

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

AUGUST DEKKER, et al.,

Plaintiffs,

v.

Case No. 4:22-cv-00325-RH-MAF

SIMONE MARSTILLER, et al.,

Defendants.

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**DEFENDANTS' AMENDED RESPONSES TO PLAINTIFFS' FIRST  
REQUEST FOR PRODUCTION**

Defendants Simone Marsteller and the Agency for Health Care Administration respond to Plaintiffs' first request for production. Defendants' amended responses are as follows:

**PRELIMINARY STATEMENT**

1. Defendants will furnish a privilege log during the week of January 9, 2023.
2. Defendants' responses to the discovery requests shall not be construed as waiving any privilege, objection, or right. As such, Defendants reserve the right to object on any ground to the use of any response to any request or to the pursuit of discovery or introduction of evidence on any subject matter addressed in any request at any subsequent time, including the trial of this action.

3. The failure of Defendants to make a specific objection to a particular request is not, and shall not be construed as, an admission that responsive documents or things exist. Likewise, any statement herein that Defendants will produce documents or things in response to any request does not mean that they in fact have any such documents or things, or that any such documents or things exist. Rather, any such statement reflects the intention of Defendants, subject to its objections, to conduct a reasonable search for responsive documents and things, as defined by the Federal Rules of Civil Procedure and any electronically stored information related stipulation entered by the parties, and within the scope stated by Defendants.

4. Defendants reserve the right to, at any time, supplement, clarify, or otherwise amend any response or objection to the document requests.

5. The production by Defendants of any document or content in a document that is privileged, work-product, or otherwise protected or immune from discovery is unintentional, and Defendants do not intend to waive any applicable objection or privilege as a result of such production.

6. By responding to the document requests, Defendants do not acknowledge or concede the truth or accuracy of any characterization, allegation, or statement made in the document requests.

7. No response to any request shall create an obligation or commitment to respond in similar fashion to any other request for production of documents.

8. Defendants generally object to all requests seeking “all Documents” or “all Communications,” which would require an electronic search of all emails for the occurrence of specific words or phrases which are commonly used. Defendant AHCA is a large state agency that maintains a massive number of emails. Defendants’ system cannot process collections which generate an excessive number of results.

9. To the extent the material contains protected health information or trade secrets provided by third-party health plans, Defendants will produce the information subject to a protective order as contemplated in the parties’ Rule 26(f) report. ECF No. 66 at 14.

10. Regarding bates ranges responsive to these requests for production, please refer to the cover letter that was served together with this document.

## RESPONSES TO REQUESTS FOR PRODUCTION

**Request No. 1:** Documents evidencing the total number of Florida Medicaid recipients enrolled in the Florida Medicaid program.

**Response:** The document that the request seeks is publicly available: [https://ahca.myflorida.com/medicaid/finance/data\\_analytics/enrollment\\_report/index.shtml](https://ahca.myflorida.com/medicaid/finance/data_analytics/enrollment_report/index.shtml).

**Request No. 2:** Documents evidencing the total number of Florida Medicaid recipients who have diagnoses of Gender Dysphoria.

**Response:** Defendants do not have a document that states the total number of Florida Medicaid recipients who have been diagnosed with gender dysphoria. However, in the production on January 6, 2023, certain documents in bates range Def\_000286931-Def\_000288749 evidence the number of procedures performed and drugs prescribed for gender dysphoria; those documents could be considered responsive and therefore Defendants provide the documents to Plaintiffs.

**Request No. 3:** All Communications between Defendants and the Florida Department of Health, including Surgeon General Joseph Ladapo, related to the guidance titled “Treatment of Gender Dysphoria for Children and Adolescents” released on April 20, 2022, a copy of which is attached hereto as Exhibit 1.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that the guidance was published on April 20, 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed.

**Request No. 4:** All Communications between Defendants and the office of Governor Ron DeSantis related to the guidance referenced in Request No. 3 above, a copy of which is attached hereto as Exhibit 1.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that the guidance was published on April 20, 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 5:** All Communications related to the letter from Secretary Simone Marsteller to AHCA Deputy Secretary for Medicaid Tom Wallace requesting that the AHCA determine whether the treatments addressed in the Florida Department of Health’s Guidance were “consistent with the generally accepted professional medical standards and or experimental or investigational.” A copy of the letter attached hereto as Exhibit 2.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that the letter was sent on April 20, 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed.



**Request No. 6:** All reports and data collected or gathered, regardless of whether prepared by or on behalf of Defendants, and regardless of whether presented, reviewed, considered, or relied upon by Defendants, in connection with the development and promulgation of the GAPMS Memo.

**Response:** Defendants object to this request as overbroad and unduly burdensome. “All reports” and “all” “data,” “presented, reviewed,” and “considered” by Defendants related to gender dysphoria (the subject of the GAPMS Memo) presents too expansive of a list of documents.

That said, Defendants made a concerted effort to review scientific studies concerning the issue. The GAPMS Memo itself endeavors to collect a list of the material reviewed as part of the process. That information is publicly available: [https://ahca.myflorida.com/letkidsbekids/docs/AHCA\\_GAPMS\\_June\\_2022\\_Report.pdf](https://ahca.myflorida.com/letkidsbekids/docs/AHCA_GAPMS_June_2022_Report.pdf).

**Request No. 7:** All reports and data collected or gathered, regardless of whether prepared by or on behalf of Defendants, and regardless of whether presented, reviewed, considered, or relied upon by Defendants, in connection with the development and promulgation of the Challenged Exclusion.

**Response:** Please refer to the response to Request No. 6.

**Request No. 8:** All Documents relating to any steps that Defendants undertook to ensure that Medicaid recipients diagnosed with Gender Dysphoria continued to receive treatment for Gender Dysphoria at the time the Challenged Exclusion became effective.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege, the work product doctrine, and prohibitions on disclosing healthcare information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to present.

**Response No. 9:** All Documents evidencing that Defendants provide the services described in 42 U.S.C. § 1396d(r)(5) for Medicaid recipients under age 21 diagnosed with Gender Dysphoria.

**Response:** Defendants object to this request. The request seeks documents far beyond the scope of this case, which makes it overly broad and vague and unlikely to lead to any relevant information. The requested documents may also be subject to the attorney-client privilege, the work product doctrine, and prohibitions on disclosing healthcare information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Subject to these objections, Defendants refer Plaintiffs to Florida's Medicaid State Plan, which is publicly available: <https://ahca.myflorida.com/medicaid/stateplan.shtml>.

**Request No. 10:** All draft and final correspondence from Defendants to Medicaid recipients relating to the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege, the work product doctrine, and contain protected patient information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to present.

**Request No. 11:** All draft and final notices to Medicaid recipients, including but not limited to Notices of Adverse Benefit Determination, Notices of Plan Appeal Resolution, and Notices of Outcome, relating to the services identified in the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege, the work product doctrine, and contain protected patient information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to present.

**Request No. 12:** All Documents relating to Defendants' Communications with any person at the Centers for Medicare & Medicaid Services (CMS) concerning Medicaid coverage for the treatment of Gender Dysphoria.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Upon information and belief, it does not appear that such responsive documents exist.

**Request No. 13:** All Communications between Defendants and any Person who participated in promulgating the GAPMS Memo by advising Defendants, conducting research, or drafting, editing, or reviewing the GAPMS Memo.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.



**Request No. 14:** All Communications between Defendants and each GAPMS Memo attachment author, including Romina Brignardello-Petersen; Wojtek Wiercioch; James Cantor; Quentin Van Meter; Patrick Lappert; and G. Kevin Donovan.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 15:** All Documents related to testimony given to, considered by, or relied upon by Defendants in connection with the promulgation of the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 16:** All Documents and information relied upon by Defendants in considering whether the services identified in the Challenged Exclusion were consistent with generally accepted professional medical standards, including, the information identified in Fla. Admin. Code R. 59G-1.035(4).

**Response:** Please refer to the response to Request No. 6.

**Request No. 17:** All Documents relating to Defendants' contacting or consulting any Person for guidance, recommendations, or assessments relevant to the development of the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 18:** All Documents created or received by Florida Medicaid managed care plans and other utilization review entities relating to Medicaid coverage of Gender Dysphoria.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege, the work product doctrine, and otherwise contain confidential information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. Consistent with the meet-and-confer discussions on January 5, 2023 and December 30, 2022, Defendants will further investigate this request and will produce any other responsive documents, if any, by January 13, 2023.

**Request No. 19:** All Communications between Defendants and Florida Medicaid managed care plans and other utilization review entities relating to Medicaid coverage of Gender Dysphoria.

**Response:** Defendants object to this request. The requested documents may contain confidential information. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce non-privileged responsive documents on January 6, 2023. Consistent with the meet-and-confer discussions on January 5, 2023 and December 30, 2022, Defendants will further investigate this request and will produce any other responsive documents, if any, by January 13, 2023. The time period of these documents is between January 1, 2022 to present.

**Request No. 20:** All instructions, scripts, trainings, policies, procedures, or other guidance concerning the application of the medical necessity standard to coverage decisions for Medicaid recipients.

**Response:** The information that this request seeks is publicly available: [https://ahca.myflorida.com/Medicaid/review/General/59G\\_1010\\_Definitions.pdf](https://ahca.myflorida.com/Medicaid/review/General/59G_1010_Definitions.pdf).

**Request No. 21:** All instructions, scripts, trainings, policies, procedures, or other guidance concerning the application of the medical necessity standard to the coverage of Gender Dysphoria treatment for Medicaid recipients.

**Response:** Please refer to the response to Request No. 20.



**Request No. 22:** All guidelines for any Medicaid managed care organization and other utilization review entities that existed prior to the enactment of the Challenged Exclusion concerning the application of the medical necessity standard to the coverage of Gender Dysphoria treatment decisions for Medicaid recipients.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine.

Defendants will produce non-privileged responsive documents on January 6, 2023. Consistent with the meet-and-confer discussions on January 5, 2023 and December 30, 2022, Defendants will further investigate this request and will produce any responsive documents, if any, by January 13, 2023.

**Request No. 23:** All guidelines for any Medicaid managed care organization and other utilization review entities issued since the enactment of the Challenged Exclusion concerning the application of the medical necessity standard to coverage decisions of Gender Dysphoria treatment for Medicaid recipients.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine.

Defendants will produce all non-privileged responsive documents on January 6, 2023. Consistent with the meet-and-confer discussions on January 5, 2023 and December 30, 2022, Defendants will further investigate this request and will produce any responsive documents, if any, by January 13, 2023.

**Request No. 24:** All Documents reflecting Defendants' criteria existing prior to August 21, 2022, for Medicaid authorization and coverage for treatments and services for Gender Dysphoria, including but not limited to: puberty blockers, hormones and hormone antagonists, sex reassignment surgeries, and any other procedures that alter primary or secondary sexual characteristics.

**Response:** Please refer to the response to Request No. 20.

**Request No. 25:** All Documents reflecting policies, procedures, or practices related to the implementation, application, or enforcement of the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 26:** All Communications relating to the implementation, enforcement, and/or impact of the Challenged Exclusion.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 27:** All Documents related to rulemaking processes and/or rules promulgated by Defendants pursuant to Rule 59G-1.050 and/or Rule 59G-1.035, Florida Administrative Code, since January 2010.

**Response:** Defendants object to this request. The request is overly broad and unduly burdensome; Rule 59G-1.050 has been amended several times, and the request is not limited to the August 2022 amendment adding paragraph (7). The requested documents may be subject to the attorney-client privilege and the work product doctrine.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of the responses is January 1, 2015 to September 7, 2022, the date Plaintiffs' complaint was filed. The rulemaking history is otherwise available on the Florida Department of State's website at: <https://www.flrules.org/>.

**Request No. 28:** All requests since January 2010 requesting that Defendants or the Division of Florida Medicaid review a treatment, or series of treatments, for coverage determination pursuant to Rule 59G-1.035, Florida Administrative Code.

**Response:** Defendants object to this request. The request is overly broad and unduly burdensome; Rule 59G-1.035 has only been in effect since 2015. The requested documents also may be subject to the attorney-client privilege and the work product doctrine.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of the responses is January 1, 2015 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 29:** All reports, analyses, and memoranda you caused to be created since January 2010 in response to any request for review of a treatment, or series of treatments, pursuant to Rule 59G-1.035, Florida Administrative Code.

**Response:** Please refer to the response to Request No. 28.



**Request No. 30:** All Documents related to any final determination made by the Deputy Secretary of Medicaid since January 2010 that a health service is not consistent with generally accepted professional medical standards.

**Response:** Please refer to the response to Request No. 28.

**Request No. 31:** All Documents related to any final determination made by the Deputy Secretary of Medicaid since January 2010 that a health service is experimental or investigational pursuant to Rule 59G-1.035, Florida Administrative Code.

**Response:** Please refer to the response to Request No. 28.

**Request No. 32:** All Documents related to any final determination made by the Deputy Secretary of Medicaid since January 2010 that a health service is not experimental or investigational pursuant to Rule 59G-1.035, Florida Administrative Code.

**Response:** Please refer to the response to Request No. 28.

**Request No. 33:** All Communications containing the term “transgender,” “Gender Dysphoria,” “gender reassignment,” “sexual reassignment,” gender-affirming,” “gender affirming,” “gender transition,” “medical transition,” “social transition,” transsexual,” or “sex change” in the subject, the body, or any attachments, to or from (including ccs and bccs) current or then-current AHCA employees.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. Defendants further object to this request as overly broad and unduly burdensome because it would require electronic searches of all emails for the occurrence of specific words or phrases which are commonly used. Defendant AHCA is a large state agency that maintains a massive number of emails. Defendants’ system cannot process collections which generate an excessive number of results. For instance, the terms “gender-affirming” and “gender affirming” alone generated collections of 17.613 GB and 18.895 GB, respectively, for the year 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed. Defendants will use the search term “gender dysphoria” over this time period.

**Request No. 34:** All current organizational charts and directories of individuals employed by AHCA and their titles.

**Response:** An organizational chart is available at the following link: [https://ahca.myflorida.com/Inside\\_AHCA/org\\_chart.shtml](https://ahca.myflorida.com/Inside_AHCA/org_chart.shtml). However, consistent with the parties' conversation on January 5, 2023, Defendants will investigate whether an appropriate chart or directory exists and, if so, produce it by January 13, 2023.

**Request No. 35:** All Documents regarding any report, research, or analysis by or on behalf of Defendants and/or the State of Florida on whether the Challenged Exclusion complies with the Medicaid Act’s Comparability requirements (42 U.S.C. § 1396a(a)(10)(B)(i); 42 C.F.R. § 440.230(b), (c)).

**Response:** Defendants object to this request. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. In addition, the request seeks documents from Defendants concerning Defendants’ analysis of whether it has complied with federal law. Any such analysis would have been within the purview of the Defendants’ General Counsel and is therefore, by its very nature, is subject to the attorney-client privilege and the work product doctrine. Any such documents—should they exist—would be listed on Defendants’ privilege log, which they will provide during the week of January 9, 2023. The time frame would be from January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed.

**Request No. 36:** All Documents regarding any report, research, or analysis by or on behalf of Defendants and/or the State of Florida on whether the Challenged Exclusion complies with the Medicaid Act's Early and Periodic Screening, Diagnostic and Treatment Services requirements (42 U.S.C. §§ 1396a(a)(10)(A), 1396a(a)(10)(43), 1396d(a)(4)(B), 1396d(4)).

**Response:** Defendants object to this request. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. In addition, the request seeks documents from Defendants concerning Defendants' analysis of whether it has complied with federal law. Any such analysis would have been within the purview of the Defendants' General Counsel and is therefore, by its very nature, is subject to the attorney-client privilege and the work product doctrine. Any such documents—should they exist—would be listed on Defendants' privilege log, which they will provide during the week of January 9, 2023. The time frame would be from January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 37:** All Documents regarding any report, research, or analysis by or on behalf of Defendants and/or the State of Florida on whether the Challenged Exclusion complies with Section 1557 of the Affordable Care Act’s prohibition on unlawful discrimination on the basis of sex (42 U.S.C. § 18116).

**Response:** Defendants object to this request. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. In addition, the request seeks documents from Defendants concerning Defendants’ analysis of whether it has complied with federal law. Any such analysis would have been within the purview of the Defendants’ General Counsel and is therefore, by its very nature, is subject to the attorney-client privilege and the work product doctrine. Any such documents—should they exist—would be listed on Defendants’ privilege log, which they will provide during the week of January 9, 2023. The time frame would be from January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed.



**Request No. 38:** All Documents regarding any report, research, or analysis by or on behalf of Defendants and/or the State of Florida on whether the Challenged Exclusion might violate the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

**Response:** Defendants object to this request. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. In addition, the request seeks documents from Defendants concerning Defendants' analysis of whether it has complied with federal law. Any such analysis would have been within the purview of the Defendants' General Counsel and is therefore, by its very nature, is subject to the attorney-client privilege and the work product doctrine. Any such documents—should they exist—would be listed on Defendants' privilege log, which they will provide during the week of January 9, 2023. The time frame would be from January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 39:** All Documents regarding any report, research, or analysis by or on behalf of Defendants and/or the State of Florida on whether the Challenged Exclusion might violate any state or federal anti-discrimination laws.

**Response:** Defendants object to this request. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022. In addition, the request seeks documents from Defendants concerning Defendants' analysis of whether it has complied with federal law. Any such analysis would have been within the purview of the Defendants' General Counsel and is therefore, by its very nature, is subject to the attorney-client privilege and the work product doctrine. Any such documents—should they exist—would be listed on Defendants' privilege log, which they will provide during the week of January 9, 2023. The time frame would be from January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 40:** All Documents demonstrating the medical efficacy of the treatments identified in the Challenged Exclusion including any analysis, research, interviews, studies or other materials that Defendants reviewed or relied upon before implementing the Challenged Exclusion.

**Response:** Please refer to the response to Request No. 6. This will be further supplemented with Defendants' expert disclosures, which are due consistent with the Court's scheduling order.

**Request No. 41:** All Documents related to the planning, coordination, and content of the July 8 Hearing.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 42:** All Documents related to attendance, participation in and/or public comments regarding the Proposed Rule with, or regarding, the Christian Family Coalition, the Florida Citizens Alliance, Warriors of Faith, Protect our Children Project, and individuals Chloe Cole, Sophia Galvin, and Anthony Verdugo.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 43:** All Documents related to the creation, purpose, and/or distribution of materials reflecting the “Let Kids Be Kids” slogan and graphics. (Examples attached hereto as Exhibit 3.)

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that the materials were published in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs’ complaint was filed.

**Request No. 44:** All Documents reflecting approval or denial of coverage for any of the treatments excluded by the Challenged Exclusion for any Florida Medicaid recipient since August 21, 2022.

**Response:** Defendants object to this request. The requested documents may be subject to prohibitions on disclosing medical information.

Defendants will produce non-privileged responsive documents on January 6, 2023.

**Request No. 45:** All Documents reflecting payment or non-payment for any of the treatments excluded by the Challenged Exclusion for any Florida Medicaid recipient since August 21, 2022.

**Response:** Defendants object to this request. The requested documents may be subject to prohibitions on disclosing medical information.

Defendants will produce non-privileged responsive documents on January 6, 2023.



**Request No. 46:** All Documents relating to, referencing, or identifying Plaintiff(s).

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed. Defendants also note that Defendants gave Plaintiffs their Medicaid files during the preliminary injunction phase of this litigation.

**Request No. 47:** All Documents reviewed, considered, or relied upon by expert witnesses retained by Defendants or witness(es)/Person(s) who provided a declaration on Defendants' behalf in connection with this action.

**Response:** Defendants object to this request. The phrase “[a]ll Documents reviewed, considered, or relied upon” is overly broad. The documents used to formulate expert opinions were previously disclosed to Plaintiffs as part of the reports. *See* ECF No. 49. The experts were also provided the GAPMS Memo, which itself references many studies and scientific papers that are equally accessible to Plaintiffs, and the materials Plaintiffs provided with their motion for preliminary injunctions. There are no documents responsive to the lay witnesses who provided declarations on Defendants' behalf.

**Request No. 48:** All Documents relating to any remuneration or compensation for any expert witness retained by Defendants or any witness/Person who provided a declaration on Defendants' behalf in connection with this action including, without limitation, Documents evidencing the payment or reimbursement of any expenses.

**Response:** Defendants will produce responsive documents on January 6, 2023. For experts, Defendants object to this request to the extent it seeks information beyond that required by Rule 26(a)(2) since the inception of this lawsuit. For lay declarants, Defendants did not provide remuneration or compensation for their testimony.

**Request No. 49:** All Documents used to prepare or educate a witness providing a declaration on Defendants' behalf in connection with this action.

**Response:** Please refer to the response for request 47.

**Request No. 50:** All drafts of non-expert witness declarations prepared by Defendants in connection with this action.

**Response:** Defendants will produce all responsive documents on January 6, 2023.

**Request No. 51:** All Communications between Defendants and any witness who has submitted a declaration in connection with this action.

**Response:** Defendants object to this request. The requested documents, by their very nature, are subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

That said, Defendants will produce non-privileged responsive documents consistent with the response to Request No. 48 on January 6, 2023.

**Request No. 52:** All Communications between Defendants and any of the individuals identified in Defendants' Initial Disclosures as individuals likely to have discoverable information supporting Defendants' Claims or Defenses.

**Response:** Defendants object to this request. The requested documents, by their very nature, are subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce non-privileged responsive documents on January 6, 2023. The time period is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 53:** All Documents that Defendants may identify or have identified in their Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(ii).

**Response:** Defendants will produce responsive documents on January 6, 2023.



**Request No. 54:** All Documents which Defendants considered, relied upon, or intend to rely upon, in support of their admissions and/or denials of any of the allegations contained in the Complaint.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 55:** All Documents which Defendants considered, relied upon, or intend to rely upon, in answering each Interrogatory and each Request for Admission in this Action.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine. The time period of the request, between January 1, 2015 to present, is overly broad, in that Rule 59G-1.050(7) was promulgated in 2022.

Defendants will produce all non-privileged responsive documents on January 6, 2023. The time period of these documents is between January 1, 2022 to September 7, 2022, the date Plaintiffs' complaint was filed.

**Request No. 56:** To the extent not requested above, all Documents that Defendants may rely upon to support its defenses against Plaintiffs' claims in this Action.

**Response:** Defendants object to this request. The requested documents may be subject to the attorney-client privilege and the work product doctrine.

Defendants will produce all non-privileged responsive documents on January 6, 2023. Expert disclosures will be produced in accordance with the court's scheduling order in this case.

**Request No. 57:** All Documents you have received from any source in response to any subpoenas you have propounded in this matter.

**Response:** Defendants will produce responsive documents on January 6, 2023 and in accordance with the scheduling order in this case.

**Request No. 58:** To the extent not requested above, all Documents and which Defendants intend to use at trial of, at a hearing in, or at any proceeding that refers to or is related to Plaintiffs' Complaint, either as evidence or to assist in the presentation of evidence.

**Response:** Defendants will produce responsive documents on January 6, 2023.

Dated: January 6, 2023

*As to Objections,*

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 6, 2023, the document was emailed to counsel of record.

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