

NORTH CAROLINA COURT OF APPEALS

NORTH CAROLINA PROVIDER OWNED)
PLANS, INC. D/B/A MY HEALTH BY)
HEALTH PROVIDERS,)

Petitioner-Appellant,)

and)

OPTIMA FAMILY CARE OF NORTH)
CAROLINA, INC. AND AETNA BETTER)
HEALTH CARE OF NORTH)
CAROLINA, INC.,)

Petitioner-Intervenor-Appellants,)

v.)

NORTH CAROLINA DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)

Respondent-Appellee,)

and)

UNITEDHEALTHCARE OF NORTH)
CAROLINA, INC., BLUE CROSS AND)
BLUE SHIELD OF NORTH CAROLINA,)
WELLCARE OF NORTH CAROLINA,)
INC., AMERIHEALTH CARITAS)
NORTH CAROLINA, INC., AND)
CAROLINA COMPLETE HEALTH,)
INC.,)

Respondent-Intervenor-Appellees.)

From Wake County

JOINT CONSENT MOTION TO WITHDRAW APPEALS

NOW COME Petitioner-Appellant North Carolina Provider Owned Plans, Inc. d/b/a My Health by Health Providers (“My Health”) and Petitioner-Intervenor-Appellant Aetna Better Health Care of North Carolina, Inc. (“Aetna”), and with the consent of Respondent-Appellee and Respondent-Intervenor-Appellees, move this Court, pursuant to Rule 37(e)(2) of the North Carolina Rules of Appellate Procedure, to dismiss My Health’s and Aetna’s appeals in this matter. In support of this Motion, My Health and Aetna show the Court as follows:

1. In this appeal, My Health challenges the award decisions and underlying procurement related to the implementation of Medicaid Transformation. My Health initially brought a contested case in the Office of Administrative Hearings. The Tribunal issued a Final Decision granting summary judgment in favor of Respondent.

2. My Health filed a Petition for Judicial Review in Wake County Superior Court on 23 September 2020. An order limiting Aetna’s participation in My Health’s Petition for Judicial Review was entered on 22 February 2021. (R pp 453–56). An order affirming the underlying Final Decision that was the subject of the Petition for Judicial Review was entered on 12 April 2021. (R pp 457–64).

3. My Health filed and served written notice of appeal of the 12 April 2021 Order on 22 April 2021. (R pp 469–82). Aetna filed and served written notice of appeal of the 22 February 2021 Order and the 12 April 2021 Order on 30 April 2021. (R pp 483–87).

4. Since My Health and Aetna filed the Notices of Appeal, the parties have fully briefed this appeal, and the appeal is set for oral arguments on 26 January 2022. Additionally, Respondent and Respondent-Intervenors have moved forward with implementing the agency actions at issue. Specifically, Medicaid transformation, which puts Medicaid beneficiaries into managed-care plans, went into effect 1 July 2021.

5. Although My Health still believes in the merits of its appeal and the promise of provider-led managed care, My Health and its North Carolina health system owners have decided that they do not want to disturb the management of care for over 1.6 million North Carolina Medicaid beneficiaries during this global pandemic.

6. In light of My Health's decision, Aetna has also decided to move to withdraw its appeal in this matter.

7. My Health's and Aetna's counsel previewed this Motion for counsel of the other parties earlier today. Respondent-Appellee and Respondent-Intervenor-Appellees consent to the relief requested in this Motion. Petitioner-Intervenor-Appellant Optima Family Care of North Carolina, Inc. does not oppose the relief requested in this Motion.

8. Each party shall bear its own costs.

WHEREFORE, My Health and Aetna respectfully request that this Court:

1. Dismiss My Health's and Aetna's appeals in this matter; and
2. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 19th day of January 2022.

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Pursuant to Appellate Rule 33(b), I certify that all attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he filed electronically with the North Carolina Court of Appeals pursuant to Rule 26(a)(2) of the North Carolina Rules of Appellate Procedure and served a copy of the foregoing motion on all counsel of record by electronic mail as addressed below:

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This the 19th day of January 2022.

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