

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CHRISTOPHER FAIN, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 3:20-cv-00740
JUDGE CHAMBERS

WILLIAM CROUCH, et al.,

Defendants.

STIPULATION OF DISMISSAL

Plaintiffs Zachary Martell and Brian McNemar (“Plaintiffs”), by counsel, and Defendant The Health Plan of West Virginia, Inc. (“The Health Plan”), by counsel, pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, STIPULATE and AGREE

1. The Health Plan and Plaintiffs have reached a settlement to compromise all claims that exist between them.

2. The Health Plan has agreed to remove the Exclusion (as defined in Plaintiffs’ operative Complaint and settlement agreement) for PEIA Plans that renew on or after January 1, 2022.

3. Given that Plaintiff Zachary Martell’s and Brian McNemar’s PEIA plans may not renew until July of 2022, The Health Plan has agreed, starting January 1, 2022, not to deny Plaintiff Zachary Martell and Brian McNemar coverage for treatment based on the Exclusion.

4. For the period of January 1, 2022, until each PEIA Plan’s renewal, the Exclusion will be administratively overridden for PEIA members.

5. All claims asserted by Plaintiffs against The Health Plan, including, but not limited to, monetary damages and attorney fees, are dismissed with prejudice. Plaintiffs' claims against Defendant Haught also are dismissed with prejudice.

6. Plaintiffs and The Health Plan request that the Court direct the Clerk of the Court to remove Plaintiff Zachary Martell, Plaintiff Brian McNemar, and The Health Plan from the style of the case. Further, the remaining litigants in this matter need not include The Health Plan on any further documents served in this civil action, including pleadings or discovery.

Counsel for Plaintiffs Zachary Martell
and Brian McNemar:

/s/ Walt Auvil

Walt Auvil (WVSB #190)
Anna P. Prakash, Visiting Attorney
Nicole J. Schladt, Visiting Attorney
Avatara Smith-Carrington, Visiting Attorney
Tara L. Borelli, Visiting Attorney
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Nora Huppert, Visiting Attorney
Sasha J. Buchert, Visiting Attorney

Approved without waiving DHHR's
defenses:

/s/ Lou Ann S. Cyrus

Lou Ann S. Cyrus (WVSB #6558)
Roberta F. Green (WVSB #6598)
Caleb B. David (WVSB #12732)
Kimberly M. Bandy (WVSB #10081)

Counsel for Defendant The Health Plan of
West Virginia, Inc.:

/s/ Aaron C. Boone

Stuart A. McMillan (WVSB #6352)
Aaron C. Boone (WVSB #9479)

Approved without waiving PEIA's defenses:

/s/ Eric D. Salyers

Perry W. Oxley (WVSB #7211)
David E. Rich (WVSB #9141)
Eric D. Salyers (WVSB #13042)
Christopher K. Weed (WVSB #13868)