

Hi everyone,

Please see below, for awareness, an OGC summary of a new lawsuit Texas filed last week challenging CMS's February 17, 2023 CMCS Informational Bulletin. I am talking with OGC this week. As soon as I have more information to share on next steps, I will reach back out to the team.

Thanks, Rory

From: Mannchen, Garrett (HHS/OGC) <Garrett.Mannchen@hhs.gov>

Sent: Sunday, April 9, 2023 11:08 AM

To: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Cc: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Lyons, Susan (HHS/OGC) <Susan.Lyons@HHS.GOV>

Subject:

Good morning Rory,

(b)(5)



Best,

Message

From:	Howe, Rory (CMS/CMCS) (b)(6)		
	(b)(6)		
Sent:	['] 4/10/2023 8:56:30 PM	/	
To:	Vogel, Jeremy (HHS/OGC) [Jeremy.Vogel@hhs.gov]; Mannchen, Garrett (HHS/O	GC) (b)(6)	
	(b)(6)		
CC:	Campbell, Matthew (HHS/OGC) [Matthew.Campbell@hhs.gov]; Kaiser, Bridgette	(HHS/OGC)	
	(b)(6)		
Subject:	RF: RF:		

I could also do 11 tomorrow or 1PM on Wednesday if that would work for others.

From: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>

Sent: Monday, April 10, 2023 4:48 PM

To: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>; Howe, Rory (CMS/CMCS)

<Rory.Howe@cms.hhs.gov>

Cc: Campbell, Matthew (HHS/OGC) <Matthew.Campbell@hhs.gov>; Kaiser, Bridgette (HHS/OGC)

<Bridgette.Kaiser@hhs.gov>

Subject: Re:

Unfortunately I am not available tomorrow afternoon I could be available in the morning, or later in the week.

Jeremy Vogel (he/him) Attorney, DHHS/OGC/CMSD (202) 205-8778 | Jeremy.Vogel@hhs.gov

From: Mannchen, Garrett (HHS/OGC) < Garrett. Mannchen@hhs.gov>

Sent: Monday, April 10, 2023 4:46:12 PM

To: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Cc: Campbell, Matthew (HHS/OGC) < Matthew.Campbell@hhs.gov>; Vogel, Jeremy (HHS/OGC)

<Jeremy.Vogel@hhs.gov>; Kaiser, Bridgette (HHS/OGC) <Bridgette.Kaiser@hhs.gov>

Subject: RE:

Adding Matthew Campbell to this email. Matthew has just joined our office and has been assigned as the lead CMSD attorney in this litigation. I'll still be available to consult and help out while Matt is getting up to speed.

Matt—Rory is the Director of the Financial Management Group in CMS and has been working closely with Jeremy and me (among others in our office) on this hold harmless issue.

Jeremy & Matt—are you both available tomorrow at 2 or 2:30 to meet with Rory to discuss the case?

From: Howe, Rory (CMS/CMCS) < Rory.Howe@cms.hhs.gov >

Sent: Monday, April 10, 2023 3:49 PM

To: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>

Subject: RE:

Hi, Garrett. Tomorrow afternoon works great. Would 2 or 2:30 work?

From: Mannchen, Garrett (HHS/OGC) < Garrett. Mannchen@hhs.gov>

Sent: Monday, April 10, 2023 1:24 PM

To: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Subject: Re:

Is tomorrow afternoon ok with you, or do you need to meet with us before then?

Garrett

From: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Sent: Sunday, April 9, 2023 1:39:37 PM

To: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>

Subject: Re:

(b)(5)

Rory

From: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>

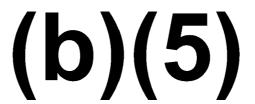
Sent: Sunday, April 9, 2023 11:07:41 AM

To: Howe, Rory (CMS/CMCS) < <u>Rory.Howe@cms.hhs.gov</u>>

Cc: Vogel, Jeremy (HHS/OGC) < Jeremy.Vogel@hhs.gov>; Lyons, Susan (HHS/OGC) < Susan.Lyons@HHS.GOV>

Subject:

Good morning Rory,

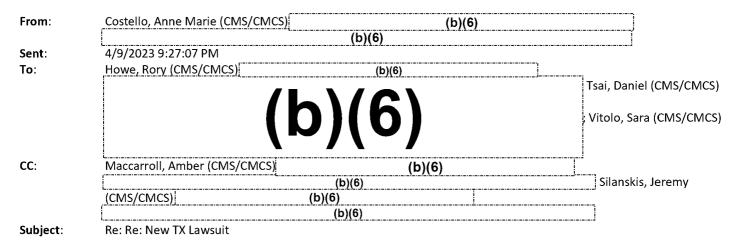


Best,

Message	
From:	Howe Part (CMS/CMCS) (b)(6)
TIOIII.	Howe, Rory (CMS/CMCS) (b)(6)
Sent:	1/25/2023 5:03:29 PM
То:	Bonelli, Anna (CMS/CMCS (b)(6)
Subject:	(b)(6) RE: RE (b)(5) questions
Subject.	NE. NE (D)(3)
Thanks!	
From: Bone	elli, Anna (CMS/CMCS) <anna.bonelli@cms.hhs.gov></anna.bonelli@cms.hhs.gov>
Sent: Wedr	nesday, January 25, 2023 12:02 PM
	Rory (CMS/CMCS) <rory.howe@cms.hhs.gov></rory.howe@cms.hhs.gov>
Subject: RE	(b)(5) questions
It's in this f	older:
	(b)(5)
You can't m	niss it.
From: How	e, Rory (CMS/CMCS) < <u>Rory.Howe@cms.hhs.gov</u> >
	nesday, January 25, 2023 12:01 PM
To: Bonelli,	Anna (CMS/CMCS) < <u>Anna.Bonelli@cms.hhs.gov</u> >
Subject: RE	(b)(5) questions
Sounds god	od. Can you share the link to the latest version of the NPRM? Thanks.
Journa's god	d. Carryod share the link to the latest version of the Williams.
From: Bone	elli, Anna (CMS/CMCS) <anna.bonelli@cms.hhs.gov></anna.bonelli@cms.hhs.gov>
	nesday, January 25, 2023 12:00 PM
	Rory (CMS/CMCS) < <u>Rory.Howe@cms.hhs.gov</u> >
Subject: FV	
	parameter and the state of the
Looks like t	his is late breaking: focus of call today is likely to be or (b)(5)
F	(CMC(CMCC) de C. L. 1.0. L. L
-	er, Laura (CMS/CMCS) < <u>Laura.Snyder1@cms.hhs.gov</u> >
	nesday, January 25, 2023 11:51 AM
Fubicate FV	Anna (CMS/CMCS) < <u>Anna.Bonelli@cms.hhs.gov</u> > V (b)(5) questions
Subject: FV	V (b)(5) questions
FYI – ahead	of today's call in case you are joining.
From: Gilos	s, John (CMS/CMCS) < <u>John.Giles1@cms.hhs.gov</u> >
	nesday, January 25, 2023 11:40 AM
	Anna R. EOP/OMB (b)(6); Burch Mack, Rebecca (CMS/CMCS)
	BurchMack@cms.hhs.gov>; Snyder, Laura (CMS/CMCS) < Laura.Snyder1@cms.hhs.gov>
	, Vanessa J. EOP/OMB (b)(6) ; Giles, John (CMS/CMCS)
3 1	1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1

Subject: RE:	(b)(5)	e, Amy (CMS/CMCS) < <u>Amy.Gentile@cms.hhs.gov</u> >
	10/10/	
Hi Anna –		
DMCP and OGC ha	ve reviewed these	e questions, and below are our responses:
CMS Response to	(b)(5) Questions:	
		(b)(5)
		INNUI
CMS Response to	b)(5) Questions:	
		/
		(b)(5)
Happy to talk at no	oon. Thank you!	
,	•	
John Giles, MPA		
Director, Division		
Disabled and Elder		
Center for Medical		
Centers for Medica Department of Hea		
Phone: 240-904-23		rivices
E-mail: John.Giles1		
2a <u>20111.011033</u>	Le onio.inio.gov	
From: Arroyo, Ann	a R FOP/OMR	(b)(6)
Sent: Tuesday, Jan		
		illes1@cms.hhs.gov>; Burch Mack, Rebecca (CMS/CMCS)
		>: Snyder, Laura (CMS/CMCS) <laura.snyder1@cms.hhs.gov></laura.snyder1@cms.hhs.gov>
Cc: Duguay, Vanes		(b)(6)
	(b)(5)	questions
	-	
Hi John, Rebecca, a	and Laura —	

Vanessa and I have been thinking about below) for your team and CMCS OGC. Would it be would be great if we could have responses by ton that may not be possible given timing. Please let	e possible for you to consul norrow at noon so we can (t with counsel to answer these questions? It discuss during the call, but we understand
Thanks!		
-Anna		
(b)(5)		
	5)(5)	
(b)(5)		
	b)(5	



Thank you for flagging. Would be great to talk after you meet with OGC.

Get Outlook for iOS

From: Howe, Rory (CMS/CMCS) <Rory.Howe@cms.hhs.gov>

Sent: Sunday, April 9, 2023 1:47:16 PM

To: Tsai, Daniel (CMS/CMCS) <Daniel.Tsai@cms.hhs.gov>; Costello, Anne Marie (CMS/CMCS) <AnneMarie.Costello@cms.hhs.gov>; Vitolo, Sara (CMS/CMCS) <Sara.Vitolo@cms.hhs.gov>

Cc: Maccarroll, Amber (CMS/CMCS) < Amber. MacCarroll@cms. hhs.gov>; Silanskis, Jeremy (CMS/CMCS)

<Jeremy.Silanskis@cms.hhs.gov>
Subject: Fwd: New TX Lawsuit

I hope you all are having a good weekend. Sorry for sending on a holiday weekend, but sharing the attached lawsuit (and OGC's summary below) recently filed by TX relating to our 2008 hold harmless rule and this year's CIB. It is not surprising to see, but I thought it was likely that Texas wait until after the upcoming OIG audit release/possible complaint enforcement action. I plan to meet with OGC this week to discuss next steps, then will provide an update/options. Please let me know if you need anything in the interim.

Rory

From: Mannchen, Garrett (HHS/OGC) < Garrett. Mannchen@hhs.gov>

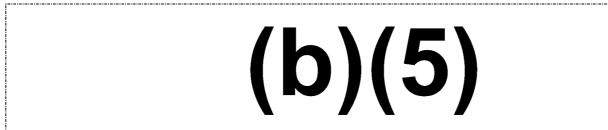
Sent: Sunday, April 9, 2023 11:08 AM

To: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Cc: Vogel, Jeremy (HHS/OGC) <Jeremy.Vogel@hhs.gov>; Lyons, Susan (HHS/OGC) <Susan.Lyons@HHS.GOV>

Subject:

Good morning Rory,



(b)(5)

Best,

From:	Burch Mack, Rebecca (CMS/CMCS	5)	(b)(6)	
		(b)(6)		
Sent:	1/25/2023 1:54:14 PM			
To:	Giles, John (CMS/CMCS)	(b)(6)		,
		(b)(6)		Gentile, Amy (CMS/CMCS)
		(b)(6)		
Subject:	RE: RE! (b)(6)	questions		

Minor edits frankly just to quote the NPRM language and also just put in in black. I also slightly framed the intro as I worried that Anna may be your initial write-up inferred the responses were from OGC directly.

Hi Anna -

DMCP and OGC have reviewed these questions, and below are our responses:

(b)(5) Questions:

(b) (5) Questions:

CMS Response to (b)(5) Questions:

(b)(5)

Rebecca M. Burch Mack, M.P.P.

Technical Director - Medicaid Managed Care

Division of Managed Care Policy | Disabled and Elderly Health Programs Group | Centers for Medicare & Medicaid Services Mailstop S2-14-26, 7500 Security Blvd., Baltimore, MD 21244

☎ (303) 844-7355| ⊠: <u>rebecca.burchmack@cms.hhs.gov</u>

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to persons not authorized to receive the information. Unauthorized disclosure may result in prosecution to the full extent of the law."

From: Giles, John (CMS/CMCS) < John. Giles 1@cms.hhs.gov>

Sent: Wednesday, January 25, 2023 6:49 AM

To: Burch Mack, Rebecca (CMS/CMCS) <Rebecca.BurchMack@cms.hhs.gov>; Gentile, Amy (CMS/CMCS)

<Amy.Gentile@cms.hhs.gov>

Cc: Giles, John (CMS/CMCS) < John.Giles1@cms.hhs.gov>
Subject: RE: (b)(5) questions

Hi Anna -

OGC was able to quickly review your questions. Here are the responses:

Or (b)(5)

(b)(5)

Or (b)(5)

(b)(5)

John Giles, MPA
Director, Division of Managed Care Policy
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
Department of Health and Human Services

Phone: 240-904-2341

E-mail: John.Giles1@cms.hhs.gov

From: Arroyo, Anna R. EOP/OMB (b)(6)

Sent: Tuesday, January 24, 2023 1:38 PM

To: Giles, John (CMS/CMCS) < John.Giles1@cms.hhs.gov>; Burch Mack, Rebecca (CMS/CMCS)

< <u>Rebecca.BurchMack@cms.hhs.gov</u> >; Snyder, Laura (CMS/CMCS) < <u>Laura.Snyder1@cms.hhs.gov</u> > Cc: Duguay, Vanessa J. EOP/OMB (b)(6) Subject: (b)(5) questions
Hi John, Rebecca, and Laura—
Vanessa and I have been thinking abou (b)(5) We drafted a few questions (see below) for your team and CMCS OGC. Would it be possible for you to consult with counsel to answer these questions? It would be great if we could have responses by tomorrow at noon so we can discuss during the call, but we understand that may not be possible given timing. Please let us know if we can clarify anything.
Thanks!
-Anna
(b)(5)
(b)(5)
(b)(5)
(b)(5)

From:	Howe, Rory (CMS/CMCS) (b)(6)	
Sent:	(b)(6) 4/11/2023 5:19:24 PM	
To:	Howe, Rory (CMS/CMCS) (b)(6)	
	(b)(6)	; Campbell, Matthew
	(HHS/OGC) [Matthew.Campbell@hhs.gov]; Maccarroll, Amber (CMS/	CMCS) (b)(6)
	(b)(6)	**************************************
	Silanskis, Jeremy D. (CMS/CMCS) (Jeremy.Silanskis@cms.hhs.gov) (b)(6); Fan, Kristin	(b)(6) (CMS/CMCS) (b)(6)
	(b)(6)	(B)(0)
CC:	Kaiser, Bridgette (HHS/OGC) (b)(6)	
	(b)(6)	; Vogel, Jeremy
	(HHS/OGC) (b)(6)	; Mannchen, Garrett
	(b)(6) (HHS/OGC) (b)(6)	, Mainchen, Garrett
	(b)(6)	
Subject:	Texas v. Brooks-LaSure, No. 6:23-cv-161	
Location:	https://cms.zoomgov.com (b)(6)	
Start:	4/12/2023 5:00:00 PM	
End:	4/12/2023 5:45:00 PM	
Show Time As:	Busy	
Required Attendees:	Campbell, Matthew (HHS/OGC); Maccarroll, Amber (CMS/CMCS); Sila (Jeremy.Silanskis@cms.hhs.gov); Fan, Kristin (CMS/CMCS)	nskis, Jeremy D. (CMS/CMCS)
Optional	Kaiser, Bridgette (HHS/OGC); Vogel, Jeremy (HHS/OGC); Mannchen, G	arrett (HHS/OGC)
Attendees:	Traisery Bridgette (Triis) & doy, Toger, Sereiny (Triis) & doy, Trianillen, C	
Rory Howe is	inviting you to a scheduled ZoomGov meeting.	
Join ZoomGov	, Mooting	
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	8864 US Toll-free	
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From: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>

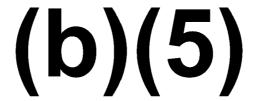
Sent: Sunday, April 9, 2023 11:07:41 AM

To: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Cc: Vogel, Jeremy (HHS/OGC) <<u>Jeremy.Vogel@hhs.gov</u>>; Lyons, Susan (HHS/OGC) <<u>Susan.Lyons@HHS.GOV</u>>

Subject:

Good morning Rory,



Best,

Sent: Γο:	4/11/2023 4:54:31 PM		
	Howe, Rory (CMS/CMCS)	(b)(6)	
	(IIIIC/OCC) [0.4-+	(b)(6)	Campbell, Matthew
	(HHS/OGC) [Matthew.Campbe	ll@hhs.gov]; Maccarroll, Amber (CMS/CM (b)(6)	(b)(6)
	Silanskis, Jeremy D. (CMS/CMC	S) (Jeremy.Silanskis@cms.hhs.gov)	(b)(6)
	(b)(6)		VIS/CMCS) (b)(6)
cc.	Kaiana Duidaatta (UUC/OCC)	(b)(6)	
CC:	Kaiser, Bridgette (HHS/OGC)	(b)(6)	Vogel, Jeremy
	(HHS/OGC)	(b)(6)	, vege,, serem,
		(b)(6)	Mannchen, Garrett
	(HHS/OGC)	(b)(6)	<u>-</u>
	<u> </u>	(b)(6)	
Subject:	Texas v. Brooks-LaSure, No. 6:2	23-cv-161	
Ctaut.	4/12/2023 5:00:00 PM		
Start: End:	4/12/2023 5:00:00 PM 4/12/2023 6:00:00 PM		
Show Time As:			
Sent: Sunday, To: Howe, Ro Cc: Vogel, Jero	hen, Garrett (HHS/OGC) < <u>Gar</u> , April 9, 2023 11:07:41 AM ry (CMS/CMCS) < <u>Rory.Howe@</u> emy (HHS/OGC) < <u>Jeremy.Vog</u>		:) < <u>Susan.Lyons@HHS.GOV</u> >
Subject:			
Subject: Good morning	g Rory,		

(b)(5)

Best,

From:	Howe, Rory (CMS/CMCS))(6)		
Sent: To:	4/11/2023 5:19:28 PM Campbell, Matthew (HHS/OGC) [Matthey	(b)(6) w.Campbell	@hhs.govl: Maccarroll. Amber (j CMS/CMCS)	
	((b)(6)		; Silanskis, Jeremy D.	
	(CMS/CMCS) (Jeremy.Silanskis@cms.hhs.	s.gov)	(b)(6) ; Fan, Kristin (CMS/CMCS)	(b)(6)	
cc.			(b)(6)	T	
CC:	Kaiser, Bridgette (HHS/OGC)	(b)(6)	(b)(6)	Vogel, Jeremy	
	(HHS/OGC) (b)(6	6)			
	(HHS/OGC) (b)(6	(b)(6) 3)		Mannchen, Garrett	
		(b)(6)			
Subject:	Texas v. Brooks-LaSure, No. 6:23-cv-161				
Location:	https://cms.zoomgov.com		(b)(6)		
Start:	4/12/2023 5:00:00 PM				
End:	4/12/2023 5:45:00 PM				
Show Time As:	Tentative				
Required	Campbell, Matthew (HHS/OGC); Maccarr	roll Amber i	(CMS/CMCS)· Silanskis Jeremy [) (CMS/CMCS)	
Attendees:	(Jeremy.Silanskis@cms.hhs.gov); Fan, Kri	istin (CMS/C	CMCS)		
Optional Attendees:	Kaiser, Bridgette (HHS/OGC); Vogel, Jerer	my (HHS/O	GC); Mannchen, Garrett (HHS/O	GC)	
Attenuees.					
Rory Howe is	inviting you to a scheduled ZoomGov i	meeting.			
Join ZoomGov	Meeting				
	oomgov.com/	(b)(6)			
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Dial by your lo					
	54 5252 US (San Jose) 28 7666 US (New York)				
	3864 US Toll-free				
Meeting ID:	(b)(6)				
Password: (b)(6)					
Find your local number: https://cms.zoomgov.com/u/adK0TicHPm					
Join by SIP					
Password: (k)(6)				
<u>sip</u>	(b)(6)				

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From: Mannchen, Garrett (HHS/OGC) < Garrett.Mannchen@hhs.gov>

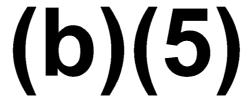
Sent: Sunday, April 9, 2023 11:07:41 AM

To: Howe, Rory (CMS/CMCS) < Rory. Howe@cms.hhs.gov>

Cc: Vogel, Jeremy (HHS/OGC) < Jeremy.Vogel@hhs.gov>; Lyons, Susan (HHS/OGC) < Susan.Lyons@HHS.GOV>

Subject:

Good morning Rory,



Best,