

NO. **DF-24-18010**

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
	§	
GWENDOLYN LAURA ULIJASZ-MCKEMIE	§	<u>302</u> ND JUDICIAL DISTRICT &
	§	
JASON MCKEMIE	§	DALLAS COUNTY, TEXAS

PROPOSED UNIFIED ORDER REGARDING (1) MATERIAL DEVELOPMENTS, (2) THIRD-PARTY VERIFICATION, (3) HEALTHCARE + HSA/FSA FUNCTIONALITY, (4) INTERIM HSA/FSA MAKE-WHOLE RELIEF, AND (5) PRETRIAL SEQUENCING

On this day, the Court considered Respondent’s filings requesting (i) the Court’s awareness of material developments affecting healthcare access and enforcement of prior orders, (ii) authorization of limited third-party verification to resolve disputed issues, (iii) safeguards to ensure functional healthcare and HSA/FSA access without disruption, and (iv) pretrial sequencing necessary to ensure the matter proceeds on a complete and accurate record.

The Court enters this Order to **enforce existing orders, preserve due process, prevent ongoing or foreseeable harm, and maintain the status quo pending final adjudication**, and further finds that the procedures and structures set forth herein are **not intended to delay these proceedings**, but to **reduce uncertainty, promote transparency, and ensure reliable compliance**.

The Court finds that by addressing potential sources of harm, clarifying obligations, and relying on **objective, outcome-based verification** rather than repeated motion practice, this Order is intended to **protect the parties from avoidable injury, preserve procedural fairness, and facilitate the most expeditious, orderly, and informed resolution of this case**.

I. MATTERS REQUIRING IMMEDIATE STRUCTURE AND THIRD-PARTY VERIFICATION

Without adjudicating fault or final relief, the Court notes the following issues require immediate structure and neutral verification:

A. BANKRUPTCY TRUSTEE INVOLVEMENT / SEQUENCING

Respondent has filed bankruptcy relief and a bankruptcy trustee is now involved. Trustee review necessarily overlaps with disputed financial issues in this case and supports careful sequencing so proceedings are not conducted on an incomplete or conflicting record.

B. HEALTHCARE ACCESS IS DISPUTED AS “FUNCTIONAL,” NOT MERELY “ON PAPER”

The parties present irreconcilable positions regarding whether Respondent has uninterrupted, usable access to medically necessary care, prescriptions, and benefits functionality.

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C. HSA/FSA FUNCTIONALITY REMAINS A CENTRAL, TIME-SENSITIVE DISPUTE

Respondent contends that HSA/FSA access has been repeatedly non-functional and that he does not possess independent, reliable access. Petitioner contends compliance has occurred and any issues are administrative. Because disruption creates immediate, non-substitutable harm, a self-executing safeguard is warranted to prevent repeat disputes and repeat disruption.

D. THIRD-PARTY INSTITUTIONAL RECORDS ARE REQUIRED

The Court finds these disputes cannot be reliably resolved by party testimony alone and require neutral, third-party verification from the institutions that maintain the source records.

II. DEFINITIONS

- A. **“Healthcare Reinstatement Order”** means the Court’s Signed Order on Emergency Reinstatement of Healthcare signed December 17, 2025.
- B. **“Functional Access”** means that Respondent can actually obtain medically necessary care and prescriptions using active plan eligibility and benefit functionality, including: medical and pharmacy processing, and usable HSA and/or FSA funds for qualified expenses, without needing cooperation from an adverse party.
- C. **“Coverage Preservation Cash-Value Equivalent” (CPCVE)** means the cash-value equivalent of \$20,643.56, defined as a lump sum in the Court’s **December 17, 2025 Order on Emergency Reinstatement of Healthcare**, adopted as a substitute remedy where functional access to healthcare or related benefit functionality fails or cannot be reliably preserved.

III. SUMMARY OF MATERIAL DISPUTES REQUIRING THIRD-PARTY VERIFICATION

The Court finds the parties present materially irreconcilable positions on issues central to Respondent’s health and procedural capacity, including:

- A. Healthcare Access and Continuity (medical + pharmacy)
- B. HSA and FSA functionality, enrollment, funding, card status, and access control history
- C. QLE / eligibility actions affecting dependent coverage status and system audit trails
- D. Housing / lease modification, buyout, rent ledgers, and eviction-related records (to the extent implicated by pending motions)
- E. Financial disclosure completeness and accuracy (to the extent implicated by pending motions)
- F. Bankruptcy-trustee overlap requiring sequencing

IV. AUTHORIZATION OF LIMITED THIRD-PARTY SUBPOENAS (NEUTRAL VERIFICATION)

Respondent is authorized to issue limited third-party subpoenas (and/or written authorizations where appropriate) narrowly tailored to the disputes above, including subpoenas necessary to trace, verify, or exclude undisclosed payments made directly or indirectly on Petitioner's behalf through banking institutions, peer-to-peer payment platforms, or payment intermediaries.

The Court finds that good cause exists under Texas Rule of Civil Procedure 205.3 to authorize the limited third-party subpoenas described herein. The records sought are relevant, material, proportional, and necessary to obtain independent source-of-truth records that are not reliably obtainable through party production alone, and are required for fair case administration, enforcement of existing orders, and trial preparation.

A. EMPLOYER / PLAN ADMINISTRATOR / BENEFITS CENTER / VENDORS (SOURCE RECORDS) RECORDS SUFFICIENT TO VERIFY:

- 1) Dependent eligibility and any QLE submission(s), uploads/attestations, reason codes, effective dates, cure/reinstatement workflow, and system/audit trail reflecting who initiated and approved changes;
- 2) Pharmacy benefit manager (PBM) eligibility updates and processing dates;
- 3) HSA and FSA enrollment and funding for 2025 and 2026 plan years;
- 4) HSA/FSA card issuance, replacement, activation/deactivation, lost/stolen reporting history, credential/access control events, and any relevant call logs/tickets.

B. FINANCIAL INSTITUTIONS

Complete records necessary to verify disputed disclosures (account statements, transaction history, and account ownership/authority records as applicable).

C. ORDER GRANTING LEAVE FOR TARGETED THIRD-PARTY SUBPOENAS

This authorization **constitutes leave of court under Rule 205.3** notwithstanding any discovery control plan, scheduling order, or discovery cutoff, and is entered as a targeted exception necessary to ensure record integrity and due process.

D. LANDLORD, PROPERTY MANAGER, AND ASSOCIATED FINANCIAL INSTITUTIONS

Lease files, modifications, buyouts, rent ledgers, payment history, notices, eviction filings/records, and complete banking and payment records sufficient to verify whether rent or housing-related payments were made directly or indirectly on Petitioner's behalf, including but not limited to:

- 1) records from any financial institution holding accounts for the landlord or property manager, including Wells Fargo Bank, N.A., reflecting deposits, Zelle transactions, ACH credits, wires, checks, or other payment activity originating from or attributable to Petitioner;

- 2) records reflecting peer-to-peer or third-party payment processing used to transmit funds for rent or housing obligations, whether labeled as rent or otherwise characterized;
- 3) records sufficient to confirm the absence or presence of any such payments during the relevant period.

E. PEER-TO-PEER AND PAYMENT SERVICE PROVIDERS (PETITIONER ACCOUNTS)

Complete account statements, transaction histories, payment logs, metadata, and account linkage records for any peer-to-peer or payment service provider used by Petitioner, including but not limited to Venmo, Zelle, Apple Pay, Cash App, PayPal, or similar platforms, sufficient to verify the source, destination, purpose, and timing of any payments relevant to disputed housing, financial disclosure, or enforcement issues.

V. HEALTHCARE + HSA/FSA FUNCTIONALITY SAFEGUARD (SELF-EXECUTING)

A. INDEPENDENT FUNCTIONAL ACCESS REQUIREMENT

Petitioner shall not interfere with, restrict, disable, or obstruct Respondent's access to healthcare, prescriptions, or benefit functionality pending further order of the Court.

B. OBJECTIVE PROOF OF NON-FUNCTIONALITY (TRIGGER STANDARD)

If Respondent experiences a denial, disruption, or non-functionality of healthcare coverage, prescription access, or HSA and/or FSA functionality, Respondent may file a "Notice of Healthcare or HSA/FSA Non-Functionality" attaching objective proof, including but not limited to:

- 1) a pharmacy point-of-sale decline, reversal, or inability-to-fill notice;
- 2) a provider or pharmacy statement reflecting inability to schedule, bill, or dispense due to coverage issues;
- 3) a vendor or plan status page reflecting inactive, blocked, or non-functional coverage or account status.

C. 24-HOUR OUTCOME-BASED CURE, RE-ATTEMPT, AND AUTOMATIC DEPOSIT REQUIREMENT

1) RESPONDENT-INITIATED FAILURE AND NOTICE

If Respondent experiences a denial, disruption, or non-functionality of healthcare coverage, prescription access, or HSA/FSA functionality, Respondent may file and serve a **Notice of Healthcare or HSA/FSA Non-Functionality** pursuant to Section B, attaching objective proof of the failed transaction or access attempt.

2) OPPORTUNITY TO CURE (24 HOURS)

Upon service of the Notice, Petitioner shall have **twenty-four (24) hours** to remediate the specific failure identified, such that Respondent can complete the **same transaction** without obstruction or dependence on Petitioner.

3) RE-ATTEMPT AND CONFIRMATION

Following the 24-hour cure period, Respondent shall re-attempt the same transaction or access. If the transaction **successfully completes**, no further action is required under this subsection.

4) AUTOMATIC DEPOSIT UPON SECOND FAILURE

If the transaction does not successfully complete upon re-attempt after the cure period, Petitioner shall deposit the Coverage Preservation Cash-Value Equivalent (\$20,643.56) into the Court Registry **within twenty-four (24) hours of the failed re-attempt** as interim parity relief, consistent with the valuation adopted by the Court in its December 17, 2025 Order, without regard to the present availability or applicability of COBRA.

5) HEARING AND DISPOSITION OF FUNDS

Upon deposit, the Court shall set a prompt hearing to determine whether the failure or non-functionality was caused, in whole or in part, by Petitioner's actions or omissions.

- If the Court so finds, the deposited funds shall be released to Respondent **as interim protective and parity relief**, intended solely to preserve access to medically necessary care and benefits pending final adjudication, **and not as compensation for past harm, damages, or injury**.
- If the Court does not so find, the Court shall retain, reallocate, or otherwise dispose of the funds as equity and due process require.
- The deposit obligation under subsection (4) is mandatory and not stayed by any request for hearing, clarification, or reconsideration.
- Any determination made at such hearing shall be limited to the administration of interim relief under this Order and shall not constitute findings for purposes of any separate civil action.

D. PURPOSE AND RESERVATION

This structure is entered to prevent repeated disruption of medical access, to eliminate reliance on assurances or administrative delay, and to protect Respondent from ongoing harm. The Court expressly reserves all ultimate determinations regarding fault, reimbursement, offsets, fee shifting, sanctions, or disproportionate division for later adjudication.

Nothing in this Order shall be construed as a finding, adjudication, waiver, release, satisfaction, or limitation of any claim, cause of action, remedy, or right that may exist outside the scope of this proceeding. This Order does not preclude Respondent from seeking additional relief, including

compensatory damages, exemplary damages, sanctions, statutory remedies, or other civil relief, nor does it waive any right to pursue such claims in a court of competent jurisdiction, including any right to a jury trial where applicable.

E. THIRD-PARTY PRODUCTION DEADLINE

Unless otherwise agreed in writing or ordered by the Court, any third-party custodian served pursuant to this Order shall produce responsive documents and electronically stored information within fourteen (14) days of service. Production may be made electronically via secure link or other reasonable method.

F. MANDATORY SHARING OF THIRD-PARTY PRODUCTIONS

Any documents, data, statements, exports, logs, notices, or records received by either party from any third-party custodian pursuant to this Order shall be produced to the other party within three (3) business days of receipt, without awaiting further request.

G. PHASED SERVICE; AVOIDANCE OF DUPLICATION

Respondent may serve subpoenas authorized by this Order in phases. Respondent shall make reasonable efforts to avoid duplicative subpoenas where prior third-party production fully covers the same custodian, accounts, time period, and record categories.

H. BUSINESS-RECORDS AUTHENTICATION

Respondent may elect to utilize deposition by written questions solely for the purpose of business-records authentication under the Texas Rules of Evidence and Texas Rules of Civil Procedure.

VI. BANKRUPTCY / PRETRIAL SEQUENCING

Because the bankruptcy trustee's review overlaps with disputed financial issues, and because third-party institutional verification is required, the Court orders the following sequencing:

A. VERIFIED-RECORD FIRST

The Court will prioritize receipt of third-party records authorized by this Order so that pretrial hearings and/or trial are conducted on an accurate, neutral factual record.

B. CASE MANAGEMENT CONFERENCE / HEARING STRUCTURE

Upon receipt of third-party productions (or expiration of compliance deadlines), the Court may set a focused pretrial hearing to address:

- 1) healthcare/HSA/FSA functionality verification and enforcement,
- 2) disputed disclosure completeness (if applicable),

- 3) housing/lease verification (if applicable),
- 4) and the effect of trustee review on sequencing and scope.

VII. NO ERISA ADJUDICATION / ENFORCEMENT OF EXISTING ORDERS ONLY

Nothing in this Order adjudicates ERISA claims or determines federal rights. The Court enters this Order to enforce its existing temporary orders and to ensure neutral verification of facts directly impacting access to care and the fairness and safety of the proceedings.

VIII. EFFECTIVE DATE

This Order is effective immediately upon judicial signature.

SO ORDERED.

SIGNED on FEBRUARY _____, 2026.

JUDGE PRESIDING

302ND JUDICIAL DISTRICT COURT
DALLAS COUNTY, TEXAS

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