

<p>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</p> <hr/> <p>Caption in Compliance with D.N.J. LBR 9004-1(b) Holly S. Miller, Esq. (No. 2006-03052) GELLERT SEITZ BUSENKELL & BROWN LLC 901 Market Street, Suite 3020, 3rd Floor Philadelphia, PA 19107 Phone: (215) 238-0012 Email: hsmiller@gsbblaw.com</p> <hr/> <p><i>Counsel for Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare</i></p> <hr/> <p>In re: INVITAE CORPORATION, et al.,</p> <p style="text-align: center;">Wind-Down Debtors</p>	<p>Case No. 24-11362 (MBK) Chapter 11</p> <p>(Jointly Administered)</p>
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NOTICE OF HUMANA INSURANCE COMPANY, HUMANA HEALTH PLAN, INC., AND HEALTH VALUE MANAGEMENT, INC. d/b/a CHOICECARE’S MOTION FOR ALLOWANCE AND PAYMENT OF CHAPTER 11 ADMINISTRATIVE EXPENSE CLAIM

PLEASE TAKE NOTICE that Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare (“Humana”) filed Motion for Allowance and Payment of Chapter 11 Administrative Expense Claim (the “Motion”) with the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that a hearing to consider the relief sought in the Motion will be held on February 27, 2025 at 10:00 am (ET) (the “Hearing Date”) before the Honorable Michael B. Kaplan, United States Bankruptcy Court for the District of New Jersey, at the Clarkson S. Fisher United States Courthouse, 402 East State Street, Second Floor, Courtroom No. 8, Trenton, New Jersey 08608.

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Motion



shall: (i) be in writing; (ii) set forth the specific basis thereof; (iii) be filed with the Clerk of the Bankruptcy Court; and (iv) be served upon undersigned counsel, together with proof of service thereof, so as to be actually received no later than seven days prior to the Hearing Date (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that unless a response or objection is timely filed and served in accordance with this notice, it may not be considered by the Bankruptcy Court. In the event no objections are filed and served by the Objection Deadline, the relief requested in the Motion may be granted without a hearing.

PLEASE TAKE FURTHER NOTICE that Humana has submitted a proposed form of order herewith. Oral argument is requested in the event an objection is timely filed.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: January 30, 2025

GELLERT SEITZ BUSENKELL & BROWN LLC

/s/ Holly S. Miller
Holly S. Miller, Esq. (No. 2006-03052)
901 Market Street, Suite 3020, 3rd Floor
Philadelphia, PA 19107
Phone: (215) 238-0012
Email: hsmiller@gsbblaw.com

Counsel for Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare

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**HUMANA INSURANCE COMPANY, HUMANA HEALTH PLAN, INC.,
AND HEALTH VALUE MANAGEMENT, INC. d/b/a CHOICECARE’S
MOTION FOR ALLOWANCE AND PAYMENT OF CHAPTER 11
ADMINISTRATIVE EXPENSE CLAIM**

Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare (collectively, “Humana”) moves (this “Motion”) the Court, pursuant to sections 105(a), 503(b), and 507(a) of the title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), for entry of an order, substantially in the form attached hereto (the “Proposed Order”), allowing and authorizing the payment of \$129,578.33 as a Chapter 11

administrative expense of the estate in the above-captioned case (the “Humana Administrative Claim”). In support of this Motion, Humana states as follows:

JURISDICTION & VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicate for the relief sought herein is sections 105(a), 503(b), and 507(a) of the Bankruptcy Code, Rule 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

RELEVANT BACKGROUND

4. On October 12, 2016, Humana Insurance Company and Humana Health Plan, Inc., and the Debtor entered into the Ancillary Provider Participation Agreement with an effective date as of December 1, 2016 (the “Humana Agreement”).
5. On December 1, 2016, ChoiceCare and the Debtor entered into the Ancillary Participation Agreement with an effective date as of December 1, 2016 (collectively with the Humana Agreement, the “Agreements”).
6. On February 13, 2024 (the “Petition Date”), the above-captioned debtor Invitae Corporation and its affiliated debtors (the “Debtors”) filed petitions

for voluntary relief under chapter 11 of the Bankruptcy Code initiating the above-captioned case (this “Case”).

7. On August 1, 2024, the Debtors’ filed the *Third Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Dkt. 909] (“Plan”). Humana was not listed on the certificate of service for the Plan and did not otherwise receive notice of the Plan.

8. In the Debtor’s *Third Amended Plan Supplement for the Third Amended Joint Plan of Invitae Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Dkt. 924], the Agreements were rejected on August 7, 2024, the plan effective date.

9. Despite the Debtors’ rejection of the Agreements, the Debtors have continued to file claims with Humana under the Agreements.

10. Under the Agreements and applicable law, Humana is required to promptly pay any claims submitted by the Debtor for services rendered to Humana members, sometimes within as little as 15 days. Given the short time span for payments, the Agreements permit Humana to subsequently audit claims and recover any overpayments by making retroactive adjustments to the claim amounts paid after the payments are made to the Debtor. The Debtor also has similar periods of time, or even longer, to dispute any claim underpayments, recoupments or denials of claims by Humana. Under the Agreements, the Debtor agreed that any

disputes as to any asserted overpayments or other claim payment issues are subject to Humana's internal administrative appeal procedures. If the parties cannot resolve the claim payment issues through Humana's appeal procedures, then the parties are required to submit those disputes to arbitration.

RELIEF REQUESTED

11. By the Application, Humana respectfully requests that the Court enter the Proposed Order allowing and authorizing payment of the Humana Administrative Claim in the amount of \$129,578.33 and granting such other or further relief as the Court may deem just or proper.

BASIS FOR RELIEF

12. Pursuant to section 503(b) of the Bankruptcy Code, “[a]fter notice and a hearing, there shall be allowed administrative expenses . . . including . . . the actual, necessary costs and expenses of preserving the estate” 11 U.S.C. § 503(b)(1)(A). Administrative expenses “are, as a rule, entitled to priority over prepetition unsecured claims.” *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 5 (2000) (citations omitted). A cost or expense qualifies as actual and necessary “if (1) it arose from a transaction with the bankruptcy estate and (2) directly and substantially benefitted the estate.” *In re Sunarhauserman, Inc.*, 126 F.3d 811, 816 (6th Cir. 1997) (citation omitted).

13. The Debtor's continued submission of claims constitutes an actual and necessary cost since each claim submission evidences a transaction with the bankruptcy estate. As a result of the Debtor's claim filings, Humana has made claim payments. Those payments are a direct benefit to the bankruptcy estate. After the Petition Date, claim payments from Humana to the bankruptcy estate total \$1,812,950.83. Since the claim overpayments directly result from payments made to the bankruptcy estate, Humana is entitled to an administrative claim for their recovery.

14. Claim overpayments are a routine occurrence in operating in the ordinary course of business under the Agreements and generally in the payor-provider industry. Since the Debtor continues to submit claims and receive the benefits of the Agreements, it should also remain subject to its burdens and provisions that protect the rights of its counterparty Humana. That includes the repayment of any overpayments. Otherwise, the Debtor obtains a windfall, receiving payment for claims that potentially far exceed their actual value. Attached as **Exhibit A** is a report detailing the overpayments owed by the Debtor.

CONCLUSION

WHEREFORE, for the reasons stated above, Humana respectfully requests that the Court enter the Proposed Order allowing and authorizing payment of the

allowing the Chapter 11 Administrative Expense Claim and grant such other or further relief as the Court may deem just or proper.

Dated: January 30, 2025

GELLERT SEITZ BUSENKELL & BROWN LLC

/s/ Holly S. Miller

Holly S. Miller, Esq. (No. 2006-03052)
901 Market Street, Suite 3020, 3rd Floor
Philadelphia, PA 19107
Phone: (215) 238-0012
Email: hsmiller@gsbblaw.com

*Counsel for Humana Insurance Company,
Humana Health Plan, Inc., and Health
Value Management, Inc. d/b/a ChoiceCare*

EXHIBIT A

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
In Re	
INVITAE CORPORATION, <i>et al.</i> ,	Chapter 11
Debtors.	Case No. 24-11362

**ORDER GRANTING HUMANA INSURANCE COMPANY, HUMANA HEALTH PLAN,
INC., AND HEALTH VALUE MANAGEMENT, INC. d/b/a CHOICECARE'S MOTION
FOR ALLOWANCE AND PAYMENT OF CHAPTER 11
ADMINISTRATIVE EXPENSE CLAIM**

The relief set forth on the following page, numbered two (2) is **ORDERED**.

Upon consideration of *Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare Motion for Allowance and Payment of Chapter 11 Administrative Expense Claim* (the “Motion”), the Court having found that good cause exists for the relief requested in the Motion, considered and overruled any and all objections to the Motion, and determined that the relief requested in the Motion is in the best interests of the Debtors, the Estate and its creditors and other parties in interest:

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**.
2. Humana’s Chapter 11 Administrative Expense Claim is allowed in the amount of \$129,578.33.

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
Holly S. Miller, Esq. (No. 2006-03052) GELLERT SEITZ BUSENKELL & BROWN LLC 901 Market Street, Suite 3020, 3rd Floor Philadelphia, PA 19107 Phone: (215) 238-0012 Email: hsmiller@gsbblaw.com	
<i>Counsel for Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare</i>	
In Re:	

Case No.: 24-11362 (MBK)
Chapter: 11
Adv. No.:
Hearing Date: Click or tap here to enter text.
Judge: Click or tap here to enter text.

CERTIFICATION OF SERVICE

1. I, Ashley Gollmann:

- represent in this matter.
- am the secretary/paralegal for Holly S. Miller, who represents *Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare* in this matter.
- am the in this case and am representing myself.

2. On January 30, 2025, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below.

Humana Insurance Company, Humana Health Plan, Inc., and Health Value Management, Inc. d/b/a ChoiceCare's Motion for Allowance and Payment of Chapter 11 Administrative Expense Claim

3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.



Date: January 30, 2025

Signature

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP Joshua A. Sussberg, P.C. Nicole L. Greenblatt, P.C. Francis Petrie Jeffrey Goldfine 601 Lexington Avenue New York, New York 10022 joshua.sussberg@kirkland.com nicole.greenblatt@kirkland.com francis.petrie@kirkland.com jeffrey.goldfine@kirkland.com	Co-Counsel to the Plan Administrator and Wind-Down Debtors	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other CM/ECF and email (As authorized by the Court or by rule. Cite the rule if applicable.)
KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP Spencer A. Winters, P.C. William E. Arnault, P.C. 333 West Wolf Point Plaza Chicago, Illinois 60654 spencer.winters@kirkland.com william.arnault@kirkland.com	Co-Counsel to the Plan Administrator and Wind-Down Debtors	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other CM/ECF and email (As authorized by the Court or by rule. Cite the rule if applicable.)
COLE SCHOTZ P.C. Michael D. Sirota, Esq. Warren A. Usatine, Esq. Felice R. Yudkin, Esq. Daniel J. Harris, Esq. Court Plaza North, 25 Main Street Hackensack, New Jersey 07601 msirota@coleschotz.com wusatine@coleschotz.com fyudkin@coleschotz.com dharris@coleschotz.com	Co-Counsel to the Plan Administrator and Wind-Down Debtors	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other CM/ECF and email (As authorized by the Court or by rule. Cite the rule if applicable.)