

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO.: 651,069

SECTION 22

JAMES J. DONELON, COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA, IN HIS CAPACITY AS REHABILITATOR OF
LOUISIANA HEALTH COOPERATIVE, INC.

VERSUS

TERRY S. SHILLING, GEORGE G. CROMER, WARNER L. THOMAS, IV, WILLIAM A.
OLIVER, CHARLES D. CALVI, PATRICK C. POWERS, CGI TECHNOLOGIES AND
SOLUTIONS, INC., GROUP RESOURCES INCORPORATED, BEAM PARTNERS, LLC,
MILLIMAN, INC., BUCK CONSULTANTS, LLC, AND TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

FILED: _____

DEPUTY CLERK

AMENDED NOTICE OF RECORDS ONLY DEPOSITION

TO: Louisiana Department of Insurance
Through its custodian of records:
James J. Donelon
1702 N. Third Street
Baton Rouge, LA 70802

PLEASE TAKE NOTICE that Milliman, Inc. (“Milliman”) will take the records-only deposition of the Louisiana Department of Insurance (“LDI”) **on December 9, 2020, beginning at 10:00 AM at the offices of Phelps Dunbar LLP, 400 Convention Street, Suite 1100, Baton Rouge, LA or, through coordination of counsel, via Zoom or other virtual meeting platform,** continuing from day to day until completed. LDI is hereby requested to designate and to make available for deposition at the stated time and place one or more officers, directors, or managing

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agents, or other persons designated to testify on its behalf concerning the production of and identification of the documents specified in Exhibit A.

All counsel are invited to participate as they deem fit.

THIS IS A RECORDS ONLY DEPOSITION. NO APPEARANCE WILL BE NECESSARY IF THE DOCUMENTS REQUESTED ON EXHIBIT A ARE PRODUCED BY THE ABOVE SPECIFIED DATE AND TIME. This subpoena and deposition may be satisfied by producing certified copies via secure FTP to Milliman's counsel of record at justine.margolis@dentons.com and catharine.luo@dentons.com or, if necessary, mailing certified copies to the offices of Dentons US LLP, Attn: Steven Clark 4520 Main Street, Suite 1100, Kansas City, MO 64111-7700, unless a different place is established by mutual agreement of the parties hereafter, before the date set for the deposition in lieu of the designated deponent's appearance at the deposition.

A copy of article 1354 of the Louisiana Code of Civil Procedure is attached as Exhibit B.

Respectfully submitted,

PHELPS DUNBAR LLP

/s/ Harry Rosenberg
HARRY ROSENBERG (Bar #11465)
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/s/ Justin N. Kattan

Dentons US LLP

Reid L. Ashinoff (admitted *pro hac vice*)
Justin N. Kattan (admitted *pro hac vice*)
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Catharine Luo (admitted *pro hac vice*)

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H. ALSTON JOHNSON (Bar # 7293)
400 Convention Street, Suite 1100
Baton Rouge, LA 70302
Telephone: 225-346-0285
Facsimile: 225-381-9197
Email: johnsona@phelps.com

Counsel for Milliman, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record by e-mail this 19th day of November, 2020.

/s/ Harry Rosenberg

Harry Rosenberg

EXHIBIT A TO NOTICE OF RECORDS DEPOSITION
INSTRUCTIONS AND DEFINITIONS

1. **Compliance with the Louisiana Code of Civil Procedure:** The Requests below should be answered by the above-identified party, and the documents and evidence requested below should be produced to Milliman in accordance with the Louisiana Code of Civil Procedure.
2. **Location of Production:** Milliman requests that all documents and evidence produced in response to these Requests be produced via secure FTP to Milliman's counsel of record at justine.margolis@dentons.com and catharine.luo@dentons.com or, if necessary, at the offices of **Dentons US LLP, Attn: Steven Clark** 4520 Main Street, Suite 1100, Kansas City, MO 64111-7700, unless a different place is established by mutual agreement of the parties hereafter.
3. **Claims of Privilege/Privilege Log:** If any information requested herein is claimed to be privileged or otherwise protected from discovery, the respondent is requested to identify in writing, with particularity, the basis for such claim, and in the case of any document not produced, to identify in writing:
 - a. its author;
 - b. the date of its creation;
 - c. the names, positions and capacities of all persons to whom each document was addressed or by whom it was seen, read, disclosed or examined;
 - d. its general nature and subject matter and the basis upon which it is claimed to be privileged or otherwise protected from discovery; and
 - e. its present location and custodian.
4. **Form of Production.** Absent mutual agreement to an alternative form of production, documents and evidence shall be delivered in an industry-standard manner and with common load files (.DAT/.OPT) to facilitate the loading into databases and the ability to search. As further described below, the production must be image-based, with extracted text/OCR delivered for each file, but with certain file types (Spreadsheets, media files) provided in native format. The load files should contain standard structural and associated metadata, including, but not limited to, production numbers and ranges, Parent ID, Attach ID, Begin Bates, End Bates, Begin Attach, End Attach, Date Sent, Date Received, Date Modified, Date Created, Email Subject, To, From, CC, BCC, Filename, Application, File Path, Custodian/Source, Author, MD5Hash

Image-Based Productions

- Group IV
- Single Page

- Black and White
- 300 dpi Compression
- Each image shall contain a (branded) unique identifier - typically a Bates Number - and any associated Confidentiality or other designation
- A link/path to each image shall be contained in the delivered load files
- Certain files, such as those that are not conducive to imaging or cannot be imaged at all (Spreadsheets, media files, etc.), shall be represented by a branded slipsheet and provided in native format
 - A link/path to both the slipsheet image and the native file shall be in the delivered load files

Extracted Text/OCR

- Each produced document/record shall have a corresponding file containing the file's extracted text (for ESI) or OCR for hard copy or image-based files
 - The text files shall be generated at the document and not page-level.
 - The text files shall be named after the Begin Bates of each delivered document
 - A link/path to this file shall be contained in the delivered load files
5. **Labeling.** As set forth in the Paragraph 5 above, each document shall be produced with a bates-number and an appropriate party-specific bates-label, and any applicable confidentiality or PHI designation pursuant to the protective order in this action.
 6. **Definition of "Documents":** Wherever used in these Requests, the term "documents" shall mean all writings, records and recordings of any memoranda, reports, handwritten notes, logs, formal or informal minutes, tape recordings, photographs, photocopies, telegrams, telefaxes, transcripts, drawings, graphs, charts, maps, electronic word processing and spreadsheet documents and other computer files, and email messages, wherever such "documents" are located and however produced or reproduced. A request for all "documents" includes a request for any and all non-identical copies of any such "documents" which may differ to any extent because of alterations, attachments, blanks, comments, notes, underlining or otherwise.
 7. **Definition of "Communication":** Wherever used in these Requests, "communication" includes any transmittal or receipt of information, whether by chance or prearranged, formal or informal, oral, written or electronic. "Communication" includes without limitation conversations, meetings, and discussions in person; conversations, meetings, and discussions by telephone; and written correspondence through the use of mails, courier services, electronic media (such as electronic mail and instant and text messages), and telephone lines and wires.

8. **A Request for Information:** Documents or communications “referencing,” “referring,” “concerning,” “reflecting” or “related to” any given subject means any documents or communications that constitute, contain, discuss, embody, evidence, identify, state, refer to, deal with, bear upon, or are in any way pertinent to that subject, including documents concerning the preparation of other documents.
9. **Definition of “You” and “Your” and “LDI:”** As used in these Requests, the term “LDI” shall refer to the Louisiana Department of Insurance, its employees, directors, officers, members, agents and/or representatives (including but not limited to Lewis & Ellis or any other consulting actuary used by LDI).
10. **Definition of “LAHC”:** As used in these Requests, the term “LAHC” shall refer to Louisiana Health Cooperative, Inc., its predecessors, successors, employees, directors, officers, members, agents and/or representatives.
11. **Definition of “Beam”:** As used in these Requests, the term “Beam” refers to Beam Partners, LLC, its employees, directors, officers, members, agents and/or representatives.
12. **Definition of “Buck”:** As used in these Requests, the term “Buck” refers to Defendant Buck Consultants, LLC (n/k/a Buck Global, LLC) its employees, directors, officers, members, agents and/or representatives.
13. **Definition of “CGI”:** As used in these Requests, the term “CGI” refers to CGI Technologies and Solutions, Inc., its employees, directors, officers, members, agents and/or representatives.
14. **Definition of “CMS”:** As used in these Requests, the term “CMS” refers to the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services.
15. **Definition of “GRI”:** As used in these Requests, the term “GRI” refers to Group Resources Incorporated, its employees, directors, officers, members, agents and/or representatives.
16. **Definition of “Milliman”:** As used in these Requests, the term “Milliman” refers to Milliman, Inc., its employees, directors, officers, members, agents and/or representatives.
17. The term “**Risk Corridors Payment**” shall refer to any payment pursuant to the program set forth in Section 1342 of the Patient Protection and Affordable Care Act (“ACA”), 42 U.S.C. § 18062.
18. The term “**Risk Adjustment Transfer Payment**” shall refer to any payment pursuant to Section 1343 of the ACA, 42 U.S.C. § 18063.

19. The term “**Transitional Reinsurance Payment**” shall refer to any payment pursuant to the program set forth Section 1341 of the ACA, 42 U.S.C. § 18061.
20. The term “**Individual Mandate**” shall refer to the ACA’s requirement for applicable individuals to maintain minimum essential coverage as set forth in 26 U.S.C. § 5000A.
21. The term “**CO-OP Program**” shall refer to the Consumer Oriented and Operated Plan as established under the ACA.
22. **Rules of Construction:** The following rules of construction apply:
 - a. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to make the request more inclusive rather than exclusive.
 - b. “All” includes each, any, and all.
 - c. The use of the singular form of any word includes the plural and vice versa.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All Documents and Communications referencing or related to LAHC's filings with the LDI, including form and rate filings.
2. All Documents and Communications reflecting Milliman's professional services and work for LAHC.
3. All Documents and Communications reflecting Buck's professional services and work for LAHC.
4. All Documents and Communications reflecting Communications between LDI and Milliman related to LAHC.
5. All Documents and Communication reflecting Communications between LDI and Buck related to LAHC.
6. All Documents and Communications reflecting Communications between LAHC and LDI. This request includes but is not limited to Communications sent directly to or from LAHC or on LAHC's behalf.
7. All engagement agreements and/or other agreements entered into between LDI and Lewis & Ellis or any other actuary or actuarial services firm who performed any services concerning LAHC.
8. All Documents and Communications reflecting Communications between LDI and any federal government agency, employee, agent or other representative, including but not limited to, with CMS, concerning LAHC.

9. All Documents and Communications concerning LAHC's: a) CO-OP Program application (including any feasibility study or business plan), b) pro forma submissions, c) startup or solvency loans, d) requests for additional funding, or e) any corrective action plan.
10. All Documents and Communications concerning: a) LAHC's retention of any consulting actuary, third-party administrator or other consultant, b) LAHC's termination of any consulting actuary, third-party administrator or other consultant, c) the hiring of any of LAHC's directors, officers or other managers, and d) the termination of any of LAHC's directors, officers or other managers.
11. All Documents and Communications, including but not limited to policies, procedures, reports, instructions, and guidelines, concerning LDI's process for reviewing and approving filed health insurance rates that were applicable to 2014 or 2015 rates.
12. All Documents and Communications concerning LDI's assessment, review, findings, conclusions and/or approval of LAHC's 2014 or 2015 rates.
13. All Documents and Communications concerning LDI's review, assessments, findings and/or conclusions relating to Milliman's actuarial analyses, reports and other work for LAHC.
14. All Documents and Communications concerning LDI's review, assessments, findings and/or conclusions relating to Buck's actuarial analyses, reports and other work for LAHC.
15. All Documents and Communications concerning any attempt by LAHC, LDI, and/or any other person or entity to lower or raise LAHC's 2014 or 2015 rates.
16. All 2014 and 2015 rate filings for ACA-compliant plans sold or to be sold in Louisiana by any insurer.

17. All Documents and Communications comparing, contrasting or otherwise discussing the 2014 or 2015 rates, rate filings or other actuarial analyses prepared by or on behalf of LAHC in relation to the 2014 or 2015 rates, rate filings or other actuarial analyses for any other ACA-compliant plan sold or to be sold in Louisiana by any other insurer.
18. All Documents and Communications concerning the role and impact of Risk Corridor Payments on the operations or financial condition of LAHC or health insurers generally.
19. All Documents and Communications concerning the impact of the failure to make Risk Corridor Payments upon the operations or financial condition of LAHC or health insurers generally.
20. All Documents and Communications concerning the role and impact of Risk Adjustment Transfer Payments, the Transitional Reinsurance Payment, and/or the Individual Mandate upon the operations and financial condition of LAHC or health insurers generally.
21. All Documents and Communications referring or relating to pent up demand for health insurance and its impact or potential impact on claims costs, pricing, or enrollment for the 2014 or 2015 policy years for LAHC or health insurers generally.
22. All Documents and Communications referring or relating to the impact on LAHC or health insurers generally from any changes to the ACA, regulations promulgated pursuant to the ACA, or changes to the implementation or enforcement of the ACA or such regulations.
23. All Documents and Communications concerning LAHC's enrollment for policy years 2014 and 2015, including but not limited to enrollment strategy, enrollment projections,

enrollment mix or demographics, enrollment of previously uninsured persons, or actual or expected enrollment of insureds.

24. Documents sufficient to show statewide enrollment in ACA compliant plans sold in Louisiana for policy years 2014 and 2015, the demographics of such enrollees, and the number of such enrollees who were previously uninsured.
25. Documents sufficient to show enrollment in each ACA compliant plan sold in Louisiana for policy years 2014 and 2015, the demographics of such enrollees, and the number of such enrollees who were previously uninsured.
26. All Documents and Communications concerning any analyses or other discussion of expected versus actual enrollment of insureds in ACA-compliant plans sold in Louisiana for the 2014 and 2015 policy years.
27. Documents sufficient to show the provider discount, coding intensity and enrollment assumptions used by each ACA compliant plan for which rates were filed in Louisiana for policy years 2014 and 2015, including but not limited to the assumptions used by Blue Cross Blue Shield of Louisiana.
28. All Documents submitted by or on behalf of LAHC in connection with LAHC's effort to secure licensure from LDI, including but not limited to LAHC's HMO license.
29. All Documents and Communications reflecting or analyzing LAHC financial statements for the 2014, 2015, 2016 and 2017 calendar years, including: (a) GAAP financial statements; (b) Financial statements prepared in accordance with statutory accounting principles, including convention statements filed with LDI; (c) Actuarial memoranda supporting the calculation

of claim reserves, IBNR (incurred but not reported) liabilities, and any other liabilities used in the preparation of the LAHC financial statements.

30. All Documents and Communications concerning LAHC's financial condition and solvency.
31. All Documents and Communications concerning LAHC's operations, including but not limited to the performance of LAHC's officers, directors or other management and/or its agents GRI and/or CGI.
32. All Documents and Communications concerning the onsite market conduct and financial examination of LAHC that commenced in or around March 2015.
33. All Documents and Communications concerning the decision to place LAHC into rehabilitation or liquidation.
34. All Documents and Communications concerning LAHC's rehabilitation.
35. All Documents and Communications reflecting any assessment of the CO-OP Program.
36. All Documents and Communications concerning the November 5, 2015 testimony of the Louisiana Commissioner of Insurance Before the Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, United States House of Representatives Regarding: "Examining the Costly Failures of Obamacare's CO-OP Insurance Loans."
37. All Documents and Communications concerning *Health Republic Insurance Company v. United States of America*, No. 1:16-cv-00259-MMS, United States Court of Federal Claims ("*Health Republic*").

38. All Documents and Communications concerning any settlements or other relinquishment of claims or potential claims involving LAHC and the United States federal government, including but not limited to settlements in *Health Republic*.

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EXHIBIT "B" TO NOTICE OF RECORDS DEPOSITION

Louisiana Code of Civil Procedure Article 1354

A. A subpoena may order a person to appear and produce at the trial, deposition, or hearing, books, papers, documents, any other tangible things, or electronically stored information, in his possession or under his control, if a reasonably accurate description thereof is given. A subpoena may specify the form or forms in which electronically stored information is to be produced. A party or an attorney requesting the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or cost on a person subject to that subpoena. The court in which the action is pending in its discretion may vacate or modify the subpoena if it is unreasonable or oppressive. Except when otherwise required by order of the court, certified copies, extracts, or copies of books, papers, and documents may be produced in obedience to the subpoena duces tecum instead of the originals thereof. If the party or attorney requesting the subpoena does not specify that the named person shall be ordered to appear, the person may designate another person having knowledge of the contents of the books, papers, documents, other things, or electronically stored information, to appear as his representative.

B. A person commanded to respond to a subpoena duces tecum may within fifteen days after service of the subpoena or before the time specified for compliance, if such time is less than fifteen days after service, send to the party or attorney designated in the subpoena written objections, with supporting reasons, to any or all of the requests, including objection to the production of electronically stored information in the form or forms requested. If objection is so made, the party serving the subpoena may file a motion to compel compliance with the subpoena and may move for sanctions for failure to reasonably comply.

C. A person responding to a subpoena to produce books, papers, or documents shall produce them as they are kept in the usual course of business or may organize and label them to correspond with the categories in the demand.

D. If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably useable.

E. A person responding to a subpoena need not produce the same electronically stored information in more than one form.

F. A person responding to a subpoena need not produce books, papers, documents, or electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel production or to quash, the

person from whom production is sought shall show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order production from such sources if the requesting party shows good cause. The court may specify conditions, including an allocation of the costs, for the production.

G. When the person subpoenaed is an adverse party, the party requesting the subpoena duces tecum may accompany his request with a written request under oath as to what facts he believes the books, papers, documents, electronically stored information, or tangible things will prove, and a copy of such statement shall be attached to the subpoena. If the party subpoenaed fails to comply with the subpoena, the facts set forth in the written statement shall be taken as confessed, and in addition the party subpoenaed shall be subject to the penalties set forth in Article 1357.

H. Subpoenas duces tecum shall reproduce in full the provisions of this Article.