-23-22		6-17-22	MEMORIAL DAY

SUPREME COURT OF THE STATE OF NEW YORK
OFFICE OF THE BRONX COUNTY CLERK
DIVISION OF GRAND JURORS
BRONX COUNTY HALL OF JUSTICE
265 EAST 161 STREET, BRONX, N.Y. 10451
TEL: (718) 618-1886 FAX: (718) 618-3390

KEVIN ROTHERMEL
ACTING COUNTY CLERK

SGT. FABIAN STONE
GRAND JURY WARDEN

May 19, 2022

Dear Sir or Madam:

On Thursday, May 19, 2022, **Richard Cordero** was selected to serve as a Grand Juror on the **A Panel for the 6th Term of 2022** in Bronx County. Grand Jury Service for **Panel A** will begin **5/23/22** and end **6/17/22**. The panel will sit for five (5) days per week, Monday through Friday. **Courts are closed on 5/30/22 in observance of Memorial Day.**

All United States citizens, at least 18 years old and a resident of the county in which they are summoned to serve and who have not been convicted of a felony **must** report for jury service. There are **no** automatic exemptions or excuses from jury service in New York State. Everyone who is eligible **must** serve.

Employers **must** allow employees time off from work to serve as jurors. Regardless of the employee's title or position; everyone must serve. An employer who discharges or penalizes an employee for serving as a juror may be prosecuted by the Office of the Attorney General and subjected to criminal penalties. If you have any questions or desire further information please contact Sgt. John Kenn at (718)618-1886. Thank you for your consideration in this matter.

Sincerely,

Sgt. Fabian Stone

Sgt. Fabian Stone
Grand Jury Warden

All sworn Grand Jurors MUST report to <u>Room 491 on the 4th floor at 9:00am</u> on their start date!

SECTION 1 Introduction

Section 1.1 You are enrolled in EmblemHealth VIP Dual or EmblemHealth VIP Dual Select, which is a specialized Medicare Advantage Plan (Special Needs Plan)

You are covered by both Medicare and Medicaid:

- **Medicare** is the Federal health insurance program for people 65 years of age or older, some people under age 65 with certain disabilities, and people with end-stage renal disease (kidney failure).
- **Medicaid** is a joint Federal and state government program that helps with medical costs for certain people with limited incomes and resources. Medicaid coverage varies depending on the state and the type of Medicaid you have. Some people with Medicaid get help paying for their Medicare premiums and other costs. Other people also get coverage for additional services and drugs that are not covered by Medicare.

You have chosen to get your Medicare health care and your prescription drug coverage through our plan, EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select.

There are different types of Medicare health plans. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is a specialized Medicare Advantage Plan (a Medicare "Special Needs Plan"), which means its benefits are designed for people with special health care needs. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is designed specifically for people who have Medicare and who are also entitled to assistance from Medicaid.

Because you get assistance from Medicaid with your Medicare Part A and B cost-sharing (deductibles, copayments, and coinsurance) you may pay nothing for your Medicare health care services. Medicaid may also provide other benefits to you by covering health care services and prescription drugs that are not usually covered under Medicare. You will also receive "Extra Help" from Medicare to pay for the costs of your Medicare prescription drugs. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select will help manage all of these benefits for you, so that you get the health care services and payment assistance that you are entitled to.

EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is run by a private company. Like all Medicare Advantage Plans, this Medicare Special Needs Plan is approved by Medicare. The plan also has a contract with the New York State Medicaid program to coordinate your Medicaid benefits. We are pleased to be providing your Medicare health care coverage, including your prescription drug coverage.

Coverage under this Plan qualifies as Qualifying Health Coverage (QHC) and satisfies the Patient Protection and Affordable Care Act's (ACA) individual shared responsibility requirement. Please visit the Internal Revenue Service (IRS) website at: www.irs.gov/Affordable-Care-Act/Individuals-and-Families for more information.

Section 1.2 What is the *Evidence of Coverage* booklet about?

This *Evidence of Coverage* booklet tells you how to get your Medicare medical care and prescription drugs covered through our plan. This booklet explains your rights and responsibilities, what is covered, and what you pay as a member of the plan.

The word "coverage" and "covered services" refers to the medical care and services and the prescription drugs available to you as a member of EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select.

It's important for you to learn what the plan's rules are and what services are available to you. We encourage you to set aside some time to look through this *Evidence of Coverage* booklet.

If you are confused or concerned or just have a question, please contact our plan's Customer Service (phone numbers are printed on the back cover of this booklet).

Section 1.3 Legal information about the *Evidence of Coverage*

It's part of our contract with you

This *Evidence of Coverage* is part of our contract with you about how EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select covers your care. Other parts of this contract include your enrollment form, the *List of Covered Drugs (Formulary)*, and any notices you receive from us about changes to your coverage or conditions that affect your coverage. These notices are sometimes called "riders" or "amendments."

The contract is in effect for months in which you are enrolled in EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select between January 1, 2021, and December 31, 2021.

Each calendar year, Medicare allows us to make changes to the plans that we offer. This means we can change the costs and benefits of EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select after December 31, 2021. We can also choose to stop offering the plan, or to offer it in a different service area, after December 31, 2021.

Medicare must approve our plan each year

Medicare (the Centers for Medicare & Medicaid Services) and the New York State Department of Health (Medicaid) must approve EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select each year. You can continue to get Medicare coverage as a member of our plan as long as we choose to continue to offer the plan and Medicare renews its approval of the plan.

SECTION 2 What makes you eligible to be a plan member?

Section 2.1 Your eligibility requirements

You are eligible for membership in our plan as long as:

- You have both Medicare Part A and Medicare Part B (Section 2.2 tells you about Medicare Part A and Medicare Part B)
- -- *and* -- You live in our geographic service area (Section 2.4 below describes our service area).
- -- *and* -- you are a United States citizen or are lawfully present in the United States
- -- *and* -- You meet the special eligibility requirements described below.

Special eligibility requirements for our plan

Our plan is designed to meet the needs of people who receive certain Medicaid benefits. (Medicaid is a joint Federal and state government program that helps with medical costs for certain people with limited incomes and resources.) To be eligible for our plan you must be eligible for both Medicare and Full Medicaid Benefits.

Please note: If you lose your eligibility but can reasonably be expected to regain eligibility within three (3) month(s), then you are still eligible for membership in our plan (Chapter 4, Section 2.1 tells you about coverage and cost-sharing during a period of deemed continued eligibility).

Section 2.2 What are Medicare Part A and Medicare Part B?

When you first signed up for Medicare, you received information about what services are covered under Medicare Part A and Medicare Part B. Remember:

- Medicare Part A generally helps cover services provided by hospitals (for inpatient services, skilled nursing facilities, or home health agencies).
- Medicare Part B is for most other medical services (such as physician's services, home infusion therapy, and other outpatient services) and certain items (such as durable medical equipment (DME) and supplies).

Section 2.3 What is Medicaid?

Medicaid is a joint Federal and state government program that helps with medical costs for certain people who have limited incomes and resources. Each state decides what counts as income and resources, who is eligible, what services are covered, and the cost for services. States also can decide how to run their program as long as they follow the Federal guidelines.

In addition, there are programs offered through Medicaid that help people with Medicare pay their Medicare costs, such as their Medicare premiums. These "Medicare Savings Programs" help people with limited income and resources save money each year:

- **Qualified Medicare Beneficiary (QMB+):** Helps pay Medicare Part A and Part B premiums, and other cost-sharing (like deductibles, coinsurance, and copayments). Eligible for full Medicaid benefits.
- **Specified Low-Income Medicare Beneficiary (SLMB+):** Helps pay Part B premiums. Eligible for full Medicaid benefits.
- **Full Benefit Dual Eligible (FBDE):** May help pay Medicare Part A and Part B premiums, and other cost-sharing (like deductible, coinsurance, and co-payments). Eligible for full Medicaid benefits.

Section 2.4 Here is the plan service area for EmblemHealth VIP Dual or EmblemHealth VIP Dual Select

Although Medicare is a Federal program, EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is available only to individuals who live in our plan service area. To remain a member of our plan, you must continue to reside in the plan service area. The service area is described below.

Our service area includes these counties in New York State:

EmblemHealth VIP Dual: Albany, Bronx, Broome, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester

EmblemHealth VIP Dual Select: Bronx, Dutches, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Westchester

If you plan to move out of the service area, please contact Customer Service (phone numbers are printed on the back cover of this booklet). When you move, you will have a Special Enrollment Period that will allow you to switch to Original Medicare or enroll in a Medicare health or drug plan that is available in your new location.

It is also important that you call Social Security if you move or change your mailing address. You can find phone numbers and contact information for Social Security in Chapter 2, Section 5.

Section 2.5 U.S. Citizen or Lawful Presence

A member of a Medicare health plan must be a U.S. citizen or lawfully present in the United States. Medicare (the Centers for Medicare & Medicaid Services) will notify EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select if you are not eligible to remain a member on this basis.

Service Account Sym...

Public:

Created Date: 1/19/2022, 5:30 PM

11053647 (/high... Preview (/l... Preview (/l...

Comment: 2022-01-14 10:23:11 - appealing administrative denials for procedure codes
D4267 gum surgery Tooth 19
D6010 implant placement Tooth 19
D6057 custom abutment Tooth 19
D6062 abutment supported cast metal crown (high noble metal) Tooth 19
D6065 implant supported porcelain/ceramic crown Tooth 19
D6066 implant supported porcelain fused to metal crown Tooth 19

Service Account Sym...

Public:

Created Date: 1/19/2022, 5:30 PM

Comment: 2022-01-14 10:47:35 - task to manager You or your provider requested for procedure code(s): D4267 gum surgery Tooth 19, D6010 implant placement Tooth 19, D6057 custom abutment Tooth 19, D6062 abutment supported cast metal crown (high noble metal) Tooth 19 D6065 implant supported porcelain/ceramic crown Tooth 19, and D6066 implant supported porcelain fused to metal crown Tooth 19 to
be covered under your EmblemHealth VIP Dual (HMO SNP) plan. Page 67 of the Evidence of Coverage for your plan directs you to the Office Reference Manual, commonly known as
the ORM, and lists all codes covered by your plan. Pages 319, 326 and 327 of the ORM is where D4267,D6010,D6057,D6062,D6065,D6066 would be listed if they were covered under your plan. Your request remains denied as as services not a covered benefit. This decision is based solely on what is covered by your plans benefit and not whether or not the service is medically necessary.

Service Account Sym...

Public:

Created Date: 1/19/2022, 5:30 PM

Comment: 2022-01-14 10:19:20 - appealing administrative denials for procedure codes
D4267 gum surgery Tooth 19
D6010 implant placement Tooth 19
D6057 custom abutment Tooth 19
D6062 abutment supported cast metal crown (high noble metal) Tooth 19
D6065 implant supported porcelain/ceramic crown Tooth 19
D6066 implant supported porcelain fused to metal crown Tooth 19

Omni-Channel (Offline)

View All

Services that are covered for you	What you must pay when you get these services	
	EmblemHealth VIP Dual	**EmblemHealth VIP Dual Select**
Dental services In general, preventive dental services (such as cleaning, routine dental exams, and dental x-rays) are not covered by Original Medicare. We cover the following services when medically necessary and based on the benefit limitations and clinical criteria described in the DentaQuest Office Manager Reference manual(ORM)found online at http://www.dentaquest.com/state-plans/regions/newyork/dentist-page/		
EMBLEMHEALTH VIP DUAL ONLY: Preventive and diagnostic dental services • Oral Examination – one every 6 months. • Prophylaxis (Cleaning) – one every 6 months. • Bitewing X-Ray – one every 6 months. • Fluoride Treatment – one every 6 months. • Complete Series (Panorex) X-Rays – one every 36 months.	**$0** copayment for covered preventive and diagnostic dental services.	**Preventive and diagnostic dental services are not covered.**
EMBLEMHEALTH VIP DUAL AND EMBLEMHEALTH VIP DUAL SELECT: Basic Restorative • Filings – once per 24 months per tooth	**$0** copayment for covered basic dental services.	**$0** copayment for covered basic dental services.
Major Restorative • Porcelain/Stainless Steel Crowns – once per 60 months per tooth • Recement Crown – covered after 6 months • Post and Core in Addition to Crown – once every 60 months • Inlay/Onlay and Single Crown Restoration – once every 60 months **PRIOR AUTHORIZATION REQUIRED FOR SOME SERVICES** (continued on next page)	**$0** copayment for covered major dental services.	**$0** copayment for covered major dental services.

29 → 319

Exhibit E Benefits Covered for
VIP Essential, VIP Gold, VIP Gold Plus, EmblemHealth VIP Dual (HMO D-SNP), VIP Value (HMO)--with optional supplemental benefit, VIP Rx Saver, VIP Part B Saver (HMO)--with optional supplemental benefit, VIP Go, VIP Reserve

It is DentaQuest's expectation that the Primary Care Dentist (PCD) provide basic and advanced dental services to their patients. However, DentaQuest understands that certain procedures may fall beyond the scope or comfort level of the PCD. To avoid the need for a cumbersome referral process, DentaQuest is leaving the entire process in the hands of the providers. However, DentaQuest's Utilization Management department will continually monitor provider referral patterns to assure appropriate placement of patients and allocation of funds.

Reimbursement includes local anesthesia.

Any reimbursement already made for an inadequate service may be recouped after the DentaQuest Consultant reviews the circumstances.

Periodontics						
Code	**Description**	**Age Limitation**	**Teeth Covered**	**Authorization Required**	**Benefit Limitations**	**Documentation Required**
D4210	Gingivectomy or gingivoplasty - four or more contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4210, D4211) per 36 Month(s) Per patient per quadrant.	pre-op x-ray(s), perio charting
D4211	Gingivectomy or gingivoplasty - one to three contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4210, D4211) per 36 Month(s) Per patient per tooth.	pre-op x-ray(s), perio charting
D4240	Gingival flap procedure, including root planing - four or more contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4240, D4241) per 36 Month(s) Per patient per quadrant.	pre-op x-ray(s), perio charting
D4241	Gingival flap procedure, including root planing - one to three contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4240, D4241) per 36 Month(s) Per patient per quadrant.	pre-op x-ray(s), perio charting
D4249	Clinical crown lengthening - hard tissue	21 and older	Teeth 1 - 32	Yes	One of (D4249) per 1 Lifetime Per patient per tooth.	pre-op x-ray(s), perio charting
D4260	Osseous surgery (including elevation of a full thickness flap entry and closure) - four or more contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4260, D4261) per 60 Month(s) Per patient per quadrant.	pre-op x-ray(s), perio charting
D4261	Osseous surgery (including elevation of a full thickness flap entry and closure) - one to three contiguous teeth or tooth bounded spaces per quadrant	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4260, D4261) per 60 Month(s) Per patient per quadrant.	pre-op x-ray(s), perio charting
D4341	Perio scaling/root planing - per quad	21 and older	Per Quadrant (10, 20, 30, 40, LL, LR, UL, UR)	Yes	One of (D4341, D4342) per 36 Month(s) Per patient per quadrant. for 4 or more teeth	pre-op x-ray(s), perio charting

Current Dental Terminology © American Dental Association. All rights reserv

Exhibit E Benefits Covered for
VIP Essential, VIP Gold, VIP Gold Plus, EmblemHealth VIP Dual (HMO D-SNP), VIP Value (HMO)--with optional supplemental benefit, VIP Rx Saver, VIP Part B Saver (HMO)--with optional supplemental benefit, VIP Go, VIP Reserve

It is DentaQuest's expectation that the Primary Care Dentist (PCD) provide basic and advanced dental services to their patients. However, DentaQuest understands that certain procedures may fall beyond the scope or comfort level of the PCD. To avoid the need for a cumbersome referral process, DentaQuest is leaving the entire process in the hands of the providers. However, DentaQuest's Utilization Management department will continually monitor provider referral patterns to assure appropriate placement of patients and allocation of funds.

The placement of a fixed prosthetic appliance will only be considered for the anterior segment of the mouth in those exceptional cases where there is a documented physical or neurological disorder that would preclude placement of a removable prosthesis, or in those cases requiring cleft palate stabilization.

The placement of a fixed prosthetic appliance will only be considered for the anterior segment of the mouth to replace a single maxillary anterior tooth or replace two adjacent mandibular teeth. Fixed prosthetic appliances are not a benefit when there is one or more missing posterior teeth in the same arch. The use of double abutments will not be approved.

In cases other than for cleft palate stabilization, treatment would generally be limited to replacement of a single maxillary anterior tooth or replacement of two adjacent mandibular teeth. For a patient whose pulpal anatomy allows crown preparation of abutment teeth without pulp exposure, the construction of a conventional fixed bridge will be approved only for the replacement of a single missing maxillary anterior tooth or two adjacent missing mandibular anterior teeth. Acid etched cast bonded bridges (Maryland Bridges) may be approved only for the replacement of a single missing maxillary anterior tooth; two adjacent missing maxillary anterior teeth, or two adjacent missing mandibular incisors. Approval will only be considered for a patient under the age of 21 or one whose pulpal anatomy precludes crown preparation of abutments without pulp exposure.

BILLING AND REIMBURSEMENT FOR CAST CROWNS AND POST & CORES OR ANY OTHER PROSTHETIC SHALL BE BASED ON THE CEMENTATION DATE.

The placement of a fixed prosthetic appliance will only be considered for the anterior segment of the mouth. Treatment would be limited to replacement of a single maxillary anterior tooth or replacement of two adjacent mandibular teeth with no missing posterior teeth.

Any reimbursement already made for an inadequate service may be recouped after the DentaQuest Consultant reviews the circumstances.

Prosthodontics, fixed						
Code	**Description**	**Age Limitation**	**Teeth Covered**	**Authorization Required**	**Benefit Limitations**	**Documentation Required**
D6205	Pontic - indirect resin based composite	21 and older	Teeth 1 - 32, 51 - 82	Yes	One of (D6205, D6210, D6211, D6212, D6214, D6240, D6241, D6242, D6245, D6250, D6251, D6252) per 60 Month(s) Per patient per tooth.	pre-operative x-ray(s)
D6210	Pontic - Cast High Noble Metal	21 and older	Teeth 1 - 32, 51 - 82	Yes	One of (D6205, D6210, D6211, D6212, D6214, D6240, D6241, D6242, D6245, D6250, D6251, D6252) per 60 Month(s) Per patient per tooth.	pre-operative x-ray(s)
D6211	Pontic - Cast Predom. Base Metal	21 and older	Teeth 1 - 32, 51 - 82	Yes	One of (D6205, D6210, D6211, D6212, D6214, D6240, D6241, D6242, D6245, D6250, D6251, D6252) per 60 Month(s) Per patient per tooth.	pre-operative x-ray(s)

Current Dental Terminology © American Dental Association. All rights reserv

EmblemHealth

Important: This notice explains your right to appeal our decision. Read this notice carefully. If you need help, you can call one of the numbers listed on the last page under "Get help & more information."

Notice of Denial of Medical Coverage

Date: December 12, 2021

Case number: 202134480028400

Member number: K4051915001

Dentist Name: Dr. Benn Lieberman

Member Name: Richard Cordero

Address: 2165 Bruckner Blvd

City State Zip: Bronx, NY 10472

Your request was denied

We've denied the medical services/items listed below requested by you or your doctor Dr. Benn Lieberman

- D4267 gum surgery Tooth 19
- D6010 implant placement Tooth 19
- D6057 custom abutment Tooth 19
- D6062 abutment supported cast metal crown (high noble metal) Tooth 19
- D6065 implant supported porcelain/ceramic crown Tooth 19
- D6066 implant supported porcelain fused to metal crown Tooth 19

Why did we deny your request?

We denied the medical services/items listed above because:

- This service is not covered under your benefit plan. You can find more information about your benefits in the Evidence of Coverage for VIP Dual (HMO SNP), Chapter 4, Section 2.1, Dental Services, p. 62-64 and Chapter 4, section 3.1 Dental, p.94.
  This denial reason applies to this service(s):

  D6065 implant supported porcelain/ceramic crown Tooth 19

  D6062 abutment supported cast metal crown (high noble metal) Tooth 19

  D4267 gum surgery Tooth 19

OMB Approval 0938-0829 Expires: (02/28/2023)

Form CMS 10003-NDMCP

EmblemHealth

D6010 implant placement Tooth 19

D6057 custom abutment Tooth 19

D6066 implant supported porcelain fused to metal crown Tooth 19

You should share a copy of this decision with your doctor so you and your doctor can discuss next steps. If your doctor requested coverage on your behalf, we have sent a copy of this decision to your doctor.

You have the right to appeal our decision

You have the right to ask EmblemHealth to review our decision by asking for an appeal.

→ **Plan Appeal:** Ask EmblemHealth for an appeal within **60 days** of the date of this notice. We can give you more time if you have a good reason for missing the deadline. See section titled "How to ask for an appeal with EmblemHealth" for information on how to ask for a plan level appeal.

If you want someone else to act for you

You can name a relative, friend, attorney, doctor, or someone else to act as your representative. If you want someone else to act for you, call us at: 1-877-344-7364 to learn how to name your representative. TTY users call 711. Both you and the person you want to act for you must sign and date a statement confirming this is what you want. You'll need to mail or fax this statement to us. Keep a copy for your records.

Important Information About Your Appeal Rights

There are 2 kinds of appeals with EmblemHealth

Standard Appeal: We'll give you a written decision about a standard appeal within **30 days** after we get your appeal. Our decision might take longer if you ask for an extension, or if we need more information about your case. We'll tell you if we're taking extra time and will explain why more time is needed. If your appeal is for payment of a service you've already received, we'll give you a written decision within **60 days**.

Fast Appeal - We'll give you a decision on a fast appeal within **72 hours** after we get your appeal. You can ask for a fast appeal if you or your doctor believe your health could be seriously harmed by waiting up to 30 days for a decision. You cannot request an expedited appeal if you are asking us to pay you back for a medical service you've already received.

We'll automatically give you a fast appeal if a doctor asks for one for you or if your doctor supports your request. If you ask for a fast appeal without support from a doctor, we'll decide if your request requires a fast appeal. If we don't give you a fast appeal, we'll give you a decision within 30 days.

EmblemHealth

How to ask for an appeal with EmblemHealth

Step 1: You, your representative, or your doctor must ask us for an appeal. Your request must include:

- Your name
- Address
- Member number
- Reasons for appealing
- Whether you want a Standard or Fast Appeal (for a Fast Appeal, explain why you need one).
- Any evidence you want us to review, such as medical records, doctor's letters, (such as a doctor's supporting statement if you request a fast appeal), or other information that explains why you need the item or service. Call your doctor if you need this information.

If you're asking for an appeal and missed the deadline, you may ask for an extension and should include your reason for being late.
We recommend keeping a copy of everything you send us for your records.

Step 2: Mail, fax, or deliver your appeal. You can also call us.

For a Standard Appeal: Mailing address:
Emblem Health
PO Box 2807
New York, NY 10116-2807
Phone: 1-877-344-7364 TTY Users Call: **711**
Fax: 1-212-510-5320

If you ask for a standard appeal by phone, we will send you a letter confirming what you told us.

For a Fast Appeal: Phone: 1-877-344-7364 TTY Users Call: 711
Fax: 1-212-510-5320

What happens next?

If you ask for an appeal and we continue to deny your request for a medical service/item, we'll automatically send your case to an independent reviewer. **If the independent reviewer denies your request, the written decision will explain if you have additional appeal rights.**

Get help & more information

- EmblemHealth Toll Free: 1-877-344-7364 TTY users call: 711
  Monday-Sunday, 8 a.m. to 8 p.m. or www.emblemhealth.com
- 1-800-MEDICARE (1-800-633-4227), 24 hours, 7 days a week. TTY users call: 1-877-486-2048
- Medicare Rights Center: 1-888-HMO-9050

OMB Approval 0938-0829 Expires: (02/28/2023)

Form CMS 10003-NDMCP

EmblemHealth

55 Water Street, New York, NY 10041-8190

Important Plan Information

January 20, 2022

RICHARD CORDERO
2165 BRUCKNER BLVD
BRONX, NY 10472

Member name: Richard Cordero
Member ID number: K4051915001
Health care professional: Benn Lieberman
Authorization number: 202134480028400
Case ID: 881430
Type of service: Dental
Plan name: VIP Dual (HMO SNP)

Dear Richard Cordero:

Thank you for choosing EmblemHealth.

We received your appeal request on January 12, 2022 appealing administrative denials for procedure codes D4267 gum surgery Tooth 19 ,D6010 implant placement Tooth 19, D6057 custom abutment Tooth 19, D6062 abutment supported cast metal crown (high noble metal) Tooth 19, D6065 implant supported porcelain/ceramic crown Tooth 19, and D6066 implant supported porcelain fused to metal crown Tooth 19.

Please note that prior to January 01,2022 DentaQuest is EmblemHealth's third party administrator for all covered dental services. DentaQuest is responsible for processing your dental claims, as well as utilization management functions.

Background
On December 11, 2021, a DentaQuest Manager, reviewed the original request for services the request was denied because:

- Benefit not Covered

-continued-

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies, EmblemHealth Services Company. LLC provides administrative services to the EmblemHealth companies.

EmblemHealth
Benn Lieberman
Case # 881430
January 20, 2022

Your appeal
On January 19,2022, an EmblemHealth Manager Sean Hillegass specializing in Benefits Administration reviewed your appeal. We decided to uphold our original decision because:

- Benefit not Covered

You or your provider requested for procedure code(s): D4267 gum surgery Tooth 19, D6010 implant placement Tooth 19, D6057 custom abutment Tooth 19, D6062 abutment supported cast metal crown (high noble metal) Tooth 19 D6065 implant supported porcelain/ceramic crown Tooth 19, and D6066 implant supported porcelain fused to metal crown Tooth 19 to be covered under your EmblemHealth VIP Dual (HMO SNP) plan. Page 67 of the Evidence of Coverage for your plan directs you to the Office Reference Manual, commonly known as the ORM, and lists all codes covered by your plan. Pages 319, 326 and 327 of the ORM is where D4267, D6010, D6057, D6062, D6065, D6066 would be listed if they were covered under your plan. Your request remains denied as services not a covered benefit. This decision is based solely on what is covered by your plans benefit and not whether or not the service is medically necessary.

What happens next?
Medicare requires us to send your case to MAXIMUS Federal Services, Inc. (MFSI), Medicare's third-party contractor for external reviews to make sure we made the right decision. MFSI will send you a letter confirming receipt of your case and about other rights you may have. They will then review and process your request. You have the right to send MFSI additional information that may be important to the review. If you have any questions about this case, please write to them 3750 Monroe Avenue, Suite 702, Pittsford, NY 14534-1302 or call them at **1-585-348-3300**.

Upon written request to the EmblemHealth, EmblemHealth will provide the clinical review criteria; benefit provision, guideline or protocol relied upon to make this determination. Please forward all requests to: EmblemHealth Grievance and Appeal Department, P.O. Box 2807, New York, NY 10116-2807. In addition, you are entitled to receive reasonable access to and copies of all documents, free of charge, upon request.

case file To request a copy of the case file that we are sending to MFSI, or if you have any questions, please call me at **646-447-6109**, 8:00 am to 8:00 pm, seven days a week. You may also call Customer Service at 1-877-344-7364, 8:00 am to 8:00 pm, seven days a week. If you have a hearing or speech impairment and use a TTY/TDD, please call **711**, 8:00 am to 8:00 pm, seven days a week.

-continued-

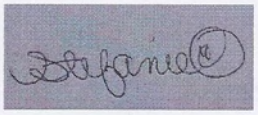
EmblemHealth
Benn Lieberman
Case # 881430
January 20, 2022

Need More Help?
If you need help or more information about the appeals process, call Medicare **800-MEDICARE (1-800-633-4227) (TTY: 877-486-2048)**, 24 hours a day, seven days a week

You can look up information and payment details about claims and authorizations online 24 hours a day, 7 days a week. Log in to **emblemhealth.com.**

We're committed to supporting you.

Best Regards



Stefanie Macialek
Specialist
Grievance & Appeals

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies, EmblemHealth Services Company. LLC provides administrative services to the EmblemHealth companies.

EmblemHealth
Benn Lieberman
Case # 881430
January 20, 2022

EmblemHealth

ATTENTION: If you speak other languages, language assistance services, free of charge, are available to you. Call **1-877-411-3625** (TTY/TDD: **711**).

Español (Spanish)
ATENCIÓN: Si usted habla español, tiene a su disposición, gratis, servicios de ayuda para idiomas. Llame al **1-877-411-3625** (TTY/TDD: **711**).

中文 (Traditional Chinese)
注意：如果您講中文，我們免費為您提供相關的語言協助服務。請致電 **1-877-411-3625** (TTY/TDD: **711**)。

Русский (Russian)
ВНИМАНИЕ! Если Вы говорите на русском языке, Вам доступны бесплатные услуги переводчика. Звоните по тел. **1-877-411-3625** (служба текстового телефона, TTY/TDD: **711**).

Kreyòl Ayisyen (Haitian Creole)
ATANSYON: Si ou pale Kreyòl Ayisyen, gen sèvis èd nan lang gratis ki disponib pou ou. Rele nimewo **1-877-411-3625** (TTY/TDD: **711**).

한국어 (Korean)
주의: 귀하가 한국어를 사용하는 경우, 귀하에게 언어 지원 서비스가 무료로 제공됩니다.
1-877-411-3625(TTY/TDD: **711**)로 전화하십시오.

Italiano (Italian)
ATTENZIONE: Se parli italiano, sono disponibili servizi gratuiti di assistenza linguistica. Chiama il numero **1-877-411-3625** (TTY/TDD: **711**).

אידיש (Yiddish)
אכטונג: אויב איר רעדט אידיש, שפראך הילף סערוויסעס, אהן קיין פרייז, זיינען דא צו באקומען פאר אייך. רופט **1-877-411-3625** (TTY/TDD: **711**).

বাংলা (Bengali)
দৃষ্টি আকর্ষণ: আপনি যদি বাংলা ভাষাভাষী হন, তাহলে আপনার জন্য ভাষা সহায়তা পরিষেবাগুলি, বিনামূল্যে, উপলব্ধ আছে। **1-877-411-3625** (TTY/TDD: **711**) নম্বরে ফোন করুন।

Polski (Polish)
UWAGA: Dla osób mówiących po polsku dostępna jest bezpłatna pomoc językowa. Proszę zadzwonić pod numer **1-877-411-3625** (TTY/TDD: **711**).

العربية (Arabic)
يُرجى الانتباه: إذا كنت تتكلم اللغة العربية، تتوفر لك خدمات المساعدة اللغوية مجاناً. اتصل بالرقم **1-877-411-3625** (TTY/TDD: **711**).

Y0026_126476 Accepted 8/29/16
10-9124 6/18

EmblemHealth Plan, Inc., EmblemHealth Insurance Company, EmblemHealth Services Company, LLC and Health Insurance Plan of Greater New York (HIP) are EmblemHealth companies, EmblemHealth Services Company. LLC provides administrative services to the EmblemHealth companies.

127292 C296346E_A_SVC_POVR_UP_OT

In addition, there are programs offered through Medicaid that help people with Medicare pay their Medicare costs, such as their Medicare premiums. These "Medicare Savings Programs" help people with limited income and resources save money each year:

- **Qualified Medicare Beneficiary (QMB+):** Helps pay Medicare Part A and Part B premiums, and other cost-sharing (like deductibles, coinsurance, and copayments). Eligible for full Medicaid benefits.
- **Specified Low-Income Medicare Beneficiary (SLMB+):** Helps pay Part B premiums. Eligible for full Medicaid benefits.
- **Full Benefit Dual Eligible (FBDE):** May help pay Medicare Part A and Part B premiums, and other cost-sharing (like deductible, coinsurance, and co-payments). Eligible for full Medicaid benefits.

Section 2.4 Here is the plan service area for EmblemHealth VIP Dual or EmblemHealth VIP Dual Select

Although Medicare is a Federal program, EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is available only to individuals who live in our plan service area. To remain a member of our plan, you must continue to reside in the plan service area. The service area is described below.

Our service area includes these counties in New York State:

EmblemHealth VIP Dual: Albany, Bronx, Broome, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester

EmblemHealth VIP Dual Select: Bronx, Dutches, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, Westchester

If you plan to move out of the service area, please contact Customer Service (phone numbers are printed on the back cover of this booklet). When you move, you will have a Special Enrollment Period that will allow you to switch to Original Medicare or enroll in a Medicare health or drug plan that is available in your new location.

It is also important that you call Social Security if you move or change your mailing address. You can find phone numbers and contact information for Social Security in Chapter 2, Section 5.

Section 2.5 U.S. Citizen or Lawful Presence

A member of a Medicare health plan must be a U.S. citizen or lawfully present in the United States. Medicare (the Centers for Medicare & Medicaid Services) will notify EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select if you are not eligible to remain a member on this basis.

SECTION 2 What makes you eligible to be a plan member?

Section 2.1 Your eligibility requirements

You are eligible for membership in our plan as long as:

- You have both Medicare Part A and Medicare Part B (Section 2.2 tells you about Medicare Part A and Medicare Part B)
- -- *and* -- You live in our geographic service area (Section 2.4 below describes our service area).
- -- *and* -- you are a United States citizen or are lawfully present in the United States
- -- *and* -- You meet the special eligibility requirements described below.

Special eligibility requirements for our plan

Our plan is designed to meet the needs of people who receive certain Medicaid benefits. (Medicaid is a joint Federal and state government program that helps with medical costs for certain people with limited incomes and resources.) To be eligible for our plan you must be eligible for both Medicare and Full Medicaid Benefits.

Please note: If you lose your eligibility but can reasonably be expected to regain eligibility within three (3) month(s), then you are still eligible for membership in our plan (Chapter 4, Section 2.1 tells you about coverage and cost-sharing during a period of deemed continued eligibility).

Section 2.2 What are Medicare Part A and Medicare Part B?

When you first signed up for Medicare, you received information about what services are covered under Medicare Part A and Medicare Part B. Remember:

- Medicare Part A generally helps cover services provided by hospitals (for inpatient services, skilled nursing facilities, or home health agencies).
- Medicare Part B is for most other medical services (such as physician's services, home infusion therapy, and other outpatient services) and certain items (such as durable medical equipment (DME) and supplies).

Section 2.3 What is Medicaid?

Medicaid is a joint Federal and state government program that helps with medical costs for certain people who have limited incomes and resources. Each state decides what counts as income and resources, who is eligible, what services are covered, and the cost for services. States also can decide how to run their program as long as they follow the Federal guidelines.

Section 1.2 What is the *Evidence of Coverage* booklet about?

This *Evidence of Coverage* booklet tells you how to get your Medicare medical care and prescription drugs covered through our plan. This booklet explains your rights and responsibilities, what is covered, and what you pay as a member of the plan.

The word "coverage" and "covered services" refers to the medical care and services and the prescription drugs available to you as a member of EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select.

It's important for you to learn what the plan's rules are and what services are available to you. We encourage you to set aside some time to look through this *Evidence of Coverage* booklet.

If you are confused or concerned or just have a question, please contact our plan's Customer Service (phone numbers are printed on the back cover of this booklet).

Section 1.3 Legal information about the *Evidence of Coverage*

It's part of our contract with you

This *Evidence of Coverage* is part of our contract with you about how EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select covers your care. Other parts of this contract include your enrollment form, the *List of Covered Drugs (Formulary)*, and any notices you receive from us about changes to your coverage or conditions that affect your coverage. These notices are sometimes called "riders" or "amendments."

The contract is in effect for months in which you are enrolled in EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select between January 1, 2021, and December 31, 2021.

Each calendar year, Medicare allows us to make changes to the plans that we offer. This means we can change the costs and benefits of EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select after December 31, 2021. We can also choose to stop offering the plan, or to offer it in a different service area, after December 31, 2021.

Medicare must approve our plan each year

Medicare (the Centers for Medicare & Medicaid Services) and the New York State Department of Health (Medicaid) must approve EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select each year. You can continue to get Medicare coverage as a member of our plan as long as we choose to continue to offer the plan and Medicare renews its approval of the plan.

SECTION 1 Introduction

Section 1.1 You are enrolled in EmblemHealth VIP Dual or EmblemHealth VIP Dual Select, which is a specialized Medicare Advantage Plan (Special Needs Plan)

You are covered by both Medicare and Medicaid:

- **Medicare** is the Federal health insurance program for people 65 years of age or older, some people under age 65 with certain disabilities, and people with end-stage renal disease (kidney failure).
- **Medicaid** is a joint Federal and state government program that helps with medical costs for certain people with limited incomes and resources. Medicaid coverage varies depending on the state and the type of Medicaid you have. Some people with Medicaid get help paying for their Medicare premiums and other costs. Other people also get coverage for additional services and drugs that are not covered by Medicare.

You have chosen to get your Medicare health care and your prescription drug coverage through our plan, EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select.

There are different types of Medicare health plans. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is a specialized Medicare Advantage Plan (a Medicare "Special Needs Plan"), which means its benefits are designed for people with special health care needs. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is designed specifically for people who have Medicare and who are also entitled to assistance from Medicaid.

Because you get assistance from Medicaid with your Medicare Part A and B cost-sharing (deductibles, copayments, and coinsurance) you may pay nothing for your Medicare health care services. Medicaid may also provide other benefits to you by covering health care services and prescription drugs that are not usually covered under Medicare. You will also receive "Extra Help" from Medicare to pay for the costs of your Medicare prescription drugs. EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select will help manage all of these benefits for you, so that you get the health care services and payment assistance that you are entitled to.

EmblemHealth VIP Dual **or** EmblemHealth VIP Dual Select is run by a private company. Like all Medicare Advantage Plans, this Medicare Special Needs Plan is approved by Medicare. The plan also has a contract with the New York State Medicaid program to coordinate your Medicaid benefits. We are pleased to be providing your Medicare health care coverage, including your prescription drug coverage.

Coverage under this Plan qualifies as Qualifying Health Coverage (QHC) and satisfies the Patient Protection and Affordable Care Act's (ACA) individual shared responsibility requirement. Please visit the Internal Revenue Service (IRS) website at: www.irs.gov/Affordable-Care-Act/Individuals-and-Families for more information.

End Page

Blank