

Electronically Received 11/16/2023 02:51 PM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Douglas P. Dehler (admitted Pro Hac Vice)
Gregory W. Lyons (admitted Pro Hac Vice)
O'NEIL, CANNON, HOLLMAN, DEJONG & LAING S.C.
111 East Wisconsin Avenue, Suite 1400
Milwaukee, Wisconsin 53202
Telephone: (414) 276-5000
Facsimile: (414) 276-6581
E-Mail: doug.dehler@wilaw.com
E-mail: greg.lyons@wilaw.com

FILED
Superior Court of California
County of Los Angeles

12/13/2023

David W. Slayton, Executive Officer / Clerk of Court

By: I. Arellanes Deputy

*Attorneys for Plaintiffs Manuel I. Figueroa, M.D.,
and the Settlement Class*

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

MANUEL I. FIGUEROA, M.D., for and on
behalf of himself and other persons similarly
situated,

Plaintiffs,

vs.

MOLINA HEALTHCARE OF
CALIFORNIA, INC.,

Defendant.

Case No. BC645344
(Hon. Kenneth R. Freeman, Dept. 14)

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

Action filed: December 30, 2016
Trial Date: Not set

1 The Plaintiff’s Motion for Final Approval of Class Action Settlement, filed on September 21,
2 2023 (the “Motion for Final Approval”) having come on for hearing before this Court, the Honorable
3 Kenneth R. Freeman, presiding, on November 9, 2023, and the Court having considered the Motion
4 for Final Approval, as well as Plaintiff’s Memorandum of Points and Authorities in Support of
5 Motion for Final Approval of Class Action Settlement, and the supporting Declarations of Gregory
6 W. Lyons and Settlement Administrator, each filed on September 21, 2023, the Supplemental
7 Declaration of the Settlement Administrator dated November 10, 2023, all other papers filed in this
8 Lawsuit, and oral argument presented during the November 9, 2023 hearing, the Court hereby
9 **GRANTS** final approval of the class action settlement and **FINDS, CONCLUDES, and ORDERS** as
10 follows:

11 1. Plaintiff Manuel I. Figueroa, M.D. (“Plaintiff”) and Defendant Molina Healthcare of
12 California (identified as Molina Healthcare of California, Inc. in the Lawsuit) (“Molina”), through
13 their counsel of record in this Lawsuit, have reached an agreement to settle all claims in the Lawsuit.

14 2. The Parties have agreed, for Settlement purposes only, that this Lawsuit may be
15 maintained as a class action.

16 3. The Court, having reviewed the terms of the proposed Settlement, as well as the
17 pleadings filed in support of the Motion for Preliminary Approval and in support of the Motion for
18 Final Approval describing Plaintiff’s investigation into the claims and defenses in this matter; the
19 information exchanged between the Parties; the past proceedings in this Lawsuit; and the process and
20 procedures for the Settlement, finds that the Settlement is the product of informed, non-collusive, and
21 arm’s length negotiations and is within the range of possible approval as fair, reasonable, and
22 adequate, such that notice should be given to the Settlement Class.

23 4. The moving papers presented for the Court’s review in support of the Motion for Final
24 Approval set forth that the Settlement Administrator executed the parties’ plan to provide notice to
25 the proposed Settlement Class of the terms of the Revised Settlement Agreement and Release (the
26 “Settlement Agreement”) and the options provided to the Settlement Class—specifically, to (a) do
27 nothing and, thus, accept the terms of the Settlement, including the amount of the Individual
28 Settlement Payment identified in the Notice; (b) accept the terms of the Settlement, but dispute the

1 amount of the Individual Settlement Payment identified in the Notice; (c) object to the Settlement in
2 its entirety, but agree to receive only the Individual Settlement Payment identified in the Notice if the
3 Settlement is approved by the Court; and (d) Opt Out of the Settlement. The Parties' Notice attached
4 to the Settlement Agreement as Exhibit A was mailed to members of the Settlement Class at their
5 last-known address, and any Notice that was returned was promptly resent to any forwarding address,
6 to the extent practicable. The Settlement Administrator updated and confirmed current addresses for
7 members of the Settlement Class based on public information available for such medical providers
8 and used standard skip tracing procedures, as necessary, to obtain any forwarding address
9 information. The Parties' Notice and the notice plan set forth in the Settlement Agreement provided
10 the best practicable notice; it was reasonably calculated, under the circumstances, to apprise the
11 Settlement Class of the pendency of the Lawsuit and of their right to object to or to exclude
12 themselves from the proposed Settlement; it was reasonable and constitutes due, adequate and
13 sufficient notice to all providers entitled to receive notice; and it met all requirements of applicable
14 law.

15 Good cause appearing therefore, **IT IS HEREBY ORDERED** as follows:

16 1. Capitalized terms not otherwise defined herein shall have the same meanings as set
17 forth in the Settlement Agreement.

18 2. The Court has jurisdiction over Plaintiff, Defendant, and all Settlement Class
19 Members.

20 3. The Court has jurisdiction to approve the Settlement and the Settlement Agreement
21 and all exhibits thereto.

22 4. The Court certifies the Settlement Class for purposes of this Settlement only. For
23 settlement purposes only, the Lawsuit may be maintained on behalf of a Settlement Class defined as
24 follows:

25 *All California medical providers qualified to receive Enhanced Payments under*
26 *Section 1202 of the ACA for eligible E&M Services provided to Molina's health*
27 *plan members between January 1, 2013 and December 31, 2014 who submitted*
28 *claims or encounters for such services to Molina, which claims or encounters were*
not denied prior to the filing of the Lawsuit, and who Molina's records indicate did
not receive Enhanced Payments from Molina for some or all of those claims or

1 *encounters. According to Molina's records, there are 3,464 providers within the*
2 *Settlement Class.*

3 *Specifically excluded from the Settlement Class are the following persons: (i) Class*
4 *Counsel and their immediate family members; (ii) any Judges or mediators who*
5 *have presided over the Lawsuit and their immediate family members; and (iii) any*
6 *provider who has separately settled and released his or her claims against Molina,*
7 *including but not limited to, A. Shawn Adhami, M.D.*

8 5. The Court deems this definition sufficient for the purpose of Rule 3.765(a) of the
9 California Rules of Court, and solely for the purpose of effectuating the settlement.

10 6. The Court finds that the applicable requirements of the California Code of Civil
11 Procedure § 382 have been satisfied with respect to the Settlement Class and the proposed Settlement.
12 The Court hereby makes final its earlier provisional certification of the Settlement Class, as set forth
13 in the Preliminary Approval Order. The Court finds that the Settlement was the product of arm's
14 length negotiations between experienced counsel and that the Settlement, including the Total
15 Settlement Payments in the sum of \$3,486,168.84 (\$3,488,489.53 minus \$2,320.69, the amount that
16 would have been paid to Ebtissam H. Korkis, MD had she not opted out of the settlement) is fair,
17 reasonable, and adequate as to all Parties and consistent and in compliance with all requirements of
18 due process and applicable law, as to and in the best interests of all Parties, and directs the Parties
19 and their counsel to implement and consummate the Settlement Agreement in accordance with its
20 terms and provisions.

21 7. The Court declares the Settlement Agreement and this Final Approval Order to be
22 binding on and have res judicata and preclusive effect in all pending and future lawsuits or other
23 proceedings encompassed by the release set forth in Paragraph 16 of the Settlement Agreement
24 maintained by or on behalf of Plaintiff and all Settlement Class Members, on their own behalf and
25 on behalf of their respective present, former, and future administrators, trustees, spouses, attorneys,
26 agents, assigns, executors, heirs, partners, privies, representatives, predecessors-in-interest and
27 successors, and any other person or entity who may claim through them. Paragraph 16 of the
28 Settlement Agreement states as follows:

 16. **RELEASE.** *Except as to the rights and obligations provided for under the*
 terms of this Agreement, upon the date on which Molina transfers the Total
 Settlement Funds to the Settlement Administrator per Paragraph 21(a), Plaintiff,

1 *on behalf of himself and each of the other Settlement Class Members (collectively,*
2 *the “Releasing Parties”), hereby releases and forever discharges Molina, and all*
3 *of its past, present and future predecessors, successors, parent entities,*
4 *subsidiaries, divisions, employees, affiliates, officers, directors, shareholders,*
5 *representatives, attorneys, insurers, agents and assigns (collectively, the “Released*
6 *Parties”) from any and all causes of action, claims, allegations, damages, costs,*
7 *fees or liabilities that were alleged in, or arise out of facts asserted in, the Amended*
8 *Class Action Complaint filed on January 16, 2018 (the “Released Claims”)*

9 (a) *Subject to Court approval, all Settlement Class Members shall be*
10 *bound by this Agreement and the release set forth in this Paragraph*
11 *16, irrespective of whether they received actual notice of the*
12 *Lawsuit or this Settlement. This Agreement does not affect any*
13 *claims or potential claims of any providers who are not Settlement*
14 *Class Members.*

15 (b) *Without in any way limiting the scope of the release contained in*
16 *this Paragraph 16, the release covers any and all claims for*
17 *attorneys’ fees, costs or disbursements incurred by Class Counsel*
18 *or any other counsel representing Plaintiff or the Settlement Class*
19 *Members, or any of them, in connection with or related in any*
20 *manner to the Lawsuit, the Settlement, the administration of the*
21 *Settlement and the Released Claims as well as any and all claims*
22 *related to the Incentive Award Payment and the Class Counsel Fee*
23 *Payment.*

24 8. In addition, Paragraph 17 of the Settlement Agreement provides a waiver of the
25 provisions of California Civil Code section 1542, but that waiver is limited to Plaintiff and does not
26 apply to the Settlement Class.

27 9. The Court finds that the provision of the Notice: (i) constituted the best practicable
28 notice; (ii) constituted notice that was reasonably calculated under the circumstances to apprise the
29 Settlement Class of the pendency of the Lawsuit, of their right to object to or to exclude themselves
30 from the proposed Settlement, of their right to appear at the Final Approval Hearing, and of their
31 right to seek monetary and other relief; (iii) constituted reasonable, due, adequate, and sufficient
32 notice to all providers entitled to receive notice; and (iv) met all requirements of due process and any
33 other applicable law.

34 10. The Court finds that Class Counsel and Plaintiff adequately represented the Settlement
35 Class for purposes of entering into and implementing the Settlement and the Settlement Agreement.

1 11. Without affecting the finality of the Final Approval Order for purposes of appeal, the
2 Court reserves jurisdiction over the Settlement Administrator, Defendant, Plaintiff, and the
3 Settlement Class Members as to all matters relating to the administration, consummation,
4 enforcement, and interpretation of the terms of the Settlement, the Settlement Agreement, the Final
5 Approval Order, and for any other necessary purpose.

6 12. Upon entry of the Final Approval Order, the Releasing Parties shall be barred from
7 asserting any Released Claims against the Released Parties, and the Releasing Parties shall have
8 released the Released Claims as against the Released Parties.

9 13. The Court finds that zero (0) of the Settlement Class Members have objected to the
10 Settlement and one (1) Settlement Class Member, Ebtissam H. Korkis, MD, has opted out of the
11 Settlement. The Court approves the Opt-Out List and determines that the Opt-Out List is a conclusive
12 and complete list of all members of the Settlement Class who have timely and effectively requested
13 exclusion from the Settlement Class and, accordingly, shall neither share in nor be bound by the Final
14 Approval Order. As a result, there are 3,463 members of the Settlement Class.

15 14. The Court authorizes the Parties, without further approval from the Court, to agree to
16 and adopt such amendments, modifications, and expansions of the Settlement Agreement as (i) shall
17 be consistent in all material respects with the Final Approval Order; and (ii) do not limit the rights of
18 the Parties or Settlement Class Members.

19 15. For the reasons stated herein, the Court hereby grants final approval of the Settlement
20 and hereby directs that the Settlement be effected in accordance with the Settlement Agreement and
21 the following terms and conditions.

22 16. Class Counsel is awarded attorneys' fees and costs in the amount of \$872,122.38.

23 17. Plaintiff Manuel I. Figueroa, M.D. is awarded an incentive award in the amount of
24 \$2,500.

25 18. The Settlement Administrator is awarded its reasonable fees, costs, and expenses
26 related to the administration of this Settlement in an amount not to exceed \$200,000, with
27 arrangements to be made by Defendant and the Settlement Administrator for Defendant to pay the
28 Settlement Administrator's fees, costs, and expenses directly. Neither the Settlement Class Members

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

nor Class Counsel are responsible for any expenses in providing the Notice or in administering the settlement.


19. Within 30 days after entry of this Final Approval Order, Molina shall transfer to the Settlement Administrator the funds necessary to make payment of: (i) the Total Settlement Payments; (ii) the Class Counsel Fee Payment; and (iii) the Incentive Award Payment. Handling and payment of such funds and payments shall be made pursuant to Paragraphs 14, 15, 21, and 22 of the Settlement Agreement.

20. The Court hereby orders Class Counsel to file, by or before Noon on December 11, 2024, a Final Report setting forth the matters specified in Paragraph 23 of the Settlement Agreement, including a distribution report. The Court sets December 11, 2024 as a non-appearance date for the filing of the Final Report.

IT IS SO ORDERED.

Dated: 12/13/2023





Hon. Kenneth R. Freeman
Judge of the Superior Court
Kenneth R. Freeman / Judge