

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division
MDL NO.: 1334
MASTER FILE NO.: 00-1334-MD-MORENO

IN RE:
MANAGED CARE LITIGATION

THIS DOCUMENT RELATES TO
PROVIDER TRACK CASES ONLY

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION WITH AETNA, OF SETTLEMENT HEARING TO CONSIDER THE PROPOSED SETTLEMENT AND OF YOUR RIGHTS CONCERNING THE PROPOSED SETTLEMENT

IF YOU ARE A PHYSICIAN WHO PROVIDED COVERED SERVICES TO ANY INDIVIDUAL ENROLLED IN OR COVERED BY CERTAIN HEALTH CARE PLANS AT ANY TIME BETWEEN AUGUST 4, 1990 AND JUNE 2, 2003, OR A PHYSICIANS' GROUP OR OTHER PHYSICIANS' ORGANIZATION THAT INCLUDES SUCH PHYSICIANS, PLEASE READ THIS NOTICE CAREFULLY. THIS CLASS ACTION AND THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

I. WHY SHOULD YOU READ THIS NOTICE?

If you are or have been a physician who actively practiced in the United States since August 1990, or a physician's group or similar organization, your rights may be affected by a proposed settlement with Aetna Inc. and Aetna U.S. Healthcare Inc. (together, "Aetna") in the class action lawsuit known as Shane v. Humana, Inc., et al., Master File No. 00-1334-MD-MORENO (the "Action"), which is part of a federal multi-district litigation that is pending in the U.S. District Court for the Southern District of Florida (the "Court") called In re Managed Care Litigation, MDL Docket No. 1334 (Provider Track Cases). The class representatives and certain medical societies have agreed to settle all claims against Aetna in the Action in exchange for Aetna's adoption of a number of commitments and initiatives regarding its business practices, the creation of a charitable foundation and the establishment of a settlement fund against which individuals who are members of the Class (as defined below) can make claims for a settlement payment. The Court has scheduled a hearing to consider the fairness, reasonableness and adequacy of the proposed settlement with Aetna, together with certain other matters, to be held on Tuesday, October 14, 2003 at 2:30 P.M. at the United States Courthouse, U.S. District Court for the Southern District of Florida, 301 North Miami Avenue, Miami, Florida (the "Settlement Hearing").

You may be a member of the Class who therefore would be entitled to receive the benefits of the proposed settlement. As a member of the Class, however, you will also be bound by the release and other provisions of the settlement if it is approved by the Court. You may elect to opt-out of the Class and the settlement, as explained below. You also have a right to object to the settlement or to the applications for attorneys' fees and representative plaintiffs' fees that counsel for the Class intend to make to the Court, but only if you comply with the procedures described in this notice. **BECAUSE YOUR RIGHT TO PURSUE CERTAIN TYPES OF CLAIMS AGAINST AETNA, CERTAIN OTHERS AFFILIATED WITH AETNA, AND OTHER DEFENDANTS IN THE ACTION BASED ON AETNA'S CONDUCT MAY BE AFFECTED BY THE SETTLEMENT, YOU SHOULD READ THIS NOTICE CAREFULLY.**

II. WHAT IS THIS LITIGATION ABOUT?

The Action has been brought by the representative plaintiffs, who are practicing or retired physicians from around the United States, on behalf of a class of physicians, and by certain medical societies against a number of health care insurance companies, including Aetna, Anthem, Inc., Cigna, Coventry Health Care, Inc., Health Net, Inc., Humana Health Plan, Inc., Humana, Inc., Pacificare Health Systems, Inc., Prudential Insurance Company of America, United Health Care, United Health Group and Wellpoint Health Networks, Inc. (collectively the "Defendants"). The complaint in the Action alleges that between 1990 and 2002, these companies engaged in a conspiracy to improperly deny, delay and/or reduce payment to physicians by engaging in several types of allegedly improper conduct, including:

- Misrepresenting and/or failing to disclose the use of edits to unilaterally "bundle," "downcode" and/or reject claims for medically necessary covered services;
- Failing and/or refusing to recognize CPT® modifiers;
- Concealing and/or misrepresenting the use of improper guidelines and criteria to deny, delay, and/or reduce payment for medically necessary covered services;
- Misrepresenting and/or refusing to disclose applicable fee schedules;
- Failing to pay claims for medically necessary covered services within the required statutory and/or contractual time periods; and
- Misrepresenting and/or failing to disclose the use of inappropriate or unsound criteria to calculate payments due to physicians compensated under a "capitation" system.

The complaint claims that this conduct violated various state and federal statutes. The named plaintiffs in the complaint also seek recovery on various common law theories, including breach of contract. If you would like further information about the claims asserted in the Action, you can review a copy of the complaint on Aetna's website, www.aetna.com.

The Action is one significant component of litigation asserting these claims and certain others against managed care companies which began in early 2000 and ultimately were transferred to the federal court in Miami. Since the initial complaints were filed, substantial proceedings have occurred in the Action, including the production of a significant number of documents by the Defendants, which has

included hundreds of thousands of pages from Aetna, as well as depositions of several of the representative plaintiffs and of several witnesses from Aetna and other Defendants. In an order dated September 26, 2002, the Court certified a plaintiff class of physicians in the Action. The Defendants in the Action, including Aetna, have appealed that ruling to the federal court of appeals, and proceedings on that appeal are still ongoing. As part of the settlement, Aetna would no longer actively participate in that appeal, but Aetna expects the other Defendants, who are not parties to the proposed settlement, to continue to pursue that appeal and to defend the claims asserted in the Action on various grounds.

III. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?

In a settlement agreement dated May 21, 2003 (the "Settlement Agreement"), the representative plaintiffs and the signatory medical societies have agreed to settle all claims that were or could have been asserted against Aetna and its affiliates and subsidiaries in the Action in exchange for Aetna's agreement regarding its business practices and for certain monetary consideration. The terms of the Settlement Agreement are summarized in this notice, but a copy of the entire Settlement Agreement can be reviewed on Aetna's website, www.aetna.com.

None of the Defendants in the Action other than Aetna are parties to the proposed settlement, and even if the settlement is approved by the Court, the representative plaintiffs and the signatory medical societies intend to continue to prosecute their claims against the other Defendants in the Action, although, in those circumstances, as part of the settlement the non-settling Defendants could not be held liable based on Aetna's conduct.

A. The Settlement Class

The proposed settlement will be on behalf of a settlement class (the "Class") consisting of any and all physicians, physician groups and physician organizations who provided covered services to any individual enrolled in or covered by a plan offered or administered by Aetna, any other entity named as a Defendant in the complaint in the Action, or by any of the current or former subsidiaries or affiliates of any of the foregoing, beginning on August 4, 1990 and ending on June 2, 2003 (the date that the Court entered its order preliminarily approving the proposed settlement and directing that this notice be provided to you).

The settlement Class is different than the class certified by the Court in the Action in an Order dated September 26, 2002, which is the subject of an appeal by the Defendants. Among other things, the settlement Class includes physician groups and physician organizations, while the class that has been certified by the Court is limited to physicians alone. Aetna believes that there are significant aspects of the settlement Class that distinguish it from the class that has been certified by the Court, including among other things the fact that if the proposed settlement is approved and becomes effective, both Aetna and all members of the settlement Class will be deemed to have waived their rights to arbitration under the applicable contracts. In addition, the settlement Class does not raise the problems of manageability that Aetna believes affect the class as certified by the Court in the Action.

B. The Settlement Consideration

If the settlement is approved by the Court, the Settlement Agreement provides for both monetary and other benefits to be provided by Aetna to members of the Class.

1. Business Practice Initiatives

As a part of the settlement, Aetna has agreed to certain commitments regarding its policies and procedures. For example, Aetna has agreed to: (a) include in its contracts with Physicians a definition of medical necessity which bases medical necessity determinations on generally accepted standards of medical practice; (b) use clinical guidelines that are based on credible scientific evidence published in peer reviewed medical literature (taking into account Physician Specialty Society recommendations, the views of Physicians practicing in the relevant clinical areas, and other relevant factors) when making medical necessity determinations; (c) provide physicians access to Company's medical necessity external review process; (d) establish an independent external review board for resolving disputes with physicians concerning many common billing disputes; (e) make investments designed to facilitate the automated adjudication of claims submitted by physicians and thereby reduce the average time taken by Aetna to pay valid claims; (f) fund initiatives to increase the percentage of claims issues resolved on initial review and thereby reduce the percentage of resubmitted claims; (g) not automatically reduce the intensity coding of evaluation and management codes billed for covered services; (h) disclose payment rules and conform its bundling and other computerized editing rules as specified in the agreement; (i) confirm the elimination of "all product" and "gag clauses"; (j) improve accuracy of information about eligibility of plan members; (k) ensure the payment of valid clean claims within 15 days for electronically-submitted claims and 30 days for paper claims; (l) provide physicians with the ability to view a complete fee schedule and agree to maintain and agree to update such fees on an annual basis, and (m) establish a compliance dispute resolution mechanism to address disputes regarding Aetna's compliance with the agreement. In addition, Aetna will disclose additional information about its claim administration policies and procedures on its existing website. These changes, as well as others, are more fully described in the Settlement Agreement.

2. A Charitable Foundation

Aetna has also agreed to provide \$20 million in initial funding to a charitable foundation to be established if the settlement is approved. The foundation will be dedicated to promoting high quality healthcare and will give particular emphasis to initiatives that assist physicians to improve and enhance the quality of care received by patients.

In addition to the initial financing to be provided by Aetna directly to the foundation, members of the Class may elect to have the amount of their settlement payment from the settlement fund (discussed in the next section) contributed to the foundation on their behalf. In the event that there are unclaimed funds in the settlement fund after payment of all claims, those funds would also be contributed to the foundation to support its operations and initiatives.

3. The Settlement Fund

A final component of the consideration to be provided to individual physicians who are members of the Class under the proposed settlement is the establishment of a settlement fund in the aggregate amount of \$100 million. If the settlement is approved by the Court, these members of the Class will be entitled to payments from the settlement fund in accordance with formulas that are set forth in the Settlement Agreement.

- A Physician who provided any covered services reimbursed by any Defendant or its affiliates since 1990 but who has since become inactive, has retired from the practice of, or has otherwise ceased to practice, medicine, or has died, will receive a pro rata portion of the amount of the settlement fund that has been allocated to such inactive, retired or deceased physicians.
- A Physician who, based on a review of Aetna's records for the years 2000, 2001, and 2002 never received payments from Aetna or received payments from Aetna that were in the aggregate \$5,000 or less, will receive a pro rata portion of the "base amount" from the amount of the settlement fund that is allocated to active physicians;
- A Physician who, based on a review of Aetna's records for the same three-year period, received payments from Aetna that were in the aggregate less than \$50,000 but greater than \$5,000, will receive a pro rata portion of two times the "base amount" from the amount of the settlement fund that is allocated to active physicians; and
- A Physician who, based on a review of Aetna's records for the same three-year period, received payments from Aetna that were (in the aggregate for those three years) \$50,000 or greater, will receive a pro rata portion of three times the "base amount" from the amount of the settlement fund that is allocated to active physicians.

If you are an individual physician who is a member of the Class but you believe you fall into a category of payments that would qualify you for a higher amount from the settlement fund (i) based on your payments from Aetna in any earlier three-year period since 1990, (ii) based on payments that were made to you through a delegated claims-paying entity for providing services to a member covered by a plan offered or administered by Aetna, or (iii) because you believe an error was made in determining the category you fall within, you may submit billing records to the Settlement Administrator at the following address to establish such facts:

Aetna Managed Care Litigation
P.O. Box 3656
Portland, OR 97208-3656

C. The Release and Dismissal with Prejudice

In exchange for this consideration, if the Settlement Agreement is approved, the Action will be dismissed with prejudice as to Aetna. In addition, Aetna, certain others affiliated with Aetna and other Defendants in the Action (to the extent such Defendants are sued based on Aetna's conduct) will receive a release and discharge from the Class (which would not include members of the Class who timely elect to opt-out of the settlement, as discussed below) of any and all causes of action, judgments, liens, indebtedness, costs, damages, obligations, attorneys' fees, losses, claims, liabilities and demands of whatever kind or character (each a "claim"), arising on or before June 2, 2003 (the date that the Court's order preliminary approving the settlement was entered), that are, were or could have been asserted against any of the released parties based on or arising from the factual allegations of the complaint in the Action, whether any such claim was or could have been asserted by any releasing party on its own behalf or on behalf of other persons.

In addition to this release, members of the Class who have not opted-out of the settlement will be deemed to have forever abandoned and discharged any and all claims that exist now or that might arise in the future against any other persons or entities, including the other Defendants in the Action, which claims arise from, or are based on, conduct by Aetna or any of the other released parties that occurred on or before June 2, 2003 and are, or could have been, alleged in the complaint in the Action, whether any such claim was or could have been asserted by any releasing party on its own behalf or on behalf of other Persons. Nevertheless, the Settlement Agreement does not operate to relieve any person or entity other than Aetna or the other released parties from responsibility for its own conduct or conduct of other persons who are not released parties.

Excluded from the release are claims for certain covered services that are or were in the process of being submitted to, adjudicated or paid by Aetna at or around the time that the Settlement Agreement was entered into and the Court approval process was begun. This provision is discussed in more detail in section 13(d) of the Settlement Agreement, to which you should refer if you have any questions as to its applicability.

Finally, the Settlement Agreement includes a covenant not to sue Aetna or the other released parties for claims that are generally subject to the release, subject to certain limited exceptions which are described in detail in section 13(e) of the Settlement Agreement.

The release provided for in the Settlement Agreement applies to claims whether they are known or unknown. In this regard, each member of the Class that has not timely elected to opt-out of the settlement and the Class shall be deemed expressly to have waived and released any and all provisions, rights and benefits conferred either (a) by California Civil Code § 1542, which reads:

"Section 1542. General release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

or (b) by any law of any state or territory of the United States, or principle of common law, which is similar to § 1542 of the California Civil Code.

IV. WHAT WILL HAPPEN AT THE SETTLEMENT HEARING?

As mentioned above, the Settlement Hearing will be held on Tuesday, October 14, 2003 at 2:30 P.M. at the United States Courthouse, U.S. District Court for the Southern District of Florida, 301 North Miami Avenue, Miami, Florida. However, the order scheduling that hearing also provides that it may be adjourned by the Court and that no additional notice will be provided to potential members of the Class other than an announcement in open court.

At the Settlement Hearing, the Court will consider several different issues.

First, the Court will consider whether the proposed settlement of the Action with Aetna that is reflected in the Settlement Agreement is fair, reasonable and adequate to members of the Class.

Second, the Court will consider whether it should certify the Class pursuant to Rules 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure. Among other things, this will require the Court to determine (i) whether questions of law or fact common to the members of the Class predominate over questions affecting only individual members of the Class, and (ii) whether a class action is superior to other available methods for fair and efficient adjudication of the controversy. If the Court certifies the Class, potential Class members who have timely elected to opt-out from the Class by following the procedures described below will be excluded from it.

Third, the Court will consider whether to enter orders that would prevent members of the Class and certain other persons, including the Defendants in the Action other than Aetna, from asserting certain claims against Aetna in the future.

Fourth, the Court will consider the application for a payment of fees to the representative plaintiffs by Aetna, which is discussed in more detail below.

Finally, the Court will consider an application by counsel to the Class for attorneys' fees and expenses to be paid by Aetna, which is also discussed in more detail below.

V. CAN I PARTICIPATE IN THE SETTLEMENT HEARING?

Anyone who objects to the proposed settlement with Aetna, the Settlement Agreement, the application for plaintiffs' attorneys' fees or the other matters to be considered at the Settlement Hearing may appear and present such objections. In order to be permitted to do so, however, you must, on or before September 12, 2003,:

- File with the Court a notice of your intention to appear, together with a statement setting forth your objections, if any, to the matters to be considered and the basis for those objections, together with any documentation that you intend to rely upon at the Settlement Hearing, and
- Serve copies of all such materials either by hand delivery or by first-class mail, postage prepaid, upon the following counsel:

Harley S. Tropin, Esq.
Kozyak Tropin & Throckmorton, P.A.
200 South Biscayne Boulevard
Miami, Florida 33131

Hilarie Bass, Esq.
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131

If you do not comply with the foregoing procedures and deadlines for submitting written objections and/or appearing at the Settlement Hearing, you may lose substantial legal rights, including but not limited to, the right to appear and be heard at the Settlement Hearing; the right to contest approval of the proposed settlement or the application for an award of attorneys' fees and expenses to plaintiffs' counsel; the right to contest approval of the application for an award of a fee to representative plaintiffs; or the right to contest any other orders or judgments of the Court entered in connection with the proposed settlement.

If the Court does not approve the proposed settlement, the Settlement Agreement will be null and void. If there are further actions taken in the Action that affect your rights, you will receive notice as determined by the Court.

VI. HOW DO I FILE A CLAIM?

As discussed above, the proposed settlement contemplates certain settlement payments to members of the Class who timely submit claim forms to the settlement administrator. In order to qualify for a settlement payment, you must complete the enclosed claim form and sign the form, then mail the completed and signed form by **NO LATER THAN SEPTEMBER 30, 2003** to:

Aetna Managed Care Litigation
P.O. Box 3656
Portland, OR 97208-3656

IN ORDER TO BE ENTITLED TO RECEIVE ANY PAYMENT FROM THE SETTLEMENT FUND, YOU MUST COMPLETE AND SIGN A CLAIM FORM AND THE ENVELOPE RETURNING YOUR CLAIM FORM MUST BE POSTMARKED BY NO LATER THAN SEPTEMBER 30, 2003. IF YOU DO NOT MAIL YOUR SIGNED CLAIM FORM BY THIS DEADLINE, YOU WILL BE DEEMED TO HAVE WAIVED YOUR RIGHT TO RECEIVE ANY PAYMENT FROM THE SETTLEMENT FUND AND THE SHARE OF THE SETTLEMENT FUND THAT WOULD HAVE BEEN PAID TO YOU WILL BE CONTRIBUTED TO THE FOUNDATION.

If you file a claim, you will be electing to be a member of the Class and will be bound by all proceedings, orders, and judgments entered in connection with the proposed settlement and the Settlement Agreement, including the release, covenant not to sue and dismissal with prejudice described above.

VII. WHAT IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you do not want to be a member of the Class and participate in the proposed Settlement, then **BY NO LATER THAN AUGUST 29, 2003**, you must send a signed statement to that effect that includes your name, business address, telephone number and Federal Tax Identification Number to the following:

Aetna Managed Care Litigation
P.O. Box 3656
Portland, OR 97208-3656

TO BE CONSIDERED TIMELY AND TO EFFECTIVELY OPT-OUT OF THE SETTLEMENT, YOUR COMPLETED AND SIGNED OPT-OUT NOTICE MUST BE POSTMARKED BY NO LATER THAN AUGUST 29, 2003. IF IT IS NOT POSTMARKED BY THAT DATE, YOUR RIGHT TO OPT-OUT WILL BE DEEMED WAIVED AND YOU WILL BE BOUND BY ALL ORDERS AND JUDGMENTS ENTERED IN CONNECTION WITH THE SETTLEMENT

If you choose to opt-out of the settlement and the settlement Class, you will not be entitled to receive the benefits of the proposed settlement with Aetna, including any payment from the settlement fund. Your claims against Aetna will not be released and you will be free to pursue any claims you believe you have by filing a separate action or request for arbitration if you are subject to an arbitration agreement.

VII. WHAT ABOUT ATTORNEYS' FEES AND EXPENSES?

Since the beginning of this litigation, plaintiffs' counsel in the Action have not received any payment for their services in prosecuting the Action, nor have they been reimbursed for any out-of-pocket expenses. If the Court approves the proposed settlement, counsel to the plaintiff class will apply to the Court for an award of attorneys' fees, including costs and expenses. In the Settlement Agreement, Aetna agreed not to oppose such an application in the aggregate amount of up to \$50 million. If the Court awards plaintiffs' attorneys' fees and expenses in an amount no greater than that amount, Aetna will pay the amount awarded by the Court to plaintiffs' counsel. This payment is in addition to the consideration to the members of the Class that is described above and will not reduce the amount available to members of the Class if the proposed settlement is approved.

VIII. WHAT ARE THE REPRESENTATIVE PLAINTIFFS' FEES?

In addition to the application for attorneys' fees and expenses described in the preceding section, in connection with the Court's consideration of the proposed settlement, the representative plaintiffs intend to seek an award from the Court of fees in the amount of up to \$7,500.00 for each representative plaintiff, which if awarded would be in addition to the settlement consideration that will be available to members of the Class generally. In the Settlement Agreement, Aetna agreed not to oppose such an application up to \$7,500.00 for each representative plaintiff. If the Court awards representative plaintiffs a fee up to that amount, Aetna will pay such amount to the representative plaintiffs.

IX. WHO CAN I CONTACT WITH QUESTIONS?

If you have questions regarding this notice, the proposed settlement with Aetna or the Action generally, you can obtain additional information from the following sources:

On the Internet, at any of these sites:

www.managed-care-litigation.com
www.ArchieLamb.com
www.GordonSilberman.com

www.aetna.com
www.milberg.com

www.WhatleyDrake.com
www.kttlaw.com

By Telephone: The Settlement Administrator at 1-877-202-8864

By Mail

Law Offices of Archie Lamb, LLC
2017 2nd Avenue
Birmingham, Alabama 35203
Attention: Archie Lamb, Esq.

Kozyak Tropin & Throckmorton
200 South Biscayne Boulevard
Miami, Florida 33131-2335
Attention: Harley Tropin, Esq.

Milberg Weiss Bershad Hynes & Lerach LLP
One Pennsylvania Plaza
New York, New York 10119-0165
Attention: Edith Kallas, Esq.

PLEASE DO NOT CALL AETNA, YOUR AETNA PROVIDER RELATIONS REPRESENTATIVE, THE COURT OR THE CLERK'S OFFICE.

X. EXAMINATION OF PAPERS

This notice is a summary and does not describe all details of the proposed settlement with Aetna, the Settlement Agreement or the proceedings in the Action generally. Complete copies of the Settlement Agreement and certain pleadings and papers filed in the Action can be found for review on the following websites:

www.managed-care-litigation.com
www.ArchieLamb.com
www.GordonSilberman.com

www.aetna.com
www.milberg.com

www.WhatleyDrake.com
www.kttlaw.com

In addition, you may review the complete files of papers submitted in the Action at the office of the Clerk of the Court, United States Courthouse, U.S. District Court for the Southern District of Florida, 301 North Miami Avenue, Miami, Florida during regular business hours.

XI. REQUEST TO FORWARD THIS NOTICE

If you would be a member of the Class described in this notice but you have assigned any claim that might be covered by the proposed settlement or the release described above, please forward this notice to the appropriate person as soon as possible.

Dated: July 2, 2003

BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA