

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

MDL NO.: 1334

IN RE: MANAGED CARE LITIGATION

**THIS DOCUMENT RELATES ONLY TO
PROVIDER TRACK CASES**

**PLAN OF NOTICE
FOR CIGNA HEALTHCARE SETTLEMENT WITH PHYSICIANS**

This Plan of Notice is submitted by the Settling Parties in connection with the Settlement Agreement Among CIGNA HealthCare and Physicians (“Agreement”) in the Litigation.

Capitalized terms used in this Plan of Notice that are not otherwise defined herein have the meaning assigned to them in the Agreement.

I. PURPOSE OF THE PLAN OF NOTICE

The Plan of Notice is designed to ensure that notice of the proposed Settlement and Fairness Hearing reaches the putative members of the settlement class (the “Class”) in conformity with due process requirements and the Federal Rules of Civil Procedure. An Initial Notice, attached hereto as Exhibit A, will inform putative Class Members of the history of this Litigation, the terms of the proposed Settlement, the date and location of the Fairness Hearing and their right to object to the proposed Settlement or exclude themselves from the Class. The initial mailing will be made by the Settling Parties, in cooperation with the Settlement Administrator, by a date fixed by the Court that is within thirty (30) days of the date of the entry by the Court of the Preliminary Approval Order (the “Notice Date”).

Within fourteen (14) days after Final Approval of the Settlement, a Notice of Commencement of the Claims Period will be mailed to Class Members to inform them when

EXHIBIT 5

they may begin to submit Proofs of Claim under the terms of the Agreement and the method for submitting such Proofs of Claim. The proposed Preliminary Approval Order addresses only the Initial Notice. Prior to Final Approval, the Settling Parties will submit for the Court's approval a proposed Notice of Commencement of the Claims Period.

II. DESCRIPTION OF THE CLASS

The Class, for purposes of settlement only, consists of:

any and all Physicians, Physician Groups and Physician Organizations (and all Persons claiming by or through them, such as Physicians' Assistants and Advanced Practice Registered Nurses), who or which provided Covered Services to any CIGNA HealthCare member or any individual enrolled in or covered by a plan offered or administered by any Person named as a defendant in the *Shane* complaint or by any of their respective current or former Subsidiaries from August 4, 1990 through the date of the entry of the Preliminary Approval Order; provided, however, that the Class shall not include any Physician who is or was an employee of a CIGNA HealthCare staff-model HMO at the time of providing such Covered Services.

III. DIRECT MAIL NOTICE

The Initial Notice will be mailed by the Settlement Administrator by first class U.S. mail, postage pre-paid, on or before the Notice Date to all potential members of the Class identified on the Class List, to the extent such Persons can be identified with reasonable diligence. The Class List will include a list of active and retired Physicians obtained by the Settlement Administrator from the American Medical Association (the "AMA"). Notice to any individual Physician at his or her business address will be considered sufficient notice to that Physician's Physician Group or Physician Organization.

The Settlement Administrator will also mail an Initial Notice to Persons who, via e-mail or mail to the Settlement Administrator or Class Counsel, request such notice, or who request such notice by calling an automated number maintained by the Settlement Administrator.

For notices that are returned to the Settlement Administrator as undeliverable, the addresses of these Persons will be updated to the extent reasonably possible using one or more address tracking databases, including the database of Physicians' addresses available from CIGNA HealthCare and, for notices returned from a specific state, the database of Physicians' addresses (if any) available at the website (if any) maintained by that state's medical association. If a more recent address is located for any putative Class Member whose Initial Notice is returned as undeliverable, the Class List will be updated and the Initial Notice will be re-mailed to that Person. Re-mailings shall occur as soon as practicable after more recent addresses are located. Re-mailed notices that are returned as undeliverable will not receive further attention by the Settlement Administrator.

Because the names, tax identification numbers, and last known addresses for putative Class Members are accessible, direct mail notice, as described above, is the best notice practicable under the circumstances.

IV. PUBLICATION NOTICE

As soon as practicable after the mailing of the Initial Notice, and no later than 30 days prior to the Opt Out Deadline, the Settling Parties will have a summary form of Initial Notice, attached hereto as Exhibit B, published in the legal notices sections of the national editions of *The Wall Street Journal* and *USA Today*, one day a week for two consecutive weeks. In addition, to the extent reasonably practicable within the schedule to be fixed by the Court, the Settling Parties shall seek to have the summary form of Initial Notice published at least once, no later than 30 days prior to the Opt Out Deadline, in a nationwide periodical addressing issues of concern to Physicians, such as *The Journal of the American Medical Association* or *The American Medical News*.

The forms of Initial Notice will also be available from a website created and maintained by the Settlement Administrator within thirty (30) days after the date of the entry of the Preliminary Approval Order. The website maintained by the Settlement Administrator will allow putative Class Members to download, view and print the forms of Initial Notice from the internet. This website will also provide putative Class Members with a link to the website maintained by Class Counsel at www.hmocrisis.com, where the forms of Initial Notice will also be available to download, view and print. At least five of the law firms serving as Class Counsel will also post the forms of Initial Notice on their websites.

Finally, the Settlement Administrator will maintain an e-mail address and a toll-free automated telephone answering service to assist putative Class Members with any questions or requests for information. This will provide two ways for putative Class Members to request notices or to obtain additional information about the Initial Notice.