

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

WINIFRED MIDKIFF, on behalf of herself and
all others similarly situated,

Plaintiffs,

v.

THE ANTHEM COMPANIES, INC., ANTHEM
HEALTH PLANS OF VIRGINIA, INC. d/b/a
ANTHEM BLUE CROSS AND BLUE SHIELD,
and AMERIGROUP CORPORATION,

Defendants.

Case No. 3:22-cv-00417

**COLLECTIVE ACTION
COMPLAINT**

PRELIMINARY STATEMENT

1. This is a collective action brought by individual and representative Plaintiff Winifred Midkiff (“Plaintiff”), on behalf of herself and all others similarly situated (the “putative FLSA Collective”), to recover overtime pay from The Anthem Companies, Inc., and two other subsidiaries of Anthem, Anthem Health Plans of Virginia, Inc. d/b/a Anthem Blue Cross and Blue Shield and AMERIGROUP Corporation (collectively, “Anthem” or “Defendants”).

2. Plaintiff brings this action on behalf of herself and all similarly situated individuals for violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”).

3. Plaintiff’s claim is asserted as a state-wide collective action under the FLSA, 29 U.S.C. § 216(b).

4. The putative “FLSA Collective” is made up of all persons who are or have been employed by Defendants in Virginia as Medical Management Nurses, Utilization Management Nurses, Utilization Review Nurses, Nurse Reviewers, Nurse Reviewer Associates, or other similar

positions who were paid a salary and treated as exempt from overtime laws, and whose primary job was to perform medical necessity reviews during the applicable statutory period.

5. Plaintiff and those similarly situated routinely work more than forty (40) hours in a workweek but are not paid an overtime premium for their overtime hours.

JURISDICTION AND VENUE

6. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 to hear this Complaint and to adjudicate these claims because this action is brought under the FLSA.

7. Venue is proper in the United States District Court for the Eastern District of Virginia pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this district.

PARTIES

8. Defendant The Anthem Companies, Inc. is a foreign limited liability company with its principal place of business located at 220 Virginia Ave., Indianapolis, Indiana, 46204, United States.

9. Defendant Anthem Health Plans of Virginia, Inc. is a Virginia corporation with its principal place of business located at 2015 Staples Mill Rd., Richmond, VA, 23230-3108, United States. The Anthem Health Plans of Virginia, Inc. does business under the fictitious name of Anthem Blue Cross and Blue Shield.

10. Anthem Health Plans of Virginia, Inc., is a managed healthcare and insurance company.

11. Defendant AMERIGROUP Corporation is a Delaware corporation with its principal place of business located at 4425 Corporation Ln., Virginia Beach, VA, 23462-3103, United States.

12. AMERIGROUP Corporation is a managed healthcare company.
13. Defendants are all subsidiaries of Anthem, Inc.
14. Anthem operates office locations in multiple states around the country, including an office located in Chesapeake, Virginia.
15. Plaintiff's paystubs list The Anthem Companies, Inc. and its principal place of business address as her employer.
16. Upon information and belief, other similarly situated individuals' paystubs list The Anthem Companies, Inc. and its principal place of business address as their employer.
17. Anthem is a multi-line health insurance company that provides managed care programs and related services.
18. According to its website, Anthem provides healthcare benefits to more than 74 million members nationwide and serves one in eight Americans through their affiliated medical care coverage plans.
19. Anthem operates in interstate commerce by, among other things, offering and selling a wide array of products and services, including but not limited to, preferred provider organizations, consumer-driven health plans, traditional indemnity, health maintenance organizations, point-of-service, ACA public exchange and off-exchange products, administrative services, Bluecard, Medicare plans, individual plans, Medicaid plans and other state-sponsored programs, pharmacy products, life insurance, disability products, radiology benefit management, personal health care guidance, dental, vision services and products, and Medicare administrative operations to customers and consumers in multiple states across the country, including Virginia.
20. Upon information and belief, Anthem's gross annual sales made, or business done has been in excess of \$500,000.00 at all relevant times.

21. At all relevant times, Defendants are, and have been, “employers” engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203(d).

22. Plaintiff Winifred Midkiff is an adult resident of Amelia County, Virginia.

23. Defendants employed Plaintiff as a Medical Management Nurse II from approximately June 2014 to July 2017. Plaintiff’s claims were tolled when she opted-in to *Laura Canaday, et al. v. The Anthem Companies, Inc.*, case number 1:19-cv-01084-STA-jay on August 19, 2019.

24. Plaintiff reported to Defendants’ Chesapeake, Virginia office for several weeks in June 2014. Plaintiff then worked from her home in Amelia Court House, Virginia until the end of her employment in July 2017.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

25. At all times relevant herein, Defendants operated a willful scheme to deprive Plaintiff and others similarly situated of overtime compensation.

26. Plaintiff and the similarly situated individuals work or worked as Medical Management Nurses, Utilization Management Nurses, Utilization Review Nurses, Nurse Reviewers, Nurse Reviewer Associates, or in similar job titles, and were primarily responsible for performing medical necessity reviews for Defendants.

27. In conducting medical necessity reviews, Plaintiff and the other similarly situated individuals’ primary job duty is non-exempt work consisting of reviewing medical authorization requests submitted by healthcare providers against pre-determined guidelines and criteria for insurance coverage and payment purposes.

28. Plaintiff and the similarly situated individuals are or were paid a salary with no overtime pay.

29. Plaintiff and the other similarly situated individuals are or were treated as exempt from overtime laws, including the FLSA.

30. Defendants suffered and permitted Plaintiff and the other similarly situated individuals to work more than forty (40) hours per week without overtime pay.

31. For example, between September 11, 2016, and September 17, 2016, Plaintiff estimates that she worked approximately 52-55 hours and did not receive overtime pay for her overtime hours.

32. Defendants have been aware, or should have been aware, that Plaintiff and the other similarly situated individuals performed non-exempt work that required payment of overtime compensation. Defendants also required Plaintiff and the similarly situated individuals to work long hours, including overtime hours, to complete all of their job responsibilities and meet Defendants' productivity standards.

33. Defendants knew that Plaintiff and the other similarly situated individuals worked unpaid overtime hours because Plaintiff and others complained about their long hours and the workload. Specifically, when Plaintiff told her supervisor that she was working long hours, her supervisor responded that her hands were tied and that Plaintiff should be more efficient with her time.

34. Although Defendants had a legal obligation to do so, Defendants did not make, keep, or preserve adequate or accurate records of the hours worked by Plaintiff and the other similarly situated individuals.

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