UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

ATAHIR MAHMOUD, et al.,

Plaintiffs,

v.

MEHMET OZ, et al.,

Defendants.

Case No.

EXPEDITED CONSIDERATION REQUESTED

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Plaintiff and proposed class members hereby submit this motion to certify a class in this action and declare that this action may be maintained as a class action pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure. In support of this motion, Plaintiffs rely on the accompanying memorandum, declarations filed at Dkt. Nos. 1-4 through 1-9, the pleadings and papers on file in this action, and any argument and evidence presented at the hearing of this motion, and also state as follows:

The proposed class is defined as: All noncitizens who: (a) receive benefits under the Supplemental Security Income program under Title XVI of the Social Security Act; (b) satisfy the applicable requirements for full Medicaid coverage, apart from the restriction based on immigration status imposed by the April 8, 2026, Letter to State Health Officials; (c) do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B); and (d) whose full Medicaid coverage has been or will be terminated, reduced, or denied, because they do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B).

The class claim is that Defendants' unlawful directive to terminate Plaintiffs and proposed class members from Medicaid (SSI Medicaid Exclusion) violates the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C), because they are acting without statutory authority and in direct contradiction of Congress' unambiguous mandate in 8 U.S.C. § 1612(b)(2)(F).

In particular, Plaintiffs request an order that:

1. Certifies the following class: All noncitizens who: (a) receive benefits under the Supplemental Security Income program under Title XVI of the Social Security Act; (b) satisfy the applicable requirements for full Medicaid coverage, apart from the restriction based on immigration status imposed by the April 8, 2026, Letter to State Health Officials; (c) do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B); and (d) whose full Medicaid coverage has been or will be terminated, reduced, or denied, because they do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B);

2. Approves the Named Plaintiffs—Atahir Mahmoud, Gerard Mayetela, Lyubov Kodentsova, Svitlana Pecherskykh, through her next friend, Tetiana Samoilova, and M.E., through his next friend, Sara Hamdi—as Class Representatives;

3. Designates the undersigned counsel as class counsel for the proposed class.

Plaintiffs request class certification on an expedited basis—either full certification, or, if necessary, provisional class certification—in order to provide interim relief on a class-wide basis.

Dated: November 24, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the within document, the attached memorandum in support, and all supporting exhibits via the Court's CM/ECF system on the 24th day of November, 2026, that the participants in the case that are registered CM/ECF users will be served electronically by the CM/ECF system, and that I provided the same documents by email to: Kathryn L. Wyer (Kathryn.wyer@usdoj.gov) of the U.S. Department of Justice, Civil Division, and Kevin Bolan (kevin.bolan@usdoj.gov), Civil Chief of the U.S. Attorney's Office for the District of Rhode Island.

/s/ Amy R. Romero
Amy R. Romero

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EXPEDITED CONSIDERATION REQUESTED

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

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PRELIMINARY STATEMENT

The proposed class is composed of thousands of low-income, lawfully-present immigrants who receive Supplemental Security Income (SSI) because they are elderly or disabled and who are entitled under federal statutes—the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), 8 U.S.C. § 1612(b)(2)(F) and the Medicaid Act, 42 U.S.C. § 1396a(10)(A)(i)(II)(aa), (f)— to full Medicaid coverage. They challenge Defendants' recently announced policy to uniformly exclude them from Medicaid coverage because of their immigration status (the "SSI Medicaid Exclusion").

The question presented in this case is whether the SSI Medicaid Exclusion violates the Administrative Procedure Act because it contravenes PRWORA and the Medicaid Act. The answer to this question can and should be resolved on a classwide basis. The proposed class includes thousands of non-citizens across the United States who have all lost (or will lose) Medicaid as a result of Defendants' nationwide policy. Determining whether that policy is lawful or not will resolve each class member's claim in one stroke. Accordingly, Plaintiffs hereby seek entry of an Order, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2), certifying the following class and appointing them as class representatives:

> All noncitizens who: (a) receive benefits under the Supplemental Security Income program under Title XVI of the Social Security Act; (b) satisfy the applicable requirements for full Medicaid coverage, apart from the restriction based on immigration status imposed by the April 8, 2026, Letter to State Health Officials; (c) do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B); and (d) whose full Medicaid coverage has been or will be terminated, reduced, or denied, because they do not have a status listed in 42 U.S.C. § 1396b(v)(5)(B).

On behalf of themselves and all proposed class members, Plaintiffs seek an order that (1) sets aside Defendants' SSI Medicaid Exclusion under the APA, (2) declares that Defendants' SSI Medicaid Exclusion is unlawful under the APA because the Medicaid Act and PRWORA mandate that all SSI recipients who meet the categorical eligibility requirements for Medicaid in their state are entitled to federally funded Medicaid benefits regardless of their immigration status; (3) enjoins Defendants from implementing the SSI Medicaid Exclusion, including prohibiting Defendants from denying, withholding, or disallowing Federal Financial Participation (FFP) for medical assistance furnished to class members on the basis of the SSI Medicaid Exclusion; and (4) orders Defendants, within 48 hours of entry of the Court's Order, to file a notice confirming that they have informed all states participating in Medicaid of the Court's order.

Because Plaintiffs are seeking expedited consideration both as to class status and as to interim relief, Plaintiffs ask the Court to decide certification before or together with their motion for classwide relief. Alternatively, Plaintiffs seek certification for purposes of preliminary relief under Rules 23(a) and (b)(2) so that any interim relief is made available on a classwide basis.

BACKGROUND

I. Overview of the Medicaid Program and Medicaid Eligibility

The purpose of the Medicaid program is to "furnish medical assistance" to individuals "whose income and resources are insufficient to meet the costs of necessary medical services." 42 U.S.C. § 1396-1. States and the federal government share responsibility for funding Medicaid. This joint funding structure is the

"cornerstone of Medicaid." *Harris v. McRae,* 448 U.S. 297, 308 (1980). States are not obligated to participate in Medicaid, but must "rigidly comply with several federally-imposed requirements if they opt to do so." *Consejo de Salud de la Comunidad de la Playa de Ponce, Inc. v. González-Feliciano*, 695 F.3d 83, 87 (1st Cir. 2012). All states participate in Medicaid. To claim federal funding, 42 U.S.C. § 1396a requires states to administer an approved "state plan" for providing "medical assistance" to "categories of individuals eligible for benefits." *Pharm. Rsch. & Mfrs. of Am. v. Walsh*, 538 U.S. 644, 650 (2003).

To be eligible for medical assistance under the state plan, individuals must fall within one of the covered Medicaid eligibility groups. The Medicaid Act identifies population groups that states must cover and gives states the option to cover additional population groups. 42 U.S.C. § 1396a(a)(10)(A), (C). Mandatory Medicaid population groups include children; parents and other caretaker relatives; pregnant women; and the elderly, blind, and disabled. *Id*. § 1396a(a)(10)(A)(i).

With respect to the mandatory elderly, blind, and disabled eligibility categories, states must provide Medicaid to all persons receiving Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA) unless the state has exercised what is referred to as the "209(b) option." 42 U.S.C. §§ 1396a(a)(10)(A)(i)(II)(aa), (f). Under the 209(b) option, states are permitted to apply more stringent financial or disability criteria, but they may not be more stringent than the criteria in place in the state on January 1, 1972. 42 U.S.C. § 1396a(f); 42 C.F.R. § 435.121. Coverage is still mandatory in 209(b) states: those

states must provide coverage to all individuals who meet the state's selected requirements. 42 U.S.C. § 1396a(f); 42 C.F.R. § 435.121. Eight states exercise the 209(b) option: Connecticut, Hawaii, Illinois, Minnesota, Missouri, New Hampshire, North Dakota, and Virginia. Soc. Sec. Admin., Program Operations Manual System (POMS), SI 01715.010, *Medicaid and the Supplemental Security Income (SSI) Program*, https://secure.ssa.gov/poms.nsf/lnx/0501715010 (last visited Nov. 23, 2026).

Individuals who meet the categorical eligibility requirements must also demonstrate that they meet certain immigration status requirements. These requirements apply in all states, including 209(b) states. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) prescribes non-citizen eligibility requirements for Medicaid. 8 U.S.C. § 1612(b). Generally speaking, PRWORA limits eligibility to certain "qualified" noncitizens, such as lawful permanent residents (LPRs), asylees, refugees, certain parolees, victims of trafficking or battery, Cuban or Haitian entrants, or individuals who reside in the United States in accordance with a Compact of Free Association (COFA). *See* 8 U.S.C. § 1641(b)–(c). One provision of the PRWORA mandates that qualified non-citizens who receive SSI "shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq*.) under the same terms and conditions that apply to other recipients of benefits under the [SSI program]." 8 U.S.C. § 1612(b)(2)(F). In other words, for Medicaid eligibility, non-citizen SSI recipients are eligible on the "same terms and conditions" as citizen SSI recipients.

On July 4, 2025, Congress passed Public Law No. 119-21, also known as "H.R. 1" or the One Big Beautiful Bill Act ("OBBBA") or the Working Families Tax Cut ("WFTC") Legislation. Section 71109 of that law amended 42 U.S.C. § 1396b(v) of the Medicaid Act, as follows (new language underlined):

> Notwithstanding the preceding provisions of this section, except as provided in paragraphs (2), (4), **and (5)**, no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. *See* Pub. L. No. 119-21, § 71109(a)(1), 139 Stat. 72, 297 (2025) (codified as 42 U.S.C. § 1396b(v)(1) (emphasis added to reflect revision)).

Paragraph (5) provides, in relevant part, as follows:

> Notwithstanding the preceding paragraphs of this subsection, beginning on October 1, 2026, except as provided in paragraphs (2) and (4), in no event shall payment be made to a State under this section for medical assistance furnished to an individual unless such individual is–
>
> . . .
>
> (i) a citizen or national of the United States;
>
> (ii) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 1101(a)(15) and 1101(a)(20) of Title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
>
> (iii) an alien who has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422); or
>
> (iv) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 1612(b)(2)(G) of Title 8.

42 U.S.C. § 1396b(v)(5). Nothing in H.R. 1 amended the mandate in 8 U.S.C. § 1612(b)(2)(F).

II. CMS's Added SSI Medicaid Exclusion

On April 8, 2026, the Centers for Medicare & Medicaid Services ("CMS"), which is an agency within the United States Department of Health and Human Services ("HHS"), issued a letter to State Health Officials in every state (the "SHO Letter") regarding implementation of H.R. 1 Section 71109. SHO Letter, Ex. 1 (Dkt. No. 1-1). The SHO Letter purported to explain the relationship between section 71109 of H.R. 1 and PRWORA. *Id*. at 6. CMS asserted that, notwithstanding the mandate in 8 U.S.C. § 1612(b)(2)(F), non-citizen SSI recipients who lacked one of the three "FFP-eligible statuses" listed in Section 71109 could no longer receive federally funded Medicaid. CMS instructed states to stop claiming FFP for them as of October 1, 2026. *Id*. at 4–5, 7, 9. Although the letter referenced a requirement to provide Medicaid to SSI recipients, an appended chart within the SHO Letter did not indicate any exceptions for SSI recipients who are refugees, asylees, individuals granted withholding of removal, Amerasian immigrants, certain abused spouses and children, Iraqi and Afghan special immigrants, human trafficking victims, and certain Afghan and Ukrainian parolees to continue receiving Medicaid. *Id*. at 23–28. To the contrary, the SHO Letter states that as of October 1, 2026, Federal Financial Participation (FFP), which is the amount of money the federal government pays to match state spending on the Medicaid program, "will not be available" for noncitizen SSI recipients who lack the immigration status listed in Section 71109. *Id* at 7, 18.

CMS reiterated this interpretation in subsequent guidance issued on July 31, 2026 (the "Implementation Tool"), Ex. 2 (Dkt. No. 1-2), and August 14, 2026 (the

"Technical Guide"), Ex. 3 (Dkt. No. 1-3). In short, CMS's SSI Medicaid Exclusion policy cuts off federal funding for Medicaid for SSI recipients who are not LPRs, Cuban or Haitian entrants, or COFA migrants, effectively directing states to terminate their Medicaid coverage.

As a direct result of the SSI Medicaid Exclusion, thousands of noncitizen SSI recipients lost Medicaid coverage effective October 1, 2026, and this loss of coverage is ongoing. The sole liability question in this case is whether CMS's statutory interpretation—which affects the Medicaid eligibility of non-citizen SSI recipients across the country—violates the APA.

III. Plaintiffs' Article III Standing

Here, every representative plaintiff satisfies the requirements of Article III, and so long as "at least one plaintiff has standing, the suit may proceed." *Capen v. Campbell*, 134 F.4th 660, 668 (1st Cir. 2025) (quotation omitted). To establish Article III standing, a plaintiff must demonstrate (1) "an injury in fact," (2) "a causal connection between the injury and the conduct complained of, and" (3) "a like[lihood] that the injury will be redressed by a favorable decision." *Lujan v. Defs. Of Wildlife*, 504 U.S. 555, 560-61 (1992) (citation modified). The representative plaintiffs meet this test. Without Medicaid, named plaintiffs have lost access to vital health and long-term care services, creating significant threats to their health and wellbeing, and jeopardizing their limited financial resources. Medicaid provides comprehensive health coverage, including coverage for medications, doctors' visits, specialists, and long-term care. There is no question that Defendants' SSI Medicaid Exclusion has caused named Plaintiffs to lose their Medicaid, nor that the relief they seek from the

Court will address their harms: each lost essential health coverage as a direct result of Defendants' SSI Medicaid Exclusion and the relief sought in this case would restore that coverage.

Named plaintiffs are five of the qualified noncitizens receiving SSI who have been harmed by Defendants' policy.

A. Plaintiff Atahir Mahmoud

Plaintiff Atahir Wadalfhakih Mahmoud is a 69-year-old man living in Providence, Rhode Island with his wife and two minor children. Declaration of Atahir Mahmoud (Mahmoud Decl.), Dkt. 1-4, ¶¶ 3, 6. He was born in Sudan and arrived in the United States as a refugee in February 2024; he currently has status as a refugee, and his application for his green card is pending. *Id.* ¶¶ 3–5. He qualifies for and receives SSI payments. *Id.* ¶ 7. Until October 1, 2026, he relied on Medicaid benefits in Rhode Island for medical care, including medication, for a range of health issues, including knee pain, type 2 diabetes, high-blood pressure, high cholesterol and prostate and stomach pain. *Id.* ¶¶ 8, 12, 14, 18. He lost Medicaid benefits, effective October 1, 2026, pursuant to Defendants' SSI Medicaid Exclusion, causing him substantial and irreparable harm. *Id.* ¶¶ 8, 12–13, 15, 18–19.

B. Plaintiff Gerard Mayetela

Plaintiff Gerard Mayetela is a 77-year-old man living in Providence, Rhode Island, with his wife and adult son. Declaration of Gerard Mayetela (Mayatela Decl.), Dkt. 1-5, ¶¶ 3, 6. He and his family fled to the United States from the Republic of the Congo as a refugee in 2024; he currently has status as a refugee, and his application for his green card is pending. *Id.* ¶¶ 4, 5. He qualifies for and receives SSI payments.

Id. ¶ 7. Until October 1, 2026, he relied on Medicaid benefits in Rhode Island for medical care, including medications, for a range of health issues, including vision impairments and high blood pressure. *Id.* ¶¶ 12–13. He lost Medicaid benefits, effective October 1, 2026, pursuant to Defendants' SSI Medicaid Exclusion, causing him substantial and irreparable harm. *Id.* ¶¶ 8, 12–18.

C. Plaintiff Lyubov Kodentsova

Lyubov Kodentsova is an 89-year-old, Uzbekistani woman living in Champaign, Illinois with her adult daughter, Valentina Chupik. Declaration of Lyubov Kodentsova (Kodentsova Decl.), Dkt. 1-6, ¶ 2. Ms. Kodentsova was granted asylum in the United States in 2023, and currently has status as an asylee. *Id.* ¶¶ 7–8. She qualifies for and receives SSI benefits. *Id.* ¶ 9. Until October 1, 2026, she relied on Medicaid benefits in Illinois, a 209(b) state, for medical care, including medications, for a range of health issues, including chronic heart failure, bradycardia, shortness of breath, osteoperosis, and dementia. *Id.* ¶¶ 13–16. Her Medicaid also paid Valentina to provide support with Ms. Kodentsova's activities of daily living, including eating, bathing, dressing, transferring in and out of bed, and taking medications. *Id.* ¶¶ 16–18. She lost Medicaid benefits effective October 1, 2026, pursuant to Defendants' SSI Medicaid Exclusion and is experiencing significant and irreparable harm. *Id.* ¶¶ 10–12, 19–23.

D. Plaintiff Svitlana Pecherskykh

Svitlana Pecherskykh is a 78-year-old woman who lives in Boiling Springs, South Carolina. Declaration of Tetiana Samoilova (Samoilova Decl.), Dkt. 1-7, ¶ 2. She and her family fled the war in Ukraine and entered the United States as

humanitarian parolees through the United for Ukraine (U4U) program. *Id.* ¶¶ 3–9. She receives SSI based on her age. *Id.* ¶ 11. Two of her family members, her son-in-law, and grandson receive SSI due to their disabilities. *Id.* ¶ 24. All three family members received notices that their Medicaid would end on October 1, 2026, due to their immigration status. *Id.* ¶¶ 15, 26. Moreover, Ms. Pecherskykh's daughter participates in a Russian-speaking group for parents of children with disabilities and knows of five or six other individuals in their county who have also lost Medicaid coverage due to the SSI Medicaid Exclusion. *Id.* ¶ 29. The loss of Medicaid coverage is causing substantial and irreparable harm to Ms. Pecherskykh and her family. For her part, Ms. Pecherskykh is foregoing infusion treatment for her Alzheimer's and multiple medications needed to treat her other conditions, including type 2 diabetes, reflux, and urinary incontinence. *Id.* ¶¶ 16–19. She has also lost the in-home assistance with activities of daily living that was covered by Medicaid. *Id.* ¶ 20. This has left her daughter Tetiana to serve as the primary caretaker for three adults with disabilities in one household: her mother who has Alzheimer's, her husband with dementia, and her son with an intellectual disability. *Id.* ¶ 27. She cannot safely leave them alone and she is experiencing profound exhaustion, loss of sleep, and emotional burnout. *Id.* ¶¶ 27-28.

E. Plaintiff M.E.

M.E. is an 11-year-old child, who lives in Saint Louis, Missouri, with his family. Declaration of Sara Hamdi (Hamdi Decl.), Dkt. 1-8, ¶¶ 3, 7. His parents fled from Syria to Turkey in 2015 because of the civil war. *Id.* ¶ 4. He and his three younger

siblings were born in Turkey and they came to the United States in December 2024 after they were granted refugee status. *Id.* ¶¶ 4-5. M.E. receives SSI based on his disabilities. *Id.* ¶ 10. He and his family received notices that their Medicaid would end on October 1, 2026, due to their immigration status. *Id.* ¶¶ 15-16. There was no exception for M.E., even though he receives SSI benefits. *Id.* ¶ 16. The loss of Medicaid coverage is causing substantial and irreparable harm to M.E. and his family. M.E. was born with kidney malformation and congenital malformations, and has had multiple surgeries and requires more surgeries. *Id.* ¶¶ 7-8, 13-14. His family had to put off the surgery because they cannot afford the cost without Medicaid. *Id.* ¶ 21. M.E. also has been diagnosed with global developmental delay, and enuresis and encopresis. *Id.* ¶ 7. Medicaid covered the cost of his doctors' visits, including for a urologist, gastroenterologist, geneticist, and psychiatrist, as well as his prescription medications and diapers. *Id.* ¶¶ 12. Without Medicaid, he is unable to be treated, as his family cannot afford his medical care. *Id.* ¶¶ 20, 22.

In sum, Plaintiffs have standing to bring this case because they are being injured by Defendants' SSI Medicaid Exclusion, and relief from the Court, vacating and enjoining that SSI Medicaid Exclusion, will address their harms.

ARGUMENT

In deciding whether to certify a class, this Court must "undertake a 'rigorous analysis'" to evaluate whether Plaintiffs have established, by a preponderance of the evidence, that the proposed class satisfies each of Federal Rule of Civil Procedure Rule 23(a)'s requirements: numerosity, commonality, typicality, and adequacy of

representation. *In re Nexium Antitrust Litig.*, 777 F.3d 9, 17, 27 (1st Cir. 2015) (quoting *Comcast Corp. v. Behrend*, 569 U.S. 27, 33 (2013)). For a class, like the one proposed here, that seeks certification under Federal Rule of Civil Procedure Rule 23(b)(2), Plaintiffs must additionally establish: (1) "the party opposing the class has acted or refused to act on grounds that apply generally to the class," and (2) "final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2).

Here, Plaintiffs' proposed class meets the requirements of Rules 23(a) and (b)(2).

I. The Class Meets the Numerosity, Commonality, Typicality, and Adequacy Requirements of Rule 23(a).

A. The Class Is So Numerous that Joinder Is Impracticable.

The first requirement for class certification is satisfied when "the class is so numerous that joiner of all members is impracticable." Fed. R. Civ. P. 23(a)(1). In the First Circuit, numerosity is a "low threshold"; a class generally satisfies numerosity once it exceeds 40 members. *Garcia-Rubiera v. Calderon*, 570 F.3d 443, 460 (1st Cir. 2009). Here, there is no question that the proposed class satisfies the numerosity requirement. There are five Named Plaintiffs who have attested to being harmed by the SSI Medicaid Exclusion. *See* Mahmoud Decl., Mayetela Decl., Kodentsova Decl., Samoilova Decl. The representative of one Named Plaintiff has further averred that she is aware of at least six other individuals in her state who are being harmed. *See* Samoilova Decl. ¶¶ 26, 29. In addition, the Director of an Adult Day Center in Pennsylvania has averred that she is aware of 32 people in her state who are being

harmed. *See* Declaration of Lubov Uminski, Dkt. No. 1-9, ¶¶ 7, 12. And the evidence suggests that there are many more people harmed by the exclusion.

There are over 310,000 non-citizen SSI recipients in the United States. *See* SSA, SSI Annual Statistical Report, 2025, Table 31, https://www.ssa.gov/policy/docs/statcomps/ssi_asr/2025/sect05.html#table31 (last visited Nov. 3, 2026). SSA's publicly-reported data does not list the particular immigration statuses of those individuals, but if even one percent of those individuals are subject to the SSI Medicaid Exclusion that would be 3,000. And evidence from Washington state suggests the percentage is likely significantly higher. SSA's statistical report for 2025 identified 5,217 noncitizen recipients of SSI. Washington's Medicaid agency identified approximately 1,258 SSI-eligible noncitizens who were at risk of losing coverage. *See* Decl. of Trinity Wilson, Dkt. No. 9, *Neighborhood House v. Kennedy,* No. 2:26-cv-03006-TSZ (W.D. Wa.). That data suggests that approximately 24% of non-citizen SSI recipients are losing Medicaid coverage, bringing the estimate to over 74,000 individuals. Further, data from the SSA supports an inference that, across the country there are thousands, if not tens of thousands, of qualified noncitizens receiving SSI who have lost their Medicaid due to Defendants' SSI Medicaid Exclusion policy, far exceeding the First Circuit's presumptive threshold of 40 to establish numerosity. *See Garcia-Rubiera*, 570 F.3d at 460.

Moreover, the class definition includes individuals whose Medicaid will be denied in the future due to Defendant's SSI Medicaid Exclusion, namely individuals who become SSI eligible in the future and are denied Medicaid coverage at that time.

The difficulty of "identify[ing] future claimants" further supports numerosity. *See In re Loestrin 24 Fe Antitrust Litig.*, No. 1:13-MD-2472, 2019 WL 3214257, at *8 (D.R.I. July 2, 2019) (quoting *In re Modafinil Antitrust Litig.*, 837 F.3d 238, 253 (3d Cir. 2016), as amended Sept. 29, 2016). Finally, the putative class has several other indica of numerosity, including that the class members are, by definition, low-income, and are unlikely to be able to prosecute the case on their own; they are dispersed throughout the United States; and the class seeks only injunctive and declaratory relief. *Id.* Together, these factors make joinder of the individual class members impractical. Plaintiffs have soundly established numerosity.

B. There Are Questions of Fact and Law Common to All Class Members.

The "commonality" factor requires there to be a common thread among all class members, namely "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). This means that the putative class's "claims must depend upon a common contention" that "is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Thus, "plaintiffs can satisfy Rule 23(a)'s commonality requirement by identifying a uniformly applied, official policy . . . that drives the alleged violation." *Parent/Pro. Advoc. League v. City of Springfield*, 934 F.3d 13, 29 (1st Cir. 2019).

That is the case here. Plaintiffs challenge a single policy that is applied to them uniformly and that is the direct cause of the harms they experience: Defendants' SSI Medicaid Exclusion. Plaintiffs bring claims under the APA arguing that the SSI

Medicaid Exclusion policy is in excess of statutory authority and not in accordance with federal law. 5 U.S.C. § 706(2)(A), (C). The key question of law that the court must resolve to decide Plaintiffs' APA claims is whether the SSI Medicaid Exclusion is prohibited by the Medicaid Act and PRWORA, given the mandate that all SSI recipients who meet the categorical eligibility requirements for Medicaid in their state are entitled to federally funded Medicaid benefits regardless of their immigration status. If the answer to that question is "yes" it will resolve the validity of each class member's claim in one stroke. *See Garcia-Rubiera*, 570 F.3d at 460 (finding commonality "easily met"). Indeed, that statutory interpretation question is a prototypical example of a question of law that can be answered in one stroke for the class as a whole. *See, e.g.*, *Guerrero Orellana v. Moniz*, 808 F. Supp. 3d 167, 185 (D. Mass. 2025) ("Addressing whether this interpretation of the statutory provision is correct is a common legal question that binds the class together."). Plaintiffs have established commonality.

C. The Claims of the Named Plaintiffs Are Typical of the Claims of the Class.

The "typicality" element of certification requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). A putative class establishes this prerequisite by showing that the named plaintiffs' claims arise from the same policy, practice, or course of conduct that affects the class as a whole, and that their claims rest on "the same legal theory." *Garcia-Rubiera* 570 F.3d at 460–61.

Here, the individual claims of the class representatives "are not only typical of but identical to the claims of other plaintiffs" and thus the class representatives "would not be 'subject to unique defenses that would divert attention from the common claims of the class'", nor would the court need to "make highly fact-specific or individualized determinations in order to establish a defendant's liability to each class member." *Medoff v. CVS Caremark Corp.*, 2016 WL 632238 (D.R.I. Feb. 17, 2016) (citing *In re Tyco Int'l, Ltd. Multidistrict Litig.*, 2007 WL 1703067, at *2 (D.N.H. June 12, 2007)); *see also In re Loestrin 24 Fe Antitrust Litig.*, 410 F. Supp. 3d at 398 (finding typicality where the named plaintiffs' claims were "substantially similar to those of the class members they seek to represent nationwide"). Named plaintiffs and class members are all qualified noncitizens receiving SSI benefits whose Medicaid coverage has been or will be terminated, reduced, or denied because of Defendant's SSI Medicaid Exclusion policy. The remedies sought by named plaintiffs are the exact remedies that will benefit class members: (1) vacatur of the SSI Medicaid Exclusion; (2) a declaration that Defendants' SSI Medicaid Exclusion is unlawful because the Medicaid Act and PRWORA mandate that all SSI recipients who meet the categorical eligibility requirements for Medicaid in their state are entitled to federally funded Medicaid benefits regardless of their immigration status; (3) an injunction preventing Defendants from implementing the SSI Medicaid Exclusion, including prohibiting Defendants from denying, withholding or disallowing FFP for medical assistance furnished to class members on the basis of the SSI Medicaid Exclusion; and (4) an

order for Defendants to file a notice, confirming that they have informed all states participating in Medicaid of the Court's order. Named plaintiffs' claims are typical.

D. The Named Plaintiffs and their Counsel Will Adequately Represent the Members of the Proposed Class.

Rule 23 requires that proposed class representatives and their attorneys show that they "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). To satisfy adequacy, "[t]he moving party must show first that the interests of the representative party will not conflict with the interests of any of the class members, and second, that counsel chosen by the representative party is qualified, experienced, and able to vigorously conduct the proposed litigation." *Andrews v. Bechtel Power Corp.*, 780 F.2d 124, 130 (1st Cir. 1985); *see also Matamoros v. Starbucks Corp.*, 699 F.3d 129, 138 (1st Cir. 2012) (explaining that named plaintiffs adequately represent the class as long as there are no conflicts between the named plaintiffs and the class that "go to the heart of the litigation").

Here, there are no conflicts between the named plaintiffs and the class. Named plaintiffs are adequate representatives of the class because they have expressed a clear willingness and ability to actively participate in the litigation and to protect the interests of the class. *See* Mahmoud Decl. ¶ 20; Mayetela Decl. ¶ 19; Kodentsova Decl. ¶ 24; Samoilova Decl. ¶ 29-30; Hamdi Decl. ¶ 26. Named plaintiffs actively share the interests of the class in restoring their Medicaid benefits. *Id.* As discussed above, the same relief that will remedy the harm to named plaintiffs will remedy the harm to the class as a whole. The named plaintiffs have established that they will adequately represent the class.

Moreover, Plaintiffs' chosen counsel are "qualified, experienced and able to vigorously conduct the proposed litigation." *Andrews*, 780 F.2d at 130. *See also* Fed. R. Civ. P. 23(g)(1)(A), (g)(4). Counsel for plaintiffs are Amy Romero, Kevin Love Hubbard, and Juan Bedoya of the Lawyers' Committee for Rhode Island (LCRI); Lynette Labinger, cooperating counsel for ACLU Foundation of Rhode Island; and Sarah Grusin, Abigail Coursolle and Jane Perkins of the National Health Law Program (NHeLP) (collectively, "Proposed Class Counsel"). Between them, Proposed Class Counsel has extensive experience litigating complex, federal class action lawsuits under Rule 23(b)(2), and cases under the Administrative Procedures Act, including those related to immigration and to federally funded benefits. Fed. R. Civ. P. 23(g)(1)(A)(ii), (iii). *See, e.g., Chianne D. v. Harris*, 814 F. Supp. 3d 1261 (M.D. Fla. 2026) (NHeLP co-counseled case involving statewide Rule 23(b)(2) class of Medicaid beneficiaries); *Carr v. Becerra*, No. 3:22cv099, 2023 WL 1280172 (D. Conn. Jan. 31, 2023) (certifying nationwide class action in NHeLP co-counseled APA case challenging agency action terminating Medicaid coverage); *Darling v. Douglas,* Case No. 4:09-cv-03798 (N.D. Cal. Dec. 14, 2011) (NHeLP counsel co-counseled case involving statewide Rule 23(b)(2) class of Medicaid beneficiaries); *Van Meter v. Harvey*, 272 F.R.D. 274 (D. Me. 2011) (NHeLP co-counseled case involving access to Medicaid-preadmission screening for nursing facility admission); *R.I. State Council of Churches v. Rollins*, 158 F.4th 304 (1st Cir. 2025) (LCRI counseled case involving APA challenge to denial of nationwide SNAP benefits); *Dorcas Int'l Inst. of R.I. v. U.S. Citizenship & Imm. Servs.* 834 F. Supp. 3d 242 (D.R.I. 2026), *appeal pending*, No. 26-

1703 (LCRI counseled case involving APA challenge to nationwide immigration benefits); *J.E.L v. Charest*, No. 24-cv-471-MRD-AEM (designating Labinger as class counsel by this Court); *PLEE v. Prov. Pub. Sch. Dep't,* No. 23-cv-00301-MSM-PAS (same); *Chapdelaine v. Neronha*, No. 15-CVS-450-JJM-PAS (same); *Cohen v. Brown Univ.*, No. 92-cv-197 (same); *Morris v. Travisono*, No. 69-cv-1492-JJM (same). Proposed Class Counsel have committed to pursue this litigation zealously and have already been working steadily and competently to investigate and identify the claims in this case. Fed. R. Civ. P. 23(g)(1)(A)(i), (iv). Accordingly, Proposed Class Counsel are adequate representatives of the class.

E. Class Certification Is Warranted Under Rule 23(b)(2).

Class certification under Rule 23(b)(2) is appropriate when "the party opposing the class has acted or refused to act on grounds that apply generally to the class," making a single injunction or declaration applicable to the class as a whole. Fed. R. Civ. P. 23(b)(2). Thus, a class may be certified under Rule 23(b)(2) where, as here, the challenged conduct can be resolved through a single, class-wide remedy. *See Reid v. Donelan*, 17 F.4th 1, 11 (1st Cir. 2021).

Certification under Rule 23(b)(2) is appropriate when, as here, Defendants' actions stem from a policy that applies to the class as a whole. The First Circuit has explained that "the conduct complained of is the benchmark for determining whether a subdivision (b)(2) class exists, making it uniquely suited to civil rights actions." *Yaffe v. Powers*, 454 F.2d 1362, 1366 (1st Cir. 1972), *abrogated on other grounds by Gardner v. Westinghouse Broad. Co.*, 437 U.S. 478 (1978). As discussed above,

Plaintiffs challenge Defendants' SSI Medicaid Exclusion, which applies across-the-board to all class members. Further, because the SSI Medicaid Exclusion applies to all class members, it is plain that "a single injunction or declaratory judgment would provide relief to each member of the class." *Wal-Mart Stores*, 564 U.S. at 360; *see also Van Meter*, 272 F.R.D. at 283-84 ("If the putative class members were to proceed on an individual basis, they might obtain the individual services they seek without obtaining systemic changes to [defendants'] conduct that would benefit the class as a whole, a result that could lead to countless individual claims seeking the exact same relief . . . [so] obtaining relief on a class-wide basis ensures an efficient judicial remedy to any deficiency in [defendants'] conduct.").

The class also appropriately extends nationwide. "Nothing in Rule 23 . . . limits the geographical scope of a class action that is brought in conformity with that Rule," although a court should "take care to ensure that nationwide relief is indeed appropriate." *Califano v. Yamasaki,* 442 U.S. 682, 702 (1979). It is appropriate here. The SSI Medicaid Exclusion is a single federal policy that CMS applied to every state at once, the governing statutes are uniform, and no class member's claim turns on where he or she lives. Nor does *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), counsel otherwise; the Court there explicitly recognized that Rule 23 class actions remain available to obtain relief for non-parties.

II. The Court Should, at Minimum, Provisionally Certify the Class.

Because Plaintiffs seek expedited interim relief, the Court should, at a minimum, provisionally certify the class for purposes of that relief. A certification order "may be altered or amended before final judgment," Fed. R. Civ. P. 23(c)(1)(C),

and courts certify classes provisionally so that preliminary relief may run to the class. *See, e.g., A.A.R.P. v. Trump*, 145 S. Ct. 1364 (2025) (per curiam) (granting temporary relief to a putative class); *Barbara v. Trump*, No. 1:25-cv-244, 2025 WL 1904338 (D.N.H. July 10, 2025) (provisionally certifying nationwide class and granting preliminary injunction); *Carr*, 2023 WL 1280172 (certifying nationwide class of Medicaid beneficiaries and granting preliminary injunction against HHS). For the reasons above, the proposed class satisfies Rules 23(a) and (b)(2) now, and the Court can revisit certification as the record develops.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant the Motion for Class Certification under Federal Rule of Civil Procedure 23. Further, Plaintiffs respectfully request this Court appoint Named Plaintiffs as class representatives and Proposed Class Counsel as counsel to represent the certified class. Plaintiffs request class certification on an expedited basis—either full certification, or, if necessary, provisional class certification—in order to provide interim relief on a class-wide basis.

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Respectfully submitted,

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