

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

FRANCES KIRBY, AUDREY)
LOGAN, DIOLI AZOFEIFA,)
JOHN DAVID MARKS,)
WANDA SILVA, TONYA)
BEACH, and DAVID)
FROHMAN, individually and)
on)
behalf of all others similarly)
situated,)

Plaintiffs,)

v.)

BLUE CROSS BLUE SHIELD)
HEALTHCARE PLAN OF)
GEORGIA, INC. D/B/A)
ANTHEM BLUE CROSS AND)
BLUE SHIELD AND AS)
SUCCESSOR IN INTEREST)
TO BLUE CROSS AND BLUE)
SHIELD OF GEORGIA, INC.)

Defendant.

**Civil Action No.: 19-1-
02689-53**

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is entered into by and among Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach, and David Frohman (“Plaintiffs”), for themselves and on behalf of the Settlement Class (as defined below), on the one hand, and Blue

Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue Shield of Georgia, Inc. (“BCBS-GA”), the other hand (collectively, the “Parties”), in the action entitled *Kirby et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.*, No. 19-1-02689-53, in the Superior Court of Cobb County, Georgia (the “Action”).

RECITALS

WHEREAS, Plaintiffs, individually and on behalf of the Settlement Class Members, filed the Action, alleging, among other things, that BCBS-GA (i) inflated and misrepresented the scope of its healthcare provider network to consumers who purchased an individual or family Pathway health insurance plan from BCBS-GA beginning in the November 2015 open enrollment period for the 2016 plan year; and (ii) improperly required Pathway members to obtain a referral from a primary care physician in order to see a specialist for the 2019 plan year;

WHEREAS, Plaintiffs, individually and on behalf of the Settlement Class Members, allege that BCBS-GA, among other things, breached its contractual obligations with Plaintiffs, defrauded Plaintiffs, violated O.C.G.A. § 16-14-4, and is otherwise liable for the conduct alleged in the Action;

WHEREAS, BCBS-GA denies any liability in the Action and has vigorously defended itself in the Action;

WHEREAS, during the course of litigation and settlement discussions, the Parties engaged in lengthy motion and appellate practice spanning over six years, exchanged documentation and engaged in discovery, and were able to evaluate the merits of their respective claims and defenses;

WHEREAS, after extensive arm's length negotiations supervised by the Mediator, the Parties reached a settlement;

WHEREAS, Plaintiffs and Class Counsel consider it desirable and in the Settlement Class Members' best interests that the Class's claims against BCBS-GA in the Action be settled on behalf of Plaintiffs and the Settlement Class Members upon the terms set forth below, and they have concluded that such terms are fair, reasonable, and adequate, and that that this settlement will result in significant benefits to the Settlement Class;

WHEREAS, BCBS-GA admits no wrongdoing or liability and expressly denies any and all of the allegations or claims asserted by Plaintiffs in the Action, and this Settlement Agreement and the settlement discussions between the Parties preceding it shall in no manner constitute, be construed as, or be deemed evidence of, an admission or concession of fault or liability of any kind by BCBS-GA;

WHEREAS, the Parties have concluded that it is desirable that the Action be finally settled upon the terms and conditions set forth in this Agreement;

WHEREAS, the Parties have reached an agreement to settle the claims in the Action on the terms and conditions set forth in this Agreement;

WHEREAS, the Parties have decided to enter into this Agreement because it provides substantial and meaningful benefits to the Settlement Class Members and to avoid the uncertainties of continued litigation; and

NOW, THEREFORE, it is agreed, by and among the undersigned, that this Action shall be settled and thereafter be dismissed with prejudice on the terms and conditions set forth herein, subject to judicial approval. In consideration of the promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

I. DEFINITIONS

1.1 “Action” shall mean the lawsuit styled, *Kirby et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.*, No. 19-1-02689-53, in the Superior Court of Cobb County, Georgia.

1.2 “Administrative Costs” means all reasonable costs and expenses of the Settlement Administrator incurred in carrying out its duties under this Agreement, including, without limitation, validating Settlement Class Members and determining eligibility for benefits under the Settlement, administering, calculating, and

distributing the Settlement Payments and its benefits to Settlement Class Members, and paying Taxes.

1.3 “Attorneys’ Fees” shall mean any and all attorneys’ fees of Class Counsel for their past, present, and future work and efforts in connection with this Action and the resulting Settlement.

1.4 “BCBS-GA” means Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue Shield of Georgia, Inc.

1.5 “BCBS-GA Counsel” shall mean Hogan Lovells US LLP, Balch & Bingham LLP, and Pope, McGlamy, Kilpatrick, Morrison & Norwood P.C.

1.6 “Business Days” means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays observed by the State of Georgia.

1.7 “Claim Form” shall mean the form attached hereto as **Exhibit E** and described in paragraph 8.2(c).

1.8 “Claims Period” shall have the meaning ascribed to it in paragraph 8.1.

1.9 “Class Counsel” shall mean The Doss Firm, LLC and Levine Kellogg Lehman Schneider + Grossman LLP.

1.10 “Court” means the Superior Court of Cobb County, Georgia.

1.11 “Defendant” shall mean BCBS-GA.

1.12 “Defendant’s Released Parties” shall mean BCBS-GA, including its predecessor and successor entities, firms, affiliated companies, current and former parents and subsidiaries (and their parents and subsidiaries), and all of their respective shareholders, partners, joint venturers, directors, officers, employees, agents, administrators, executors, members, managers, trustees, representatives, attorneys, insurers, mutual assurance entities, assigns, and any third parties including any health-benefit plans, employer groups, or other Blue Cross and/or Blue Shield Plans for which BCBS-GA processed health-benefit claims.

1.13 “Distributable Settlement Amount” shall have the meaning ascribed to it in Section 4.2(a).

1.14 “Effective Date” shall mean the date upon which the Final Order and Judgment is no longer subject to appeal or review, whether by exhaustion of any possible appeal, lapse of time, or otherwise.

1.15 “Entity” means any corporation, partnership, limited liability company, association, trust, or other organization of any type.

1.16 “Escrow Account” shall mean an account at an established financial institution agreed upon by the Parties that is established for the deposit of any amounts relating to the Settlement.

1.17 “Fairness Hearing” shall mean the hearing to be held before the Court pursuant to O.C.G.A. § 9-11-23 to determine whether the Settlement Agreement should receive Final Approval by the Court.

1.18 “Fee and Expense Application” shall mean the petition, to be filed by Class Counsel, seeking approval of an award of Attorneys’ Fees and Reimbursable Expenses.

1.19 “Final Approval” shall mean the entry of the Final Order and Judgment.

1.20 “Final Order and Judgment” or “Final Approval Order” shall mean an order and judgment that the Court enters after the Fairness Hearing, which finally approves the Agreement, certifies the Settlement Class, dismisses Defendant with prejudice, and otherwise satisfies the settlement-related provisions of O.C.G.A. § 9-11-23 in all respects, substantively identical in all material respects to that attached hereto as **Exhibit D**.

1.21 “Individual Settlement Cap” shall have the meaning ascribed to it in paragraph 8.2(e).

1.22 “Mediator” shall mean Hon. Michael A. Hanzman.

1.23 “Notice Date” shall mean 73 days after the Court enters the Preliminary Approval Order and no earlier than the date that the digital notice campaign contemplated by Section 3.5 has been completed.

1.24 “Notice Costs” shall mean all reasonable costs and expenses of the Settlement Administrator, including without limitation, all expenses or costs associated with providing Notice to the Settlement Class.

1.25 “Objection Deadline” shall mean 60 days after Notice Date.

1.26 “Opt-Out” shall have the meaning ascribed to it in paragraph 2.4.

1.27 “Opt-Out Deadline” shall mean 60 days after Notice Date.

1.28 “Parties” shall mean Plaintiffs and BCBS-GA (individually, each a “Party”).

1.29 “Pathway Plan” shall mean an individual, family or small group Pathway health insurance plan issued by BCBS-GA and effective during any period from January 1, 2016 to December 31, 2022.

1.30 “Plan of Allocation” shall mean the plan or formula of allocation of the Distributable Settlement Amount as approved by the Court, which plan or formula shall govern the distribution of the Distributable Settlement Amount, as reflected in Section VIII of this Settlement Agreement.

1.31 “Preliminary Approval Order” shall mean an order entered by the Court preliminarily approving the Settlement pursuant to paragraph 3.1, substantively identical in all material respects to that attached hereto as **Exhibit A**.

1.32 “Qualifying Billed Charge(s)” shall have the meaning ascribed to it in paragraph 8.2.

1.33 “Reimbursable Expenses” shall mean any and all costs and expenses of Class Counsel for their expenditures made in connection with this Action and the resulting Settlement.

1.34 “Released Claims” shall mean any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether representative, class, or individual in nature or sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney’s fees, based upon, arising from, or relating in any way to the factual predicates or legal claims that were brought in the Action, or could have been brought in the Action relating in any way to (1) the marketing and/or accuracy of provider directories for Pathway Plans including denials of coverage for health care services from an out-of-network provider when the provider was listed in a provider directory as in-network for the member’s Pathway Plan on or before the date of service; (2) processing claims from in-network providers as if they were out-of-network; or (3) the requirement under Pathway Plans for a prior referral to see a specialist provider.

1.35 “Request to Opt-Out” shall have the meaning ascribed to it in paragraph 2.4.

1.36 “Settlement” shall mean the compromise and resolution embodied in this Settlement Agreement.

1.37 “Settlement Administrator” shall mean JND Legal Administration.

1.38 “Settlement Amount” shall mean a common settlement fund in the amount of nine million and nine hundred thousand United States Dollars (\$9,900,000). The Settlement Class Members acknowledge that this Settlement Amount is in full and complete satisfaction of all Released Claims they may have against BCBS-GA.

1.39 “Settlement Class” or “Settlement Class Members” shall mean all Georgia residents who at any time were enrolled in a Pathway Plan effective during any period from January 1, 2016 to December 31, 2022. Excluded from the Settlement Class are (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff; (ii) BCBS-GA Counsel, their employees, and their immediate family, (iii) Class Counsel, their employees, and their immediate family, and (iv) any person who validly opts-out of the Settlement Class.

1.40 “Settlement Class Members In Records” shall mean Settlement Class Members that appear in BCBS-GA’s records as having at least one claim rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network and who do not submit a valid and timely Request to Out-Out.

1.41 “Settlement Class Members Not in Records” shall mean Settlement Class Members that do not appear in BCBS-GA’s records as having at least one claim rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network, but who submit a Claim Form attesting under penalty of perjury to having and submitting evidence of a Qualifying Billed Charge.

1.42 “Settlement Information Line” shall have the meaning ascribed to it in paragraph 3.4.

1.43 “Settlement Notice” shall mean (i) the notice, substantively identical in all material respects to that attached hereto as **Exhibit B and C**, to be made available on the Settlement Website and mailed to Settlement Class Members In Records, respectively, pursuant to paragraph 3.2, and (ii) the digital notice described in Section 3.5.

1.44 “Settlement Payment” shall mean that portion of the Distributable Settlement Amount paid or payable to a specific Settlement Class Member, as calculated pursuant to paragraph 8.2.

1.45 “Settlement Website” shall have the meaning ascribed to it in paragraph 3.3.

1.46 “Service Award” shall have the meaning ascribed to it in paragraph 7.2.

1.47 “Service Award Application” shall mean the petition, to be filed by Class Counsel, seeking approval of a Service Award as described in paragraph 7.2.

1.48 “Taxes” shall have the meaning ascribed to it in paragraph 4.1(g).

1.49 “Tax-Related Costs” shall have the meaning ascribed to it in paragraph 4.1(g).

II. CLASS CERTIFICATION

2.1 ***Stipulation to Settlement Class.*** Solely for purposes of the Settlement and for no other purpose, each of the Parties stipulates and agrees that the Action shall proceed as a class action under O.C.G.A. § 9-11-23. Plaintiffs shall seek, and Defendant will not oppose, certification of the Settlement Class, pursuant to O.C.G.A. § 9-11-23, for settlement purposes only.

2.2 ***No Agreement or Admission.*** Nothing in this Agreement shall be construed as an agreement or admission by BCBS-GA that the Action or any similar case is amenable to class certification for trial or any other purpose. Nothing in this Agreement shall be construed as an agreement or admission by Plaintiffs that the Action or any similar case is not amenable to class certification for trial or any other purpose.

2.3 ***No Waiver.*** Nothing in this Agreement shall prevent Plaintiffs from seeking class certification or appealing any denial of class certification if the Settlement does not receive Final Approval or if the Effective Date does not occur for any reason. Nothing in this Settlement Agreement shall prevent BCBS-GA from opposing or appealing class certification or seeking de-certification of any class if the

Settlement does not receive Final Approval or if the Effective Date does not occur for any reason.

2.4 ***Requests to Opt-Out from Settlement Class.*** Any person included within the Settlement Class who wishes to “Opt-Out” (i.e., to be excluded) from the Settlement Class must do so in writing by mailing a written request to Opt-Out from the Settlement to the Settlement Administrator (a “Request to Opt-Out”). Such request must be postmarked no later than the Opt-Out Deadline. The request must (a) identify the case name and number, (b) be signed by the person seeking to Opt-Out from the Settlement Class, (c) clearly express the person’s desire to Opt-Out from the Settlement Class, and (d) include the person’s name, address and, if available, telephone number and, if represented by counsel, counsel’s name, address and telephone number. Any person within the Settlement Class who wishes to Opt-Out from the Settlement Class can only Opt-Out for himself or herself and cannot Opt-Out for any other person or any group of persons, nor can any person within the Settlement Class authorize any other person to Opt-Out on his or her behalf (provided however that a parent or guardian may Opt-Out for a minor). Any Request to Opt-Out that fails to satisfy the requirements of this Section, or that has not been timely postmarked by the deadline set forth in the Preliminary Approval Order, shall be deemed ineffective, and any person included within the Settlement Class who does not properly and timely submit a Request to Opt-Out shall be deemed to have waived

all rights to Opt-Out and shall be deemed a Settlement Class Member for all purposes under this Agreement.

III. MOTION FOR PRELIMINARY APPROVAL

3.1 *Motion for Preliminary Approval.* As soon as is practicable after execution of this Agreement, Plaintiffs shall move the Court in the Action for preliminary approval of the Settlement, including entry of an Order substantively identical in all material respects to the form of the Preliminary Approval Order attached as **Exhibit A** hereto.

3.2 *Settlement Notice.* Within forty-five (45) days of the entry of the Preliminary Approval Order, the Settlement Administrator shall post to the Settlement Website the long form of the Settlement Notice (substantively identical in all material respects to that attached hereto as **Exhibit B**) and shall send the short form of the Settlement Notice (substantively identical in all material respects to that attached hereto as **Exhibit C**) by first-class mail or electronic mail (if reasonably available) to the Settlement Class Members In Records. The short form of the Settlement Notice will be sent to the last known mailing address or last known email address (if reasonably available) of the known Settlement Class Members In Records, which shall be based on the good faith assistance from BCBS-GA to provide last known mailing addresses and email (if reasonably available) in its files, with the good faith assistance of Class Counsel, and updated through the National Change of

Address database by the Settlement Administrator before mailing (with all returned mail skip-traced and promptly re-mailed).

3.3 ***Settlement Website.*** Within forty-five (45) days of the entry of the Preliminary Approval Order and no later than the first date that the mailing of the short form of the Settlement Notice occurs, the Settlement Administrator shall establish the Settlement Website, which will contain the Settlement Notice and this Settlement Agreement and its exhibits. The Settlement Notice will identify the web address of the Settlement Website.

3.4 ***Settlement Information Line.*** Within forty-five (45) days of the entry of the Preliminary Approval Order, and no later than the first date of mailing of the Settlement Notice, the Settlement Administrator shall establish a toll-free telephone number (the “Settlement Information Line”) to which Settlement Class Members can direct questions about the Settlement. The Settlement Administrator shall develop a question-and-answer-type script, with input and approval from BCBS-GA Counsel and Class Counsel, for the use of persons who answer calls to the Settlement Information Line.

3.5 ***Digital Notice.*** Within forty-five (45) days of the entry of the Preliminary Approval Order, and no later than the first date of mailing of the Settlement Notice, the Settlement Administrator shall begin a 4-week digital notice campaign. The digital notice will be targeted at Settlement Members Not In

Records, as best determined by the Settlement Administrator with good faith assistance from Class Counsel and BCBS-GA Counsel.

3.6 ***Right to Object.*** Settlement Class Members shall be permitted to object to the Settlement by the Objection Deadline. Requirements for filing an objection shall be as set forth in the Preliminary Approval Order.

IV. PAYMENTS TO THE CLASS

4.1 ***The Settlement Amount.***

(a) Within fifteen (15) days of the Court granting Preliminary Approval of the Settlement, BCBS-GA shall pay \$150,000 of the Settlement Amount into the Escrow Account by wire transfer for use in the payment of initial Notice and Administration Expenses, which will be credited toward the total Settlement Amount owed by BCBS-GA. In the event that the Settlement is terminated, the Court does not grant final approval of the Settlement, the Effective Date does not occur, or the Settlement otherwise fails for any reason, the Settlement Administrator shall return any unused portion of the \$150,000 to BCBS-GA within ten (10) business days.

(b) BCBS-GA shall cause the Settlement Amount (less the \$150,000 deposited pursuant to paragraph 4.1(a) above) to be deposited via wire transfer into the Escrow Account within ten (10) Business Days of entry of the Final Order and Judgment.

(c) The Settlement Amount shall be used solely for the purposes set forth in paragraph 4.1(h) below.

(d) Subject to Court approval and oversight, the Escrow Account will be controlled by the Settlement Administrator. The Settlement Administrator shall not disburse the Settlement Amount or any portion thereof except as provided for in this Agreement, by an Order of the Court, or with prior written agreement of both Class Counsel and BCBS-GA Counsel.

(e) The Settlement Administrator is authorized to execute transactions on behalf of the Settlement Class Members that are consistent with the terms of this Agreement and with Orders of the Court.

(f) All funds held in the Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until the funds are distributed in accordance with this Settlement Agreement.

(g) All (i) taxes on the income of the Escrow Account (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Escrow Account (including, without limitation, expenses of tax attorneys and accountants) (“Tax-Related Costs”) shall be timely paid by the Settlement Administrator out of the Escrow Account.

(h) The Settlement Amount, together with any interest accrued thereon, will be used to pay the following amounts associated with the Settlement:

- (i) Compensation to Settlement Class Members determined in accordance with paragraph 4.2 and Section VIII;
- (ii) All Service Awards to Class Representatives approved by the Court;
- (iii) All Attorneys' Fees and Reimbursable Expenses approved by the Court;
- (iv) Notice Costs and Administrative Costs incurred by the Settlement Administrator; and
- (v) Taxes and Tax-Related Costs.

(i) For the avoidance of doubt, the Settlement Amount represents the total amount BCBS-GA owes under this Settlement Agreement.

4.2 *Distribution to Settlement Class Members.*

(a) The money remaining from the Settlement Amount, including any accrued interest thereon, after the removal of amounts for payment of any approved Attorneys' Fees, Reimbursable Expenses, Service Awards, Notice Costs, Taxes and Tax-Related Costs, and Administrative Costs shall be available for distribution to Settlement Class Members (the "Distributable Settlement Amount").

(b) The Distributable Settlement Amount shall be divided among Settlement Class Members in accordance with the Plan of Allocation set forth in Section VIII below.

(c) The Settlement Administrator shall disburse the Distributable Settlement Amount as promptly as possible after the Effective Date and, in any event, no later than two hundred and seventy (270) days after the Effective Date.

(d) The Settlement Administrator shall make all Settlement Payments by check made payable to the Settlement Class Members according to the addresses provided by BCBS-GA or otherwise provided by the Settlement Class Members.

(e) Settlement Class Members must cash or otherwise negotiate and present Settlement Payment checks within ninety (90) days of issuance. If they do not do so, the checks will be void. This limitation shall be printed on the face of each check. For any checks that are mailed but become void after the first issuance, the Settlement Administrator shall reissue and undertake a second mailing of such checks. Settlement Class Members must cash or otherwise negotiate and present such reissued checks within ninety (90) days of reissuance or those reissued checks will be void. The voidance of checks shall have no effect on the Settlement Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect.

4.3 ***Treatment of Uncashed Checks.*** If any Settlement Payment checks are issued and reissued pursuant to paragraph 4.2(e) above but remain uncashed ninety-one (91) days after reissuance, then the Settlement Administrator shall within one hundred eighty (180) days after the check's reissuance date, remit the amount of such uncashed check(s) to BCBS-GA by wire transfer as indicated in written instructions to be provided by BCBS-GA to the Settlement Administrator. The Settlement

Administrator shall retain records of any such payment to BCBS-GA and provide those records to Class Counsel and/or BCBS-GA Counsel upon request.

4.4 ***Certification of Settlement Administrator.*** Within fourteen (14) Business Days of completing all actions required by paragraphs 4.2 and 4.3, the Settlement Administrator shall send to BCBS-GA Counsel one or more affidavits stating the following: (a) confirmation that the Settlement Administrator sent the Settlement Notice to each Settlement Class Member In Records from the information provided by BCBS-GA and/or updated by the Settlement Administrator; (b) the date(s) upon which the Settlement Administrator sent the Settlement Notice; (c) the name of each Settlement Class Member In Records whose Settlement Notice was returned as undeliverable; and (d) the name of each Settlement Class Member to whom the Settlement Administrator made a Settlement Payment, together with the amount of the Settlement Payment, the name of the payee, the date of the Settlement Payment, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

4.5 ***Entire Monetary Obligation.*** In no event, and notwithstanding anything else in this Settlement Agreement, shall BCBS-GA be required to pay any amounts other than the Settlement Amount. It is understood and agreed that BCBS-GA's monetary obligations under this Settlement Agreement will be fully discharged by paying the amounts specified in paragraph 4.1 above, and that BCBS-GA shall have

no other monetary obligations, or obligations to make any other payments under this Settlement Agreement or otherwise in connection with this Settlement.

4.6 ***Undistributed Funds.*** To the extent that there is any undistributed portion of the Distributable Settlement Amount, for example as a result of Opt-Outs and/or the Individual Settlement Cap described in paragraph 8.2(e), the undistributed portion shall be paid to the mutually agreed upon *cy pres* recipient: Maternal-Infant Health – Healthy Mothers Healthy Babies of Georgia. For the sake of clarity, this paragraph 4.6 does not apply to the uncashed checks described in paragraph 4.3.

V. SETTLEMENT ADMINISTRATION

5.1 The Settlement Administrator shall perform the functions as are specified in this Agreement and its Exhibits, including, but not limited to, providing notice of this Settlement Agreement to Settlement Class Members, overseeing administration of the Settlement Amount; operating the Settlement Website and a toll-free number; and administering and distributing the Settlement Payments described herein. In addition to other responsibilities that are described in this Agreement, the duties of the Settlement Administrator include:

(a) Reviewing information obtained from BCBS-GA and determining the validity and accuracy of any Claim Forms and other submissions to calculate and process Settlement Payments to Settlement Class Members;

(b) Providing the Settlement Class Members in Records with their total Qualifying Billed Charges for purposes of calculating their pro rata distribution used to process Settlement Payments;

(c) Establishing a reasonably practical procedure, with the good faith assistance of BCBS-GA Counsel and Class Counsel, to verify that individuals who submit a Claim Form are Settlement Class Members and have valid Qualifying Billed Charges.

(d) Establishing and maintaining a post office box for mailed Claim Forms, written objections, and Requests to Opt-Out from the Settlement Class;

(e) Establishing and maintaining the Settlement Website;

(f) Responding to Settlement Class Member inquiries in conjunction with Class Counsel and BCBS-GA Counsel via U.S. mail, e-mail, and telephone;

(g) Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries;

(h) Mailing to Settlement Class Members who request it paper copies of the Settlement Notice;

(i) Paying Taxes;

(j) Processing all objections and Requests To Opt-Out from the Settlement Class;

(k) Receiving Requests to Opt-Out and objections from Settlement Class Members and promptly providing copies thereof to Class Counsel and BCBS-GA Counsel. If the Settlement Administrator receives any Requests to Opt-Out, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and BCBS-GA Counsel;

(l) Providing, no later than 5 Business Days after the Opt-Out and Objection Deadlines, a final report to Class Counsel and BCBS-GA Counsel that summarizes the number of written Requests to Opt-Out, objections, and other pertinent information as requested by Class Counsel or BCBS-GA Counsel;

(m) After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;

(n) In accordance with all applicable orders of the Court, processing and transmitting to Class Counsel all amounts approved by the Court for Service Awards and for Attorneys' Fees and Reimbursable Expenses.

(o) In advance of the Fairness Hearing, preparing a report for Class Counsel and BCBS-GA Counsel and an affidavit to submit to the Court that provides: (i) information regarding the Settlement Administrator's execution of

mailed Settlement Notice and the Digital Campaign, (ii) information regarding its determinations of the number of Settlement Class Members eligible for Settlement Payments, calculated pro rata percentages for use in processing Settlement Payments, and the total anticipated amount of such eligible Settlement Payments; and (iii) a list of each Settlement Class Member who timely and properly provided written Requests to Opt-Out from the Settlement Class; and

(p) Performing any function at the agreed-upon instruction of both Class Counsel and BCBS-GA Counsel, including, but not limited to, verifying that Settlement Payments have been distributed to Settlement Class Members.

5.2 The Parties, Class Counsel, and BCBS-GA Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of the Settlement Administrator's designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Amount; (iii) the formulation, design or terms of the disbursement of the Settlement Amount; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Amount; (v) any losses suffered by or fluctuations in the value of the Settlement Amount; or (vi) the payment or withholding of any taxes, expenses or costs incurred in connection with the taxation of the Settlement Amount or the filing of any returns.

5.3 The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, and BCBS-GA Counsel for (i) any act, omission or determination of the Settlement Administrator, or any of the Settlement Administrator's designees or agents, in connection with the administration of the Settlement; (ii) the management, investment or distribution of the Settlement Amount; (iii) the formulation, design or terms of the disbursement of the Settlement Amount; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Amount; (v) any losses suffered by, or fluctuations in the value of the Settlement Amount; or (vi) the payment or withholding of any taxes, expenses, or costs incurred in connection with the taxation of the Settlement Amount or the filing of any returns.

VI. RELEASES, COVENANTS AND INJUNCTION

6.1 Upon entry of the Final Approval Order, Plaintiffs and the Settlement Class Members (and, in the case of Settlement Class Members who were or are incapacitated or minors, their parents, natural and/or legal guardians, conservators, attorneys in fact, and/or other legal representatives), on behalf of themselves, and their past, present, and future administrators, executors, agents, insurers, attorneys, trusts, beneficiaries, heirs, devisees, legatees, spouses, co-insureds, family members, additional plan members, descendants, dependents, predecessors- and successors-in-interest and assigns, shall be deemed to have, and by operation of the Final Order and

Judgment shall have, fully, finally, and forever released, relinquished and discharged Defendant's Released Parties from each and every Released Claim.

6.2 ***Injunction.*** Upon the Effective Date, all Plaintiffs and each of the Settlement Class Members shall be enjoined from instituting, maintaining, prosecuting, or asserting any claim, cause of action, or demand on the basis of, connected with, or arising out of the Released Claims, whether arising before or after the date of the Final Order and Judgment, whether known or unknown, against any and all of Defendant's Released Parties. Nothing herein shall bar any claim seeking enforcement of this Settlement Agreement, the Preliminary Approval Order, or the Final Approval Order.

6.3 ***Unknown Facts.*** Plaintiffs, Class Counsel, and the Settlement Class Members may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with BCBS-GA, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Settlement Class Member not to object to the Settlement. Notwithstanding the foregoing, each Settlement Class Member shall expressly, upon the entry of the Final Approval Order, be deemed to have, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Settlement Class Members

acknowledge and shall be deemed by operation of the Final Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.

6.4 ***Unknown Claims.*** Each Plaintiff and Settlement Class Member hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order, the Settlement Class Members shall be conclusively deemed to, and by operation of the Final Approval Order shall, settle, release, relinquish, waive and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims pertaining specifically to Section 1542 of the California Civil Code, which provides:

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.

Upon entry of the Final Approval Order, the Plaintiffs and Settlement Class Members, shall also, with respect to the Released Claims, waive any and all provisions, rights and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

VII. ATTORNEYS' FEES, EXPENSES AND SERVICE AWARDS

7.1 ***Fee and Expense Application.*** Class Counsel intends to submit a Fee and Expense Application, seeking Attorneys' Fees based on the value of the Settlement and the work performed in an amount not to exceed 33.33% of the Settlement Amount (i.e., \$3,300,000), which amount constitutes Class Counsel's reasonable Attorneys' Fees and Reimbursable Expenses. BCBS-GA will not oppose the Fee and Expense Application up to this amount. Any amount awarded by the Court in response to such Fee and Expense Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within fourteen (14) Business Days of entry of the Final Approval Order and Judgment. BCBS-GA agrees not to oppose the Fee and Expense Application up to the above specified amount.

7.2 ***Service Award.*** Class Counsel intends to submit a Service Award Application for the Class Representatives for a total amount of \$75,000, which will be paid from the Settlement Amount. Any amount awarded by the Court in response to such Service Award Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within fourteen (14) Business Days of entry of the Final Approval Order and Judgment and then

distributed to each Class Representative. BCBS-GA agrees not to oppose the Service Award Application up to the above specified amount.

7.3 ***No Termination.*** Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of the Attorney's Fee and Expense Application as well as the Service Award Application to be paid out of the Settlement Amount shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any Order or proceedings relating to the award of Attorneys' Fees and Reimbursable Expense, or any appeal of any Order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

VIII. PLAN OF ALLOCATION

8.1 ***Claims Period.*** There will be a claims period that will run for sixty (60) days after the Notice Date.

8.2 ***Claims Process.*** During the Claims Period, the Settlement Administrator, with the good faith assistance from BCBS-GA to provide certain claims and last known address information in its records and with the assistance of Class Counsel, shall identify the Settlement Class Members in Records, Settlement Class Members Not In Records who submit a valid Claim Form and are eligible for

a Settlement Payment as set forth herein, and their corresponding Qualifying Billed Charges.

(a) “Qualifying Billed Charges” shall mean:

(1) For Settlement Class Members In Records: the non-covered billed charge amount that appears in BCBS-GA’s records for any claim denied on the basis of the provider being out-of-network; or

(2) For Settlement Class Members Not In Records: a billed charge from a health care provider to the member that the member attests they received because (1) the provider was out-of-network when BCBS-GA had represented that it was in-network in a provider directory or other communication on or before the date of service; (2) BCBS-GA processed (or the member understood that BCBS-GA would have processed) the claim as out-of-network even though the provider was in-network on the date of service; (3) the specialist service was not covered for a claim denied because the member did not obtain a referral from their primary care physician (2019 plan year only); or (4) a primary care physician charged a fee to obtain a referral to a specialist (2019 plan year only). Except as to category (4), a Qualifying Billed Charge does not include copays or coinsurance amounts for in-network services.

(b) Settlement Class Members In Records do not need to submit a claim to be eligible for payment under the Settlement. Their respective Qualifying Billed Charges will be determined based on BCBS-GA's records.

(c) Settlement Class Members Not In Records need to submit a Claim Form, attached hereto as **Exhibit E**, within 60 days of the Notice Date, to be eligible to receive a Settlement Payment. Settlement Class Members Not In Records must also submit a bill from a medical provider or comparable documentation that demonstrates that the Settlement Class Member incurred a Qualifying Billed Charge. The bill or other documentation must include the (1) provider's name, (2) provider's address, (3) date of service, (4) description of services provided, and (5) provider charges for which the Settlement Class Member was responsible.

(d) For the sake of clarity, Settlement Class Members In Records do not need to submit a Claim Form to receive payment. Settlement Class Members In Records may, however, submit a Claim Form and supporting documentation described above for any Qualifying Billed Charge that is not in BCBS-GA's records.

(e) The Settlement Administrator shall determine, for each Settlement Class Member and based on their total Qualifying Bill Charges, their pro rata percentage that will be used to determine their Settlement Payment. In no event shall any Settlement Class Member receive a Settlement Payment that exceeds the

aggregate sum of the Settlement Class Member's Qualifying Billed Charges (the "Individual Settlement Cap").

(f) The Settlement Administrator shall have the sole discretion and authority to determine whether a claim is deficient in whole or part but may consult with the Parties in making individual determinations.

(g) If a Settlement Class Member disputes their Qualifying Billed Charges as determined by the Settlement Administrator, the Settlement Class Member shall notify the Settlement Administrator of the dispute and provide documentation to substantiate the dispute within thirty (30) days. Any disputes not resolved within fourteen (14) days thereafter shall be subject to Section 8.4 below.

8.3 Tax Obligations. The Parties acknowledge that any payments to Settlement Class Members or their attorneys may be subject to applicable tax laws. BCBS-GA, BCBS-GA Counsel, Class Counsel, and Plaintiffs will provide no tax advice to the Settlement Class Members and make no representation regarding the tax consequences of any of the Settlement Payments described in this Settlement Agreement. To the extent that any portion of any Settlement Payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Each Settlement Class Member who receives a payment

under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Settlement Class Member shall hold BCBS-GA, BCBS-GA Counsel, Plaintiffs, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold BCBS-GA, BCBS-GA Counsel, Plaintiffs, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.

8.4 *Disputes and Appeals.*

(a) To the extent a Settlement Class Member disputes the total Qualifying Billed Charges disclosed by the Settlement Administrator and the matter is not resolved pursuant to Section 8.2(g), the Settlement Administrator shall, within fourteen (14) days, notify the Settlement Class Member in writing (including by email where the Settlement Class Member selects email as his or her preferred method of communication) of the reason for the Settlement Administrator's determination of the dispute and the amount in dispute. Notification shall also be given to Class Counsel and BCBS-GA Counsel. The notification shall inform the Settlement Class Member that he or she can request an appeal. If the Settlement

Class Member attempts to substantiate an amount different than the total Qualifying Billed Charges asserted by the Settlement Administrator, but in the sole discretion and authority of the Settlement Administrator fails to do so, the Settlement Administrator shall notify the Settlement Class Member of that determination within fourteen (14) days of the determination. The notification shall inform the Settlement Class Member of his or her right to dispute the determination in writing and request an appeal within fourteen (14) days.

(b) If a Settlement Class Member disputes a determination in writing (including by e-mail where the Settlement Class Member selects e-mail as his or her preferred method of communication) and requests an appeal, the Settlement Administrator shall provide Class Counsel and BCBS-GA Counsel a copy of the Settlement Class Member's dispute, along with all documentation or other information submitted by the Settlement Class Member. Class Counsel and BCBS-GA Counsel will confer regarding the submission, and their agreement on approval of the Settlement Class Member's claim, in whole or part, will be final. If Class Counsel and BCBS-GA Counsel cannot agree on approval of the Settlement Class Member's claim, in whole or part, the dispute will be submitted to a mutually-agreeable neutral third-party who will serve as the claims referee. If no agreement is reached on selection of the claims referee, the Parties will submit proposals to the Court. The Court will have final, non-appealable decision-making authority over

designating the claims referee. The claims referee's decision will be final and not subject to appeal or further review. All costs associated with the disputes and appeals process will be included under the costs associated with the Settlement Class Administrator.

IX. CONTINGENCIES, EFFECT OF DISAPPROVAL OR TERMINATION OF SETTLEMENT

9.1 ***Right to Terminate.*** If the Court or, in the event of an appeal, any appellate court refuses to approve, or modifies any material aspect of this Agreement or the proposed Preliminary Approval Order or Final Order and Judgment, Plaintiffs or BCBS-GA may terminate this Agreement and the Settlement as set forth below.

9.2 ***Termination Events.*** This Agreement and the Settlement shall terminate and be cancelled if, within ten (10) business days after any of the following events, one of the Parties provides written notification of an election to terminate the Settlement:

(a) The Court declines to provide preliminary approval of this Agreement, or declines to enter or materially modifies the contents of the Preliminary Approval Order attached hereto as **Exhibit A**; or materially changes the definitions of Released Claims or Defendant's Released Parties; or

(b) The Court declines to provide final approval of this Agreement, or declines to enter or materially modifies the contents of the Final Order and Judgment attached hereto as **Exhibit D**; or

(c) The Court's Final Order and Judgment is vacated, reversed or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date.

For purposes of this Agreement and this paragraph 9.2, no Order of the Court, or modification or reversal on appeal of any Order of the Court, solely concerning the administrative functions of the Settlement or the person(s) performing such administrative functions, or the amount, advancement or award of any Attorneys' Fees shall constitute grounds for cancellation or termination of the Agreement.

9.3 ***BCBS-GA's Right to Terminate.*** If the number of valid Requests to Opt-Out from the Settlement is one thousand (1,000) or more of the potential Settlement Class Members, BCBS-GA may, but is not obligated to, elect to terminate the Settlement. The Parties agree that, if BCBS-GA terminates on this basis, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither party will have any further obligation to perform under this Agreement. BCBS-GA must notify Class Counsel and the Court of its election to terminate not later than thirty (30) days after the Opt-Out Deadline.

9.4 ***Effect of Termination.*** If for any reason this Agreement is terminated or fails to become effective, then the Parties shall be deemed to have reverted to their respective status, which shall then resume proceedings in the Court, and the Parties

shall proceed in all respects as if this Agreement and any related orders had not been entered.

X. MISCELLANEOUS

10.1 *Duty to Cooperate.* Each of the Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement. The Parties shall jointly request the Court to both preliminarily and finally approve the Agreement as expeditiously as practicable, and shall not encourage persons included within the Settlement Class or attorneys representing such persons to object to the Court's approval of the Agreement. The Parties further represent, agree and acknowledge that the Settlement is a fair resolution of these claims for the Parties and the Settlement Class. Neither the Parties nor their respective counsel shall make any statements suggesting the contrary, either before or after the Court's approval of the Settlement and this Agreement. Class Counsel and BCBS-GA Counsel further agree not to, in any public discussion, discourse, or presentation, including but not limited to any interviews with the press or on social media, accuse the Parties, or any of them, of any wrongdoing regarding this Settlement or the subject matter thereof (provided, however, this sentence does not include claims for breach of this Agreement).

10.2 ***Entire Agreement.*** This Agreement is the entire agreement among the Parties concerning the settlement of the Action and it supersedes any prior agreements, written or oral, between the Parties. In executing this Agreement, the Parties have not seen, heard or relied upon any promises, statements, representations, covenants, warranties, or inducements, whether express or implied, made by one another or by any representative or other person or entity, except for those expressly contained in this Settlement Agreement and the exhibits thereto. This Settlement Agreement cannot be altered, modified or amended except through a writing executed by all Parties.

10.3 ***Waiver.*** The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

10.4 ***Construction of Agreement.*** This Settlement Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity shall not be resolved by virtue of a presumption in favor of any Party. The Settlement Agreement was reached at arm's-length by the Parties, all of

which were represented by counsel. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the sections or paragraphs they caption. References to a person are also to the person's permitted successors and assigns, except as otherwise provided herein. Whenever the words "include," "includes" or "including" are used in this Settlement Agreement, they shall not be limiting but shall be deemed to be followed by the words "without limitation."

10.5 *Executed in Counterparts.* This Agreement may be executed in counterparts, all of which shall be considered the same as if a single document had been executed, and shall become effective when such counterparts have been signed by each of the Parties and delivered to each of the other Parties. Counterpart copies of signature pages, whether delivered in original, by electronic mail in pdf format and/or by facsimile, taken together shall all be treated as original and binding signatures.

10.6 *Notices.* Unless otherwise provided herein, any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, shall be in writing and delivered personally or sent by certified mail or overnight delivery service, postage pre-paid, with copies by electronic mail to the attention of Class Counsel or BCBS-GA Counsel (as well as to

any other recipients that a court may specify). As of the date hereof, the respective representatives are as follows:

For BCBS-GA:

Briana L. Black
E. Desmond Hogan
HOGAN LOVELLS US LLP
555 Thirteenth Street, N.W.
Washington, DC 20004
briana.black@hoganlovells.com
desmond.hogan@hoganlovells.com

James L. Hollis
T. Joshua R. Archer
BALCH & BINGHAM LLP
30 Ivan Allen Jr. Blvd. N.W., Suite 700
Atlanta, Georgia 30308
jhollis@balch.com
jarcher@balch.com

For Plaintiffs:

Jason Doss
The Doss Firm, LLC
1827 Powers Ferry Road SE
Building 23, Suite 100
Atlanta, Georgia 30339
jasondoss@dossfirm.com

Jason Kellogg
Levine Kellogg Lehman Schneider + Grossman LLP
100 SE 2nd Street, 36th Floor
Miami, FL 33131
jk@lklsg.com

10.7 ***Extensions of Time.*** The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

10.8 ***Governing Law.*** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without giving effect to any conflict of law provisions that would cause the application of the laws of any state other than Georgia.

10.9 ***Fees and Expenses.*** Except as otherwise expressly set forth herein, each Party hereto shall pay all fees, costs and expenses incurred in connection with the Action, including fees, costs and expenses incident to his, her or its negotiation, preparation or compliance with this Agreement, and including any fees, expenses and disbursements of its counsel, accountants, and other advisors. Nothing in this Agreement shall require BCBS-GA to pay any monies other than as expressly provided herein.

10.10 ***Advice of Counsel.*** Each Party to this Settlement Agreement hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that party by his, her, or its counsel.

10.11 ***Disputes.*** Class Counsel, BCBS-GA Counsel, and the Parties agree that any and all disputes concerning compliance with the Settlement Agreement, with the

exception of any and all disputes concerning compliance with Section VIII, shall be exclusively resolved as follows:

(a) If Class Counsel, BCBS-GA Counsel, or a Party has reason to believe that a legitimate dispute exists concerning the Settlement Agreement, the Party raising the dispute shall first promptly give written notice under the Settlement Agreement to the other party including in such notice: (a) a reference to all specific provisions of the Settlement Agreement that are involved; (b) a statement of the alleged non-compliance; (c) a statement of the remedial action sought; and (d) a brief statement of the specific facts, circumstances, and any other arguments supporting the position of the party raising the dispute;

(b) Within twenty (20) days after receiving the notice described in subparagraph (a), the receiving Party shall respond in writing with its position and the facts and arguments it relies on in support of its position;

(c) For a period of not more than twenty (20) days following mailing of the response described in subparagraph (b), the Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute;

(d) If the dispute is not resolved during the period described in subparagraph (c), the Parties shall conduct a mediation of the dispute with the

Mediator on the earliest reasonably practicable date; provided, however, that the scope of such mediation shall be expressly limited to the dispute;

(e) Within thirty (30) days after the conclusion of the Mediator's attempt to resolve the dispute (the date of the conclusion of the mediation shall be determined by agreement of the parties or by the Mediator), if the dispute persists, either Party may request that the Court resolve the dispute.

(f) The Parties will attempt to resolve any disputes quickly, expeditiously, inexpensively, and in good faith.

(g) In connection with any disputes concerning compliance with the Settlement Agreement, each Party shall bear its own fees and costs unless the Court orders otherwise.

10.12 ***Retention of Jurisdiction.*** As provided in the Final Approval Order, the Court retains exclusive jurisdiction over the interpretation and enforcement of the Settlement Agreement, including, but not limited to, any issues regarding the Parties and the Released Claims.

10.13 ***Non-Admission of Liability.*** This Agreement is for settlement purposes only, and neither the fact of, nor any specific provision contained in, this Agreement nor any action of any claim or any fact alleged by Plaintiffs or by any other person included within the Settlement Class of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Released Parties. This Agreement constitutes

a compromise under Georgia Code Section 24-4-408 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable. It shall not be offered or be admissible, either in whole or in part, as evidence against the Released Parties, except in any action or proceeding to enforce the terms of this Agreement taken hereunder shall constitute, or be construed as, any admission of the validity or lack of merit.

10.14 ***No Impact on Release.*** No default by any person in the performance of any covenant or any obligation arising under this Agreement, or any order of judgment entered in connection therewith, shall affect the discharge and release of the Released Parties, or any other provision of the Settlement Agreement. The above notwithstanding, nothing in this sub-section shall prevent a Party from seeking enforcement of or compliance with the terms of the Settlement Agreement, or the intervention of the Court to compel any such default to be cured.

10.15 ***No Assignment.*** The Parties each represent and warrant that they have not assigned, transferred or purported to assign or transfer, in whole or in part, any interest in any of the rights and claims that are the subject of the Settlement Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: Sept. 16, 2025

Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: [Signature]

Its: President & CEO Commercial Business

Dated: _____

Frances Kirby

Dated: _____

Audrey Logan

Dated: _____

Dioli Azofeifa

Dated: _____

John David Marks

Dated: _____

Wanda Silva

Dated: _____

Tonya Beach

Dated: _____

David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: _____

Its: _____

Dated: 9/2/2025

Frances Kirby Schaffer
Frances Kirby Schaffer

Dated: _____ Audrey Logan

Dated: _____ Dioli Azofeifa

Dated: _____ John David Marks

Dated: _____ Wanda Silva

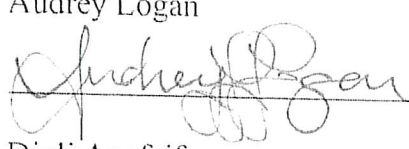
Dated: _____ Tonya Beach

Dated: _____ David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.
By: _____
Its: _____

Dated: _____ Frances Kirby

Dated: 9/2/2025 Audrey Logan

Dioli Azofeifa

Dated: _____

Dated: _____ John David Marks

Dated: _____ Wanda Silva

Dated: _____ Tonya Beach


Dated: _____ David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.
By: _____
Its: _____

Dated: _____ Frances Kirby

Dated: _____ Audrey Logan

Dated: 09-02-2025 Dioli Azofeifa


Dated: _____ John David Marks

Dated: _____ Wanda Silva

Dated: _____ Tonya Beach

Dated: _____ David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: _____

Its: _____

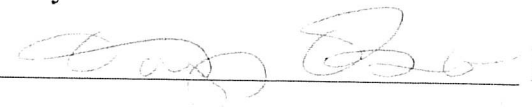
Dated: _____ Frances Kirby

Dated: _____ Audrey Logan

Dated: _____ Dioli Azofeifa

Dated: _____ John David Marks

Dated: _____ Wanda Silva

Dated: 9/2/25 _____ Tonya Beach
_____ 

Dated: _____ David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows: —

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: _____

Its: _____

Dated: _____ Frances Kirby

Dated: _____ Audrey Logan

Dated: _____ Dioli Azofeifa

Dated: _____ John David Marks

Dated: _____ Wanda Silva

Dated: _____ Tonya Beach

Dated: Sept 2/2025 _____ David Frohman

David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: _____

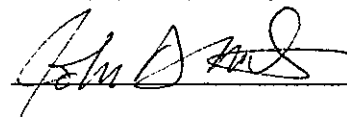
Its: _____

Dated: _____ Frances Kirby

Dated: _____ Audrey Logan

Dated: _____ Dioli Azofeifa

Dated: 09/03/2025 John David Marks

 _____

Dated: _____ Wanda Silva

Dated: _____ Tonya Beach

Dated: _____ David Frohman

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____ Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

By: _____

Its: _____

Dated: _____ Frances Kirby

Dated: _____ Audrey Logan

Dated: _____ Dioli Azofeifa

Dated: _____ John David Marks

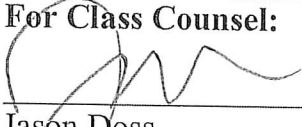
Dated: 9/1/25 _____ Wanda Silva

Wanda Silva


Dated: _____ Tonya Beach

Dated: _____ David Frohman

We, undersigned counsel, have approved the Settlement Agreement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

For Class Counsel:	For BCBS-GA Counsel:
 Jason Doss The Doss Firm, LLC 1827 Powers Ferry Road SE Building 23, Suite 100 Atlanta, Georgia 30339 jasondoss@dossfirm.com Jason Kellogg Levine Kellogg Lehman Schneider + Grossman LLP 100 SE 2nd Street, 36th Floor Miami, FL 33131 jk@lklsg.com	 Briana L. Black E. Desmond Hogan HOGAN LOVELLS US LLP 555 Thirteenth Street, N.W. Washington, DC 20004 briana.black@hoganlovells.com desmond.hogan@hoganlovells.com James L. Hollis T. Joshua R. Archer BALCH & BINGHAM LLP 30 Ivan Allen Jr. Blvd. N.W., Suite 700 Atlanta, Georgia 30308 jhollis@balch.com jarcher@balch.com

We, undersigned counsel, have approved the Settlement Agreement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

For Class Counsel:	For BCBS-GA Counsel:
<p>Jason Doss The Doss Firm, LLC 1827 Powers Ferry Road SE Building 23, Suite 100 Atlanta, Georgia 30339 jasondoss@dossfirm.com</p>	<p> Briana L. Black E. Desmond Hogan HOGAN LOVELLS US LLP 555 Thirteenth Street, N.W. Washington, DC 20004 briana.black@hoganlovells.com desmond.hogan@hoganlovells.com</p>
<p>Jason Kellogg Levine Kellogg Lehman Schneider + Grossman LLP 100 SE 2nd Street, 36th Floor Miami, FL 33131 jk@lklsg.com</p>	<p>James L. Hollis T. Joshua R. Archer BALCH & BINGHAM LLP 30 Ivan Allen Jr. Blvd. N.W., Suite 700 Atlanta, Georgia 30308 jhollis@balch.com jarcher@balch.com</p>

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

FRANCES KIRBY, AUDREY)
LOGAN, DIOLI AZOFEIFA, JOHN)
DAVID MARKS, WANDA SILVA,)
TONYA BEACH, and DAVID)
FROHMAN, individually and on)
behalf of all others similarly situated,)

Plaintiffs,)

v.)

BLUE CROSS BLUE SHIELD)
HEALTHCARE PLAN OF)
GEORGIA, INC. D/B/A ANTHEM)
BLUE CROSS AND BLUE SHIELD)
AND AS SUCCESSOR IN)
INTEREST TO BLUE CROSS AND)
BLUE SHIELD OF GEORGIA, INC.)

Defendant.)
_____ /

Civil Action No.: 19-1-02689-53

**[PROPOSED] ORDER PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING FOR NOTICE**

WHEREAS, currently before this Court is the motion of Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach and David Frohman, individually and on behalf of all other similarly situated (“Plaintiffs”), to preliminarily approve a Settlement Agreement entered into with Defendant, Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue

Shield of Georgia, Inc. (“BCBS-GA”), to approve the form and method of providing notice to the Settlement Class of the proposed Settlement and to set a date for a fairness hearing on the proposed Settlement;

WHEREAS, the Court has reviewed the Settlement Agreement, together with its exhibits;

WHEREAS, the Settlement Agreement provides that BCBS-GA shall pay a total of \$9.9 million to settle all claims in this Action;

WHEREAS, the Settlement appears to be the product of informed, arms-length settlement negotiations between Class Counsel and counsel for BCBS-GA over a period of months with the help of two mediators;

WHEREAS, the Court is familiar with and has reviewed the record, the Settlement Agreement, Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and supporting declarations, and has found good cause for entering this Order; and

WHEREAS, unless otherwise specified, all capitalized terms used herein have the same meanings as set forth in the Settlement Agreement;

NOW THEREFORE, it is ORDERED and ADJUDGED as follows:

The Settlement Class and Class Counsel

1. The Court finds upon preliminary evaluation that it will likely be able to approve the proposed Settlement as fair, reasonable and adequate. The Court

finds that giving notice of the Settlement is justified pursuant to O.C.G.A. 9-11-23(c)(2). This Court finds that it will likely certify and/or confirm the following Settlement Class for purposes of judgment on the Settlement:

All Georgia residents who at any time were enrolled in an individual, family or small group Pathway health insurance plan issued by BCBS-GA (“Pathway Plan”) effective during any period from January 1, 2016 to December 31, 2022 (the “Settlement Class Members” or “Settlement Class”). Excluded from the Settlement Class are (i) any judicial officer presiding over the Lawsuit and the members of his/her immediate family and judicial staff; (ii) BCBS-GA’s counsel in this Lawsuit, their employees, and their immediate family; (iii) Class Counsel, their employees, and their immediate family; and (iv) any person who validly opts-out of the Settlement Class.

2. The Court determines for settlement purposes that the proposed Settlement Class meets all of the requirements of Rule 23(a) and (b)(3).

3. The Court appoints Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach and David Frohman as representatives of the proposed Settlement Class going forward.

4. The following lawyers are designated as class counsel for the Settlement Class: Jason R. Doss of The Doss Firm, LLC and Jason Kellogg of Levine, Kellogg, Lehman, Schneider + Grossman. The Court finds that these lawyers are experienced and will adequately protect the interests of the Settlement Class.

Preliminary Approval of the Settlement

5. The Court preliminarily finds that the Settlement is the product of non-collusive, arm's-length negotiations between experienced class action attorneys who were well informed of the strengths and weaknesses of the Action, including through discovery and motion practice, and whose settlement negotiations were supervised by two experienced mediators. The Settlement confers substantial benefits upon the Settlement Class and avoids the costs, uncertainty, delays, and other risks associated with continued litigation, trial and/or appeal concerning the claims at issue. The Settlement falls within the range of possible recovery, compares favorably with the potential recovery when balanced against the risks of continued prosecution of the claims in the Action, and does not grant preferential treatment to Plaintiffs, their counsel, or any subgroup of the Settlement Class.

6. The Court preliminarily approves the Settlement as fair, reasonable, and adequate and in the best interest of Plaintiffs and the other Settlement Class Members, subject to further consideration at the Fairness Hearing to be conducted as described below.

7. The Settlement Amount shall be paid to and managed by the Settlement Administrator, JND Legal Administration, as detailed in the Settlement Agreement. All funds held by the Settlement Administrator shall be deemed and considered to

be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as such funds are distributed pursuant to the Settlement Agreement.

Manner and Form of Notice

8. The Court approves the Settlement Notice substantially in the forms attached as **Exhibits B and C** of the Settlement Agreement. The proposed notice plan, which provides for direct notice via first-class mail of the short form of the Settlement Notice and for publication of the long form of the Settlement Notice on the Settlement Website, will provide the best notice practicable under the circumstances. This plan and the Settlement Notice are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action; the effect of the proposed Settlement (including on the Released Claims); the anticipated motion for attorneys' fees, reimbursement of litigation expenses and service awards; their rights to participate in, opt-out of, or object to any aspect of the proposed Settlement. The plan and the Settlement Notice constitute due, adequate and sufficient notice to Settlement Class Members and satisfy the requirements of O.C.G.A. 9-11-23, due process and all other applicable laws and rules. The date and time of the Fairness Hearing shall be included in the Settlement Notice before dissemination. Non-material modifications to the Settlement Notice may be made without further order of the Court.

9. The Claim Form attached as **Exhibit E** to the Settlement Agreement is approved. Non-material modifications to the Claim Form may be made without further order of the Court.

10. The Court hereby appoints JND Legal Administration as Settlement Administrator to carry out the Settlement Notice program, effect payment to Settlement Class Members and otherwise perform all administrative tasks set forth in Section V of the Settlement Agreement.

11. Within 45 days after entry of this Order (“Preliminary Approval”), the Settlement Administrator shall cause to be established and maintained the Settlement Website, using a URL selected by BCBS-GA and subject to approval by Class Counsel, on which will be posted the long form of the Settlement Notice and Claim Form. The Settlement Notice shall direct recipients to the Settlement Website via a hyperlink.

12. Within 45 days of Preliminary Approval, the short form of the Settlement Notice shall be sent via postcard to the most recent mailing address as reflected in BCBS-GA’s reasonably available computerized records and/or data associated with the number. A National Change of Address update shall be performed before mailing. Skip tracing shall be performed for all returned mail. All costs of skip tracing will be considered an Administrative Cost.

13. All reasonable expenses incurred in notifying Settlement Class Members, as well as in administering the Settlement Fund, shall be paid to Settlement Administrator from the Settlement Fund as set forth in the Settlement Agreement.

14. The Settlement Administrator will require Settlement Class Members to timely submit the Claim Form, as required by the terms of the Settlement Agreement, in order to verify a Settlement Class Member's status as a Settlement Class Member and their eligibility for any benefits under the Settlement, in addition to any other purposes consistent with the Settlement Administrator's responsibilities under the Settlement Agreement.

15. The dates provided for herein may be extended by Order of the Court, for good cause shown, without further notice to the Settlement Class.

The Fairness Hearing

16. An approval hearing shall take place before the Special Master T.E. Cauthorn on _____, 2025, at _____ a.m./p.m. at [ADDRESS], to determine whether: (a) the proposed Class should be certified for settlement purposes pursuant to O.C.G.A. 9-11-23; (b) the Settlement should be approved as fair, reasonable and adequate; (c) full effect should be given to the releases contained in the Settlement Agreement and those provisions finally approved as contained therein; (d) this matter should be dismissed with prejudice; (e) Class Counsel's application for

attorneys' fees and expenses should be approved; and (f) the application for the class representatives to receive service awards should be approved, as well as (g) any other matters the Court deems necessary and appropriate.

17. Any Settlement Class Member who has not timely and properly excluded themselves from the Settlement Class in the manner described below may appear at the approval hearing in person or through counsel and be heard, as allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member who excluded themselves from the Settlement Class shall be entitled to object or otherwise appear at the approval hearing, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described below.

18. Papers in support of Class Counsel's application for attorneys' fees, reimbursement of litigation expenses and service awards shall be filed within 45 days after Preliminary Approval.

19. Class Counsel's motion for final approval of the settlement shall be filed no less than 30 days before the Fairness Hearing.

Objections and Appearances at the Fairness Hearing

20. Any member of the Settlement Class may appear at the Fairness Hearing and show cause why the proposed Settlement should or should not be

approved as fair, reasonable, and adequate, or why judgment should or should not be entered, or to comment on or oppose Class Counsel's application for attorneys' fees, reimbursement of litigation expenses, and service awards. No person shall be heard or entitled to contest the approval of the Settlement or, if approved, the judgment to be entered approving the Settlement, Class Counsel's application for an award of attorneys' fees, reimbursement of litigation expenses, and service awards, unless that person filed an objection with the Clerk of Cobb County electronically, in person, or by first-class mail postmarked within 60 days after the Notice Date (the "Objection and Opt-Out Deadline"). Absent leave of this Court, objections shall not exceed 20, double-spaced pages in length.

21. For the objection to be considered by the Court, the objection must be in writing and set forth:

- (a) The name of this proceeding (*Kirby v. Blue Cross Blue Shield of Georgia*, Case No. 19-1-02689-53, or similar identifying words such as "BCBS-GA Lawsuit");
- (b) That this is an objection to the Settlement
- (c) the Settlement Class Member's full name;
- (d) the Settlement Class Member's current address, email address, and telephone number;
- (e) the Settlement Class Member's personal signature (an attorney's signature is insufficient);
- (f) a statement indicating why the Settlement Class Member thinks that the Settlement Class Member is a part of the Settlement Class;

- (g) a statement with the reasons why the Settlement Class Member objects to the Settlement, accompanied by any legal or factual support for the Settlement Class Member's objection;
- (h) whether the objection applies only to you, or to the Settlement Class as a whole;
- (i) a statement identifying all class action settlements to which the Settlement Class Member has objected in the previous four years;
- (j) a statement as to whether the Settlement Class Member intends to appear at the Fairness Hearing, either in person or through a lawyer, and if through a lawyer, identifying the lawyer by name, address and telephone number, and four dates prior to the Fairness Hearing during which the Settlement Class Member is available to be deposed by counsel for the Parties; and
- (i) a detailed description of any and all evidence the Settlement Class Member may offer at the Fairness Hearing, including copies of any and all exhibits the Settlement Class Member may seek to introduce at the Fairness Hearing.

22. Additionally, if the objecting Settlement Class Member is represented by a lawyer and the lawyer intends to seek compensation for his or her services from anyone other than the objecting Settlement Class Member, then the objection letter must include:

- (a) the identity of all lawyers who represent the objecting Settlement Class Member, including any former or current lawyers who may be entitled to compensation for any reason related to the objection;
- (b) a statement identifying all instances in which the lawyer or the lawyer's law firm have objected to a class action settlement within the preceding five years, giving the case name(s), case number(s) and court(s) in which the class action settlement(s) were filed;
- (c) a statement identifying any and all agreements or contracts that relate to the objection or the process of objecting — whether written or

oral — between the Settlement Class Member, the Settlement Class Member's lawyer and/or any other person or entity;

(d) a description of the lawyer's legal background and prior experience in connection with class action litigation;

(e) a statement regarding whether the lawyer's compensation will be calculated on the basis of lodestar, contingency or other method;

(f) an estimate of the amount of fees to be sought;

(g) the factual and legal justification for any fees to be sought;

(h) the number of hours already spent by the lawyer and an estimate of the hours to be spent in the future; and

(i) the lawyer's hourly rate.

23. Any Settlement Class Member who fails to comply with the provisions in this Order will waive and forfeit any and all rights they may have to object to the Settlement, may have their objection stricken from the record and may lose their rights to appeal from approval of the Settlement. Any such Settlement Class Member shall also be bound by all the terms of the Settlement Agreement, this Order and by all proceedings, orders and judgments, including, but not limited to, the releases in the Settlement Agreement if final judgment is entered.

24. Counsel for any objector must enter a Notice of Appearance no later than 14 days before the Fairness Hearing.

25. Attendance at the Fairness Hearing is not necessary, but persons wishing to be heard orally in connection with approval of the approval of the Settlement and/or the application for an award of attorneys' fees, reimbursement of

expenses, and service awards must indicate in their written objection their intention to appear at the hearing.

Exclusions from the Settlement Class (“Opt-Outs”)

26. Any Settlement Class Member who wishes to Opt-Out (i.e., be excluded) from the Settlement Class must mail a written notification of his or her intent to Opt-Out to the Settlement Administrator at the address provided in the approved notice attached to the Settlement Agreement postmarked no later than 60 days from the Notice Date (the “Opt-Out Deadline”). Each written Request to Opt-Out must be signed by the Settlement Class Member seeking exclusion, can only request exclusion for that one Settlement Class Member and must contain the following information:

- (a) The name of this proceeding (*Kirby v. Blue Cross Blue Shield of Georgia*, Case No. 19-1-02689-53, or similar identifying words such as “BCBS-GA Lawsuit”);
- (b) their full name;
- (c) their current address, email address, and telephone number;
- (d) the words “Request to Opt-Out” at the top of the document or a statement that the Settlement Class Member does not wish to participate in the Settlement; and
- (e) and a personal signature.

27. Any Settlement Class Member who does not timely and validly Opt-Out from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Settlement Class Member who has not submitted a timely,

valid written Request to Opt-Out from the Settlement Class shall be bound by all subsequent proceedings, orders and judgments in this matter, including but not limited to the releases set forth in the Settlement Agreement and final judgment.

28. The Settlement Administrator shall provide the Class Counsel and counsel for BCBS-GA with copies of all opt-out notifications and, within 14 days after the Opt-out Deadline, shall provide counsel with a final list of all who timely and validly Opt-Out from the Settlement Class. All those Settlement Class Members who submit valid and timely Request to Opt-Out from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

Claims Process

29. The Settlement Agreement establishes a process for claiming benefits under the Settlement. To be eligible to receive any compensation, Settlement Class Members Not In Records must submit to the Settlement Administrator the approved Claim Form, attached as **Exhibit E** to the Settlement Agreement, within 60 days from the Notice Date. Settlement Class Members In Records do not need to submit a claim to be eligible for payment under the Settlement.

Termination of the Settlement and Use of this Order

30. This Order shall become null and void and shall be without prejudice to the rights of the parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not

approved by the Court or is terminated in accordance with the terms of the Settlement Agreement. In such event, the Settlement and Settlement Agreement, and all rights and obligations thereunder, including any releases, shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever by any person or entity.

31. This Order shall be of no force or effect if the Final Approval Order is not entered or there is no Effective Date under the terms of the Settlement Agreement; shall not be construed or used as an admission, concession or declaration by or against any party of any fault, wrongdoing, breach or liability; shall not be construed or used as an admission, concession or declaration by or against any settlement class representative or any other settlement class member that its claims lack merit or that the relief requested is inappropriate, improper or unavailable; and shall not constitute a waiver by any party of any defense or claims it may have in this litigation or in any other lawsuit.

32. No Party or counsel to a Party in this Litigation shall have any liability to any Settlement Class Member for any action taken substantially in accordance with the terms of this Order.

Reservation of Jurisdiction

33. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

34. The Court reserves the right to adjourn or continue the Fairness Hearing and related deadlines without further written notice to the Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the Settlement Website by the Settlement Administrator.

Summary of Deadlines

35. The Settlement Agreement shall be administered according to its terms pending the Fairness Hearing. Deadlines arising under the Settlement Agreement and this Order include, but are not limited to, the following:

<u>EVENT</u>	<u>TIMING</u>
Deadline for BCBS-GA to provide Settlement Class Members' contact information to Settlement Administrator	[INSERT DATE]; 20 days after Court grants Preliminary Approval
Deadline for Settlement Administrator to establish Settlement Website	[INSERT DATE]; 45 days after Court grants Preliminary Approval
Deadline for BCBS-GA to pay \$9.9 million Consideration to Escrow Agent	[INSERT DATE]; 10 Business Days after Court enters the Final Order and Judgment
Deadline for Settlement Administrator to send short form of the Settlement Notice to the Settlement Class Members In Records	[INSERT DATE]; 45 days after Court grants Preliminary Approval

Deadline to file Class Counsel's motion for attorneys' fees, costs, expenses and service awards	[INSERT DATE]; 45 days after Court grants Preliminary Approval
Objection deadline	[INSERT DATE]; 60 days after Notice Date
Opt-out deadline	[INSERT DATE]; 60 days after Notice Date
Deadline for Settlement Class Members to submit Claim Forms to Settlement Administrator	[INSERT DATE]; 60 days after Notice Date
Deadline for Class Counsel to file motion for final approval of settlement	[INSERT DATE]; 30 days before Fairness Hearing
Deadline for Settlement Administrator to submit Affidavit stating that the Class Notice has been given	[INSERT DATE]; 14 Business Days after completing the distributions to Settlement Class Members
Deadline for counsel for any objector to file a Notice of Appearance	[INSERT DATE]; 14 days before Fairness Hearing
Fairness Hearing	[INSERT DATE]

RECOMMENDED FOR APPROVAL in Marietta, Georgia, this ____ day of _____, 2025.

T.E. CAUTHORN
SPECIAL MASTER

DONE AND ORDERED in Marietta, Georgia, this ____ day of _____, 2025.

HON. ROBERT LEONARD
SUPERIOR COURT JUDGE

**IMPORTANT NOTICE ABOUT A PROPOSED CLASS
ACTION SETTLEMENT THAT AFFECTS YOU**

PLEASE READ THIS NOTICE CAREFULLY.
A GEORGIA COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.

A settlement of \$9.9 million has been reached in a class action lawsuit brought by a group of Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach, and David Frohman (“Plaintiffs”), who purchased Pathway individual, family or small group health benefit plans (collectively, the “Pathway Plans”) insured and administered by Defendant, Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue Shield of Georgia, Inc. (“BCBS-GA” or “Defendant”).

Plaintiffs allege that BCBS-GA (i) misrepresented the scope of its healthcare provider network to consumers who purchased an individual or family Pathway health insurance plan from BCBS-GA beginning in the November 2015 open enrollment period for the 2016 plan year; and (ii) improperly required Pathway members to obtain a referral from a primary care physician in order to see a specialist for the 2019 plan year.

BCBS-GA has responded to the Action, denying the material allegations and any wrongdoing.

Plaintiffs and BCBS-GA agreed to enter into this settlement to avoid the uncertainties, delays and expenses of ongoing litigation, while providing class members with definite benefits now.

Payments will only be made if the Court finally approves the Settlement and any appeals are resolved. The Court in charge of the Action has not yet decided whether to finally approve the Settlement; however, the Court has preliminarily approved the Settlement as fair, adequate and reasonable.

The purpose of this notice is to inform you of the class action and the proposed settlement so that you may decide what to do.

This Notice contains summary information with respect to the Settlement. The complete terms and conditions of the Settlement are set forth in the Settlement Agreement (“Settlement Agreement”). Capitalized terms used in this Notice, but not defined in this Notice, have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement, and additional information with respect to this lawsuit and the Settlement is available at the website dedicated to the Settlement, [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).

QUICK SUMMARY OF THE SETTLEMENT

WHO’S INCLUDED? If you received notice by mail, BCBS-GA’s records show that you are a member of the Settlement Class because you purchased one or more Pathway Plans that were effective at some point during the period January 1, 2016 to December 31, 2022 and you have one or more claims rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network.

If you did not receive notice by mail, you are a part of the Settlement Class if you were a Georgia resident who at any time were enrolled in a Pathway Plan effective during any period from January 1, 2016 to December 31, 2022, and received a billed charge from a health care provider because (1) the provider was out-of-network when BCBS-GA had represented that it was in-network in a provider directory or other communication on or before the date you received the healthcare service; (2) BCBS-GA processed (or the member understood that BCBS-GA would have processed) the claim as out-of-network even though the provider was in-network on the date you received the healthcare service; (3) the specialist service was not covered for a claim denied because the member did not obtain a referral from their primary care physician (2019 plan year only); or (4) a primary care physician charged a fee to obtain a referral to a specialist (2019 plan year only).

WHAT ARE THE SETTLEMENT TERMS?

What the Settlement Class Members Are Getting.

Monetary Relief. BCBS-GA has agreed to create a \$9.9 million settlement fund (the “Settlement Amount”), which will be distributed to Settlement Class Members after first deducting any attorneys’ fees and costs, notice and administration expenses and service awards that the Court awards Plaintiffs and the attorneys representing the Settlement Class (“Class Counsel”). The amount remaining in the Settlement Amount after deduction of fees, expenses and/or service awards shall be the “Distributable Settlement Amount.”

What the Settlement Class is Giving Up.

In return for the relief that BCBS-GA is providing, Settlement Class Members are deemed to have agreed to a release of any claims that you may have against BCBS-GA relating in any way to the allegations in the Litigation, including any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether representative, class, or individual in nature or sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney’s fees, based upon, arising from, or relating in any way to the factual predicates or legal claims that were brought in the Action, or could have been brought in the Action relating in any way to (1) the marketing and/or accuracy of provider directories for Pathway Plans, including denials of coverage for health care services from an out-of-network provider when the provider was listed in a provider directory as in-network for the member’s Pathway Plan on or before the date the member received the healthcare service; (2) processing claims from in-network providers as if they were out-of-network; or (3) the requirement under Pathway Plans for a prior referral to see a specialist provider.

HOW CAN I GET PAYMENT?

If you received a notice letter by mail:

You do not have to do anything to participate in the Settlement. You received the notice by mail because BCBS-GA’s claims records show that you had at least one claim rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network on the date you received the healthcare service (which means the provider was considered not part of the participating provider network for your Pathway Plan). If this proposed Settlement is approved by the Court, and you do not Opt Out of the Settlement, you automatically will be deemed eligible to receive a financial payment under the terms and conditions of the Settlement. If you choose to Opt Out of the Settlement, no financial payment will be made to you.

You do not need to submit a claim form or other documents to be eligible to receive financial payment under the Settlement. Please note, however, if you were a Pathway Plan member in 2019 and believe you have Qualifying Billed Charges (defined in Part 5 below) for a medical service from a specialist because you did not obtain a prior referral from a primary care physician or a primary care physician charged you to obtain a referral to a specialist, you must submit a valid and timely Claim Form and required documentation in order for such additional claim(s) to be considered by the Settlement Administrator for financial payment under the Settlement. In addition, if you have any other billed charge from a health care provider that you believe qualifies as Qualifying Billed Charges but is not reflected in BCBS-GA's records, you must submit a valid and timely Claim Form and required documentation in order for such additional claim(s) to be considered by the Settlement Administrator for financial payment under the Settlement.

If you did NOT receive a notice letter by mail:

If you learned about the settlement from a publication or other source and did not receive a notice letter by mail, then you are not in BCBS-GA's records as having at least one claim rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network on the date the healthcare service was received (which means the provider was considered not part of the participating provider network for your Pathway Plan.). If you believe you meet the definition of the Settlement Class and have incurred a Qualifying Billed Charge (defined in Part 5 below), submitting a Claim Form is the only way to get a payment in this Settlement.

For more information about how the financial payments will be calculated and allocated to Settlement Class Members under the Settlement, please see the section of the notice titled "How do I know if I am part of the settlement and what does the settlement provide?"

WHAT ARE MY OTHER OPTIONS?

You can "Opt-Out" : If you do not want to be bound by the settlement, then you can Opt-Out (in other words, exclude yourself) from the Settlement. But you must do so by [MONTH DAY YEAR]. Part 10 below explains what you need to do to Opt-Out from the Settlement. If you do not Opt-Out, you timely submit a Claim Form by [MONTH DAY YEAR] (necessary only for those who did not receive a notice letter by mail), and the settlement is given final approval by the Court, then you will remain a member of the Settlement Class and you will receive your individual allocation of the Settlement Amount.

You can object: Alternatively, you may object to the settlement by [MONTH DAY YEAR]. Part 16 below explains what you need to do to object to the settlement. The Court will hold a hearing on [MONTH DAY YEAR] beginning at [xxxxx p.m./a.m.] to consider whether to finally approve the Settlement, as well as any request for attorneys' fees by class counsel (the "Fairness Hearing"). If you object, Part 19 explains how you may ask the Court to speak at the Fairness Hearing. Persons who exclude themselves from the Settlement Class will not be bound by the Settlement; however, they cannot file an objection and cannot speak at the Fairness Hearing.

The rest of this Notice provides you with a more detailed summary of the settlement, and also more fully describes your legal rights and options. For even more information, please visit [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com) (the "Settlement Website"), at which you may download a complete copy of the "Stipulation of Settlement and Release" and attached exhibits. ***Please read all of this Notice carefully and in its entirety because your legal rights may be affected whether you act or don't act.***

- These rights and options, and the deadlines to exercise them, are explained in this Notice.
- The Court still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and it is held up in the event of an appeal.

BASIC INFORMATION

1. Why did I receive notice?

If you received notice by mail: According to BCBS-GA's records you (1) were enrolled in an individual, family, or small group Pathway health benefit plan offered by BCBS-GA that was in effect at any time from January 1, 2016 to December 31, 2022, and (2) had at least one claim rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network. You have a right to know about a proposed settlement of a class action lawsuit pending in the Superior Court of Cobb County, Georgia (the "Court") entitled *Kirby et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.*, No. 19-1-02689-53 (the "Action"). If you received this notice by mail, you are considered a "Settlement Class Member In Records."

If you received notice through a publication, for example, you learned about this Settlement from a display banner ad on YouTube: You are a member of the Settlement Class if you were a Georgia resident who at any time were enrolled in a Pathway Plan effective during any period from January 1, 2016 to December 31, 2022. If you received notice through a publication, you are considered a "Settlement Class Member Not In Records."

You are entitled to know your options before the Court decides whether to approve the Settlement. If the Settlement is approved, certain payments will be distributed to Settlement Class Members, and Settlement Class Members will release claims arising from the actions at issue in the lawsuit. This package describes the Action, the Settlement, your legal rights, what relief is being offered to you, how that relief will be distributed and other important information. This Notice only summarizes the Settlement. The full terms of the Settlement Agreement are available for review at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com). If there is any conflict between this Notice and the Settlement Agreement, the Settlement Agreement governs. You should review the Settlement Agreement before deciding what to do.

2. What is this lawsuit about?

This lawsuit involves allegations that BCBS-GA misrepresented the size and accuracy of its provider network in connection with health insurance plans it sold in Georgia known as Pathway Plans. Plaintiffs allege that between 2016 and 2022, BCBS-GA advertised and sold individual, family, and small group health insurance plans while including in its provider directories doctors and hospitals that were not actually part of the plans' in-network coverage. Plaintiffs also allege that in 2019, BCBS-GA required members to obtain referrals from primary care providers to see specialists—when some plan documents stated otherwise.

The lawsuit claims that these actions violated Georgia's RICO statute, breached contracts between BCBS-GA and its members, and resulted in consumers being misled into purchasing insurance under false pretenses or incurring unexpected out-of-pocket medical expenses.

BCBS-GA denies all wrongdoing and liability. It contends that its provider directories were not fraudulently misrepresented, that any provider changes were consistent with the terms of the members' contracts, and that any clerical error in plan materials regarding referrals was promptly corrected. BCBS-GA further argues that it extended network benefits for affected members in 2019 to ensure continuity of care and that no members were harmed.

The Court has not decided who is right or wrong. Instead, both sides have agreed to a Settlement to avoid the risks and costs of further litigation and to provide relief to members who were enrolled in a Pathway Plan in Georgia between 2016 and 2022.

This Settlement is a compromise of these and other claims described in the Settlement Agreement. Meanwhile, Part 21 of this Notice explains how you may obtain more information about the claims in this Action and Defendants' response to those claims. You can also visit [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com) to review Plaintiffs' operative complaint, the Parties' proposed Settlement Agreement, and other documents related to this Action.

3. What is a class action, and why is this case a class action?

In a class action lawsuit one or more people, called class representatives, sue on behalf of others with similar legal claims. All of these people together are called a class or class members. In a class action, one court resolves the issues for all class members, except for those who specifically ask to be excluded from the class, thus providing the class members with both consistency and efficiency. When the class representatives reach a proposed settlement with the defendants in a class action, the proposed settlement must be approved by the court, after court-approved notice is provided to potential class members and the court holds a hearing, which class members can attend, to determine, among other things, that the settlement is fair, reasonable, adequate and in the best interests of the class.

4. Why is there a settlement?

The Court has not decided whether Plaintiffs or Defendant would win this case. Instead, both sides agreed to the Settlement before any judgment was entered. That way, the Parties avoid the uncertainties and expenses of ongoing litigation, and the delays of a trial and possible appeals, while providing the Settlement Class Members with definite benefits now rather than the uncertain benefits potentially available from fully contested litigation years from now (if at all). Plaintiffs believe that settlement is in the best interest of Class Members because it offers them relief now, while at the same time allowing anyone who wishes to pursue their own individual claims against Defendant to exclude themselves from the Settlement Class. The Settlement avoids the risk of an unfavorable result for Class Members, which could mean no recovery at all.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the settlement and what does the settlement provide?

The court has preliminarily approved the certification of a class for settlement purposes. The Court decided that everyone who fits the following description is a member of the "Settlement Class":

All Georgia residents who at any time were enrolled in a Pathway Plan effective during any period from January 1, 2016 to December 31, 2022. Excluded from the Settlement Class are (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff; (ii) BCBS-GA Counsel, their employees, and their immediate family, (iii) Class Counsel, their employees, and their immediate family, and (ii) any person who validly opts-out of the Settlement Class.

BCBS-GA has agreed to create the \$9.9 million Settlement Amount. If the Settlement receives final approval, the Settlement Amount will first be used to pay (1) Court-awarded attorneys' fees, reimbursement of costs, and Service Awards; (2) Notice and Administration Expenses; (3) Taxes,

if any; and (4) any other costs, fees, or expenses approved by the Court. The term “Notice and Administration Expenses” means all costs, fees, and expenses incurred in connection with providing Notice and distributing the Settlement proceeds to you. The money remaining after these fees and costs are deducted is the “Distributable Settlement Amount.” The Distributable Settlement Amount will be paid to the Settlement Class Members with Qualifying Billed Charges.

“Qualifying Billed Charge(s)” are:

For Settlement Class Members In Records: the non-covered billed charge amount that appears in BCBS-GA’s records for any claim denied on the basis of the provider being out-of-network; or

For Settlement Class Members in Records and Settlement Class Members Not In Records: a billed charge from a health care provider to the member which is not in BCBS-GA’s records but that the member attests they received because (1) the provider was out-of-network when BCBS-GA had represented that it was in-network in a provider directory or other communication on or before the date the member received the healthcare service; (2) BCBS-GA processed (or the member understood that BCBS-GA would have processed) the claim as out-of-network even though the provider was in-network on the date the healthcare service was received; (3) the specialist service was not covered for a claim denied because the member did not obtain a referral from their primary care physician (2019 plan year only); or (4) a primary care physician charged a fee to obtain a referral to a specialist (2019 plan year only). Except as to category (4), a Qualifying Billed Charge does not include copays or coinsurance amounts for in-network services.

Settlement Class Members In Records can use the Settlement Website [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com) to look up the amount of Qualifying Billed Charges in BCBS-GA’s records that will be used for the *pro rata* calculation of their Settlement Payment. If you are a Settlement Class Member in Records and have any other billed charge from a health care provider that you believe qualifies as a Qualifying Billed Charge but is not reflected in BCBS-GA’s records, you must submit a valid and timely Claim Form and required documentation in order for such additional claim(s) to be considered by the Settlement Administrator for financial payment under the Settlement.

Each Settlement Class Member In Records who does not Opt-Out of the Settlement and any Settlement Class Member Not In Records who submits a Claim Form with valid Qualifying Billed Charges, shall receive his or her *pro rata* share of the Settlement Amount. The Settlement Administrator shall determine the *pro rata* percentage that will be used to determine each Class Member’s Settlement Payment based on their total Qualifying Billed Charges.

The actual amount that each Settlement Class Member will receive will ultimately depend on a variety of factors, including the fees and expenses awarded by the Court and expended by the Settlement Administrator, the number of Settlement Class Members who choose to opt out of the Settlement, the number of and the number of Settlement Class Members Not In Records who timely return a valid Claim Form.

6. How can I get such relief?

If you received this notice by mail, as long as you do not Opt-Out from the Settlement Class, then you will receive a Settlement Payment. You do not need to submit a claim form or other documents to be eligible to receive financial payment under the Settlement based on the information in BCBS-GA’s claims records.

Please also note, if you were a Pathway Plan member in 2019 and believe you have Qualifying Billed Charges for a medical service from a specialist because you did not obtain a prior referral from a primary care physician or a primary care physician charged you to obtain a referral to a specialist, you must submit a valid and timely Claim Form and required documentation in order for such claim(s) to be considered by the Settlement Administrator for any additional financial payment for such claims under the Settlement. You received the Claim Form by mail or a copy is available at www.settlementwebsite.com. The Claim Form can be returned by mailing it to JND Legal Administration, P.O. Box 91235, Seattle, Washington 98111, or emailing it to the Settlement Administrator in .pdf format to [EMAIL ADDRESS]. In addition, if you have any other billed charge from a health care provider that you believe qualifies as a Qualifying Billed Charge (defined in Part 5 above) but is not reflected in BCBS-GA's records, you must submit a valid and timely Claim Form and required documentation in order for such additional claim(s) to be considered by the Settlement Administrator for financial payment under the Settlement.

If you did NOT receive notice by mail: You are not in BCBS-GA's records as having any non-covered bill charges for a claim denied on the basis of the provider being out-of-network. **If you believe you meet the definition of the Settlement Class, submitting a Claim Form and required documentation for your Qualifying Billed Charges is the only way to get a payment in this Settlement.** A copy of the Claim Form is available at www.settlementwebsite.com. The Claim Form can be returned by mailing it to JND Legal Administration, P.O. Box 91235, Seattle, Washington 98111, or emailing it to the Settlement Administrator in .pdf format to [EMAIL ADDRESS].

* * *

If you have questions about whether you are in BCBS-GA's records or which specific medical claims are in BCBS-GA's records, please contact the Settlement Administrator at [1-800-XXX-XXXX].

If you have moved since you first enrolled in a Pathway Plan, you may notify the Settlement Administrator in charge of administering settlement of your new mailing address by writing to: Georgia Pathway Class Action Settlement Administrator, c/o JND Legal Administration, P.O. Box 91235, Seattle, Washington 98111.

7. When would I get such relief and how will it be distributed to me?

The Court will hold a hearing at [TIME] on [DATE] to decide whether to approve the Settlement. The Court will only approve the Settlement if it finds it to be fair, reasonable and adequate. It may take the Court several weeks or months after the hearing before it decides. If the Court approves the Settlement, then there may be appeals. If appeals are filed, then it is uncertain how long it will take to resolve them. It is also possible that this Settlement may be terminated for other reasons, such as those set forth in Section IX of the Settlement Agreement (a copy of which is available for review at www.settlementwebsite.com). Please be patient.

The "**Final Approval**" date, as defined in the Settlement, is the date when the order granting final approval of the Settlement and entering judgment (the Final Order and Judgment) will be final and no longer subject to appeal. Settlement Payments are expected to be made as soon as practicable following the Final Approval date. The Settlement Website will be updated from time to time to reflect the progress of the Settlement.

All checks will expire and become void 180 days after they are issued and will be considered unclaimed funds. Unclaimed funds will be considered a waiver by you of the right to receive a Settlement Payment. Unclaimed Settlement Payments may be returned to BCBS-GA.

8. Will the Settlement have any tax consequences on me?

Neither the Court nor the Parties (including their counsel) can advise you about what, if any, tax consequences might arise for you from the Settlement. You are encouraged to consult with your own tax advisor to determine whether any potential tax consequences could arise from your receipt of a Settlement Payment.

9. Am I giving up anything by remaining in the Settlement Class?

If you don't exclude yourself, then you will remain in the Settlement Class, and that means that if the Settlement is given final approval and reaches the Final Settlement Date then you shall be deemed to be a "Settlement Class Member." As a Settlement Class Member, you shall be deemed to release the following "Released Claims":

Any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether representative, class, or individual in nature or sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney's fees, based upon, arising from, or relating in any way to the factual predicates or legal claims that were brought in the Action, or could have been brought in the Action relating in any way to (1) the marketing and/or accuracy of provider directories for Pathway Plans including denials of coverage for health care services from an out-of-network provider when the provider was listed in a provider directory as in-network for the member's Pathway Plan on or before the date the healthcare service was provided; (2) processing claims from in-network providers as if they were out-of-network; or (3) the requirement under Pathway Plans for a prior referral to see a specialist provider. This release will include claims that you and any other Settlement Class Member does not know or suspect to exist in her, his, or its favor at the time of the release of the Defendant's Released Parties, which if known by him, her, or it might have affected her, his, or its decision(s) with respect to the Settlement, including the decision to seek exclusion from or object to the Settlement.

If the Settlement is given Final Approval, then all Settlement Class Members will have expressly, and by operation of the Final Order and Judgment, to the fullest extent permitted by law, waived and relinquished any and all provisions, rights, and benefits conferred by any law or any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

As a "Releasing Party" you shall be deemed to understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and/or of any other applicable law relating to limitations on releases. In connection with such waivers and relinquishment, you shall be deemed to acknowledge that you are aware that you may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Settlement Agreement, but that you release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such additional or different facts. You shall acknowledge, and by operation of law

shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims was separately bargained for and was a material element of the Settlement.

The full terms of the Release provisions of the Settlement are at Paragraph 1.34 and Section VI of the Settlement Agreement, a copy of which is available at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I exclude myself from the Settlement Class (Opt-Out)?

If you don’t want to be part of the Settlement, or if you want to keep the right to sue or continue suing BCBS-GA on your own about the Released Claims, then you must take steps to exclude yourself from the Settlement Class. This is also called to “Opt-Out” of the Settlement Class. If you Opt-Out from the Settlement Class, you will not be bound by the Settlement and will not receive any relief offered by the Settlement, but you will be free to file and then pursue your own individual lawsuit regarding the Released Claims if you wish to do so. However, the Court has ruled that neither the Settlement, nor this Notice, nor the Court’s preliminary approval order may be used as evidence in such individual lawsuits. You should be aware that if you do exclude yourself and plan to file your own action against Defendants, the statute of limitations applicable to your claim may prevent you from separately suing Defendants unless you act promptly or may have already expired.

To Opt-Out, you must mail a letter to the Settlement Administrator postmarked no later than [MONTH DAY YEAR] saying that you want to be excluded from the Settlement Class. Your letter must be addressed to Georgia Pathway Class Action Settlement Administrator, c/o JND Legal Administration, P.O. Box 91235, Seattle, Washington 98111, and must (i) contain a caption or title that identifies it as a “Request for Exclusion in *Kirby v. BCBS-GA*”; (ii) include your name, mailing address and email address(es) and contact telephone number; (iii) specify that you want to be excluded from the Settlement Class; and (iv) be *personally* signed by you.

NOTE: If your request to Opt-Out is late or incomplete, then it will not be valid and you will remain part of the Settlement Class. You will still be bound by the Settlement and other orders or judgments in the Action, and you will not be able to participate in any other lawsuits against Defendant and the Released Parties based on the Released Claims.

11. If I don’t exclude myself (Opt-Out), can I sue BCBS-GA later for the same thing?

No. If you do not Opt-Out from the Settlement Class and the Settlement is given Final Approval, then you will give up the right to sue BCBS-GA and the Released Parties for the Released Claims — *even if you do not timely submit a valid Claim Form or cash any financial payment that is mailed to you.*

12. If I exclude myself (Opt-Out), can I get anything from this Settlement?

If you Opt-Out, you will not be eligible to receive any of the monetary benefits that the Settlement provides.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes. The Court has appointed Jason R. Doss of The Doss Firm LLC and Jason Kellogg of the law firm of Levine Kellogg Lehman Schneider + Grossman LLP to represent you and the other

Settlement Class Members in this Action and for purposes of this Settlement, and for no other purpose. These attorneys are called “Class Counsel,” and they can be reached by writing them at:

The Doss Firm LLC
1827 Powers Ferry Road
Building 23, Suite 100
Atlanta, Georgia 30339

Levine Kellogg Lehman Schneider + Grossman LLP
Miami Tower
100 Southeast Second Street, 36th Floor
Miami, Florida 33131

You have the right to retain your own separate lawyer to represent you in this case, but you are not obligated to do so. If you hire your own lawyer, then you will be solely responsible for all of his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer, but if you want to appear at the Fairness Hearing you must comply with the procedures set forth in Parts 18 through 19 of the Notice below.

14. How will Class Counsel and Class Representatives be paid?

Class Counsel have prosecuted this case on a contingent-fee basis and, so far, have not been paid anything for their services. If the Settlement is approved, then Class Counsel will ask the Court for an award of attorney’s fees and expenses, to be paid from the Settlement Amount in an amount not to exceed 33.33% of the Settlement Amount. Class Counsel will also ask the Court for a \$75,000 service award for the Class Representatives.

The Settlement is not conditioned on the Court approving any specific amount of attorneys’ fees and expenses or Service Awards. The Court will ultimately decide whether any attorneys’ fees and expenses should be awarded to Class Counsel, and whether any Service Awards should be awarded to Class Representatives, and in what amounts.

OBJECTING TO THE SETTLEMENT

15. How do I tell the court that I don’t like the settlement?

If you do not exclude yourself from the Settlement Class, then you can object to the Settlement if you don’t agree with any part of it. You can provide reasons why you think the Court should deny approval of the Settlement by filing an objection. However, you can’t ask the Court to order a larger or different type of settlement as the Court can only approve or deny the Settlement presented by the Parties. If the Court denies approval, then no settlement relief will be available to the Settlement Class Members and the lawsuit will continue. If you file a written objection, then the Court will consider your views.

To object, you must file a written statement of objection with the Court. Your written objection must (i) contain a caption or title that identifies it as an “Objection to Case Settlement in *Kirby v. Blue Cross Blue Shield of Georgia*, Case No. 19-1-02689-53,” or similar identifying words such as “Anthem BCBS-GA Lawsuit”; (ii) include your full name, mailing address and email address(es) and contact telephone number; (iii) provide an explanation of the basis upon which you claim to be a Settlement Class Member (such as, you received this Class Notice); (iv) state whether the objection applies only to you, or to the Settlement Class as a whole, and the reasons for your objection, accompanied by any legal or factual support for the objection; (v) disclose the name and

contact information of any and all attorneys representing, advising or in any way assisting you in connection with the preparation or submission of your objection; and (vi) disclose the case name and civil action number of any other objections that you or your counsel have made in any other class action cases in the last 4 years; (vii) state whether you intend to appear at the Final Approval Hearing on your own behalf or through counsel; and (viii) be *personally* signed by you.

You may file your written statement of objection in person at, or you may mail it to, the Clerk of Superior Court, 32 Waddell Street, Marietta, GA 30090. However, if you are represented by your own attorney, then your attorney must file your objection through the Court's Case Management/Electronic Case Filing (CM/ECF) system. To be considered timely and valid, all statements of objection must be filed with the Court by, or sent by first-class mail postmarked by [MONTH DAY YEAR]. Any Settlement Class Member who does not comply with the above deadline and requirements shall be deemed to have waived all objections to and shall be forever barred from challenging the Settlement.

16. What's the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the settlement, but that you are still willing to be bound by it if the Settlement is finally approved despite your objection. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class at all. If you exclude yourself, you will not be subject to the Settlement and therefore cannot object to the Settlement or appear at the Fairness Hearing because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you are not required to.

17. When and where will the Court decide whether to approve the settlement?

The court will hold a Fairness Hearing at [TIME] on [DATE] before the Special Master T.E. Cauthorn at [ADDRESS]. At this hearing, the court will consider whether to: (1) grant final certification to the Settlement Class for settlement purposes; (2) approve the Settlement as fair, reasonable and adequate; and (3) award any attorneys' fees and expenses to Class Counsel and Service Awards to Class Representatives. After the hearing, the Court will decide whether to approve the Settlement. It is not possible to predict how long the Court's decision will take.

NOTE: The Court has reserved the right to change the date and/or time of the Fairness Hearing, or to continue it, without further notice. If you plan to attend the Fairness Hearing, you should confirm the date and time shortly before traveling to attend the hearing by checking www.settlementwebsite.com or Georgia's eFiling and Document Access solution (PeachCourt) at <https://peachcourt.com>.

18. Do I have to attend the fairness hearing?

No, Class Counsel will represent the Settlement Class at the Fairness Hearing. But you are welcome to come at your own expense. Even if you send an objection, you do not have to go to the Fairness Hearing to talk about it. As long as your objection was timely filed and meets the other requirements described in Part 15, the Court will consider it. You also retain a lawyer at your own expense to represent you at the Fairness Hearing, but it is not necessary to do so.

19. May I speak at the fairness hearing?

You may ask the Court for permission to speak at the Fairness Hearing, but only *if* you timely file an objection in full compliance with the instructions set forth in Part 15, and *if* you also state in that objection that you would like to speak at the Fairness Hearing. However, any separate attorney you hire may appear only if he or she files through Georgia's eFiling and Document Access solution (PeachCourt) a separate "Notice of Intention to Appear in *Kirby et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.*, No. 19-1-02689-53." That notice must be filed with the Court no later than [MONTH DAY YEAR]. You cannot speak at the Fairness Hearing if you have excluded yourself from the Settlement Class.

IF YOU DO NOTHING

20. What if I do nothing?

If you received notice by mail (or believe you meet the definition of the Settlement Class), and you do nothing and the Settlement reaches Final Approval, then you will be a Settlement Class Member. Even if you do not submit a Claim Form, you will be bound by the Settlement's release and other terms, and therefore you will not be able to file your own lawsuit, continue with your own lawsuit, or be part of any other lawsuit against BCBS-GA concerning any of the Released Claims.

GETTING MORE INFORMATION

21. Where can I get additional information?

This Notice summarizes the proposed Settlement. For precise terms and conditions of the Settlement, please see the full Settlement Agreement available at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).

PLEASE DO NOT TELEPHONE THE COURT, THE CLERK OF THE COURT'S OFFICE OR DEFENDANTS TO INQUIRE ABOUT THIS SETTLEMENT.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

PLEASE DO NOT DISCARD THIS NOTICE AND READ IT CAREFULLY THIS SETTLEMENT AFFECTS YOUR LEGAL RIGHTS

A Georgia Court authorized this Notice. This is not a solicitation from a lawyer.

A settlement has been reached in a class action lawsuit brought by a group of Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach, and David Frohman (“Plaintiffs”), who purchased Pathway individual, family or small group health benefit plans (collectively, the “Pathway Plans”) insured and administered by Defendant, Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue Shield of Georgia, Inc. (“BCBS-GA” or “Defendant”).

You are receiving this Notice by mail because BCBS-GA’s records show that you are a Settlement Class Member due to you having purchased one or more Pathway Plans that were effective at some point during the period January 1, 2016 to December 31, 2022 and you having one or more claims rejected anytime from January 1, 2016 to December 31, 2022 on the basis of the provider being out-of-network, which means the provider was considered not to be part of the participating provider network for your Pathway Plan on the date you received the healthcare service. Because your information appears in BCBS-GA’s records, you are considered a “Settlement Class Member in Records.”

This Notice contains summary information with respect to the Settlement. Capitalized terms used in this Notice have meanings assigned to them in the Settlement Agreement. The Settlement Agreement and additional information with respect to this lawsuit and the Settlement is available at the website dedicated to the Settlement, [WEBSITE].

What is this Action about?

This lawsuit involves allegations that BCBS-GA misrepresented the size and accuracy of its provider network in connection with health insurance plans it sold in Georgia known as Pathway Plans. Plaintiffs allege that between 2016 and 2022, BCBS-GA advertised and sold individual, family, and small group health insurance plans while including in its provider directories doctors and hospitals that were not actually part of the plans’ in-network coverage. Plaintiffs also allege that in 2019, BCBS-GA required members to obtain referrals from primary care providers to see specialists—when some plan documents stated otherwise.

BCBS-GA has responded to the Action, denying the material allegations and any wrongdoing. The Court has not decided who is right or wrong. Instead, both sides have agreed to a Settlement to avoid the risks and costs of further litigation and to provide relief to members who were enrolled in a Pathway Plan between 2016 and 2022.

What does the Settlement Provide?

BCBS-GA has agreed to create a \$9.9 million settlement fund, which will be distributed to Settlement Class Members after first deducting any attorneys’ fees and costs, notice and administration expenses and service awards that the Court awards Plaintiffs and the attorneys representing the Class (“Distributable Settlement Amount”). In return, Settlement Class Members will be providing BCBS-GA with a release of claims.

Provided the Settlement becomes final, Settlement Class Members are eligible to receive a *pro rata* share of the Distributable Settlement Amount, based on each Settlement Class Member’s total “Qualifying Billed Charges.” For you as a Settlement Class Member In Records, Qualifying Billed Charges include the non-covered billed charge amount that appears in BCBS-GA’s records for any claim denied on the basis of the provider being out-of-network. Please note, a Qualifying Billed Charge may also include a billed charge from a health care provider that is not in BCBS-GA’s records but that you attest you received because either (1) the provider was out-of-network when BCBS-GA had represented that it was in-network in a provider directory or other communication on or before the date you received the healthcare service; or (2) BCBS-GA processed (or you understood that BCBS-GA would have processed) the claim as out-of-network even though the provider was in-network on the date you received the service. If you were a Pathway Plan member in 2019, Qualifying Billed Charges may also include a billed charge from a health care provider to you that you attest you received because (i) the specialist service was not covered for a claim denied because you did not obtain a referral from their primary care physician, or (ii) a primary care physician charged a fee to obtain a referral to a specialist.

QUESTIONS? CALL [XXX-XXX-XXXX] TOLL-FREE, OR VISIT [WEBSITE]

Some Settlement Class Member are not in BCBS-GA's records, called "Settlement Class Members Not In Records." Information about Qualifying Billed Charges for Settlement Class Members Not In Records is in the Settlement Agreement.

The complete terms of the Settlement Agreement, including the Released Claims and how the Settlement Payments will be calculated and allocated to Settlement Class Members under the Settlement, are available at [WEBSITE].

What do I need to do to participate in the Settlement?

You are receiving this Notice because your information appears in BCBS-GA records, and so you are considered a Settlement Class Member In Records. You do not have to do anything to participate in the Settlement. As long as you do not "Opt-Out" (i.e. exclude yourself) from the Settlement Class, then you will receive a Settlement Payment.

You do not need to submit a Claim Form or other documents to be eligible to receive financial payment under the Settlement based on the information in BCBS-GA's claims records. You may, however, still submit a Claim Form if you believe that you have additional claims that are not in BCBS-GA's records. For example, if you were a Pathway Plan member in 2019 and believe you have Qualifying Billed Charges for a medical service from a specialist because you did not obtain a prior referral from a primary care physician or a primary care physician charged you to obtain a referral to a specialist, then you must submit a valid Claim Form and required documentation by [MONTH DATE YEAR] in order for such additional claims to be considered by the Settlement Administrator for any additional financial payment under the Settlement. The Claim Form and additional information about the Settlement is available at [WEBSITE].

You can use the Settlement Website [WEBSITE] to look up the amount of Qualifying Billed Charges in BCBS-GA's records that will be used for the *pro rata* calculation of your Settlement Payment. If you have questions about this amount or whether you need to submit a Claim Form, please contact the Settlement Administrator at [1-800-XXX-XXXX].

Do I have a lawyer in this case?

The Court has appointed the following lawyers and their respective law firms as Class Counsel to represent you and the other Settlement Class Members if you do not choose to Opt-Out of the Settlement:

Jason R. Doss
The Doss Firm LLC
1827 Powers Ferry Road
Building 23, Suite 100
Atlanta, Georgia 30339

Jason Kellogg
Levine Kellogg Lehman Schneider + Grossman LLP
Miami Tower
100 Southeast Second Street, 36th Floor
Miami, Florida 33131

What are my rights?

If you do nothing, you will receive a Settlement Payment based on information in BCBS-GA's records and you will be bound by the terms of the Settlement Agreement. You do not need to submit a Claim Form but if you wish to have additional Qualifying Billed Charges not in BCBS-GA's records considered by the Settlement Administrator, you must submit a Claim Form to the Settlement Administrator by [MONTH DAY YEAR]. If you don't want a payment from this Settlement, but you want to keep the right to sue BCBS-GA on your own about the legal issues in this case, then you must take steps to Opt-Out (i.e., exclude yourself) from the Settlement by [MONTH DAY YEAR]. If you wish to file an objection or comments/concerns but still remain a Settlement Class Member, you may do so by submitting them to the Court by [MONTH DAY YEAR]. The procedure to Opt-Out or file an objection the Settlement is explained on the website and in the Settlement Agreement. The court will hold a Fairness Hearing to decide whether to approve the proposed Settlement on [MONTH DAY YEAR] at [TIME] before the Special Master T.E. Cauthorn at [ADDRESS]. You or your own lawyer may appear at the hearing at your own expense, but you do not have to attend.

How do I get more information about the Settlement?

- Visit the Settlement Website at [www.settlementwebsite.com], where you will find answers to common questions about the Settlement plus other information to help you.

QUESTIONS? CALL [XXX-XXX-XXXX] TOLL-FREE, OR VISIT [WEBSITE]

- Call the Settlement Administrator toll-free at [1-800-XXX-XXXX] to ask questions and receive copies of documents.
- Email the Settlement Administrator at [EMAIL ADDRESS].
- Write to the Settlement Administrator at [ADDRESS].
- Contact Class Counsel (see above).

PLEASE DO NOT CALL THE SPECIAL MASTER, JUDGE OR THE CLERK OF THE COURT'S OFFICE TO ASK QUESTIONS ABOUT THIS NOTICE OR THE SETTLEMENT.

QUESTIONS? CALL [XXX-XXX-XXXX] TOLL-FREE, OR VISIT [WEBSITE]

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

FRANCES KIRBY, AUDREY)
LOGAN, DIOLI AZOFEIFA, JOHN)
DAVID MARKS, WANDA SILVA,)
TONYA BEACH, and DAVID)
FROHMAN, individually and on)
behalf of all others similarly situated,)

Plaintiffs,)

v.)

BLUE CROSS BLUE SHIELD)
HEALTHCARE PLAN OF)
GEORGIA, INC. D/B/A ANTHEM)
BLUE CROSS AND BLUE SHIELD)
AND AS SUCCESSOR IN)
INTEREST TO BLUE CROSS AND)
BLUE SHIELD OF GEORGIA, INC.)

Defendant.)

Civil Action No.: 19-1-02689-53

**[PROPOSED] ORDER AND FINAL JUDGMENT APPROVING
SETTLEMENT AND DISMISSING CASE WITH PREJUDICE**

This case is now before the Court to consider (1) the fairness, reasonableness and adequacy of the proposed settlement of this case (“Settlement”) and whether it should be finally approved, including the dismissal of all claims that were or which could have been asserted in this action or in an individual action against Defendant Blue Cross Blue Shield Healthcare Plan of Georgia, Inc., with prejudice, and (2) the unopposed application for an award of attorneys’ fees and expenses and class

representatives' service awards, filed by Jason R. Doss with The Doss Firm, LLC and Jason Kellogg of Levine, Kellogg, Lehman, Schneider + Grossman. ("Class Counsel").

On _____, Class Counsel filed an unopposed motion for preliminary approval of the settlement of this class action. After consideration and review of (1) the Settlement Agreement dated _____ ("Agreement"), executed by Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach and David Frohman, individually and on behalf of all other similarly situated (collectively, "Plaintiffs"), as representatives of the Settlement Class (as defined in the Agreement and collectively, "Settlement Class") and by Defendant Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. ("BCBS-GA"), (2) the exhibits thereto, and (3) the motion for preliminary approval of the Settlement, the Court, upon due consideration, entered an Order Preliminarily Approving Settlement and Providing for Notice in this class action on _____ (the "Preliminary Approval Order").

In its Preliminary Approval Order, the Court found that the Settlement should be preliminarily approved pending notice to Class Members (as defined in the Agreement) and subject to final determination by the Court as to the fairness, reasonableness and adequacy of the Settlement.

Pursuant to O.C.G.A. § 9-11-23, a final fairness hearing was held on _____ in in Room 6100 at the Cobb County Courthouse, 70 Haynes Street, Marietta, Georgia 30090.

Having considered the pleadings and the evidence, as well as the parties' stipulation to entry of this Order and Final Judgment, and having concluded that the complaint in this case confers upon this Court jurisdiction to adjudicate the issues raised and to provide relief,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be entered as follows:

I. BACKGROUND

This class action lawsuit was filed on April 12, 2019, by Plaintiffs on behalf of themselves and others similarly situated who purchased Pathway individual, family or small group health benefit plans (collectively, the "Pathway Plans") insured and administered by Defendant, Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. d/b/a Anthem Blue Cross and Blue Shield and as successor in interest to Blue Cross and Blue Shield of Georgia, Inc. ("BCBS-GA" or "Defendant").

Plaintiffs allege that BCBS-GA (i) misrepresented the scope of its healthcare provider network to consumers who purchased an individual or family Pathway health insurance plan from BCBS-GA beginning in the November 2015 open enrollment period for the 2016 plan year; and (ii) improperly required Pathway

members to obtain a referral from a primary care physician in order to see a specialist for the 2019 plan year.

As a compromise of these and other claims, and after extensive negotiations, including exchanging documents and information and engaging the assistance of a mediator, on [DATE] the parties executed the Settlement Agreement. As set forth above, on [DATE], the Court preliminarily approved the Settlement.

BCBS-GA has disputed, and continues to dispute, Plaintiffs' claims in the case both as to the facts and the law, and BCBS-GA has denied, and continues to deny, any liability to Plaintiffs or any member of the Settlement Class. However, BCBS-GA has agreed to settle the case to avoid the further expense, inconvenience, and distraction of protracted litigation, and to obtain the releases, orders, and judgments contemplated by the Agreement so as to settle and put to rest totally and finally the matters raised in the course of this case.

After conducting substantial discovery, investigation and negotiations before a neutral acceptable to all parties and considering the benefits of the Settlement and the risks of litigation, Plaintiffs and Class Counsel agree that the Settlement is fair, reasonable, and adequate with respect to the interests of Plaintiffs and the Settlement Class and should be approved by the Court pursuant to O.C.G.A. § 9-11-23.

II. PRELIMINARY APPROVAL

On _____, the Court entered its *Order Preliminarily Approving Settlement and Providing for Notice* that preliminarily approved the Settlement; certified the Settlement Class; appointed Plaintiffs as Class Representatives, appointed Class Counsel and required an application for fees and incentive payments to be filed; approved the Notice of Class Action Settlement Hearing (“Notice”) and Claim Form; established processes for notice, claims, requests for exclusions, and set a hearing date to consider the final approval of the Settlement for the class. [Dkt. ____].

In its Preliminary Approval Order, the Court, among other things, certified a Settlement Class pursuant to O.C.G.A. § 9-11-23, defined as follows:

All Georgia residents who at any time were enrolled in an individual, family or small group Pathway health insurance plan issued by BCBS-GA (“Pathway Plan”) effective during any period from January 1, 2016 to December 31, 2022 (the “Settlement Class Members” or “Settlement Class”).

Excluded from the Settlement Class are (i) any judicial officer presiding over the Lawsuit and the members of his/her immediate family and judicial staff; (ii) BCBS-GA’s counsel in this Lawsuit, their employees, and their immediate family; (iii) Class Counsel, their employees, and their immediate family; and (iv) any person who validly opts-out of the Settlement Class.

The Court appointed, for the purpose of the administration of the Settlement, Plaintiffs, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach and David Frohman, as Class Representatives and the following counsel as Class Counsel: Jason R. Doss with The Doss Firm, LLC and Jason Kellogg of Levine, Kellogg, Lehman, Schneider + Grossman.

The Court approved both the proposed Settlement Class Notice and the Claim Form (attached to the Agreement as Exhibits “___” and “___” respectively) and the manner of mailing and distribution of the Class Notice and Claim Form, as set forth in in the Agreement as the best notice that is practicable under the circumstances. The form of the Class Notice and the manner in which it is given comply with O.C.G.A. § 9-11-23(e) and the requirements of due process. [Dkt. ___].

III. FINAL APPROVAL OF SETTLEMENT

The Court has reviewed the terms of the Settlement and finds that the Settlement is fair, reasonable and adequate under the circumstances of this case and in the best interests of the Settlement Class. Accordingly, the Settlement is approved. In evaluating the proposed Settlement, the Court considered a variety of factors and makes the following findings:

1. The named Plaintiffs are adequate representatives of the Settlement Class, and treatment of this action as a class action for settlement purposes, with the

Settlement Class as defined above, is appropriate, proper and satisfies the criteria set forth in O.C.G.A. § 9-11-23(a) and (b);

2. The form of notice and manner in which notice was given were the best practicable under the circumstances and satisfied O.C.G.A. § 9-11-23(e) and the requirements of due process;

3. More than adequate discovery and/or mediation-related exchange of information has been conducted in this case for the purpose of determining the reasonableness of the Settlement;

4. The terms of the Settlement provide substantial and direct benefits to the Settlement Class;

5. Class Counsel are experienced trial practitioners with substantial experience in class action litigation and recommend approval of the Settlement;

6. The future expense and likely duration of the litigation, and its uncertainty of outcome, support approval of the Settlement;

7. Out of approximately 65,000 Settlement Class Members In Records, ____ objections to approval of the Settlement were filed and only ____ individual requested to be excluded from the Settlement Class;

8. The procedures for providing notice of the Settlement and for handling claims set forth in the Preliminary Approval Order have been complied with; and

9. Nothing indicates an absence of good faith or independence between Plaintiffs and BCBS-GA regarding the Settlement. The Settlement terms were the product of extended, arms-length negotiations by well-qualified counsel for all parties after lengthy discovery and motions before the Court.

IV. APPLICABILITY

1. This Order and Final Judgment grants final approval to the Settlement and Agreement. The filing of this Order and Final Judgment constitutes Final Approval as defined in the Agreement.

2. The Court allows the Action, for the purposes of this Settlement only, to continue as a class action on behalf of the Settlement Class;

3. The Court finds that the Class Notice, and the method of its distribution, constitutes the best notice that is practicable under the circumstances;

4. The Court finds that there were ____ objections to the Settlement;

5. The Court allows the _____ requests for exclusion from the Settlement Class;

6. The Court permanently bars and enjoins Plaintiffs and all Settlement Class Members, from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any Released Claims against any of the Released Parties;

7. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement, is or may be deemed to be or may be used as an admission of, or evidence of, (a) the validity of any Released Claims, (b) any wrongdoing or liability of BCBS-GA or any other Released Party, or (c) any fault or omission of BCBS-GA or any other Released Party in any proceeding in any court, administrative agency, arbitral forum, or other tribunal.

8. The Court finds that Class Counsel is entitled to an award of reasonable attorneys' fees and the reimbursement of costs incurred in connection with the prosecution of this action. The Court further finds that Three Million, Three Hundred Thousand and 00/100 (\$3,300,000.00) is a reasonable award of fees and costs incurred by Class Counsel.

BCBS-GA does not oppose Class Counsel's application for fees and expenses up to the amount of \$3,300,000.00 amount and shall pay that amount in fees and expenses as part of the Settlement Amount as set forth in the Agreement. Said payment shall be in full and complete satisfaction of all claims for attorneys' fees, costs and expenses against BCBS-GA arising out of or in connection with this litigation and shall fully and finally release BCBS-GA from any and all claims for attorneys' fees, costs, and expenses that were or that could have been asserted in this litigation or in an individual action by the Plaintiffs, members of the Settlement Class, Class Counsel, and any attorney or law firm having made an appearance in

this case, including the heirs, administrators, executors, attorneys and assigns of the foregoing.

The Court also finds that the service awards for the Class Representatives are reasonable and are unopposed by BCBS-GA up to the amount of \$75,000. Therefore, BCBS-GA shall pay Class Representatives, Frances Kirby, Audrey Logan, Dioli Azofeifa, John David Marks, Wanda Silva, Tonya Beach and David Frohman, collectively, (\$75,000) as part of the Settlement Amount as set forth in the Agreement. Except as here expressly ordered, each of the parties shall bear his, her or its own fees, costs and expenses.

9. Jurisdiction is retained by this Court only for the purpose of enabling any party to this Order and Final Judgment to apply to the Court at any time for such further orders and directions as may be necessary and appropriate for the carrying out of this Order and Final Judgment. In all other respects, this case is dismissed with prejudice.

The Clerk is ordered to enter this final judgment forthwith.

In the event that this Order and Final Judgment is not otherwise final and appealable, the Court finds and directs that there is no just reason for delaying enforcement or appeal, and final judgment should be entered.

RECOMMENDED FOR APPROVAL in Marietta, Georgia, this ____ day of _____, 2025.

T.E. CAUTHORN
SPECIAL MASTER

DONE AND ORDERED in Marietta, Georgia, this ____ day of _____, 2025.

HON. ROBERT LEONARD
SUPERIOR COURT JUDGE

CLAIM FORM

Kirby et al. v. BCBS-GA Class Action Settlement

Superior Court of Cobb County, State of Georgia

Case No. 19-1-02689-53

INSTRUCTIONS

IT IS VERY IMPORTANT THAT YOU READ THE ENCLOSED NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION.

The capitalized terms used in this Claim Form are defined in the Settlement Agreement, which you can review at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).

As explained more fully in the Notice of Proposed Settlement of Class Action, if you received the notice letter by mail then your information is in BCBS-GA's records, and so you are considered a "Settlement Class Member *In* Records." **Settlement Class Members In Records do NOT need to submit this Claim Form in order to receive proceeds from the Settlement.** You may, however, still submit this Claim Form if you believe that you have additional claims that are not in BCBS-GA's records. Please review the Notice of Proposed Settlement of Class Action that you received by mail, contact the claims administrator at [CONTACT INFORMATION], or visit [WEBSITE] if you have any questions about the claims that appear in BCBS-GA's records and whether you need to submit this Claim Form to receive proceeds from the settlement.

If you learned about the Settlement from a publication or other source and did not receive a notice letter by mail, then you are considered a "Settlement Class Member *Not In* Records." **For all Settlement Class Members Not In Records, you MUST sign and return this Claim Form by [DATE] and submit evidence of a Qualifying Billed Charge if you wish to receive payment as part of this Settlement.** You may also download a copy of this Claim Form at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).

A **Qualifying Billed Charge** means a billed charge from a healthcare provider that you received because either:

- (1) the healthcare provider was out-of-network even though BCBS-GA had represented that it was in-network in a provider directory or other communication on or before the date that you received the healthcare service;
- (2) BCBS-GA processed (or you understood that BCBS-GA would have processed) the claim as out-of-network even though the provider was in-network on the date you received the healthcare service;

(3) the specialist service you received was not covered under your Pathway Plan because you did not obtain a referral from your primary care physician (applies to 2019 plan year only); or

(4) your primary care physician charged you a fee to obtain a referral to a specialist (applies to 2019 plan year only).

These four enumerated categories shall hereinafter be referred to as the “**Qualifying Billed Charge Categories.**” Except as to category (4), a Qualifying Billed Charge does not include copays or coinsurance amounts charged under your Pathway Plan for in-network services.

The information provided on this Claim Form will not be disclosed to any person, nor used for any purpose, other than for the administration of the Settlement including without limitation the processing and payment of claims, and reporting claims and other settlement information as necessary to the Court, the IRS and other governmental agencies. Additional information may be required to substantiate a claim if the information provided below is inconsistent with BCBS-GA’s records.

Note: Each individual person who submits a claim must submit a SEPARATE Claim Form. Family members CANNOT combine their claims on a single Claim Form.

REQUIRED DOCUMENTATION

If you are a Settlement Class Member Not In Records, or if you are a Settlement Class Member In Records who believes that you have additional claims that are not in BCBS-GA’s records,¹ then you **MUST** submit a bill from a medical provider or comparable documentation that demonstrates that you incurred a Qualifying Billed Charge. The bill or other documentation must include the following information:

- (i) Provider name;
- (ii) Provider address;
- (iii) Date of service;
- (iv) Description of services provided; and
- (v) Provider charges for which You were responsible.

¹ For example, if you were a Pathway Plan member in 2019 and believe you have Qualifying Billed Charges for a medical service from a specialist because you did not obtain a prior referral from a primary care physician or a primary care physician charged you to obtain a referral to a specialist and/or if you believe you have other claims meeting the definition of Qualifying Billed Charge that are not in BCBS-GA’s records, then you must submit this Claim Form and required documentation in order for such additional claims to be considered by the Settlement Administrator for any additional financial payment under the Settlement. Settlement Class Members In Records can use the Settlement Website [www.settlementwebsite.com] to look up the amount of Qualifying Billed Charges in BCBS-GA’s records.

Attach all documents to this Claim Form. Evidence must be provided for each Qualifying Billed Charge that you claim that you incurred. Failure to provide adequate proof will result in a denial of your claim.

REQUIRED INFORMATION

To ensure that your Claim Form is properly processed, please provide the following information. Your Claim Form **WILL NOT BE** processed unless you provide this information:

1. Claimant's Daytime Telephone Number: (____)_____
2. Claimant's Name and BCBS-GA ID Number:_____
3. Claimant's Date of Birth:_____/_____/_____
4. If you are not the Claimant (whose name is printed above), but you are submitting a claim on behalf of that Claimant, provide the following information:
 - a. Your Name: _____
 - b. Your Mailing Address:_____
 - c. Your Telephone Number: ____ (____)_____
 - d. Describe Your Relation to the Claimant, (*e.g.*, spouse, legal guardian, executor, personal representative, trustee, *etc.*), and if you are not the Claimant's spouse, attach supporting legal documentation showing your relation to Claimant:

5. Please list below all provider names, provider addresses, dates of service, and applicable Qualifying Billed Charge Categories (*i.e.*, either 1, 2, 3, or 4) for each Qualifying Billed Charge in which you believe that you are entitled to compensation (attach a separate page if more space is needed):

<u>PROVIDER NAME</u>	<u>PROVIDER ADDRESS</u>	<u>DATE OF SERVICE</u>	<u>QUALIFYING BILLED CHARGE CATEGORY</u>

Please submit the required documentation listed above with this form.

I affirm under penalty of perjury that the responses and/or explanations I have provided above are true and correct, to the best of my knowledge, information, and memory. I also attest that I am legally authorized to submit this Claim Form (either as a Settlement Class Member or on behalf of a Settlement Class Member).

Signature: _____

Date: _____

Printed Name: _____