

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Andrew Beckett, Arizona Doe, California Doe,
S.A., Colorado Doe, Connecticut Doe, DC
Doe, Florida Doe, Georgia Doe, Illinois Doe,
Indiana Doe, Kansas Doe, Maine Doe,
Maryland Doe, Minnesota Doe, Mississippi
Doe, Missouri Doe, Nevada Doe,
NewHampshire Doe, NewJersey Doe,
NewMexico Doe, NewYork Doe1, NewYork
Doe2, NewYork Doe3, NewYork Doe4,
NorthCarolina Doe, Ohio Doe, Oklahoma Doe,
SouthCarolina Doe, Tennessee Doe, Texas
Doe, Virginia Doe, Washington Doe, John
Doe, Jane Doe2, John Doe1, John Doe2,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

Aetna, Inc., Aetna Life Insurance Company,
and Aetna Specialty Pharmacy, LLC,

Defendants.

Case No. 2:17-CV-3864-JS

NOTICE OF CLASS ACTION SETTLEMENT (“NOTICE”)

You are receiving this Notice because you have been identified as being part of a group of people whose Protected Health Information (“PHI”) is alleged to have been disclosed improperly by Defendants Aetna, Inc., Aetna Life Insurance Company, and Aetna Specialty Pharmacy, LLC (“Aetna”) and/or Aetna-related or affiliated entities, or on their behalf, to third parties, and/or to whom any written notice was mailed in connection with the settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.) and *Doe v. Coventry Health Care, Inc.*, No. 15-cv-62685 (S.D. Fla.) (collectively, the “*Doe* lawsuits”).

It is alleged that there were two possible breaches of privacy: first, in July 2017, it is alleged that Aetna transmitted PHI improperly to its legal counsel and a settlement administrator without having the purportedly proper authorizations to do so; and second, through the sending of a “Benefit Notice.” The term “Benefit Notice” means the notice that was sent by the settlement administrator to certain Settlement Class Members to inform Aetna members of their ability to fill prescriptions for certain medications through mail order or retail pharmacy, as required by the settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.). Plaintiffs allege that the Benefit Notice was sent in an envelope with a large transparent glassine window in such a manner that the instructions about how individuals could obtain their medications were visible from the outside of the envelope.

A class action lawsuit was filed concerning these events and a settlement has now been preliminarily approved by the Court. This Notice provides information about the lawsuit, the settlement, and your options as a Settlement Class Member. Please read this Notice carefully because it affects your legal rights. A federal court authorized the sending of this Notice to you. This is not a solicitation.

1. Why Should You Read This Notice?

You are receiving this Notice because Aetna's records show that you are a Settlement Class Member.

The term "Settlement Class" means all persons whose Protected Health Information was allegedly disclosed improperly by Aetna and/or Aetna-related or affiliated entities, or on their behalf, to third parties, including Gibson, Dunn & Crutcher, LLP ("GDC") and Kurtzman Carson Consultants LLC ("KCC"), and/or to whom any written notice was mailed as required by the settlement of the *Doe* lawsuits. GDC was Aetna's legal counsel in the *Doe* lawsuits and KCC was the settlement administrator in the *Doe* lawsuits. Please note that KCC is not the settlement administrator in this lawsuit.

Approximately 13,487 Settlement Class Members are claimed to have experienced the first privacy breach referenced above because it is alleged that Aetna sent their PHI improperly to its legal counsel GDC and a settlement administrator, KCC, without the proper authorizations in place and these individuals thereafter received some form of written notice in connection with the *Doe* lawsuits. Included in this group are approximately 11,875 Settlement Class Members who also claim to have experienced the second privacy breach referenced above, when they were sent the Benefit Notice as described above, that Plaintiffs allege revealed PHI through the window of the envelope.

This lawsuit was filed on August 28, 2017 in the United States District Court for the Eastern District of Pennsylvania by a plaintiff using the pseudonym Andrew Beckett, to address the harm caused by the events described above. On December 5, 2017, Plaintiffs filed an Amended Class Action Complaint by 37 Plaintiffs who reside in 28 different states and the District of Columbia.

Following an extensive mediation process overseen by former United States Magistrate Judge Diane Welsh, Plaintiffs and Aetna have now reached a settlement that has been preliminarily approved by the Federal Court, and as a Settlement Class Member, you are entitled to a settlement payment.

Specifically, all Settlement Class Members will automatically receive a "Base Payment" of either: (1) the payment of \$75 to all Settlement Class Members whose PHI was allegedly disclosed improperly by Aetna to GDC (Aetna's legal counsel in the *Doe* lawsuits) and KCC (the settlement administrator in the *Doe* lawsuits); or (2) the payment of at least \$500 (inclusive of the \$75 payment above) to the approximately 11,875 Settlement Class Members who were sent the Benefit Notice described above, whichever is applicable. **All Settlement Class Members shall automatically receive the applicable Base Payment described above without submitting a Claim Form.**

In addition, the approximately 11,875 Settlement Class Members who were sent the Benefit Notice in an envelope that may have revealed their PHI to others may submit a claim for an additional monetary award if they can demonstrate through the submission of reasonable proof that as a result, they suffered: (a) financial harm (meaning non-reimbursed out-of-pocket expenses); or (b) non-financial harm. Settlement Class Members who meet these requirements can submit such a claim by filling out and returning the enclosed Claim Form or by submitting their Claim Form online at www.BeckettPrivacyClassAction.com **by no later than September 29, 2018.**

If you received a Claim Form with this Notice, then you are one of the 11,875 Settlement Class Members who were sent the Benefit Notice.

The United States District Court for the Eastern District of Pennsylvania has preliminarily approved this Settlement as fair and reasonable and authorized this Notice to be sent to you. The Court will hold a Final Approval Hearing on October 15, 2018 at 9:00 a.m., at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania, 19106. Additional information about this case and the Settlement can be found at www.BeckettPrivacyClassAction.com.

2. What Are the Terms of the Settlement?

Under the terms of the Settlement Agreement, a copy of which is available at www.BeckettPrivacyClassAction.com, Aetna has agreed to pay the non-reversionary cash amount of \$17,161,200 (the “Settlement Fund”) to settle all claims relating to the alleged breaches described above and/or asserted in this lawsuit. None of this money will ever be returned to Aetna under any circumstance.

The Settlement Fund will be used to pay: (a) all Settlement Payments to Settlement Class Members; (b) all settlement administration fees and costs as approved by the Court, not to exceed \$180,000; (c) Class Counsel’s attorneys’ fees, not to exceed twenty-five percent of the Settlement Fund, plus costs, subject to the approval of the Court; and (d) service awards to the 37 Class Representatives that are approved by the Court in an aggregate amount not to exceed \$100,000. The “Net Settlement Fund” is the amount left in the Settlement Fund after the Court-approved deductions for settlement administration fees and costs, attorneys’ fees and costs, and service awards.

In addition to the Settlement Fund, Aetna has agreed to: (a) develop and implement a “best practices” policy (the “Policy”) for use of PHI in litigation; (b) communicate the Policy to Aetna in-house and outside counsel in all existing litigation matters; (c) implement procedures to ensure that the Policy is clearly communicated to in-house and outside counsel on all new litigation matters; (d) provide training regarding the Policy and Aetna’s requirements under HIPAA and applicable federal and state privacy laws as appropriate to all Aetna in-house counsel whose primary responsibility is to manage litigation involving Aetna; and (e) conduct an audit of all outside counsel handling Aetna litigation matters to ensure that such counsel has executed an Aetna-approved Business Associates Agreement (“BAA”) with Aetna. Aetna will keep records to ensure compliance with the terms of the Settlement Agreement for a period of seven (7) years. Aetna will incur additional costs to implement these actions that Aetna will pay in addition to the Settlement Fund described above.

The Settlement Payments to Settlement Class Members will be calculated as follows:

A. **Automatic Base Payment:** All Settlement Class Members will automatically receive a “Base Payment” of either: (1) the payment of \$75 to all Settlement Class Members whose PHI was allegedly disclosed improperly by Aetna to GDC (Aetna’s legal counsel in the *Doe* lawsuits) and KCC (the settlement administrator in the *Doe* lawsuits); or (2) the payment of at least \$500 (inclusive of the \$75 payment above) to all approximately 11,875 Settlement Class Members who were sent the Benefit Notice, whichever is applicable. **All Settlement Class Members shall automatically receive the applicable Base Payment amount described above without submitting a Claim Form.**

B. **Claimant Award:** The approximately 11,875 Settlement Class Members who were sent the Benefit Notice may also submit a Claim Form and any required supporting documentation to apply for an additional monetary award if they believe that as a result of the Benefit Notice, they suffered financial harm or non-financial harm. In order to be considered timely and valid, all Claim Forms and supporting documentation **must be postmarked by September 29, 2018.** The Court-appointed Settlement Administrator shall receive and

review all completed Claim Forms and shall calculate all Claimant Awards. Claimant Awards shall be based on the total of: (a) the Claimant's Financial Harm Award; and (b) the Claimant's Non-Financial Harm Award.

i. **Financial Harm Award.** A Claimant's Financial Harm Award shall be calculated by the Settlement Administrator based on all reasonable non-reimbursed out-of-pocket expenses incurred by the Claimant as documented on the Claim Form. The Claim Form shall be submitted under penalty of perjury. Examples of such out-of-pocket expenses include, for example, moving costs, counseling costs, loss of income, or other non-reimbursed out-of-pocket expenses caused by the Benefit Notice. "Reasonable proof" is required. The term "reasonable proof" means the submission to the Settlement Administrator by the Claimant of copies of receipts, invoices, credit card statements, medical records, insurance records, returned checks, and/or any other reasonable form of proof of non-reimbursed out-of-pocket expenses incurred as a result of the Benefit Notice. Amounts that a Claimant already received from Aetna will offset any Financial Harm Award to the extent that it would result in a double-recovery.

ii. **Non-Financial Harm Award.** A Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator based on the Claimant's answers on their Claim Form using an objective point-scoring system as set forth in Exhibit D to the Settlement Agreement. All answers given on the Claim Form shall be submitted under penalty of perjury.

iii. **Amount of Claimant Awards.** Claimants may receive up to \$10,000 for financial harm as calculated by the Settlement Administrator and up to \$10,000 for non-financial harm as calculated by the Settlement Administrator, for a total maximum of up to \$20,000 in addition to the minimum Base Payment described above. The final amount of any Claimant Awards, however, shall be based on the number of Claimants and a *pro rata* distribution of the amount remaining in the Net Settlement Fund for distribution after all minimum Base Payments are subtracted.

iv. **Net Settlement Fund.** If there is money remaining in the Net Settlement Fund after deducting the minimum Base Payments for all Settlement Class Members and all Claimant Awards, the remaining money shall be distributed *pro rata* to all Settlement Class Members who were sent the Benefit Notice, and shall have the effect of raising the Base Payment Amount for these individuals to an amount above \$500.

C. **Timing of Payments.** Settlement Checks will be mailed by U.S. first class mail by the Settlement Administrator to Settlement Class Members no later than 45 days after the Settlement Agreement receives final approval by the Court and the time for any appeals have expired, or any appeals have been resolved.

D. **Uncashed Checks.** The total amount of any uncashed settlement checks after 180 days will be distributed to a *cy pres* recipient – The AIDS Coordinating Committee of the American Bar Association ("the Committee"). The Committee will use a Request for Proposal ("RFP") process to redistribute any funds it receives to nonprofit public-interest legal organizations working on health privacy issues. None of Plaintiffs' Counsel will submit a funding request through this RFP process.

In consideration of the benefits provided to Settlement Class Members by Aetna as described in this Settlement Agreement, upon the Effective Date, each Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (the "Releasers"), hereby waive and release, forever discharge and hold harmless the Released Parties, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts,

controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum (“Claims”) that the Releasers, and each of them, had, has, or may have in the future arising out of, in any way relating to or in connection with the Incident or the allegations, transactions, facts, matters, occurrences, representations or omissions involved, that are or could have been alleged or set forth in, referred to, or relate to the Complaint and/or Amended Complaint (collectively, the “Released Claims,” or the “Releases”). The term Released Parties means the Aetna Released Parties and any other person or entity that is potentially responsible for causing or in any way involved in the events giving rise to this lawsuit.

3. How Do I Submit A Claim Form?

Please note that the Claim Form is solely for the approximately 11,875 Class Members who claim to have been harmed as a result of the mailing of the Benefit Notice, which Plaintiffs allege potentially revealed PHI through the window of the envelope, and who can demonstrate that they suffered financial harm or non-financial harm as a result. **If you were not sent the Benefit Notice or do not claim to have suffered financial harm or non-financial harm as a result of the Benefit Notice, then do not fill out the Claim Form. You will automatically receive the applicable Base Payment described above.**

In order to be considered valid and timely, Claim Forms must be postmarked by September 29, 2018. Settlement Class Members may submit multiple Claim Forms before **September 29, 2018** but shall not recover twice for the same item of alleged damage or harm.

You may fill out this Claim Form in hard copy or you may download and fill out the electronic Claim Form located at www.BeckettPrivacyClassAction.com. The electronic Claim Form can be uploaded using the HIPAA-compliant portal also located on the website. If you fill out the Claim Form in hard copy, you may return it by uploading it using the HIPAA-compliant portal at www.BeckettPrivacyClassAction.com or by mail, using the enclosed self-addressed stamped envelope (no postage required if mailed within the United States).

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at 877-416-7259 or contact the Settlement Administrator by using the Contact Us form located at www.BeckettPrivacyClassAction.com. For additional information about the Settlement, please visit www.BeckettPrivacyClassAction.com.

If you decide to fill out and return the Claim Form, all information you provide will be kept strictly confidential by the Settlement Administrator and will be destroyed by the Settlement Administrator after the distribution of the settlement proceeds.

Important -- It is your responsibility to let the Settlement Administrator know if your mailing address changes at any time before you receive a Settlement Payment or if you want future mail sent to a different mailing address. If you fail to keep your address current, you may not receive your Settlement Award.

4. What Are My Rights?

If you wish to participate in the Settlement, you may: (a) do nothing, in which case you will automatically receive the applicable Base Payment as described above without having to submit a Claim Form; or (b) if you were harmed by the Benefit Notice and can meet the requirements for a Claimant Award noted above, you may submit a Claim Form, as described above, for compensation in addition to the Base Payment, postmarked by **September 29, 2018**.

If you wish to exclude yourself from the Settlement so that you do not receive any Settlement Award and are not bound by any release of claims, then you must submit a written request to opt out to the Settlement Administrator stating “I wish to exclude myself from the Settlement Class in *Beckett v. Aetna, Inc., et al.*, No. 2:17-cv-03864-JS (E.D. Pa.) (or in substantially similar clear and unambiguous language), **postmarked by July 31, 2018**. Your request for exclusion must include your printed name, address, telephone number, email address, date of birth, and actual written signature. Requests for exclusion cannot be made on a group or class basis. All Settlement Class Members who do not timely and properly request exclusion from the Settlement Class will in all respects be bound by all terms of this Settlement Agreement and the Court’s Final Approval Order, and upon the Effective Date, will be entitled to all benefits described in this Settlement Agreement. The request for exclusion must be sent to the Settlement Administrator at Attn: Exclusions, PO Box 15860, Philadelphia, PA 19103. Any person who requests exclusion from the Settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.

If you wish to accept a Settlement Award but submit an objection to the Settlement, you must submit a written objection to the Settlement Administrator **postmarked by July 31, 2018**, explaining why you believe that the Settlement Agreement should not be approved by the Court as fair, reasonable and adequate. The written statement must include a detailed statement of your specific objection, as well as the specific reasons for your objection, including any evidence and legal authority that you believe supports your objection. Your written statement must include your printed name, address, telephone number, date of birth, and actual written signature, and must attach any other supporting papers, materials, or briefs that you wish the Court to consider when reviewing the objection. If you wish to use a pseudonym for purposes of the public record, you may, and you should inform the Settlement Administrator of your requested pseudonym in your written statement, but you must provide your real name to the Settlement Administrator. If you are represented by counsel, your objection must identify the counsel who represents you and provide their contact information. The objection must be sent to the Settlement Administrator at Attn: Objections, PO Box 15860, Philadelphia, PA 19103.

If you wish to send the Settlement Administrator a letter in support of the Settlement, you are free to do so, and may send your letter to Attn: Correspondence, PO Box 15860, Philadelphia, PA 19103.

5. Can Aetna Retaliate Against Me For Participating In This Settlement?
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No. Aetna has agreed that it will not retaliate against any Plaintiff, Class Representative, or Settlement Class Member in any fashion for having participated in this litigation and Settlement Agreement, including, without limitation, with respect to the provision of any health insurance benefits.

6. Who Are The Attorneys Representing The Class?

The attorneys who represent the Settlement Class are listed below:

Co-Lead Class Counsel	Co-Lead Class Counsel	Co-Lead Class Counsel	Class Counsel
Ronda B. Goldfein Yolanda French Lollis Adrian M. Lowe AIDS Law Project of Pennsylvania 1211 Chestnut Street, #600 Philadelphia, PA 19107 (215) 587-9377 aetnaclass@aidslawpa.org	Sally Friedman Monica Welby Karla Lopez Legal Action Center 225 Varick Street, St. 402 New York, NY 10014 (212) 243-1313 sfriedman@lac.org	Shanon Carson E. Michelle Drake Sarah R. Schalman- Bergen John Albanese Berger & Montague, P.C. 1622 Locust Street Philadelphia, PA 19103 (215) 875-3000 scarson@bm.net	Torin A. Dorros Dorros Law 8730 Wilshire Boulevard, Suite 350 Beverly Hills, CA 90211 (310) 997-2050 tdorros@dorroslaw.com

The AIDS Law Project of Pennsylvania and the Legal Action Center are both nonprofit public-interest legal organizations that have been representing people living with HIV and AIDS for more than thirty years.

7. How Will The Attorneys For The Settlement Class Be Paid?

You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that attorneys' fees and costs will be paid from the Settlement Fund subject to the approval of the Court. The attorneys' request for fees will not exceed twenty-five percent (25%) of the Settlement Fund plus reimbursement of reasonable out-of-pocket costs.

8. Who May I Contact If I Have Further Questions?

If you need more information or have any questions, you may contact the AIDS Law Project of Pennsylvania at (215) 587-9377 or at aetnaclass@aidslawpa.org or the Settlement Administrator using the information below. Please refer to the Beckett Privacy Class Action.

Settlement Administrator
PO Box 15860
Philadelphia, PA 19103
Phone: (877) 416-7259

Email: BeckettPrivacyClassAction@AdministratorClassAction.com

Website: www.BeckettPrivacyClassAction.com

This Notice only summarizes the Lawsuit, the Settlement and related matters. For more information, you may also inspect the Court files at the Office of the Clerk, United States District Court located at 601 Market Street, Philadelphia, Pennsylvania, from 8:30 a.m. to 4:30 p.m., Monday through Friday.

PLEASE DO NOT CONTACT THE COURT.