State of West Virginia
Office of the Attorney General

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Attorney General

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WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF COVINGTON & BURLING LLP AS OUTSIDE COUNSEL ON BEHALF OF THE WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

The West Virginia Department of Health & Human Resources (the "WVDHHR") is seeking legal representation to assist WVDHHR and the Office of the West Virginia Attorney General with ongoing litigation involving West Virginia's Intellectual/Developmental Disabilities Home and Community Based Services Waiver program (I/DD Waiver Program).

More specifically, the WVDHHR is seeking legal representation to assist the Department with the case of *Michael T. et al. v. Karen Bowling, in her official capacity as Secretary of the West Virginia Department of Health and Human Resources.*, Case No. 2:15-cv-09655, which is currently pending in the United States District Court for the Southern District of West Virginia.

Pursuant to the written determination issued on August 6, 2015, the Office of the Attorney General determined that it was both cost-effective and in the interest of the public to appoint outside counsel to assist the WVDHHR with the needed legal services. A request for proposals was issued in accordance with Section (D) of the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004).

In response to the request for proposal, the Office of the Attorney General received several proposals for legal services. After reviewing the proposals and consulting with the WVDHHR, the Office has determined that the appointment of Covington & Burling LLP is appropriate, based on the following factors:

- Covington & Burling has the requisite skills and expertise needed to handle the legal matter in question;
- Covington & Burling possesses the requisite staffing and support to handle the scope of the legal matter in question;
- Covington & Burling has extensive experience handling similar litigation for a variety of governmental entities across the country;
- Covington & Burling's proposal is responsive to the WVDHHR's needs, and of those who submitted proposals, is WVDHHR's preferred counsel for this matter.

Based on the factors set forth above, and in consultation with the WVDHHR, the Office of the Attorney General authorizes the appointment of Covington & Burling LLP to serve as outside counsel for the legal matters cited herein pursuant to Section (E) of Policy #WVAGO-004.

Anthony P. Martin
Chief Operating Officer/Senior Dep AG

Date Signed: August 14, 2015