



**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

January 20, 2015

Office of the Prothonotary
Supreme Court of Pennsylvania, Eastern District
468 City Hall
Philadelphia, PA 19107

**Re: Eiseman et al. v. Dental Benefit Providers, Inc. et al.,
Nos. 45 EAP 2014, 46 EAP 2014, and 47 EAP 2014**

To whom it may concern:

The Department of Human Services (DHS, formerly the Department of Public Welfare or DPW) is an appellee in the above-referenced appeal.

Enclosed with this letter is the original and 15 copies of DHS's brief. Our office is closed today but, afterwards, if there are any questions, I can be reached at 717-783-2800 or at lcrumb@pa.gov.

Respectfully,

Leonard W. Crumb
Senior Assistant Counsel

Attachments

Cc: Mr. Geffen
Mr. Myers
Mr. Rodgers

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DIVISION**

No. 45 EAP 2014

**JAMES EISEMAN, JR. and
THE PUBLIC INTEREST LAW CENTER OF PHILADELPHIA,
Appellants**

v.

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF PUBLIC WELFARE,
Appellee**

BRIEF OF APPELLEE DEPARTMENT OF PUBLIC WELFARE

**On appeal from the Order of the Commonwealth Court in Case No. 1935 C.D.
2012, affirming in part and reversing in part the Final Determination of the
Office of Open Records in No. AP 2011-1098
(*Eiseman I*)**

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**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DIVISION**

No. 46 EAP 2014

**JAMES EISEMAN, JR. and
THE PUBLIC INTEREST LAW CENTER OF PHILADELPHIA,
Appellants**

v.

**AETNA BETTER HEALTH, INC.,
HEALTH PARTNERS OF PHILADELPHIA, INC. and
KEYSTONE MERCY HEALTH PLAN,
Appellees**

BRIEF OF APPELLEE DEPARTMENT OF PUBLIC WELFARE

**On appeal from the Order of the Commonwealth Court in Case No. 1935 C.D.
2012, affirming in part and reversing in part the Final Determination of the
Office of Open Records in No. AP 2011-1098
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**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DIVISION**

No. 47 EAP 2014

**JAMES EISEMAN, JR. and THE PUBLIC INTEREST LAW CENTER OF
PHILADELPHIA,**

Appellants

v.

UNITEDHEALTHCARE OF PENNSYLVANIA, INC., d/b/a

UNITEDHEALTHCARE COMMUNITY PLAN, and

HEALTHAMERICAL PENNSYLVANIA, INC., d/b/a

COVENTRY CARES,

Appellees

BRIEF OF APPELLEE DEPARTMENT OF PUBLIC WELFARE

**On appeal from the Order of the Commonwealth Court in Case No. 1935 C.D.
2012, affirming in part and reversing in part the Final Determination of the
Office of Open Records in No. AP 2011-1098
(*Eiseman I*)**

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TABLE OF AUTHORITIES

Pa.R.A.P. No. 2137

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COUNTER-STATEMENT OF JURISDICTION

Appellate Rule 2137 is entitled “Briefs in Cases Involving Multiple Appellants or Appellees.” Pa.R.A.P. No. 2137. In this appeal, the Department of Human Services, formerly the Department of Public Welfare (Department) is one of multiple appellees.

Appellate Rule 2137 states, in pertinent part: “In cases involving more than one ... appellee, ... any appellee may adopt by reference any part of the brief of another.” As will be seen, the Department has elected to use this provision through its brief. Thus, pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees’ briefs/¹ entitled “Statement of Jurisdiction” or “Counter-Statement of Jurisdiction.”

¹ As used in this Brief, “other appellees” refers to all the other entities who are also appellees in this appeal. It does not refer to any persons or entities who are appellants or who appear in the capacity of *amicus curiae*. In this appeal, the other appellees are represented by the firms of Stradley Ronon Stevens & Young, LLP and Dilworth Paxson LLP, and by Karl S. Myers, Esquire, and James J. Rodgers, Esquire. On behalf of their respective clients, these counsel will be filing briefs on behalf of the Other Appellees. Those briefs are referred to herein as the “other appellees’ briefs.”

ORDER IN QUESTION

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs entitled "Order in Question."

**COUNTER-STATEMENT OF THE SCOPE AND
STANDARD OF REVIEW**

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs that set forth the scope of review and the standards of review that are applicable to this appeal.

COUNTER-STATEMENT OF THE QUESTIONS INVOLVED

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs that state forth their version of the questions involved.

COUNTER-STATEMENT OF THE CASE

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs that set forth their counter-statement of the case.

SUMMARY OF ARGUMENT

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs entitled "Summary of Argument."

ARGUMENT

Pursuant to Appellate Rule 2137, the Department hereby adopts by reference those parts of the other appellees' briefs entitled "Argument."

CONCLUSION

For the reasons set forth in the briefs filed on behalf of the other appellees, the Department submits that this Honorable Court should affirm the order entered by the Commonwealth Court.

In the event that this Honorable Court reverses any part of the Commonwealth Court's order, the Department points out that the records in dispute are not in the possession of the Department but, rather, in the possession of the other appellees and, for this reason and in order to eliminate the possibility of any dispute over the degree to which the Department has control over those records, the Department asks that the Court direct that applicable other appellees – who are, of course, parties to this appeal – either provide such records directly to the appellants or, in the alternative, that they provide such records to the Department, so that the Department can convey them to the appellants.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Crumb', written over a horizontal line.

January 20, 2015

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CERTIFICATE OF SERVICE

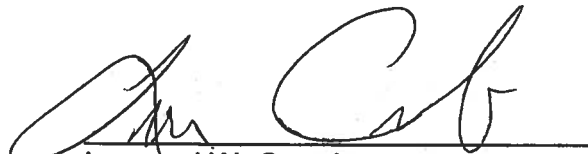
I, Leonard W. Crumb, hereby certify that on this day I am causing the attached Brief of the Department of Public Welfare (renamed, Department of Human Services), by email and by United States First Class Mail, addressed as follows:

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January 20, 2015



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