

News Release

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Monumental Settlement Announced in Provider Blue Cross Blue Shield Antitrust Case

BIRMINGHAM, AL – Today a monumental settlement was announced by Whatley Kallas, LLP, Co-Lead Counsel, in a long-running antitrust lawsuit filed on behalf of healthcare providers across the nation. The settlement with all the Blue Cross and Blue Shield entities in the country, as well as the Blue Cross and Blue Shield Association, provides billions of dollars for healthcare providers and is the largest antitrust settlement in the history of the United States healthcare industry. The settlement includes a \$2.8 billion cash payment into a settlement fund, as well as investments by the Blues of hundreds of millions of dollars in system improvements for the benefit of providers. Provider Plaintiffs have asked the court to preliminarily approve the settlement, which would resolve their claims that the Blues violated the antitrust laws by, among other things, agreeing to allocate markets through the use of exclusive service areas and to fix the prices paid to providers through the BlueCard Program.

More importantly, in addition to the substantial damages fund, the settlement outlines crucial changes in the business relationship between Blue Cross Blue Shield Association member plans – all 33 independent Blues – that will transform the BlueCard Program. The settlement also affects how the Blues process claims, communicate with, and make payments to healthcare providers. The new transformation parameters outlined in the settlement help alleviate and address resource-draining administrative burdens and inefficiencies currently experienced by providers.

“Over the past 12 years we have dedicated an extraordinary amount of time, tireless effort and resources to this historic outcome for providers,” said Co-Lead Counsel Edith Kallas, of Whatley Kallas. “Many important issues for providers are finally being addressed. We’re pleased that we have been able to achieve relief that will create a better system for healthcare providers and that will support the organizations and people we rely on to take care of us and our families every day.”

Co-Lead Counsel Joe Whatley added: “The \$2.8 billion cash payment, together with the hundreds of millions of dollars in additional investments the Blues are making to improve their systems, will benefit providers enormously. We believe that the actual value to providers is much greater than the total payments.”

As part of the settlement, there are sixteen categories of transformational program requirements that will hold Blue Cross and Blue Shield plans accountable for timely communication and payment; transparent decision-making and dealings with third parties; and timely claims status updates. The settlement also gives providers increased contracting opportunities with the Blues.

All Blue Cross and Blue Shield plans and the Blue Cross Blue Shield Association will be held accountable by an appointed Monitoring Committee for five years following the effective date of the settlement

after the Court’s final approval. The Provider Plaintiffs assembled a work group consisting of different types of providers, including representatives of large healthcare systems, teaching hospitals, rural hospitals, physicians, ancillary providers and medical and hospital associations which gave meaningful guidance throughout the process. The American Hospital Association also gave valuable input. “We greatly appreciate the assistance from the Provider community,” said Edith Kallas.

“For nearly two decades I have helped lead, through my role at HANYS, a multi-state group of hospital associations attempting to obtain meaningful reforms for hospitals and healthcare systems, including their doctors and ancillary providers, in the Blue Card Program. I have worked closely with Whatley Kallas to continue those efforts in this lawsuit and mediation. This settlement represents a culmination of these necessary, meaningful reforms and will significantly improve the Blue Card Program for all Class Members” said Jeff Gold, Vice President and Counsel for Managed Care and Insurance, Hospital Association of New York State.

Matthew Katz, who has served in various organized medicine roles for decades and is currently a consultant for healthcare providers added “I have spent much of my professional life assisting doctors, clinicians and other healthcare professionals in addressing ongoing issues in the Blues’ system. I have continued these efforts by assisting Whatley Kallas in the litigation and resolution of this lawsuit. The injunctive relief achieved here is transformative and will result in a more transparent, efficient and accountable experience for Class Members in dealing with the Blues.”

As the litigation has proceeded for the past twelve years, the providers’ lawyers, led by Whatley Kallas, have spent approximately \$100 million, most of which was used to develop the largest collection of healthcare claims data in any case in history and for leading healthcare antitrust economists to evaluate that data and to develop econometric models for the case.

The Court will consider the Motion for Preliminary Approval. Filings and orders related to the settlement will be available at www.whatleykallas.com/bcbs-settlement. Formal Notice will be sent at a later date.

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About

Whatley Kallas has litigated against some of the largest defense firms in the world and across the country in both federal and state courts, and arbitrated in arbitral forums from coast to coast. The firm has extensive experience representing all types of healthcare providers including health systems facing a health insurer in individual or class action lawsuits. Whatley Kallas has some of the few lawyers who have tried a class action to a billion-dollar-plus verdict for plaintiffs and successful verdict for defendants. Whatley Kallas is known for committing substantial resources of the firm to achieve meaningful change to society, with longstanding and ongoing representation of medical providers and national, state and county medical societies, litigating against and negotiating settlements with the largest health insurers in the country.

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