

IN THE CIRCUIT COURT FOR BALTIMORE CITY

EUNICE SMITH, by her attorneys in fact,
EUGENIA AND THORNTON PARKER,
et al.,

Representatives of a class of
Medicaid recipients,

Plaintiffs

v.

JOHN M. COLMERS, Secretary,
Department of Health and Mental Hygiene,
et al.,

Defendants.

Civil No. 24-C-05-007421 OG

**ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION RESOLUTION, SETTING FINAL
APPROVAL HEARING, AND OTHER MATTERS**

Upon consideration of the parties' Joint Motion for Preliminary Approval of Class Action Settlement (the "Joint Motion"), Plaintiffs' Memorandum in Support, and the Cost Settlement Protocol and Supplemental Agreement, both executed on February 3, 2010, and the Amended Cost Settlement Protocol executed on or about March 11, 2010, and good cause for the relief prayed in the Joint Motion having been shown, it is this 11th day of March, 2010 by the Circuit Court for Baltimore City:

ORDERED that the terms of the Cost Settlement Protocol, Supplemental Agreement, and Amended Cost Settlement Protocol, and the resolution of the Class Action and Consolidated Action provided for therein (the "Resolution"), are preliminarily approved as fair, reasonable, and adequate, subject to further consideration thereof by this Court at a Final Approval Hearing described below (the "Final Approval Hearing");

ORDERED that the Stipulated Protective Order previously entered by this Court in the Class Action and the Consolidated Action on June 27, 2008 shall apply to all Provider PEME Claims submitted pursuant to the Amended Cost Settlement Protocol;

ORDERED that within thirty (30) days of this Order, pursuant to the procedures detailed in the Amended Cost Settlement Protocol, Plaintiffs' counsel shall provide Notice of the Resolution to (i) Class Members with reported PEME amounts in the Provider Response Data, (ii) Providers, (ii) the Health Facilities Association of Maryland; (iv) the LifeSpan Network; (v) the Maryland chapter of the National Academy of Elder Law Attorneys; and (vi) the Long Term Care Assistance Project for the Legal Aid Bureau, Inc., by mailing a copy of the Notice of Pendency of Class Action, Proposed Remand, Right of Exclusion, and Hearing (the "Class Notice"), by first class mail, substantially in the form attached hereto;

ORDERED that the reasonable costs and expenses of printing, preparing and mailing the Class Notice, and other related administrative expenses shall be borne as set forth in ¶ 5.5 of the Amended Cost Settlement Protocol;

ORDERED that prior to the Final Approval Hearing, Plaintiffs' counsel shall serve and file a sworn statement evidencing compliance with the provisions of this Order concerning the mailing of the Class Notice;

ORDERED that Notice in compliance as set forth herein and the Amended Cost Settlement Protocol is hereby found to be the best Notice practicable under the circumstances, and constitutes due and sufficient notice of this Order to all persons affected by and/or entitled to participate in the Resolution, in full compliance with the Notice requirement of Maryland Rule 2-231(h) and due process;

ORDERED that any Class Member may appear at the Final Approval Hearing in person or by counsel, if any appearance is filed and served as hereinafter provided, and will be heard to the extent allowed by the Court in support of, or in opposition to, the fairness, reasonableness, and adequacy of the proposed Resolution, or the requested award of attorneys' fees and costs; provided, however, that no person shall be permitted to intervene or otherwise be heard in opposition to the Resolution, and, if approved, the order of Remand entered pursuant thereto, or to the requested award of attorneys' fees and costs, and no papers or briefs submitted by any person shall be accepted or considered by the Court unless, not later than **April 14, 2010**, such person has:

- a. Filed with the Clerk of the Court a notice of such person's intention to intervene or otherwise appear together with a statement that indicates the basis for such intervention or opposition along with any supporting documentation;
- b. Served copies of such notice, statement and documentation, together with copies of any other papers or briefs that such person files with the Court, either in person or by mail, upon Plaintiffs' counsel, and upon Defendants' counsel; and
- c. Otherwise complied with the Notice for purposes of such hearing; and

ORDERED that responses to any Class Member objection, memorandum in support of final approval of the Resolution, and petition for attorney's fees and costs be filed with the Clerk of the Court, with a courtesy copy sent to chambers, on or before **May 5, 2010**;

ORDERED that the Final Approval Hearing shall be held before the undersigned at 10:30 a.m. on **May 12, 2010** in Courtroom 329 of the Circuit Court for Baltimore City

(Courthouse East) to consider the fairness, reasonableness and adequacy of the Resolution, the entry of an order of Remand in the Class Action and the Consolidated Action, petitions for attorneys' fees and costs of Plaintiffs' counsel, and other related matters. This hearing may be postponed, adjourned or continued by Order of the Court without further notice to the Class;

ORDERED that if Final Approval of the Resolution is not granted, or if the Resolution is nullified or terminated for any reason whatsoever, the Resolution and all proceedings had in connection therewith shall be without prejudice to the *status quo ante* rights of the parties to the Class Action and the Consolidated Action, and all Orders issued pursuant to the Resolution shall be vacated. In such an event, the Resolution and all negotiations concerning it shall not be used or referred to in the Class Action or the Consolidated Action for any purpose whatsoever. In addition, the Class Action shall immediately be restored to the docket for prompt decision on all open motions.

Dated: March 11th, 2010

W. MICHEL PIERSON, Judge
Judge's signature appears on original document
W. Michel Pierson
Judge, Circuit Court for Baltimore City