

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

B.B., by his grandmother and next	:	
friend, L.B.; A.B., by his aunt and next	:	
friend, S.B.; and J.W., by his mother	:	
and next friend, K.W., on behalf	:	
of themselves and all others similarly	:	
situated,	:	No. 1:18-cv-01257
	:	
Plaintiffs,	:	(Judge John E. Jones III)
	:	
v.	:	
	:	
Teresa Miller, in her official capacity as	:	
Secretary of Human Services of the	:	Class Action
Commonwealth of Pennsylvania,	:	
	:	
Defendant.	:	

SETTLEMENT AGREEMENT

WHEREAS, Plaintiffs filed this class action on June 21, 2018 alleging that the Secretary of Human Services has not complied with the Early and Periodic Screening, Diagnostic and Treatment provisions of Title XIX of the Social Security Act, in violation of 42 U.S.C. §§ 1396a(a)(10)(A)(i) and 1396a(a)(43)(A); (C), by denying requests for wheelchair lifts, stair glides, ceiling lifts, metal accessibility ramps and other similar items that must be attached to a home, and by failing to inform beneficiaries under the age of twenty-one of the availability of these items, and seeking declaratory and prospective injunctive relief;

WHEREAS, the Department of Human Services (“Department”) denies that it has not complied with Title XIX;

WHEREAS, the Court certified a class by Order dated January 10, 2019, consisting of all current and future Pennsylvania Medical Assistance beneficiaries under the age of twenty-one with a mobility impairment for whom a device such as a wheelchair lift, stair glide, ceiling lift, metal accessibility ramp, or other item that must be attached to a home, and is removable or reusable (hereinafter “equipment”), is medically necessary;

WHEREAS, the Department reviewed and revised its coverage policy for equipment;

WHEREAS, the Department submitted a State Plan Amendment (“SPA”) to the Centers for Medicare & Medicaid Services (“CMS”) for approval to amend the Pennsylvania State Plan to specify coverage of the equipment and installation of the equipment;

WHEREAS, CMS approved a SPA that provides for coverage of the equipment and installation of the equipment;

WHEREAS, Plaintiffs and Defendant wish to resolve their differences amicably and without further litigation;

NOW THEREFORE, the parties agree as follows:

1. The Department will provide Medical Assistance coverage for wheelchair lifts, stair glides, ceiling lifts, metal accessibility ramps that are removable or reusable (as well as other equipment that attaches to the home and is removable or reusable, that is primarily and customarily used for a medical purpose and is generally not useful to an individual in the absence of a disability, illness or injury) and the installation of such equipment for class members to enter and exit the home or to support activities of daily living or as otherwise medically necessary, as defined in the HealthChoices agreement or in Department regulation.

2. For purposes of this Agreement, wheelchair lifts, stair glides, ceiling lifts and metal accessibility ramps that are installed using screws or bolts and are removed by removing the screws or bolts and are expected to be removed without damage to the item are examples of items that are removable or reusable.

3. The Department will also cover installation of the equipment defined as follows: Installation includes parts or supplies provided or recommended by the manufacturer for attaching or mounting the item to the surface at the home or residence; labor to attach or mount the item to a surface per the manufacturer's installation guide; required permits; installing an electrical outlet or connection to an existing electrical source; pouring a concrete foundation (slab) according to the manufacturer's instructions (which may include leveling the ground under the concrete foundation); external supports, such as bracing a wall; removing a portion

of an existing railing or bannister only as needed to accommodate the equipment, and the like. Installation does not include modifications to the home or place of residence; repairs of the home, including repairs caused by the installation, use, or removal of the medical equipment or appliance; and changes to the internal or external infrastructure of the home or residence including: adding internal supports such that the support requires access to the area behind a wall or ceiling or underneath the floor; constructing retaining walls or footers for a retaining wall; installation of or modification of a deck; installation of a driveway or sidewalk; upgrading the electrical system; plumbing; ventilation or HVAC work; widening a doorway; drywall; painting; installation of flooring; tile work; and demolition of existing property or structure.

4. Medically necessary equipment and installation of the equipment will be authorized provided that the equipment can be safely installed, can be safely used by the beneficiary with or without assistance, and that the owner of the property has given consent for the installation of the equipment.

5. The Department will notify the HealthChoices Managed Care Organizations (“MCOs”) within 20 days of the effective date of the Agreement, of any changes to the coverage policy for the equipment and installation for class members, to reflect the approved SPA.

6. The Department will, within 30 days of the effective date of the Agreement, provide each MCO with an updated list of providers who are enrolled in the MA Program to provide home accessibility adaptations, and with whom the MCOs can contract with to provide the equipment to class members while they develop a network of equipment suppliers.

7. The Department or the MCOs will send a letter within 30 days of the effective date of this Agreement to MA beneficiaries under the age of 21 for whom a wheelchair lift, stair glide, ceiling lift, or metal accessibility ramp was denied as not covered since July 1, 2017, advising them that they may submit a renewed request for prior authorization of the wheelchair lift, stair glide, ceiling lift, or metal accessibility ramp, with current supporting documentation, and the request will be reviewed.

8. The MCOs will revise their handbooks to address coverage of the equipment during their next annual review of the handbooks following the effective date of this Agreement.

9. For at least 12 months following the effective date of this Agreement, the Department will require each MCO to identify for each class member who submitted a request for equipment, a case manager or other staff person to assist the class member. For class members who have an assigned case manager, the case manager may be the staff person who assists the member.

10. The Department will provide Plaintiffs' counsel with redacted copies of any denial notices, reports of the status of the installation of approved equipment, the number of approvals, and any complaints related to the provision of the equipment each quarter for 12 months following the effective date of this Agreement. If, after reviewing a denial notice, Plaintiffs' counsel requests the underlying request that was submitted to the MCO, the Department will provide redacted copies of the documents that comprise the request. If specific information in the denial notice, the documents that comprise the request, the complaint, or the reports of the status of the installation of the equipment lead to Plaintiffs' counsel requesting unredacted copies of the documents, for purposes of contacting the beneficiary, the Department will provide unredacted copies with the consent of the beneficiary.

11. The Department will provide Plaintiffs' counsel with policy documents it issues or that are issued by its MCOs related to the equipment.

12. Representatives of the Department will participate in a conference call every two months, if requested by Plaintiffs, to discuss issues that Plaintiffs identify ten days in advance of the conference call.

13. This Agreement is not nor is it to be construed to be a Consent Decree and does not operate as an adjudication on the merits of the litigation. Actions

taken by the Department or that will be taken by the Department are not admissions of liability but are undertaken in the spirit of compromise.

14. In the event that Plaintiffs believe that the Department has failed to comply with this Agreement, Plaintiffs may file a motion in this Court for specific performance. Before filing a motion for specific performance, Plaintiffs' counsel will give 30 days' written notice of their intention to do so to the Department's counsel, specifying the grounds thereof, and the parties will, within that time or such other time as the parties agree, meet to attempt to resolve the issue(s) that prompted the notice.

15. The Court will retain jurisdiction to enforce this Agreement for a period of 18 months following the effective date of this Agreement, unless the Court extends it to resolve a pending motion for specific performance.

16. The parties are bound by this Agreement for as long as this Court retains jurisdiction over the case. The rights of class members to enforce this Agreement will end when the Court's jurisdiction ends and the parties will stipulate to the dismissal of the case.

17. The Department will, within 30 days of the effective date of this Agreement, draft a notice to class members for Plaintiffs' review and comment. The notice will be sent to class members who are identified through claims data using parameters agreed upon by the parties and the parties will submit the notice

for the Court's approval with the Motion for Preliminary Approval of the Settlement Agreement.

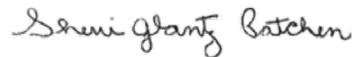
18. The Department will pay Plaintiffs' attorneys' fees and costs incurred through the execution of this Agreement in the amount of \$ 270,000 within 60 days of the Court's final approval of this agreement. The Department will pay Plaintiffs' reasonable attorneys' fees and costs incurred from execution of this Agreement through the completion of the fairness hearing, which amount is yet to be determined and will be negotiated by the parties in good faith. The latter amount will be paid within 60 days of the parties' agreement on that amount or any decision by the Court. If Plaintiffs prevail on a motion for specific performance under Paragraph 14, they may seek attorneys' fees for work performed from the date of the motion or the date of the provision of notice of the violation on which the motion is based until the motion is resolved.

19. Nothing in this Agreement is intended to prevent either party from seeking to change, alter, amend, or terminate this Agreement on the grounds that the obligations of the Department as alleged by Plaintiffs are eliminated, reduced, expanded or modified by amendment or repeal of those provisions of Title XIX or the accompanying regulations on which Plaintiffs rely, by a binding decision of a court of competent jurisdiction, or for the Defendant to seek to change, alter, amend, or terminate this Agreement by a determination that federal financial

participation is not available in expenditures for equipment or installation of equipment as set forth in this Agreement.

20. If this Agreement is not approved by the Court, it will be null and void and the parties will proceed with the litigation from the status as of the date this Agreement was submitted to the Court.

21. The effective date of this Agreement is the date it is executed by the Parties.



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Date: 6/17/2021

Date: 6/25/2021