

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES HOUSE OF REPRESENTATIVES,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:14-cv-01967-RMC
	)	
<b>SYLVIA MATHEWS BURWELL, in her official</b>	)	
capacity as Secretary of Health and Human Services, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**ANSWER**

The defendants, Sylvia Mathews Burwell, in her official capacity as Secretary of Health and Human Services; the United States Department of Health and Human Services; Jacob J. Lew, in his official capacity as Secretary of the Treasury; and the United States Department of the Treasury, by the undersigned counsel, respectfully submit this answer to the complaint.

**Preliminary Statement**

The first unnumbered paragraph contains only a characterization of the complaint, which speaks for itself, and to which no response is required.

The second unnumbered paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

The third unnumbered paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

Deny the first and third sentences of the fourth unnumbered paragraph. The second sentence of this paragraph contains only conclusions of law, and not averments of fact to which a

response would be required. The fourth sentence of this paragraph contains only a characterization of the complaint, which speaks for itself, and to which no response is required.

The fifth unnumbered paragraph (captioned as paragraph “A”) contains only conclusions of law, and not averments of fact to which a response would be required.

The sixth unnumbered paragraph (captioned as paragraph “B”) relates only to counts of the complaint that have been dismissed pursuant to this Court’s Order of September 9, 2015, and thus no further response is required.

The seventh unnumbered paragraph contains only a characterization of the complaint, which speaks for itself, and to which no response is required.

### **Parties**

1. Admit.

2. Admit the first sentence, except to aver that Sylvia Mathews Burwell is the Secretary of Health and Human Services. The second sentence contains only conclusions of law, and not averments of fact to which a response would be required.

3. Admit.

4. Admit the first sentence, except to aver that Jacob J. Lew is the Secretary of the Treasury. The second sentence contains only conclusions of law, and not averments of fact to which a response would be required.

5. Admit.

### **Jurisdiction and Venue**

6. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

7. This paragraph contains only a characterization of H.R. Res. 676, 113th Cong. (2014), which speaks for itself, and to which no response is required.

8. This paragraph contains only a characterization of H.R. Res. 676, 113th Cong. (2014), which speaks for itself, and to which no response is required.

9. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

10. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

### **Allegations**

The unnumbered header preceding paragraph 11 contains only conclusions of law, and not averments of fact to which a response would be required.

11. This paragraph contains only a characterization of Article I, Section 1 of the Constitution, which speaks for itself, and to which no response is required.

12. This paragraph contains only a characterization of Article I, Section 7, Clause 2 of the Constitution, which speaks for itself, and to which no response is required.

13. This paragraph contains only a characterization of Article I, Section 9, Clause 7 of the Constitution, which speaks for itself, and to which no response is required.

The unnumbered header preceding paragraph 14 contains only conclusions of law, and not averments of fact to which a response would be required.

14. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

15. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

16. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

17. This paragraph and the accompanying footnotes contain only conclusions of law, and not averments of fact to which a response would be required.

18. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

19. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

20. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

21. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

Admit the unnumbered header preceding paragraph 22.

22. Admit, except to separately aver that the referenced bill is H.R. 3590, 111th Cong. (2009).

23. Admit, except to separately aver that the referenced bill is H.R. 3590, 111th Cong. (2009).

24. Admit, except to separately aver that the referenced bill is H.R. 3590, 111th Cong. (2009).

The unnumbered header preceding paragraph 25 contains only conclusions of law, and not averments of fact to which a response would be required.

25. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

26. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

27. This paragraph and the accompanying footnote contain only conclusions of law, and not averments of fact to which a response would be required.

28. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

29. This paragraph and the accompanying footnote contain only conclusions of law, and not averments of fact to which a response would be required.

30. This paragraph and the accompanying footnote contain only a characterization of a Congressional Budget Office publication, which speaks for itself, and to which no response is required.

31. Deny the first sentence. The second sentence and the accompanying footnote contain only a characterization of an Executive Branch document, which speaks for itself, and to which no response is required.

32. This paragraph and the accompanying footnotes contain only a characterization of a Centers for Medicare & Medicaid Services (“CMS”) document, which speaks for itself, and to which no response is required.

33. Deny.

34. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

35. With respect to the first sentence, admit that the Secretary of the Treasury began making advance payments of cost-sharing reductions, as required under Section 1412 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010), in January 2014, and has continued to make such advance payments since that date; the remainder of the sentence is denied. The second sentence and the footnotes accompanying this paragraph contain only characterizations of a CMS document and an Office of Management and Budget (“OMB”) document, which speak for themselves, and to which no response is required.

36. This paragraph and the accompanying footnote contain only a characterization of an Executive Branch document, which speaks for itself, and to which no response is required.

37. Deny.

38. This paragraph and the accompanying footnote contain only characterizations of correspondence between Members of Congress and OMB, and of an OMB document, which speak for themselves, and to which no response is required.

39. This paragraph contains only characterizations of correspondence between Members of Congress and OMB, which speaks for itself, and to which no response is required, and conclusions of law, rather than averments of fact to which a response would be required.

40. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required. The accompanying footnote contains only characterizations of an OMB document, which speaks for itself, and to which no response is required.

41. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

The unnumbered header preceding paragraph 42 relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

42. This paragraph and the accompanying footnote relate only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

43. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

44. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

45. This paragraph and the accompanying footnotes relate only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

46. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

47. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

48. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

49. This paragraph and the accompanying footnote relate only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

50. This paragraph relates only to counts of the complaint that have been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

### **Claims for Relief**

#### **Count I**

The unnumbered header preceding paragraph 51 contains only conclusions of law, and not averments of fact to which a response would be required.

51. The defendants incorporate their response to paragraphs 1 through 50 above, as if fully set forth herein.

52. This paragraph contains only a characterization of Article I, Section 9, Clause 7 of the Constitution, which speaks for itself, and to which no response is required.

53. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

54. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

55. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

56. This paragraph contains only a characterization of the relief sought in the complaint, and not averments of fact to which a response would be required.



**Count II**

The unnumbered header preceding paragraph 57 relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

57. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

58. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

59. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

60. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

61. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

62. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

**Count III**

The unnumbered header preceding paragraph 63 relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

63. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

64. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

65. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

66. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

67. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

68. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

69. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

70. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

#### **Count IV**

The unnumbered header preceding paragraph 71 relate only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

71. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

72. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

73. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

74. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

75. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

76. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

77. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

78. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

79. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

80. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

81. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

#### **Count V**

The unnumbered header preceding paragraph 82 contains only conclusions of law, and not averments of fact to which a response would be required.

82. The defendants incorporate their response to paragraphs 1 through 81 above, as if fully set forth herein.

83. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

84. This paragraph relates only to a count of the complaint that has been dismissed in relevant part pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

85. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

86. This paragraph relates only to a count of the complaint that has been dismissed in relevant part pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

87. To the extent that this paragraph asserts a violation of 5 U.S.C. § 706(2)(A) or (C), this paragraph relates only to a count of the complaint that has been dismissed in relevant part pursuant to this Court's Order of September 9, 2015, and thus no further response is required. The remainder of this paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

88. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

89. This paragraph contains only conclusions of law, and not averments of fact to which a response would be required.

90. This paragraph contains only a characterization of the relief sought in the complaint, and not averments of fact to which a response would be required.

**Count VI**

The unnumbered header preceding paragraph 91 relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

91. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

92. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

93. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

94. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

95. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

96. This paragraph and the accompanying footnote relate only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

**Count VII**

The unnumbered header preceding paragraph 97 relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

97. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

98. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

99. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

100. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

101. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

102. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

**Count VIII**

The unnumbered header preceding paragraph 103 relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

103. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

104. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

105. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

106. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

107. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

108. This paragraph relates only to a count of the complaint that has been dismissed pursuant to this Court's Order of September 9, 2015, and thus no further response is required.

**Prayer for Relief**

This paragraph contains only a characterization of the relief sought in the complaint, and not averments of fact to which a response would be required.

**First Defense**

The plaintiff lacks standing under Article III of the United States Constitution and the doctrine of the separation of powers.

**Second Defense**

The plaintiff lacks a cause of action under the Declaratory Judgment Act.

**Third Defense**

The plaintiff lacks a cause of action under the Administrative Procedure Act.

**Fourth Defense**

The plaintiff lacks a cause of action under the United States Constitution, or under any other source of law.

**Fifth Defense**

The complaint should be dismissed under the doctrine of equitable discretion.

**Sixth Defense**

The complaint fails to state a claim upon which relief can be granted.

The defendants specifically deny all allegations in the complaint not otherwise answered herein. In addition, the defendants deny that the plaintiff is entitled to the relief requested in the prayer for relief, or to any relief whatsoever.

WHEREFORE, the defendants request that the plaintiff's prayer for relief be denied, that this action be dismissed, and that the defendants be awarded their costs and such other relief as may be appropriate.



Dated: November 2, 2015

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

CHANNING D. PHILLIPS  
United States Attorney

JENNIFER D. RICKETTS  
Director

SHEILA LIEBER  
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          /s/ Joel McElvain            
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