

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

J.M., a minor child, by and through
his legal guardian, HEATHER SMITH,

N.W., a minor child, by and through
his mother and legal guardian,
NAOMI WILLIAMS, and

J.B., a minor child, by and through her
mother and legal guardian, MELISSA
BARKER,

Plaintiffs,

v.

GERLDA HINES, in her official
capacity as the Commissioner of the
Georgia Department of Human
Services and CAYLEE NOGGLE, in
her Official Capacity as Commissioner
of the Department of Community
Health,

Defendants.

CIVIL ACTION
1:18-CV-568-AT

**ORDER GRANTING JOINT MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

Before the Court is the Parties' Joint Motion for Preliminary Approval of Class Action Settlement [Doc. 184]. For the reasons discussed below, the Court **GRANTS** the Motion and **PRELIMINARILY APPROVES** the class action settlement.

I. LEGAL STANDARD

Fed.R.Civ.P. 23(e) provides that “[t]he claims, issues, or defenses of a certified class . . . may be settled . . . only with the court’s approval.” A proposed class action settlement should be approved so long as it is “fair, adequate and reasonable and is not the product of collusion between the parties.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984) (quoting *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)). “To determine whether a proposed settlement is fair, reasonable, and adequate, the court must examine whether the interests of the class are better served by the settlement than by further litigation.” *Manual for Complex Litigation* (Fourth) §21.61 (2004).

The Eleventh Circuit has identified the relevant factors the Court should consider in determining whether a settlement is fair, adequate, and reasonable are “(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved.” *Bennet*, 737 F.2d at 986 (citations omitted). In assessing these factors, the Court “should be hesitant to substitute. . . her own judgment for that of counsel.” *In re Smith*, 926 F.2d 1027, 1028 (11th Cir. 1991).

II. DISCUSSION

A. Benefit to Class Members

The proposed Settlement Agreement effectively achieves the relief sought by Plaintiffs on behalf of the Class. The primary benefits to the Class are as follows: First, Class members will have their Medicaid eligibility redetermined by Defendants under all available Medicaid classes of assistance. Second, Class Members will have their Medicaid eligibility and benefits maintained while their Medicaid eligibility is being redetermined. Third, Class Members with disabilities under 19 years of age will be referred for a determination of eligibility under the Katie Beckett program if they are determined ineligible for all other Medicaid classes of assistance and appear potentially eligible for Katie Beckett. Fourth, Defendants are required to revise the notice letters they send to class members to provide adequate notice of their actions and decisions regarding the determination of Medicaid eligibility. Fifth, the district court will retain jurisdiction over the case for two years after final approval of the Settlement Agreement.

B. Reporting and Monitoring; Attorney's Fees

Because the parties were unable to resolve the issues of reporting and monitoring and attorney's fees, the Settlement Agreement provides for the Court to resolve these issues. After thorough deliberation and communications with counsel, the Court has determined the reporting and monitoring requirements of the Settlement Agreement as well as attorney's fees and expenses. In conjunction with this Order, the Court has entered an Order appointing Karen Baynes-Dunning

as Monitor in this action. The Order of Appointment outlines the parameters of the reporting and monitoring that shall occur as well as functions of the Monitor and the manner for any dispute resolution related to the continued monitoring. That Order of Appointment and all its terms are explicitly incorporated herein as part of the Court's Order granting preliminary approval of the Settlement Agreement. In addition, Plaintiffs have filed a Motion for Prevailing Party Attorney's Fees, which has been fully briefed. The Court's ruling on that Motion is forthcoming.

C. Fairness, Adequacy, and Reasonableness of Agreement

The parties' joint motion for settlement approval follows extended settlement negotiations between the parties following class certification. Continuing forward with litigation would not only impose risks and costs on the Plaintiffs and the Class but would also delay the implementation of the parties' agreed upon remedies. In light of the risks of continued litigation and the significant injunctive relief set forth in the proposed Settlement Agreement, the Court finds the settlement falls within the range of possible fair, reasonable and adequate options for approval.

In sum, based on its a preliminary evaluation of the Settlement Agreement, the Court finds that the record demonstrates: (i) the Agreement is fair, reasonable, and adequate, and within the range of possible proper alternatives for approval; (ii) the Agreement has been negotiated in good faith at arm's length between experienced attorneys familiar with the legal and factual issues of this case; and (iii) that notice is appropriate and warranted. Therefore, the Court preliminarily

approves the Settlement as fair, reasonable, and adequate, subject to further consideration by the Court at the Fairness Hearing. The Settlement Agreement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class.

D. Class Notice

Counsel has attached the Proposed Class Notice to their Joint Motion. (Doc. 184-4.)¹ The Proposed Class Notice satisfies the requirements of Fed. R. Civ. P. 23(e)(1), as it clearly describes the nature of the action, the relief called for in the Settlement Agreement, and the process for objecting to the Settlement and participating in the Fairness Hearing. Defendants, through a third-party contractor, will identify Class Members by running a query in its databases and will compile a list of Class Members and their home addresses. Defendants will then utilize a third-party contractor to mail to each Class Member the approved Class Notice by U.S. Mail. Defendants' will also provide Class Members information about the Settlement on their websites.

E. Enforcement of the Agreement

As outlined in the Settlement Agreement, “[a]ll parties acknowledge that the Court has subject matter jurisdiction over this case, and has the authority to enter

¹ The “Proposed Class Notice,” as discussed herein, refers to the notice that will be sent to Class Members informing them as to the details of the Settlement Agreement and the Fairness Hearing. The Court notes for clarity that the Settlement Agreement also refers separately to notices to Class Members related to determinations regarding their benefits that may be sent by e-mail if this is the Class Member's indicated preferred mode of communication. Finally, the Settlement Agreement also separately references notices to counsel.

this Settlement Agreement as an order of the Court and to enforce its terms.” (Settlement Agreement at 3, Section I.G.) The Court retains jurisdiction to enforce the terms of the Agreement until its termination, two years after the Effective Date, unless extended or terminated earlier by an order of this Court. (*Id.* at 19, Sections VII; VIII.A.) The Effective Date is the date on which the Court grants final approval of the Settlement Agreement. (*Id.* at 5, Section II.F.) Thus, under its stated terms, the Settlement Agreement will become effective upon the Court granting final approval of the Settlement Agreement and retaining jurisdiction to enforce such Agreement. (*Id.* at 20, Section VIII.D.) Upon the Court granting final approval, the parties have agreed to jointly request that the Court dismiss this action and retain jurisdiction over the matter to enforce the Settlement Agreement and address any issues that arise related to the reporting and monitoring ordered by the Court herein. (*Id.* at 21, Section VIII.E.)

III. CONCLUSION

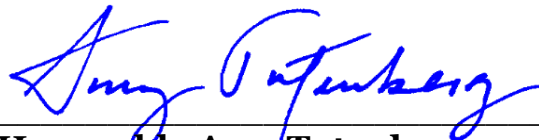
For the foregoing reasons, the terms of the parties’ Settlement Agreement are hereby **Preliminarily Approved** as providing fair, reasonable, and adequate remedial relief to the members of the class, subject to further consideration at the final approval hearing. The Joint Motion for Preliminary Approval of the Class Settlement [Doc. 184] is **GRANTED**. The proposed form of the Class Notice [Doc. 184-4] is **APPROVED**. The Class Notice shall be distributed as follows:

- Defendants shall arrange for the Class Notice to be mailed to the home addresses of the Class Members.

- Defendants shall post the Class Notice, a full copy of the Settlement Agreement, and a copy of this Order on their websites for a period of up to and including the last day for Class Members to file objections to the Settlement.

Class Notices **SHALL** be distributed to the Class by mail, and also be published on Defendants' websites by **March 1, 2022**. The deadline for Class Members to file objections to the Settlement is **April 22, 2022**.² The parties shall respond to any objections to the Settlement by **May 13, 2022**. By this same date, the parties shall file a motion for final approval of the Class Settlement. A Fairness Hearing to consider whether the Class Settlement should be given final approval is set for **June 1, 2022 at 2:00 p.m.** This Hearing will be in person with the option of participation by Zoom. Defendants are **DIRECTED** to include the Zoom information on their websites and on the mailed Class Notice. The Zoom information will be provided on the docket alongside this Order.

IT IS SO ORDERED this 18th day of January 2022.



Honorable Amy Totenberg
United States District Judge

² This is the date that any objections must be post-marked.