

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

HIGHMARK WEST VIRGINIA INC.,)

Plaintiff,)

v.)

Civil Action No. 18-C-271

MEDTEST LABORATORIES LLC,)

BRICE AND/OR BILLY TAYLOR,)

MUHAMMAD AMJAD, PH.D.,)

MICHAEL CHEN, PH.D., JAMES)

TAYLOR, and VITAS LABORATORY, LLC)

Defendant.)

MEDTEST LABORATORIES LLC)

Counterclaim-Plaintiff,)

v.)

Highmark West Virginia Inc.,)

Blue Cross and Blue Shield of Alabama,)

Anthem, Inc.,)

Health Care Service Corporation, A Mutual)

Legal Reserve Company,)

Cambia Health Solutions, Inc.,)

CareFirst, Inc.,)

Premera Blue Cross,)

Blue Cross and Blue Shield of Arizona, Inc.,)

USABLE Mutual Insurance Company, d/b/a)

Arkansas Blue Cross and Blue Shield,)

Blue Cross of California d/b/a Anthem Blue)

Cross,)

California Physicians' Service, Inc. d/b/a Blue)

Shield of California,)

Rocky Mountain Hospital and Medical)

Service, Inc., d/b/a Anthem Blue Cross and)

Blue Shield,)

Anthem Blue Cross and Blue Shield,)

Anthem Health Plans, Inc. d/b/a Anthem Blue)

Cross and Blue Shield of Connecticut,)

Highmark Inc,)

FILED IN OFFICE
APR - 8 2019
CAROLE JONES
CLERK CIRCUIT COURT

Highmark BCBSD Inc. d/b/a Highmark Blue)
Cross Blue Shield Delaware,)
Group Hospitalization and Medical)
Services, Inc. d/b/a CareFirst BlueCross)
BlueShield,)
Blue Cross and Blue Shield of Florida, Inc.,)
Blue Cross and Blue Shield of Georgia, Inc.,)
Blue Cross of Idaho Health Service, Inc.,)
Regence BlueShield of Idaho, Inc.,)
Blue Cross and Blue Shield of Illinois,)
Anthem Insurance Companies, Inc. d/b/a)
Anthem Blue Cross and Blue Shield of Indiana,)
Wellmark, Inc. d/b/a/ Wellmark Blue Cross)
and Blue Shield of Iowa,)
Blue Cross and Blue Shield of Kansas, Inc.,)
Anthem Health Plans of Kentucky, Inc.)
d/b/a Anthem Blue Cross and Blue Shield)
of Kentucky,)
Louisiana Health Service and Indemnity)
Company, PAC d/b/a/ Blue Cross and Blue)
Shield of Louisiana,)
Anthem Health Plans of Maine, Inc.,)
d/b/a Anthem Blue Cross and Blue Shield)
of Maine,)
CareFirst of Maryland, Inc. d/b/a CareFirst)
BlueCross BlueShield,)
Blue Cross and Blue Shield of Massachusetts,)
Inc.,)
Blue Cross and Blue Shield of Michigan,)
BCBSM, Inc. d/b/a/ Blue Cross and Blue)
Shield of Minnesota,)
Blue Cross & Blue Shield of Mississippi, A)
Mutual Insurance Company,)
HMO Missouri, Inc. d/b/a Anthem Blue)
Cross and Blue Shield of Missouri,)
Blue Cross and Blue Shield of Kansas City,)
Caring for Montanans, Inc. f/k/a)
Blue Cross Blue Shield of Montana, Inc.,)
Blue Cross and Blue Shield of Nebraska, Inc,)
Anthem Blue Cross and Blue Shield of Nevada,)
Anthem Health Plans of New Hampshire, Inc.)
d/b/a Anthem Blue Cross and Blue Shield of)
New Hampshire,)

Horizon Healthcare Services, Inc. d/b/a)
Horizon Blue Cross Blue Shield of)
New Jersey,)
Blue Cross and Blue Shield of New Mexico)
Insurance Company,)
HealthNow New York Inc.,)
Blue Shield of Northeastern New York, Inc.,)
Blue Cross and Blue Shield of Western)
New York, Inc.,)
Empire HealthChoice Assurance, Inc. d/b/a)
Empire BlueCross BlueShield,)
Excellus Health Plan, Inc. d/b/a Excellus)
BlueCross BlueShield,)
Blue Cross and Blue Shield of North Carolina,)
Noridian Mutual Insurance Company d/b/a)
Blue Cross Blue Shield of North Dakota,)
Community Insurance Company d/b/a Anthem)
Blue Cross and Blue Shield of Ohio,)
Blue Cross and Blue Shield of Oklahoma,)
Regence BlueCross BlueShield of Oregon,)
Capital Blue Cross,)
Independence Hospital Indemnity Plan, Inc.,)
Triple-S Salud, Inc.,)
Blue Cross & Blue Shield of Rhode Island,)
BlueCross BlueShield of South Carolina Inc.,)
Wellmark of South Dakota, Inc. d/b/a Wellmark)
Blue Cross and Blue Shield of South Dakota,)
BlueCross BlueShield of Tennessee, Inc.,)
Blue Cross and Blue Shield of Texas,)
Regence BlueCross BlueShield of Utah,)
Blue Cross and Blue Shield of Vermont,)
Anthem Health Plans of Virginia, Inc. d/b/a)
Anthem Blue Cross and Blue Shield of)
Virginia, Inc.,)
Regence BlueShield,)
Blue Cross Blue Shield of Wisconsin d/b/a)
Anthem Blue Cross and Blue Shield of)
Wisconsin,)
Blue Cross & Blue Shield of Wyoming,)
)
Counterclaim and Third-Party Defendants.)

ANSWER ON BEHALF OF MEDTEST LABORATORIES, LLC, BILLY TAYLOR, BRICE TAYLOR, JAMES TAYLOR, VITAS LABORATORIES AND MICHAEL CHEN, PH.D., COUNTERCLAIMS AND THIRD-PARTY COMPLAINT

MedTest Laboratories, LLC (hereinafter “MedTest”), Brice Taylor, Billy Taylor, James Taylor, Michael Chen, Ph.D. and Vitas Laboratory, LLC (“Vitas”) (hereinafter, collectively, the “MedTest Defendants”), by and through their undersigned attorneys, hereby answer and respond to the Complaint filed by Highmark West Virginia, Inc. (hereinafter “Highmark WV”). MedTest, by and through its undersigned attorneys, also asserts counterclaims against Highmark WV as well as Blue Cross and Blue Shield of Alabama, Anthem, Inc., Health Care Service Corporation, A Mutual Legal Reserve Company, Cambia Health Solutions, Inc., CareFirst, Inc., Premiera Blue Cross, Blue Cross and Blue Shield of Arizona, Inc., USABLE Mutual Insurance Company d/b/a Arkansas Blue Cross and Blue Shield, Blue Cross of California d/b/a Anthem Blue Cross, California Physicians’ Service, Inc. d/b/a Blue Shield of California, Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield, Anthem Blue Cross and Blue Shield, Anthem Health Plans, Inc. d/b/a Anthem Blue Cross and Blue Shield of Connecticut, Highmark Inc, Highmark BCBSD, Inc. d/b/a Highmark Blue Cross and Blue Shield Delaware, Group Hospitalization and Medical Services, Inc. d/b/a CareFirst BlueCross BlueShield, Blue Cross and Blue Shield of Florida, Inc., Blue Cross and Blue Shield of Georgia, Inc., Blue Cross of Idaho Health Service, Inc., Regence BlueShield of Idaho, Inc., Blue Cross and Blue Shield of Illinois, Anthem Insurance Companies, Inc. d/b/a Anthem Blue Cross and Blue Shield of Indiana, Wellmark, Inc. d/b/a/ Wellmark Blue Cross and Blue Shield of Iowa, Blue Cross and Blue Shield of Kansas, Inc., Anthem Health Plans of Kentucky, Inc. d/b/a Anthem Blue Cross and Blue Shield of Kentucky, Louisiana Health Service and Indemnity Company, PAC d/b/a/ Blue Cross and Blue Shield of Louisiana, Anthem Health Plans of Maine, Inc. d/b/a Anthem Blue Cross and Blue Shield of Maine, CareFirst of Maryland, Inc. d/b/a CareFirst BlueCross BlueShield, Blue Cross and Blue

Shield of Massachusetts, Inc., Blue Cross and Blue Shield of Michigan, BCBSM, Inc. d/b/a/ Blue Cross and Blue Shield of Minnesota, Blue Cross & Blue Shield of Mississippi, A Mutual Insurance Company, HMO Missouri, Inc. d/b/a Anthem Blue Cross and Blue Shield of Missouri, Blue Cross and Blue Shield of Kansas City, Caring for Montanans, Inc. d/b/a Blue Cross and Blue Shield of Montana, Inc., Blue Cross and Blue Shield of Nebraska, Inc, Anthem Blue Cross and Blue Shield of Nevada, Anthem Health Plans of New Hampshire, Inc. d/b/a Anthem Blue Cross and Blue Shield of New Hampshire, Horizon Health Care Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey, Blue Cross and Blue Shield of New Mexico Insurance Company, HealthNow New York Inc., Blue Shield of Northeastern New York, Inc., Blue Cross and Blue Shield of Western New York, Inc., Empire HealthChoice Assurance, Inc. d/b/a Empire Blue Cross Blue Shield, Excellus Health Plan, Inc. d/b/a Excellus BlueCross BlueShield, Blue Cross and Blue Shield of North Carolina, Noridian Mutual Insurance Company d/b/a Blue Cross Blue Shield of North Dakota, Community Insurance Company d/b/a Anthem Blue Cross and Blue Shield of Ohio, Blue Cross and Blue Shield of Oklahoma, Regence BlueCross BlueShield of Oregon, Capital Blue Cross, Independence Hospital Indemnity Plan, Inc, Triple-S Salud, Inc., Blue Cross & Blue Shield of Rhode Island, BlueCross BlueShield of South Carolina, Inc., Wellmark of South Dakota, Inc. d/b/a Wellmark Blue Cross and Blue Shield of South Dakota, BlueCross BlueShield of Tennessee, Inc., Blue Cross and Blue Shield of Texas, Regence BlueCross BlueShield of Utah, Blue Cross and Blue Shield of Vermont, Anthem Health Plans of Virginia, Inc. d/b/a Anthem Blue Cross and

Blue Shield of Virginia, Inc., Regence BlueShield, Blue Cross Blue Shield of Wisconsin d/b/a Anthem Blue Cross and Blue Shield of Wisconsin, Blue Cross & Blue Shield of Wyoming.

ANSWER

In answer to Highmark WV's Complaint, the MedTest Defendants state as follows:

FIRST DEFENSE

Highmark WV's complaint should be dismissed pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure for failure to state a claim or cause of action upon which relief may be granted.

SECOND DEFENSE

In response to the specific allegations of Highmark WV's Complaint, the MedTest Defendants state as follows:

ANSWER TO INTRODUCTION

1. The MedTest Defendants admit the allegations contained in Paragraph 1 of the Complaint to the extent that it sets forth in generalities the nature of the claims alleged against Defendants. However, the MedTest Defendants specifically deny that they engaged in any conduct or omissions that would give rise to the claims alleged against them. The MedTest Defendants further specifically deny that they made false, misleading, or fraudulent claims for insurance benefits to Highmark WV. The MedTest Defendants admit that they billed Highmark WV for independent laboratory services that they did not perform but specifically deny that they made false, misleading, or fraudulent claims for insurance benefits to Highmark WV in doing so as they were expressly permitted to refer laboratory services to their affiliates and other laboratories they supervised under the terms of their Network Agreement with Highmark WV. Defendant Vitas Laboratory LLC ("Vitas") further specifically denies that it was a co-conspirator in any billing

scheme based on the submission of false, misleading, or fraudulent claims for insurance benefits to Highmark WV.

2. The MedTest Defendants admit the allegations contained in Paragraph 2 of the Complaint to the extent that it sets forth in generalities the nature of the claims alleged against Defendants. However, the MedTest Defendants specifically deny that they engaged in any conduct or omissions that would give rise to the claims alleged against them. The MedTest Defendants further specifically deny that they engaged in any conduct or omissions that would give rise to claims against them for fraudulent misrepresentation and inducement, breach of contract, unjust enrichment, civil conspiracy, or negligence. The MedTest Defendants further specifically deny that Highmark WV is entitled to veil piercing. The MedTest Defendants further specifically deny that Highmark WV is entitled to a money judgment against them in any amount.

ANSWER TO PARTIES

3. The MedTest Defendants admit the allegations contained in Paragraph 3 of the Complaint to the extent that based on information and belief Highmark is a nonprofit corporation with a principal place of business in Parkersburg, Wood County, West Virginia and is in the business of providing health care benefits. The MedTest Defendants state that they are without sufficient information to admit or deny the remaining allegations related to Highmark WV's contractual relationships with other entities and the rights conferred upon Highmark WV pursuant to those contractual terms.

4. The MedTest Defendants admit the allegations contained in Paragraph 4 of the Complaint to the extent that MedTest Laboratories, LLC was originally formed as a West Virginia Limited Liability Company with its principal office address in Hurricane, Putnam County, West Virginia. The MedTest Defendants specifically deny that MedTest "purports" to provide

independent laboratory and diagnostic services to patients and referring physicians. The MedTest Defendants further specifically deny that MedTest is a non-functioning laboratory and “front” for a billing scheme devised and carried-out by the MedTest Defendants and other unidentified Independent Clinical Laboratories.

5. The MedTest Defendants admit the allegations contained in Paragraph 5 of the Complaint to the extent that Brice Taylor and Billy Taylor have an ownership, membership or managerial interest in MedTest. The MedTest Defendants specifically deny that either Brice Taylor or Billy Taylor established or operates MedTest as a “front” for a billing scheme devised and carried out by the MedTest Defendants.

6. The MedTest Defendants admit the allegations contained in Paragraph 6 of the Complaint to the extent that from November 10, 2016 until May 11, 2017 Muhammad Amjad, Ph.D. served as the Director of MedTest. The MedTest Defendants specifically deny that Dr. Amjad established and operates MedTest as a “front” for a billing scheme devised and carried out by the MedTest Defendants.

7. The MedTest Defendants admit the allegations contained in Paragraph 7 of the Complaint to the extent the Michael Chen, Ph.D. has served as the Director of MedTest since May 2017. The MedTest Defendants specifically deny that Dr. Chen established and operates MedTest as a “front” for a billing scheme devised and carried out by the MedTest Defendants.

8. The MedTest Defendants admit the allegations contained in Paragraph 8 of the Complaint to the extent that James Taylor has an ownership, membership or managerial interest in MedTest. The MedTest Defendants specifically deny that James Taylor established or operates MedTest as a “front” for a billing scheme devised and carried out by the MedTest Defendants.

9. The MedTest Defendants admit the allegations contained in Paragraph 9 of the Complaint to the extent that Vitas is a West Virginia Limited Liability Company chartered in Putnam County, West Virginia and billed for diagnostic services through MedTest. The MedTest Defendants specifically deny that Vitas was an active co-conspirator in any improper billing scheme.

ANSWER TO JURISDICTION & VENUE

10. The MedTest Defendants state that the allegations contained in Paragraph 10 of the Complaint constitute a conclusion of law for which no response is required. To the extent that any response is required, the MedTest Defendants admit such allegations.

11. The MedTest Defendants state that the allegations contained in Paragraph 11 of the Complaint constitute a conclusion of law for which no response is required. To the extent a response is required, the MedTest Defendants do not challenge venue and deny the allegations contained therein that they submitted false, misleading, and fraudulent claims for processing and reimbursement to Highmark WV. The MedTest Defendants further state that the contractual provisions contained in the Network Agreement speak for themselves, and as such, no response is required.

ANSWER TO FACTS

12. The MedTest Defendants incorporate by reference their answers to Paragraphs 1 through 11 of the Complaint as if fully set forth herein.

13. The MedTest Defendants are without knowledge or information sufficient to answer the allegations contained in Paragraph 13 of the Complaint.

14. The MedTest Defendants admit the allegations contained in Paragraph 14 of the Complaint to the extent that Blue Cross and Blue Shield companies provide health benefit plans.

The MedTest Defendants are without knowledge or information sufficient to answer the remaining allegations contained in Paragraph 14 of the Complaint.

15. The MedTest Defendants are without knowledge or information sufficient to answer the allegations contained in Paragraph 15 of the Complaint.

16. The MedTest Defendants admit the allegations contained in Paragraph 16 of the Complaint that Highmark WV and other Blues participate in the BlueCard Program and that the BlueCard Program is a national program. The MedTest Defendants are without knowledge or information sufficient to answer the remaining allegations contained in Paragraph 16 of the Complaint.

17. The MedTest Defendants are without knowledge or information sufficient to answer the allegations contained in Paragraph 17 of the Complaint.

18. The MedTest Defendants admit the allegations contained in Paragraph 18 of the Complaint.

19. The MedTest Defendants admit the allegations contained in Paragraph 19 of the Complaint to the extent that written procedures exist relating to the submissions of claims to Highmark WV. The MedTest Defendants state that those procedures contained in the relevant documents speak for themselves and therefore no response to the remaining allegations in the Complaint is required. To the extent that a response is required, the MedTest Defendants deny the characterization of the terms and provisions of the documents.

20. The MedTest Defendants admit the allegations contained in Paragraph 20 of the Complaint to the extent that written procedures exist relating to the submissions of claims to Highmark WV. The MedTest Defendants state that those procedures contained in the relevant documents speak for themselves and therefore no response to the remaining allegations in the

Complaint is required. To the extent that a response is required, the MedTest Defendants deny the characterization of the terms and provisions of the documents.

21. The MedTest Defendants deny the allegations contained in Paragraph 21 of the Complaint.

22. The MedTest Defendants are without knowledge or information sufficient to answer the allegations contained in Paragraph 22 of the Complaint and state that to the extent the written procedures described are contained in certain documents, the relevant documents speak for themselves and therefore no response to the remaining allegations contained in Paragraph 22 of the Complaint is required.

23. The MedTest Defendants admit the allegations contained in Paragraph 23 of the Complaint to the extent that Highmark does not have a cause of action for claims that were billed correctly. The MedTest Defendants specifically deny that they submitted any claims for processing and reimbursement that were false, misleading, or fraudulent.

24. The MedTest Defendants admit the allegations contained in Paragraph 24 of the Complaint.

25. The MedTest Defendants admit the allegations contained in Paragraph 25 of the Complaint.

26. The MedTest Defendants state that the allegations contained in Paragraph 26 of the Complaint refer to a written document. The MedTest Defendants state that the terms of that written document speak for themselves and therefore no response is required. To the extent a response is required, the MedTest Defendants deny the characterization of the terms of that document.

27. The MedTest Defendants admit the allegations contained in Paragraph 27 of the Complaint to the extent that they represented that MedTest was a fully-functioning laboratory that

performed laboratory and diagnostic services as it was in fact operating as such. However, the MedTest Defendants deny any implication that MedTest was not a CLIA certified laboratory or that it falsely or fraudulently represented its status to Highmark.

28. The MedTest Defendants specifically deny the allegations contained in Paragraph 28 of the Complaint that, at all relevant times, MedTest was not a fully functioning laboratory and was a “front” for a “billing scheme”.

29. The MedTest Defendants admit the allegations contained in Paragraph 29 of the Complaint that MedTest submitted claims for processing and reimbursement to Highmark WV using its Participating Provider number and that it coded claims using Place of Service Code 11. However, the MedTest Defendants specifically deny that they participated in any improper “billing scheme” or that they made false, misleading, or fraudulent claims for insurance benefits to Highmark WV. The MedTest Defendants further specifically deny that, in submitting claims using Place of Service Code 11, MedTest indicated that the services were performed in a physician’s office in West Virginia.

30. The MedTest Defendants admit the allegations contained in Paragraph 30 of the Complaint that MedTest billed Highmark WV for services that were ordered by physicians outside of West Virginia and performed by other laboratories located outside of West Virginia that did not have separate Network Agreements with Highmark WV. However, the MedTest Defendants specifically deny that MedTest did not perform any services entitling it or the MedTest Defendants to reimbursement from Highmark WV as well as the implication that the laboratory services performed were not expressly permitted by MedTest’s Network Agreement with Highmark WV.

31. The MedTest Defendants admit the allegations contained in Paragraph 31 of the Complaint to the extent that Vitas does not have a separate Network Agreement with Highmark

WV. However, the MedTest Defendants specifically deny that Vitas participated in any improper “billing scheme” or that they made false, misleading, or fraudulent claims for insurance benefits to Highmark WV based on laboratory services performed by Vitas.

32. The MedTest Defendants specifically deny the allegations contained in Paragraph 32 of the Complaint that Vitas participated in any fraudulent “billing scheme” or that the claims for insurance benefits they submitted to Highmark WV violated MedTest’s contractual obligations to Highmark WV. The MedTest Defendants further specifically deny that MedTest switched from Place of Service Code 81 to Place of Service Code 11 in submitting claims to give Highmark WV the false impression that the claims related to covered services performed in West Virginia or that the referring physician was located in West Virginia.

33. The MedTest Defendants specifically deny the allegation contained in Paragraph 33 of the Complaint that they purposefully and intentionally participated in any improper “billing scheme” or that they made false, misleading, or fraudulent claims for insurance benefits to Highmark WV. The MedTest Defendants further specifically deny that they orchestrated any such “billing scheme” through Highmark WV because it provides greater rates of reimbursement than other providers of health care benefits.

34. The MedTest Defendants specifically deny the allegation contained in Paragraph 34 of the Complaint that they were paid more than \$6 million in response to claims for insurance benefits in violation of the Network Agreement, the Provider Manual, the Association’s Billing Guidelines, and controlling law. The MedTest Defendants further specifically deny that a substantial majority of these claims stem from opioid recovery centers that do not have a Network Agreement with Highmark WV.

35. The MedTest Defendants admit the allegations in Paragraph 35 of the Complaint to the extent that they have retained and refused to repay money paid by Highmark WV in response to claims for insurance benefits submitted to Highmark WV. However, the MedTest Defendants specifically deny that they “swindled” more than \$6 million from Highmark WV or that they are obligated to repay any money paid by Highmark WV in response to claims for insurance benefits submitted to Highmark WV.

36. The MedTest Defendants specifically deny the allegation contained in Paragraph 36 of the Complaint that they refused to permit Highmark WV to conduct a site visit at MedTest’s Putnam County, West Virginia, laboratory facilities, in violation of MedTest’s contractual obligations to Highmark WV.

ANSWER TO CLAIMS

ANSWER TO COUNT I – FRAUDULENT MISREPRESENTATION AND INDUCEMENT

37. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-36 of the Complaint as if fully set forth herein.

38. The MedTest Defendants specifically deny the allegations contained in Paragraph 38 of the Complaint that they devised and perpetrated a fraudulent scheme to bill Highmark WV for laboratory and diagnostic services that MedTest did not perform.

39. The MedTest Defendants specifically deny the allegation contained in Paragraph 39 of the Complaint that they carried out a fraudulent billing scheme by submitting false, misleading and fraudulent claims for processing and reimbursement to Highmark WV. The MedTest Defendants further specifically deny that they billed Highmark WV electronically using misleading and incorrect codes representing that the services were performed in a physician’s

office and that MedTest performed covered services at its office in Putnam County, West Virginia. The MedTest Defendants further specifically deny that, to the extent services were performed, they were performed by other laboratories located outside of West Virginia that were not contracted with Highmark WV to submit claims to Highmark WV for processing and reimbursement as well as the implication that the laboratory services performed were not expressly permitted by MedTest's Network Agreement with Highmark WV.

40. The MedTest Defendants specifically deny the allegations contained in Paragraph 40 of the Complaint that they intentionally coded claims incorrectly and that they gave Highmark WV the false and misleading impression that MedTest was a fully functioning, operational laboratory, that MedTest performed the services for which it was seeking claims processing and reimbursement and that MedTest performed covered services at its office in Putnam County, West Virginia.

41. The MedTest Defendants specifically deny the allegations contained in Paragraph 41 of the Complaint that the MedTest Defendants used misleading and incorrect billing codes as a means of intentionally perpetrating any "billing scheme" and that Highmark WV relied upon and was justified under the circumstances in relying upon any such alleged fraudulent billing representations.

42. The MedTest Defendants specifically deny the allegations in Paragraph 42 of the Complaint that Highmark WV was damaged in relying upon a fraudulent "billing scheme" perpetrated by the MedTest Defendants by paying MedTest more than \$6 million for services it did not perform. The MedTest Defendants further specifically deny that Highmark WV is entitled to an award of compensatory damages, consequential damages, and punitive damages against the MedTest Defendants, including but not limited to interest, attorneys' fees, and costs.

ANSWER TO COUNT II – BREACH OF CONTRACT

43. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-42 of the Complaint as if fully set forth herein.

44. The MedTest Defendants admit the allegations of Paragraph 44 to the extent that Highmark WV and MedTest entered into the Network Agreement but state that the other allegations contained in Paragraph 44 of the Complaint constitute a conclusion of law for which no response is required, and further state that the Network Agreement speaks for itself and as such, no response is required. To the extent that any response is required, the MedTest Defendants deny the characterization of the terms and provisions of that document.

45. The MedTest Defendants state that the allegations contained in Paragraph 45 of the Complaint constitute a conclusion of law for which no response is required and further state that the Network Agreement speaks for itself and as such, no response is required. To the extent that any response is required, the MedTest Defendants deny the characterization of the terms and provisions of the Network Agreement.

46. The MedTest Defendants specifically deny the allegations contained in Paragraph 46 of the Complaint that MedTest submitted claims for services it did not perform, that MedTest utilized false and misleading Place of Service codes in submitting its claims, and that MedTest has breached the terms and conditions of the Network Agreement repeatedly, in blatant violation of the Provider Manual and the Association's Billing Guidelines.

47. The MedTest Defendants specifically deny the allegation contained in Paragraph 47 of the Complaint that MedTest denied Highmark WV its contractual right to visit MedTest's laboratory facilities in Putnam County, West Virginia, in violation of the Network Agreement and Provider Manual.

48. The MedTest Defendants specifically deny the allegations contained in Paragraph 48 of the Complaint that MedTest breached the Network Agreement, Provider Manual and Association Billing Guidelines, that such breaches deprived Highmark WV of more than \$6 million, breached the implied covenant of good faith and fair dealing, that such breaches were material and that Highmark WV is entitled to an award of compensatory and consequential damages.

ANSWER TO COUNT III – UNJUST ENRICHMENT

49. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-48 of the Complaint as if fully set forth herein.

50. The MedTest Defendants specifically deny the allegations contained in Paragraph 50 of the Complaint that they engaged in a “billing scheme” that was fraudulent, in breach of the Network Agreement and other contractual obligations and caused Highmark WV to pay more than \$6 million.

51. MedTest Defendants specifically deny the allegations contained in Paragraph 51 of the Complaint that they engaged in a “billing scheme” through which they submitted false and misleading claims fully appreciating that Highmark WV had no obligation, contractual or otherwise, to pay such claims but for the fact that the claims were coded in such a manner as to give Highmark WV the impression that they were legitimate and payable by Highmark WV.

52. The MedTest Defendants specifically deny the allegations contained in Paragraph 52 of the Complaint that the MedTest Defendants have retained and been unjustly enriched by more than \$6 million that it “swindled” from Highmark WV through any improper “billing scheme”.

53. The MedTest Defendants specifically deny the allegations contained in Paragraph 53 of the Complaint that the MedTest Defendants have been unjustly enriched and that it would be inequitable for them to retain any money paid by Highmark WV.

ANSWER TO COUNT IV – CIVIL CONSPIRACY

54. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-53 of the Complaint as if fully set forth herein.

55. The MedTest Defendants specifically deny the allegations contained in Paragraph 55 of the Complaint that they and other laboratories combined through concerted action to accomplish an unlawful purpose or devised and perpetrated a fraudulent scheme to Highmark WV for laboratory and diagnostic services that MedTest did not perform by using false, misleading, and fraudulent billing codes in submitting claims to Highmark WV for processing and reimbursement.

56. The MedTest Defendants specifically deny the allegations contained in Paragraph 56 of the Complaint that a “billing scheme” devised and carried out by the MedTest Defendants and other laboratories injured Highmark WV because it was misled into paying the MedTest Defendants more than \$6 million it was not legally or contractually obligated to pay.

57. The MedTest Defendants specifically deny the allegations contained in Paragraph 57 of the Complaint that the MedTest Defendants and other laboratories benefitted from MedTest’s receipt of more than \$6 million it acquired from Highmark WV under the guise of legitimate billing.

58. The MedTest Defendants specifically deny the allegations contained in Paragraph 58 of the Complaint that Highmark WV is entitled to judgment and damages against the MedTest Defendants and other laboratories for civil conspiracy.

ANSWER TO COUNT V – JOINT VENTURE

59. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-58 of the Complaint as if fully set forth herein.

60. The MedTest Defendants specifically deny the allegations contained in Paragraph 60 of the Complaint that the MedTest Defendants and other laboratories associated for the purpose of carrying out a billing scheme to the detriment of Highmark WV.

61. The MedTest Defendants specifically deny the allegations contained in Paragraph 61 of the Complaint that the MedTest Defendants and other laboratories associated to collude and combine their property, money, skill, and knowledge to carry out a billing scheme, misleading Highmark WV into paying more than \$6 million in claims for reimbursement.

62. The MedTest Defendants specifically deny the allegations contained in Paragraph 62 of the Complaint that the MedTest Defendants and other laboratories carried out a “billing scheme enterprise” or that their combined efforts to do so make each defendant responsible and liable for any and all conduct arising therefrom.

63. The MedTest Defendants specifically deny the allegations contained in Paragraph 63 of the Complaint that as a foreseeable, direct and proximate cause of MedTest Defendants’ joint venture, Highmark WV has sustained damages and its entitled to judgment and appropriate relief, including compensatory and punitive damages, and attorneys’ fees and costs.

ANSWER TO COUNT VI - NEGLIGENCE

64. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-63 of the Complaint as if fully set forth herein.

65. The MedTest Defendants state that the allegations contained in Paragraph 65 of the Complaint constitute a conclusion of law for which no response is required, and further state that

the Network Agreement speaks for itself and as such, no response is required. To the extent that any response is required, the MedTest Defendants deny the characterization of the terms and provisions of that document.

66. The MedTest Defendants specifically deny the allegations contained in Paragraph 66 of the Complaint that the MedTest Defendants breached their duties by using incorrect billing codes in submitted claims for processing and reimbursement to Highmark WV.

67. The MedTest Defendants specifically deny the allegations in Paragraph 67 of the Complaint that the MedTest Defendants breached duties under the Network Agreement, the Provider Manual, the Association Billing Guidelines, and governing laws and regulations and proximately caused Highmark WV to sustain damages in excess of \$6 million, not including interest, consequential damages, attorneys' fees and costs.

68. The MedTest Defendants specifically deny that the allegations in Paragraph 68 of the Complaint that they are liable in negligence to Highmark WV and that Highmark WV is entitled to judgment and damages against the MedTest Defendants.

ANSWER TO COUNT VII – PIERCING THE MEDTEST LLC VEIL

69. The MedTest Defendants incorporate by reference their answers to Paragraphs 1-68 of the Complaint as if fully set forth herein.

70. The MedTest Defendants state that the allegations contained in Paragraph 70 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that Highmark WV is entitled to the equitable remedy of piercing the corporate veil.

71. The MedTest Defendants state that the allegations contained in Paragraph 71 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a

response is required, the MedTest Defendants specifically deny that MedTest is not a legitimate business and has failed, among other things, to observe the corporate formalities required by West Virginia's Uniform Limited Liability Company Act.

72. The MedTest Defendants state that the allegations contained in Paragraph 72 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that MedTest's members and managers do not function for a proper purpose.

73. The MedTest Defendants state that the allegations contained in Paragraph 73 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that MedTest does not keep appropriate corporate records.

74. The MedTest Defendants specifically deny the allegations contained in Paragraph 74 of the Complaint that defendants Brice Taylor, Billy Taylor, Amjad, Chen and James Taylor commingle their personal funds with the funds of MedTest.

75. The MedTest Defendants state that the allegations contained in Paragraph 75 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that MedTest fails to maintain arm's-length relationships among the related laboratories with which it does business.

76. The MedTest Defendants specifically deny the allegations contained in Paragraph 76 of the Complaint that MedTest is a mere façade for the "fraudulent personal billing scheme operations" of defendants Brice Taylor, Billy Taylor, Amjad, Chen and James Taylor.

77. The MedTest Defendants state that the allegations contained in Paragraph 77 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a

response is required, the MedTest Defendants specifically deny that such unity of ownership exists among MedTest, as a limited liability company, and defendants Brice Taylor, Billy Taylor, Amjad, Chen and James Taylor that they do not have corporate personalities in the eyes of West Virginia's Uniform Limited Liability Company Act.

78. The MedTest Defendants specifically deny the allegations contained in Paragraph 78 of the Complaint that MedTest is not a functioning laboratory and did not perform any covered services in connection with the claims for reimbursement at issue.

79. The MedTest Defendants state that the allegations contained in Paragraph 79 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that defendants Brice Taylor, Billy Taylor, Amjad, Chen and James Taylor committed fraudulent acts, that they used MedTest as a "front" to carry out a deceptive "billing scheme", or that Highmark WV is entitled to the equitable remedy of piercing the corporate veil as to any of these individual MedTest Defendants.

80. The MedTest Defendants state that the allegations contained in Paragraph 80 of the Complaint constitute a conclusion of law for which no response is required. To the extent that a response is required, the MedTest Defendants specifically deny that Highmark WV has sustained damages of more than \$6 million as a result of "sham billing" or an improper "billing scheme" orchestrated and carried out by defendants Brice Taylor, Billy Taylor, Amjad, Chen and James Taylor through MedTest as a "façade" or that Highmark WV is entitled to the equitable remedy of piercing the corporate veil as to any of the individual MedTest Defendants.

ANSWER TO PRAYER FOR RELIEF

81. Answering the Prayer for Relief, the MedTest Defendants deny that Highmark WV is entitled to judgment against them and respectfully request that Highmark WV recover nothing

from them, that Highmark WV's claims against them be dismissed with prejudice and that the court award them all costs and attorneys' fees incurred in the defense of this action.

THIRD DEFENSE

Highmark WV, by its actions, have waived and/or is estopped from maintaining this action against the MedTest Defendants.

FOURTH DEFENSE

Highmark WV's Complaint should be dismissed because Highmark WV failed to join an indispensable party pursuant to Ruel 17(b)(7) and 19 of the West Virginia Rules of Civil Procedure necessary for full and just adjudication of this matter and complete relief.

FIFTH DEFENSE

The MedTest Defendants did not make any false or misleading statements to Highmark WV which would constitute a false or material misrepresentation.

SIXTH DEFENSE

Highmark WV did not justifiably or reasonably rely on any statement or representation of the MedTest Defendants, and therefore, Highmark WV is not entitled to maintain an action for fraud or misrepresentation against the MedTest Defendants.

SEVENTH DEFENSE

The MedTest Defendants specifically deny all allegations, characterizations and conclusions contained in Highmark WV's Complaint that allege or imply any fault or liability on the part of the MedTest Defendants, that allege or imply any responsibility, failure to fulfill such responsibility or duty, or violation of duty with respect to the MedTest Defendants, or that allege or imply that the MedTest Defendants violated any agreements, contracts, and/or any applicable statutes, rules or regulations whatsoever with respect to this matter.

EIGHTH DEFENSE

Highmark WV's Complaint against the MedTest Defendants is barred by the affirmative defense of comparative negligence and fault in that the negligence and fault of Highmark WV exceeds the negligence, if any, of the MedTest Defendants.

NINTH DEFENSE

The MedTest Defendants invoke the doctrine of comparative negligence or fault and allege that the negligence and/or fault of Highmark WV must be compared to the negligence and/or fault, if any, of the MedTest Defendants and Highmark WV's recovery, if any, must be reduced by its corresponding degree of negligence and/or fault.

TENTH DEFENSE

The alleged damages, if any, sustained by Highmark WV were not proximately caused by any act or omission of the MedTest Defendants.

ELEVENTH DEFENSE

Highmark WV's damages, if any, were not proximately cause by the actions of the MedTest Defendants but by the superseding and intervening negligence or actions of other persons, corporations, and/or entities.

TWELFTH DEFENSE

The MedTest Defendants invoke the doctrine of mitigation of damages and allege that Highmark WV failed to mitigate or minimize its damages, if any, and therefore, Highmark WV's recovery, if any, should be reduced by the amount of damages which might have been avoided by mitigation.

THIRTEENTH DEFENSE

The MedTest Defendants deny any specific allegations contained in Highmark WV's Complaint not specifically admitted herein.

FOURTEENTH DEFENSE

The MedTest Defendants assert any and all available affirmative defenses, whether or not they have been specifically asserted herein.

FIFTEENTH DEFENSE

The MedTest Defendants reserve the right to amend their answer and to assert any and all defenses, affirmative or otherwise, and to include such counterclaims or cross-claims, which further investigation and discovery may hereinafter reveal to be appropriate.

SIXTEENTH DEFENSE

To the extent that Highmark WV's Complaint is based upon and/or includes factual allegations or other contentions, that do not have evidentiary support, the MedTest Defendants reserve their rights under and pursuant to Rule 11 of the West Virginia Rules of Civil Procedure. To the extent no meaningful investigation has been conducted to identify information or other evidence to support Highmark WV's allegations against the MedTest Defendants, and/or there is no evidentiary support for any of the factual allegations contained in Highmark WV's Complaint, the MedTest Defendants reserve the right to serve a Rule 11 motion upon Highmark WV requesting that it withdraw or correct those allegations.

WHEREFORE, the MedTest Defendants deny that Highmark WV is entitled to judgment against MedTest Defendants and respectfully requests that Highmark WV recover nothing from them, that Highmark WV's claims against him be dismissed with prejudice and that the court

award them all costs and attorneys' fees incurred in the defense of this action and that the Court award such other and further relief as the Court deems just and proper.

COUNTERCLAIMS AND THIRD-PARTY COMPLAINT

Defendant and Counterclaimant, MedTest Laboratories LLC ("MedTest") brings the following Counterclaims and Third-Party Complaint for breach of contract, negligence, fraudulent misrepresentations and inducement, civil conspiracy, joint venture and unjust enrichment against Highmark West Virginia Inc. d/b/a Highmark Blue Cross Blue Shield West Virginia ("Highmark WV"), Blue Cross and Blue Shield of Alabama, Anthem, Inc., Health Care Service Corporation, A Mutual Legal Reserve Company, Cambia Health Solutions, Inc., CareFirst, Inc., Premera Blue Cross, Blue Cross and Blue Shield of Arizona, Inc., USAble Mutual Insurance Company d/b/a Arkansas Blue Cross and Blue Shield, Blue Cross of California d/b/a Anthem Blue Cross, California Physicians' Service, Inc. d/b/a Blue Shield of California, Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield, Anthem Blue Cross and Blue Shield, Anthem Health Plans, Inc. d/b/a Anthem Blue Cross and Blue Shield of Connecticut, Highmark Inc, Highmark BCBSD Inc. d/b/a Highmark Blue Cross and Blue Shield Delaware, Group Hospitalization and Medical Services, Inc. d/b/a CareFirst BlueCross BlueShield, Blue Cross and Blue Shield of Florida, Inc., Blue Cross and Blue Shield of Georgia, Inc., Blue Cross of Idaho Health Service, Inc., Regence BlueShield of Idaho, Inc., Blue Cross and Blue Shield of Illinois, Anthem Insurance Companies, Inc. d/b/a Anthem Blue Cross and Blue Shield of Indiana, Wellmark, Inc. d/b/a/ Wellmark Blue Cross and Blue Shield of Iowa, Blue Cross and Blue Shield of Kansas, Inc., Anthem Health Plans of Kentucky, Inc. d/b/a Anthem Blue Cross and Blue Shield of Kentucky, Louisiana Health Service and Indemnity Company, PAC d/b/a/ Blue Cross and Blue Shield of Louisiana, Anthem Health Plans of Maine, Inc. d/b/a Anthem Blue Cross and Blue Shield

of Maine, CareFirst of Maryland, Inc. d/b/a CareFirst BlueCross BlueShield, Blue Cross and Blue Shield of Massachusetts, Inc., Blue Cross and Blue Shield of Michigan, BCBSM, Inc. d/b/a/ Blue Cross and Blue Shield of Minnesota, Blue Cross & Blue Shield of Mississippi, A Mutual Insurance Company, HMO Missouri, Inc. d/b/a Anthem Blue Cross and Blue Shield of Missouri, Blue Cross and Blue Shield of Kansas City, Caring for Montanans, Inc. d/b/a Blue Cross and Blue Shield of Montana, Inc., Blue Cross and Blue Shield of Nebraska, Inc, Anthem Blue Cross and Blue Shield of Nevada, Anthem Health Plans of New Hampshire, Inc. d/b/a Anthem Blue Cross and Blue Shield of New Hampshire, Horizon Health Care Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey, Blue Cross and Blue Shield of New Mexico Insurance Company, HealthNow New York Inc., Blue Shield of Northeastern New York, Inc., Blue Cross and Blue Shield of Western New York, Inc., Empire HealthChoice Assurance, Inc. d/b/a Empire Blue Cross Blue Shield, Excellus Health Plan, Inc. d/b/a Excellus BlueCross BlueShield, Blue Cross and Blue Shield of North Carolina, Noridian Mutual Insurance Company d/b/a Blue Cross Blue Shield of North Dakota, Community Insurance Company d/b/a Anthem Blue Cross and Blue Shield of Ohio, Blue Cross and Blue Shield of Oklahoma, Regence BlueCross BlueShield of Oregon, Capital Blue Cross, Independence Hospital Indemnity Plan, Inc., Triple-S Salud, Inc., Blue Cross and Blue Shield of Rhode Island, BlueCross BlueShield of South Carolina, Inc., Wellmark of South Dakota, Inc. d/b/a Wellmark Blue Cross and Blue Shield of South Dakota, BlueCross BlueShield of Tennessee, Inc., Blue Cross and Blue Shield of Texas, Regence BlueCross BlueShield of Utah, Blue Cross and Blue Shield of Vermont, Anthem Health Plans of Virginia, Inc. d/b/a Anthem Blue Cross and Blue Shield of Virginia, Inc., Regence BlueShield, Blue Cross Blue Shield of Wisconsin d/b/a Anthem Blue Cross and Blue Shield of Wisconsin, Blue Cross & Blue Shield of Wyoming.

These independent Blue Cross Blue Shield licensees are referred to herein collectively as the “Blues”.

NATURE OF THE CASE

1. MedTest is a clinical laboratory specializing in diagnostic services that has entered a Network Agreement with Highmark WV. A copy of the Network Agreement is attached hereto as Exhibit A.

2. Among other things, the Network Agreement provides as follows:

National Networks. To the extent that Highmark WV participates in national or interregional networks, Provider shall provide services as defined by said program to persons who have coverage under such programs. Compensation for such services shall be based on the payment methodology set forth in Section I, Paragraph A of this Agreement and shall be obtained from Highmark WV upon submission of a properly submitted claim form or electronic record/format documenting the services provided.

Ex. A, Network Agreement at § VI.U.

3. Highmark WV has breached the Network Agreement by refusing to compensate MedTest for laboratory testing services provided to subscribers of health insurance plans insured or administered by Highmark WV’s fellow Blues through their National Networks, including, but not limited to, their “Blue Card” networks, despite the fact that the Network Agreement requires it. Highmark WV’s breaches of contract have caused MedTest millions of dollars in damages. MedTest therefore brings its Counterclaim for breach of contract to remedy these breaches.

4. In the alternative, at all relevant times, Highmark and its fellow Blues have also misrepresented to MedTest, other health care providers and members of their health insurance plans that MedTest was an in-network provider of laboratory testing services, causing those health care providers and members to obtain laboratory testing services from MedTest for which Highmark and its fellow Blues have refused to provide compensation, causing MedTest to incur

millions of dollars in losses attributable to laboratory testing services it provided without compensation. MedTest therefore also brings claims for negligence, fraudulent misrepresentation and inducement, civil conspiracy, joint venture and unjust enrichment to recover its losses.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction because MedTest’s claims are brought under West Virginia state law and involve over \$2,500.

6. This Court has personal jurisdiction over the Defendants for several reasons. First, Highmark WV is headquartered in West Virginia, transacts business in West Virginia and entered the Network Agreement with MedTest in West Virginia. Second, all Defendants have significant business in and contacts with West Virginia through national Blue Cross and Blue Shield programs including the Blue Card Program in that their members receive laboratory services and other health care services performed in West Virginia. Third, all of the Defendants have conspired with Highmark WV as set forth herein.

7. Venue is proper in this Court because the Network Agreement provides that “[e]xclusive venue for any action arising from this Agreement shall be before the Courts located in Wood County, West Virginia.” Network Agreement § VI.K. Venue in this Court is also proper because Highmark WV is headquartered in this County, Defendants transact business in this County and a significant part of the events, acts and omissions giving rise to this action occurred in this County.

PARTIES

8. MedTest Laboratories LLC (“MedTest”) is a clinical laboratory. MedTest’s principal place of business is 3860 Teays Valley Road, Hurricane, West Virginia 25526.

9. Defendant Highmark West Virginia Inc. is a West Virginia corporation with its corporate headquarters located at 614 Market Square, Parkersburg, West Virginia 26101. Highmark West Virginia Inc., formerly known as Mountain State Blue Cross Blue Shield, is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in West Virginia and one county in Ohio. Highmark West Virginia Inc., its subsidiaries and affiliated companies are collectively referred to as “Highmark WV” in this Complaint.

10. Defendant Blue Cross and Blue Shield of Alabama is the health insurance company operating under the Blue Cross and Blue Shield trademarks and trade names in Alabama. The principal headquarters for Blue Cross and Blue Shield of Alabama is located at 450 Riverchase Parkway East, Birmingham, AL. It provides health care financing to members of various health care plans in Alabama.

11. Defendant Anthem, Inc. (formerly Wellpoint, Inc.) (“Anthem”) is an Indiana corporation with its corporate headquarters located at 220 Virginia Avenue, Indianapolis, IN 46204. Anthem, by and through its subsidiaries and affiliated companies, provides health care financing to members of various health care plans in fourteen states, including California, Colorado, Connecticut, Georgia, Indiana, Kentucky, Maine, Missouri, Nevada, New Hampshire, New York, Ohio, Virginia, and Wisconsin.

12. Defendant Health Care Service Corporation, A Mutual Legal Reserve Company, is an Illinois corporation with its corporate headquarters located at 300 East Randolph Street, Chicago, IL 60601-5099. Health Care Service Corporation does business as Blue Cross and Blue Shield of Illinois, Blue Cross and Blue Shield of New Mexico, Blue Cross and Blue Shield of

Oklahoma, Blue Cross and Blue Shield of Texas, and Blue Cross and Blue Shield of Montana to provide health care financing to members of various health care plans in those states.

13. Defendant Cambia Health Solutions, Inc. is an Oregon corporation with its corporate headquarters located at 100 SW Market Street, Portland, OR 97201. Cambia Health Solutions, Inc., through its subsidiary companies and its affiliated companies, including Regence BlueCross BlueShield of Oregon, Regence BlueShield, Regence BlueCross BlueShield of Utah, and Regence BlueShield of Idaho, provides health care financing to members of various health care plans in those states.

14. Defendant CareFirst, Inc. is a Maryland corporation with its corporate headquarters located at 1501 South Clinton St, Baltimore, MD 21224. CareFirst, Inc., through its subsidiaries Defendants CareFirst of Maryland, Inc. and Group Hospitalization and Medical Services, Inc., provides health care financing to members of various health care plans in Maryland, the District of Columbia, and Virginia.

15. Defendant Premera Blue Cross is a Washington corporation with its corporate headquarters located at 7001 220th SW, Building 1, Mountlake Terrace, WA 98043. Premera Blue Cross is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Alaska and Washington. The principal place of business for the Alaska Division of Premera Blue Cross is located at 3800 Centerpoint Drive, Suite 940, Anchorage, AK 99503.

16. Blue Cross and Blue Shield of Arizona, Inc. is an Arizona corporation with its corporate headquarters located at 2444 W. Las Palmaritas Dr., Phoenix, AZ, 85021. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Arizona.

17. Defendant USABLE Mutual Insurance Company d/b/a Arkansas Blue Cross and Blue Shield is an Arkansas corporation with its corporate headquarters located at 601 S. Gaines Street, Little Rock, AR 72201. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Arkansas.

18. Defendant Blue Cross of California d/b/a/ Anthem Blue Cross is a California corporation with its corporate headquarters located at 120 S. Via Merida, Thousand Oaks, CA 91362. It is a subsidiary of Anthem Holding Corp., which is in turn a subsidiary of Defendant Anthem. Blue Cross of California is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in California.

19. Defendant California Physicians' Service, Inc. d/b/a Blue Shield of California is a California corporation with its corporate headquarters located at 50 Beale Street, 22nd Floor, San Francisco, CA 94105. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in California.

20. Defendant Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield in Colorado and d/b/a Anthem Blue Cross and Blue Shield of Nevada in Nevada is a subsidiary of Defendant Anthem and is a Colorado corporation with its corporate headquarters located at 700 Broadway, Suite 600, Denver, CO 80273. It is the parent corporation of a number of subsidiaries that provide health care financing to members of through various health care plans in Colorado and Nevada.

21. Defendant Anthem Blue Cross and Blue Shield in Colorado is the trade name of Defendant Rocky Mountain Health and Medical Service, Inc., a Colorado corporation with its headquarters located at 700 Broadway, Denver, CO 80273. Anthem Blue Cross and Blue Shield in Colorado and its parent, Rocky Mountain Hospital and Medical Service, Inc., are subsidiaries

of Defendant Anthem. Anthem Blue Cross and Blue Shield in Colorado, its subsidiaries and affiliated companies, provide health care financing to members of various health care plans in Colorado.

22. Defendant Anthem Health Plans, Inc. d/b/a Anthem Blue Cross and Blue Shield of Connecticut is a subsidiary of Defendant Anthem. It is a Connecticut corporation with its corporate headquarters located at 108 Leigus Road, Wallingford, CT 06492 and is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Connecticut.

23. Defendant Highmark Inc. is a Pennsylvania corporation with its corporate headquarters located at 1800 Center St., Camp Hill, PA 17011. Highmark Inc. is the parent corporation of a number of subsidiaries, including Highmark West Virginia Inc., that provide health care financing to members of various health care plans in Pennsylvania, West Virginia and Delaware.

24. Defendant Highmark BCBSD Inc. d/b/a Highmark Blue Cross and Blue Shield Delaware is a subsidiary of Highmark, Inc. It is a Delaware corporation with its corporate headquarters located at 800 Delaware Avenue, Wilmington, DE 19801. Highmark Blue Cross and Blue Shield Delaware provides health care financing to members of various health care plans in Delaware.

25. Defendant Group Hospitalization and Medical Services, Inc. ("GHMSI") shares the business name CareFirst BlueCross BlueShield with fellow Defendant CareFirst of Maryland, Inc. It is incorporated in the District of Columbia, is a subsidiary of CareFirst, Inc. and its principal place of business is located at 840 First Street, N.E., Washington DC 20065. GHMSI provides

health care financing to members of various health care plans in the District of Columbia, Maryland and areas of Virginia.

26. Defendant Blue Cross and Blue Shield of Florida, Inc. is a Florida corporation with its corporate headquarters located at 4800 Deerwood Campus Parkway, Jacksonville, FL 32246. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Florida.

27. Defendant Blue Cross and Blue Shield of Georgia, Inc. and its affiliated company, Blue Cross and Blue Shield Healthcare Plan of Georgia, Inc., a health maintenance organization, are subsidiaries of Defendant Anthem and are Georgia corporations with corporate headquarters located at 120 Monument Circle, Indianapolis, IN 46204. Blue Cross and Blue Shield of Georgia, Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Georgia.

28. Blue Cross of Idaho Health Service, Inc. d/b/a Blue Cross of Idaho is an Idaho corporation with its corporate headquarters located at 3000 E. Pine Avenue, Meridian, ID 83642. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Idaho.

29. Regence BlueShield of Idaho, Inc. is a subsidiary of Defendant Cambia Health and is an Idaho corporation with its corporate headquarters located at 1602 21st Avenue, Lewiston, ID 83501. Regence BlueShield of Idaho is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Idaho.

30. Defendant Blue Cross and Blue Shield of Illinois is a division of Defendant HCSC with its principal place of business located at 300 East Randolph Street, Chicago, IL 60601. It is

the parent of a number of subsidiaries that provide health care financing to members of various health care plans in Illinois.

31. Defendant Anthem Insurance Companies, Inc. d/b/a Anthem Blue Cross and Blue Shield of Indiana is a subsidiary of Defendant Anthem. It is an Indiana corporation with its corporate headquarters located at 120 Monument Circle, Indianapolis, IN 46204. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Indiana.

32. Defendant Wellmark, Inc. d/b/a Wellmark Blue Cross and Blue Shield of Iowa is an Iowa corporation with its headquarters located at 1331 Grand Avenue, Des Moines, IA 50309. It is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in Iowa.

33. Defendant Blue Cross and Blue Shield of Kansas, Inc. is a Kansas corporation with its corporate headquarters located at 1133 SW Topeka Boulevard, Topeka, KS 66629. Blue Cross and Blue Shield of Kansas, Inc. is the parent corporation of a number of subsidiaries, including Premier Health, Inc., that provide health care financing to members of various health care plans in Kansas.

34. Anthem Health Plans of Kentucky, Inc. d/b/a Anthem Blue Cross and Blue Shield of Kentucky is a subsidiary of Defendant Anthem and is a Kentucky corporation with its corporate headquarters located at 13550 Triton Boulevard, Louisville, KY 40223. It provides health care financing to members of various health care plans in Kentucky.

35. Defendant Louisiana Health Service and Indemnity Company, PAC d/b/a Blue Cross and Blue Shield of Louisiana is a Louisiana corporation with its corporate headquarters located at 5525 Reitz Avenue, Baton Rouge, LA 70809. It is the parent corporation of a number

of subsidiaries that provide health care financing to members of various health care plans in Louisiana.

36. Defendant Anthem Health Plans of Maine, Inc. d/b/a Anthem Blue Cross and Blue Shield of Maine is a subsidiary of Defendant Anthem. It is a Maine corporation with its corporate headquarters located at 2 Gannett Drive, South Portland, ME 04016. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Maine.

37. Defendant CareFirst of Maryland, Inc. d/b/a CareFirst BlueCross BlueShield is a subsidiary of Defendant CareFirst and is a Maryland corporation with its corporate headquarters located at 1501 S. Clifton St., Baltimore, MD 21224. CareFirst of Maryland, Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Maryland.

38. Defendant Blue Cross and Blue Shield of Massachusetts, Inc. is a Massachusetts corporation with its corporate headquarters located at 101 Huntington Ave., Ste. 1300, Boston, MA 02199. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Massachusetts.

39. Defendant Blue Cross and Blue Shield of Michigan is a Michigan corporation with its corporate headquarters located at 600 E. Lafayette Blvd., Detroit, MI 48226. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Michigan.

40. Defendant BCBSM, Inc. d/b/a Blue Cross and Blue Shield of Minnesota is a Minnesota corporation with its corporate headquarters located at 3535 Blue Cross Road, St. Paul, MN 55122. BCBSM, Inc. is a wholly owned subsidiary of Aware Integrated, Inc. BCBSM, Inc.

is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Minnesota.

41. Defendant Blue Cross & Blue Shield of Mississippi, a Mutual Insurance Company, is a Mississippi corporation with its corporate headquarters located at 3545 Lakeland Drive, Flowood, MS 39232. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Mississippi.

42. Defendant HMO Missouri, Inc. d/b/a Anthem Blue Cross and Blue Shield of Missouri is a subsidiary of Defendant Anthem. It is a Missouri corporation with its corporate headquarters located at 1831 Chestnut Street, St. Louis, MO 63103. It is the parent corporation of a number of subsidiaries that provide health care financing to members of a various health care plans in Missouri.

43. Defendant Blue Cross and Blue Shield of Kansas City is a Missouri corporation with its corporate headquarters located at One Pershing Square, 2301 Main Street, Kansas City, MO 64108. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Kansas City and its suburbs in Kansas and Missouri.

44. Defendant Caring for Montanans, Inc. f/k/a Blue Cross and Blue Shield of Montana Inc. is a Montana corporation with its corporate headquarters located at 3645 Alice Street, Helena, MT 59604-4309. It is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in Montana.

45. Defendant Blue Cross and Blue Shield of Nebraska, Inc is a Nebraska corporation with its corporate headquarters located at 1919 Aksarben Drive, Omaha, NE 68180. It is the parent

corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Nebraska.

46. Defendant Anthem Blue Cross and Blue Shield of Nevada is the trade name of Defendant Rocky Mountain Health and Medical Service, Inc., a Colorado corporation with its headquarters located at 700 Broadway, Denver, CO 80273. Anthem Blue Cross and Blue Shield of Nevada has a principal place of business in Nevada located at 9133 West Russell Rd., Suite 200, Las Vegas, NV 89148. Anthem Blue Cross and Blue Shield of Nevada and its parent, Rocky Mountain Hospital and Medical Service, Inc. are subsidiaries of Defendant Anthem that offer health care financing to members of various health care plans in Nevada.

47. Defendant Anthem Health Plans of New Hampshire, Inc. d/b/a Anthem Blue Cross and Blue Shield of New Hampshire is a subsidiary of Defendant Anthem. It is a New Hampshire corporation with its corporate headquarters located at 1155 Elm Street, Suite 200, Manchester, NH 03101. Anthem Health Plans of New Hampshire, Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in New Hampshire.

48. Defendant Horizon Healthcare Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey is a New Jersey corporation with its corporate headquarters located at Three Penn Plaza East, Newark, NJ 07105. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in New Jersey.

49. Defendant Blue Cross and Blue Shield of New Mexico Insurance Company is a division of Defendant HCSC with its principal place of business located at 123 E. Marcy St. Ste 101, Santa Fe, NM 87501. Blue Cross and Blue Shield of New Mexico Insurance Company is the

parent of a number of subsidiaries that provide health care financing to members of various health care plans in New Mexico.

50. Defendant HealthNow New York Inc. is a New York corporation with its corporate headquarters located at 257 West Genesee Street, Buffalo, NY 14202. HealthNow New York Inc. does business as Blue Cross and Blue Shield of Western New York, Inc. and Blue Shield of Northeastern New York, Inc. HealthNow New York Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in New York.

51. Defendant Blue Shield of Northeastern New York, Inc. is a division of Defendant HealthNow with its principal place of business located at 40 Century Hill Drive, Latham, NY 12110. Blue Shield of Northeastern New York, Inc. is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in New York.

52. Blue Cross and Blue Shield of Western New York, Inc. is a division of Defendant HealthNow with its principal place of business located at 257 West Genesee Street, Buffalo, NY 14202. Blue Cross and Blue Shield of Western New York, Inc. is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in New York.

53. Defendant Empire HealthChoice Assurance, Inc. d/b/a Empire BlueCross BlueShield is a subsidiary of Defendant Anthem. It is a New York corporation with its corporate headquarters located at One Liberty Plaza, New York, NY 10006. Empire HealthChoice Assurance, Inc. d/b/a Empire BlueCross BlueShield is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in New York.

54. Defendant Excellus Health Plan, Inc. d/b/a Excellus BlueCross BlueShield is a subsidiary of Lifetime Healthcare, Inc. and is a New York corporation with its corporate headquarters located at 165 Court Street, Rochester, NY 14647. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in the state of New York.

55. Defendant Blue Cross and Blue Shield of North Carolina is a North Carolina corporation with its corporate headquarters located at 4613 University Drive, Durham, NC 27707. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in North Carolina.

56. Defendant Noridian Mutual Insurance Company d/b/a Blue Cross Blue Shield of North Dakota is a North Dakota corporation with its corporate headquarters located at 4510 13th Avenue South, Fargo, ND 58121. Noridian Mutual Insurance Company is the parent company of a number of subsidiaries that provide health care financing to members of the midwestern and western United States. Noridian Mutual Insurance Company is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in North Dakota.

57. Defendant Community Insurance Company d/b/a Anthem Blue Cross and Blue Shield of Ohio is a subsidiary of Defendant Anthem. It is an Ohio corporation with its headquarters located at 4361 Irwin Simpson Rd, Mason, OH 45040. Community Insurance Company d/b/a Anthem Blue Cross and Blue Shield of Ohio is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Ohio.

58. Defendant Blue Cross and Blue Shield of Oklahoma is a division of Defendant HCSC with its principal place of business located at 1400 South Boston, Tulsa, OK 74119. Blue

Cross and Blue Shield of Oklahoma is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in Oklahoma.

59. Defendant Regence BlueCross BlueShield of Oregon is a subsidiary of Defendant Cambia Health. It is an Oregon corporation with its corporate headquarters located at 100 SW Market Street, Portland, OR 97201. Regence BlueCross BlueShield of Oregon is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Oregon.

60. Defendant Capital Blue Cross is a Pennsylvania corporation with its corporate headquarters located at 2500 Elmerton Avenue, Harrisburg, PA 17110. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Pennsylvania.

61. Defendant Independence Hospital Indemnity Plan, Inc. f/k/a Independence Blue Cross is a Pennsylvania corporation with its corporate headquarters located at 1901 Market Street, Philadelphia, PA 19103. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Pennsylvania.

62. Defendant Triple-S Salud, Inc. is a subsidiary of Triple-S Management Company and is a Puerto Rico corporation with its corporate headquarters located at 1441 F.D. Roosevelt Avenue, San Juan, Puerto Rico 00920. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Puerto Rico.

63. Defendant Blue Cross and Blue Shield of Rhode Island is a Rhode Island corporation with its corporate headquarters located at 500 Exchange Street, Providence, Rhode Island 02903. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Rhode Island.

64. Defendant BlueCross BlueShield of South Carolina, Inc. is a South Carolina corporation with its corporate headquarters located at 2501 Faraway Drive, Columbia, SC 29219. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in South Carolina.

65. Defendant Wellmark of South Dakota, Inc. d/b/a Wellmark Blue Cross and Blue Shield of South Dakota is a South Dakota corporation with its corporate headquarters located at 1601 W. Madison, Sioux Falls, SD 57104. Wellmark of South Dakota, Inc. is a subsidiary of Defendant Wellmark, Inc. Wellmark of South Dakota, Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of South Dakota.

66. Defendant BlueCross BlueShield of Tennessee, Inc. is a Tennessee corporation with its corporate headquarters located at 1 Cameron Hill Circle, Chattanooga, TN 37402. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Tennessee.

67. Defendant Blue Cross and Blue Shield of Texas is a division of Defendant HCSC with its principal place of business located at 1001 E. Lookout Drive, Richardson, TX 75082. Blue Cross and Blue Shield of Texas is the parent of a number of subsidiaries that provide health care financing to members of various health care plans in Texas.

68. Regence BlueCross BlueShield of Utah is a subsidiary of Defendant Cambia Health and is a Utah corporation with its corporate headquarters located at 2890 E Cottonwood Parkway, Salt Lake City, UT 84121. Regence BlueCross BlueShield of Utah is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Utah.

69. Defendant Blue Cross and Blue Shield of Vermont is a Vermont corporation with its corporate headquarters located at 445 Industrial Lane, Berlin, VT 05602. It is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Vermont.

70. Defendant Anthem Health Plans of Virginia, Inc. d/b/a Anthem Blue Cross and Blue Shield of Virginia, Inc. is a subsidiary of Defendant Anthem. It is a Virginia corporation with its corporate headquarters located at 2015 Staples Mill Road, Richmond, VA 23230. Anthem Blue Cross and Blue Shield of Virginia, Inc. is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Virginia.

71. Defendant Regence BlueShield in Washington is a subsidiary of Defendant Cambia Health and is a Washington corporation with its corporate headquarters located at 1800 9th Avenue, Seattle, WA 98101. Regence BlueShield in Washington is the parent corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Washington.

72. Defendant Blue Cross Blue Shield of Wisconsin d/b/a Anthem Blue Cross and Blue Shield of Wisconsin is a subsidiary of Defendant Anthem and is a Wisconsin corporation with its corporate headquarters located at 401 West Michigan Street, Milwaukee, WI 53203. Blue Cross Blue Shield of Wisconsin, is the parent corporation of a number of subsidiaries, including CompCare Health Services Insurance Corporation, that provide health care financing to members of various health care plans in Wisconsin.

73. Defendant Blue Cross & Blue Shield of Wyoming is a Wyoming corporation with its company headquarters located at 4000 House Avenue, Cheyenne, WY 82001. It is the parent

corporation of a number of subsidiaries that provide health care financing to members of various health care plans in Wyoming.

FACTUAL ALLEGATIONS

74. MedTest is a nationwide provider of laboratory testing services, with its major testing sites in West Virginia, Arkansas and North Carolina. MedTest's West Virginia testing site has been certified as a clinical laboratory and permitted to perform laboratory testing services pursuant to the Clinical Laboratory Improvement Amendments ("CLIA") to the Public Health Services Act, 42 U.S.C. 263a, at all times since July 2, 2015. Ex. B (MedTest's CLIA Certifications); Ex. C (MedTest's current listing on the Centers for Disease Control and Prevention website).

75. During the relevant time period, MedTest performed laboratory testing services for Blue Cross and/or Blue Shield members in virtually every state where the Blues have members, both directly and by referring laboratory testing services to be performed under its supervision to its affiliate Vitas Laboratory, LLC ("Vitas") and others.

76. As noted above, the Network Agreement that MedTest entered with Highmark WV provides as follows:

National Networks. To the extent that Highmark WV participates in national or interregional networks, Provider shall provide services as defined by said program to persons who have coverage under such programs. Compensation for such services shall be based on the payment methodology set forth in Section I, Paragraph A of this Agreement and shall be obtained from Highmark WV upon submission of a properly submitted claim form or electronic record/format documenting the services provided.

Ex. A, Network Agreement at § VI.U.

77. Thus, the Network Agreement expressly provides that, to the extent that MedTest provides services provided as part of national or interregional networks, MedTest is required to

file claims with and obtain compensation from Highmark WV. Consistent with the Network Agreement, Blue Cross and Blue Shield members' insurance cards also provide that "BCBS providers file claims with the local BCBS plan." Significantly, the Network Agreement further provides that, "in the event of any conflict between the terms of this Agreement and the terms of the Provider Manual, the terms of this Agreement shall control, unless otherwise specified." Ex. A, Network Agreement at § VI.I.

78. At all relevant times, other Blues' websites list MedTest as a national, participating provider in numerous provider networks, which include BlueCard networks, but also many others. *See, e.g.*, Ex. D (screenshots of other Blues' websites listing MedTest as an in-network provider). MedTest relied on these network listings in performing laboratory testing services to members of health insurance plans insured or administered by Highmark WV's fellow Blues.

79. MedTest relied on and followed the instructions provided to it by Highmark WV in filing all claims for reimbursement for laboratory testing services provided to members of both Highmark WV and its fellow Blues.

80. Highmark WV's claims filing instructions included a provision in the Network Agreement itself that "Compensation... shall be obtained from Highmark WV upon submission of a properly submitted claim form or electronic record/format documenting the services provided." Ex. A, Network Agreement at § VI.U. Consistent with this provision, the insurance cards carried by members of the Blues' health insurance plans also instruct providers to "[f]ile all claims with local Blue Cross and/or Blue Shield Plan."

81. Highmark WV's claims filing instructions also included an instruction to use Place of Centers for Medicare and Medicaid ("CMS") Place of Service Code 11 (Office) in filing its claims. *See* Ex. E, CMS Place of Service Code Set at 2 ("11 - Office - Location, other than a

hospital, skilled nursing facility (SNF), military treatment facility, community health center, State or local public health clinic, or intermediate care facility (ICF), where the health professional routinely provides health examinations, diagnosis, and treatment of illness or injury on an ambulatory basis”). This instruction was provided via telephone by Highmark WV to MedTest in early 2017 specifically to address inquiries from MedTest with regard to claims for reimbursement for laboratory testing services performed on samples collected outside West Virginia that were being denied when MedTest used CMS Place of Service Code 81 (Independent Laboratory). *See Id.* at 5 (“81 - Independent Laboratory - A laboratory certified to perform diagnostic and/or clinical tests independent of an institution or a physician’s office”).

82. Not only did Highmark WV’s claims representatives provide this instruction, they actually filled out claims for MedTest and filed them for them to ensure that they were submitted properly.

83. Significantly, CMS does not dictate reimbursement policy with respect to the use of Place of Service Codes in connection with commercial insurance. Rather, the CMS Place of Service Code Set itself states that providers should “[c]heck with individual payers (e.g., Medicare, Medicaid, other private insurance) for reimbursement policies regarding these codes.” *See Ex. E, Place of Service Code Set*, at 1. As such, Highmark WV’s instruction to use Place of Service Code 11 rather than 81 controls with regard to Highmark WV’s obligation to reimburse MedTest for laboratory testing services.

84. The Provider Manual, the relevant portion of which is attached hereto, does not require the use of any particular Place of Service Code in filing claims, saying only that providers should “[e]nter the appropriate 2-digit code from the Place of Service Code list for each item used or service performed.” *Ex. F, Highmark Blue Shield Office Manual, Chapter 5.3*, at 20. Nothing

in the Provider Manual state that MedTest could not use Place of Service Code 11. *Id.* Therefore, the Provider Manual does not conflict with the instruction Highmark WV provided to MedTest via telephone to use Place of Service Code 11.

85. Nothing in the place of service description for CMS Place of Service Code 11 (Office) indicates that it is limited to services performed in a physician's office. In fact, the CMS place of service description for Place of Service Code 11 does not include the term "physician's office" and is not expressly limited to services performed in a "physician's office." *See* Ex. E at 2. This is in contrast to CMS place of service descriptions for Place of Service Codes 24, 25, and 81 which specifically use the term "physician's office." *Id.* at 3, 5.

86. In addition, there is nothing expressly stated in the Network Agreement, the Provider Manual or the Blue Cross and Blue Shield Association Billing Guidelines applicable to MedTest that a laboratory cannot use Place of Service Code 11 in submitting claims for reimbursement. In addition, there is nothing expressly stated in the Network Agreement, the Provider Manual or the Blue Cross and Blue Shield Association Billing Guidelines applicable to MedTest that a laboratory must use Place of Service Code 81 in submitting claims for reimbursement.

87. Until early 2018, MedTest was compensated pursuant to claims for reimbursement submitted to Highmark WV for both laboratory testing services performed for members of Highmark WV's own health plans and laboratory testing services performed for members of other Blues' health plans. MedTest relied on these reimbursements in continuing to provide laboratory testing services to members of health insurance plans insured or administered by Highmark WV and its fellow Blues.

88. On February 6, 2018, contrary to the provisions of the Network Agreement, the guidance previously provided to MedTest and the instructions set forth on Blue Cross and Blue Shield insurance cards, Highmark WV's Manager of Provider Relations, Statewide and National, Joseph Mizgorski, told Billy Taylor that MedTest was required to file its claims using Place of Service Code 81 and to file them with the BCBS plan where the physician ordering the laboratory services was located.

89. Despite any claims to the contrary, MedTest's practice of referring laboratory testing services to be performed by other laboratories is both permitted by the Network Agreement and consistent with industry practice.

90. In this regard, the Network Agreement provides as follows:

Group and Affiliated Providers. If Provider is a Group Provider, then it represents and warrants that it has the authority to act on behalf of any Affiliated Providers of that Group Provider. Group Provider further represents and warrants that all Affiliated Providers of that Group Provider shall be bound by, agree to and shall comply with all terms and provisions of this Agreement. If a Provider is a Group Provider, any reference in this Agreement to Provider shall be interpreted as applying to both the Group Provider and all Affiliated Providers of Group Provider.

Ex. A Network Agreement at § VI.S.1.

91. The Network Agreement also contains the following provision, which explicitly permits MedTest to supervise other health care providers:

Single Payee and Supervised Health Care Professionals. Highmark WV shall not reimburse Provider for the provision of any Covered Services to the extent that it has reimbursed or may become responsible to reimburse another health care professional for such Covered Services. Also, when the supervising Provider bills for a service, other health care professionals under the supervision of such Provider may not bill for the same service. Provider agrees to disclose to Highmark WV the identity of those individuals supervised.

Ex. A, Network Agreement at § III.E. In compliance with this provision, MedTest's affiliates have not billed for services that MedTest has billed. MedTest has also disclosed the identity of Vitas Labs and other laboratories it supervised in compliance with this provision.

92. Indeed, the Ancillary Provider Application that MedTest submitted when it applied to participate in Highmark WV's networks required "that the signatory is authorized by the Provider, on its own behalf and on behalf of its participating providers, to submit this application," confirming not only that Highmark WV expected that MedTest would work with other laboratories from the beginning but also that it knew that MedTest was entering its networks on their behalf, as is also reflected in the Network Agreement. *See* Exhibit G, Ancillary Provider Application at 7.

93. Contrary to Highmark WV's allegations, nothing in MedTest's Ancillary Provider Application suggests that MedTest applied to participate in Highmark WV's networks as an "independent" clinical laboratory. Instead, it indicates that MedTest was applying to participate in Highmark's WV networks as, simply, a "Laboratory". *Id.* at 1. In any case, even as used in Place of Service Code 81, which Highmark WV now alleges that MedTest should have used in submitting claims for reimbursement, the term "Independent Laboratory" simply means that the laboratory operates "independent of an institution or a physician's office", not, as Highmark WV contends, independent of other laboratories.

94. MedTest's referral of laboratory testing to other laboratories is also consistent with industry practice and custom. In this regard, pursuant to what is commonly referred to as the "70/30 Rule," codified at 42 U.S.C. § 1395(h)(5)(A)(ii)(III), the Medicare program also permits reimbursement to a reference laboratory when it refers no more than 30 percent of its laboratory tests to other laboratories annually (not including referrals to laboratories wholly-owned by the reference laboratory or referrals to laboratories when both it and the reference laboratory are

wholly-owned subsidiaries of the same entity). MedTest's referral practices during the relevant time period fell comfortably within the 70/30 Rule as MedTest and Vitas Labs share common ownership and MedTest does not refer more than 30 percent of its laboratory tests to other laboratories annually.

95. As set forth above, Highmark WV has breached the Network Agreement by refusing to compensate MedTest for laboratory testing services provided to members of health insurance plans insured or administered by Highmark WV's fellow Blues through their National Networks, including, but not limited to, their "Blue Card" networks. Highmark WV's breaches of contract have caused MedTest millions of dollars in damages.

96. In the alternative, at all relevant times, Highmark WV and its fellow Blues misrepresented that MedTest was a participating provider in their National Networks and are liable for these losses as a result negligence, fraudulent misrepresentation and inducement, civil conspiracy, joint venture and/or unjust enrichment.

97. In this regard, upon information and belief, other health care providers have contracted with Highmark WV and/or the other Blues with the understanding that they were part of the Blues' nationwide networks, entitling them to provide services to the Blues' members nationwide, only to be later told, like MedTest, that they were mistaken. The experience of these other health care providers demonstrates that Highmark WV and its fellow Blues knew or should have known that their contracts, network listings and other representations gave MedTest, other health care providers and patients the reasonable impression that MedTest was a member of their National Networks, entitling them to provide services to the Blues' members nationwide, despite that Highmark WV took a contrary position.