

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DAVERLYNN KINKEAD,
SHIRLEY CAILLO and CLAUDE
MATHIEU, individually and on
behalf of all others similarly
situated;

Plaintiffs,

Case No. 3:15-cv-01637 (JAM)

vs.

HUMANA, INC., HUMANA AT
HOME, INC., and
SENIORBRIDGE FAMILY
COMPANIES (CT), INC.
Defendants.

To: [FNAME] [LNAME]
[Address1] [ADDRESS2]
[CITY], [STATE] [ZIP]

*A Federal Court has authorized this Notice.
This is not a solicitation from a lawyer.*

**THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT
CAREFULLY.**

The purpose of this Notice is to inform you of the Settlement of the above captioned lawsuit, and the terms of that Settlement that may affect you. This Notice will instruct you on the procedure for exercising your rights under the Settlement and how to receive money from the Settlement.

**BASED ON THE TERMS OF THE SETTLEMENT YOUR ESTIMATED
INDIVIDUAL SETTLEMENT AWARD IS A MINIMUM OF [\$Minimum
Allocation].**

Please read this Notice for more information.

WHAT IS THIS LAWSUIT ABOUT?

Three home health care workers, Daverlynn Kinkead, Shirley Caillo, and Claude Mathieu, brought this lawsuit on behalf of themselves and on behalf of three groups of home health care workers employed by Defendants Humana, Humana at Home, Inc., SeniorBridge Family Companies (CT), Inc., and certain predecessor or affiliated entities. Plaintiffs claimed that Defendants' past pay practices failed to pay them and the three groups of home health care workers the wages required by federal overtime, Connecticut and New York law. Defendants deny Plaintiffs' allegations that they owe additional wages and instead contend that their pay practices comply the law. In addition, Defendants contend that they continuously evaluate their pay practices to ensure compliance. The three groups are as follows:

1. Class 1: Home health care workers who worked more than 40 hours a week and were not properly compensated for overtime hours under federal law during the period between January 1, 2015 and October 12, 2015. This class was brought under federal law and workers had to affirmatively opt-into the case to be members of this class.

2. Class 2: Current or former home healthcare workers who worked in Connecticut and worked in excess of 40 hours in any week between January 1, 2015 and October 12, 2015 and/or who worked 24-hour live-in shifts at any time between January 1, 2015 and January 25, 2016.

3. Class 3: Current or former home healthcare workers who worked in New York and who worked in excess of 40 hours in any week including at least one 24-hour live-in shift between January 1, 2015 and October 12, 2015 and/or who worked 24-hour live-in shifts at any time between November 11, 2009 and January 26, 2016.

As part of the Settlement a 4th Class raising the same claims has been added to the case:

4. Class 4: Current and former home healthcare workers who started work in New York and/or Connecticut at any time between January 26, 2016 and November 30, 2020.

According to our records you are a member of Class 4.

The lawsuit was originally filed in November 2015. After five years of litigation, both the Plaintiffs and the Defendants recognized that continuing to litigate this dispute involved great risks as it was uncertain whether Plaintiffs would win or lose their claims and, regardless of who won, there could be a delay of years before the case was resolved. Accordingly, the Plaintiffs and Defendants, with the assistance of their attorneys, agreed to a Settlement of their disputes that represents a compromise in the position of the Plaintiffs and the position of the Defendants.

WHAT ARE THE TERMS OF THE SETTLEMENT?

The following is a summary of the terms of the proposed Settlement. The specific and complete terms are available for review on the Settlement website www.HHWsettlement.com or you can request a copy of the complete Settlement Agreement from the Claims Administrator or from Class Counsel. Their contact information is set forth at the end of this notice.

Settlement Fund: The Settlement requires Defendants to pay \$17,000,000 into a Settlement Fund. This Settlement Fund shall be used to pay for the "Deductions" listed below and, after the Deductions are paid, the remaining monies will be used to pay Individual Settlement Awards to the members of the four classes.

Deductions from the Settlement Funds: Before the Settlement Fund is divided among the Plaintiffs and Class Members, the Plaintiffs will ask the Court to approve the following amounts to be deducted from the Fund:

(1) Up to 33 1/3% of the Settlement Fund to pay the fees of the Plaintiffs' attorneys for the time they have expended in litigating the case and obtaining the Settlement. These attorneys have pursued this case on behalf of the Named Plaintiffs and the Class Members for over five years without receiving any compensation for their services. They did so with the understanding that they would receive a portion of the Settlement Fund established through their efforts;

(2) Up to \$75,000 to reimburse the Plaintiffs' attorneys for the costs they have incurred on behalf of the class in litigating the case;

(3) Up to \$20,000 in service payments to each of the three Named Plaintiffs (a total of \$60,000) to compensate them for the risks of retaliation they exposed themselves to in order to bring this case and for their time and effort in working with the attorneys to litigate the case and reach this Settlement;

(4) Up to \$10,000 in service payments to each of four Class 1 Plaintiffs (a total of \$40,000) to compensate them for their time and the risks of retaliation they exposed themselves to by agreeing to provide testimony on behalf of the Plaintiffs and the class members;

(5) \$50,000 for the costs of administering the settlement fund including the cost of sending this notice and sending the Individual Settlement Awards to Plaintiffs and the participating Class Members if the Settlement is approved by the Court;

(6) \$50,000 to cover any errors or omissions arising from the administration or computation of Individual Settlement Awards.

Individual Settlement Awards: After the above deductions have been taken out of the Settlement Fund, the remaining monies, will be divided among the Class Members based on a formula that takes into account a number of factors including the hours each Class Member worked and the compensation she or he received during the period covered by this lawsuit, the wages that Plaintiffs contend Defendants should have paid, the Court's rulings to date, and the Plaintiffs' attorneys estimates of the chances of succeeding on the different claims brought by Plaintiffs.

Release of Claims: The Settlement provides that the Named Plaintiffs, the Members of Class 1, 2, and 3, and the Members of Class 4 who do not choose to exclude themselves from the Settlement will be deemed to have released all wage and hour claims and related claims which were or could have been asserted in the litigation under New York Law and Connecticut Law against the Defendants during the period from November 11, 2009 to January 1, 2021 for members of Classes 1, 2, and 3, and until November 30, 2020 for members of Class 4. The exact language of the releases and released parties is set forth in the Settlement Agreement available at www.HHWsettlement.com.

Court Approval: The district court must approve the Settlement as fair, reasonable and adequate before it can go into effect. If the Court approves less than the full amount of the attorneys' fees, attorneys costs, and service awards described above, the difference between the amounts listed above as Deductions and the amounts approved by the Court will be added to the amount that will be used to pay Individual Settlement Awards. In addition, if any members of Classes 2, 3, and 4 choose not to participate in the Settlement, their Individual Settlement Award money will be used to increase the awards for the Plaintiffs and the participating Class Members on a pro-rata basis. If the full amount allocated for the costs of administering the Settlement or the money set aside for errors and omissions is not expended, the leftover money will be donated to a *cy pres* recipient approved by the Court.

If the Settlement is approved, the Individual Settlement Awards will be mailed within 45 business days after the court's approval becomes final. Defendants have the right to call off the Settlement under certain limited circumstances, but if that should happen the attorneys will continue to pursue the claims in the pending lawsuit on your behalf.

WHAT IS MY AWARD ESTIMATED TO BE?

Based on the information provided by Defendants you are eligible to participate in the Settlement Fund. After deductions for the amounts described above, your Individual Settlement Award is estimated to be at least: **[\$Minimum Allocation]**

34% of this Award will be treated as wages, reported on an IRS Form W2, and will have employment taxes and withholding taxes deducted. The remaining 66% of your Award will be reported on an IRS Form 1099 and paid to you without tax being deducted or withheld although you should consult a tax person as to your responsibility for taxes on this money. As explained above, your Individual Award may be higher than this estimated amount if members of Class 2, 3, or 4 choose not to participate in the Settlement.

If you want to know more about how your Award was calculated you can contact the Claims Administrator or visit www.HHWsettlement.com.

WHAT ARE MY OPTIONS?

You can respond to this notice in one of three ways: You can either choose (1) to participate in the Settlement and receive your Individual Award, (2) to be excluded from the Settlement or (3) do nothing. If you choose to receive an Individual Settlement Award you will be bound by the terms of the Settlement and will release your claims against Defendants as described above. If you choose to be excluded from the Settlement you will receive no money but you will not release any claims you may have against the Defendants. If you choose to do nothing, you will not receive an Individual Settlement Award but you will be bound by the Settlement and will be deemed to have released the claims against Defendants described above. How to exercise these options are explained below.

(1) To Receive Your Settlement Award: To receive a payment, you must fill out and return the enclosed Claim Form and send it by mail or email to the Claims Administrator no later than July 28, 2021. The Claims Administrator's contact information is: *Kinkead v. Humana* Claims Administrator, Post Office Box 10269, Tallahassee, FL 32302-2269. Facsimile: (850) 385-6008, Toll-Free: (855) 948-1762, Email: claims@ssiclaims.com. You can also complete the claim form online at the Settlement website www.HHWsettlement.com. If your address is different than the address to which this notice was mailed or is expected to change in the next several months, please fill out the enclosed Change of Address Form and deliver it to the Settlement Administrator at the address above or fill it out and submit it online at www.HHWsettlement.com. If you choose this option you also have the right to object to the terms of the Settlement if you believe they are unfair, unreasonable or inadequate. If you want to object you must mail or email a letter explaining the specific term(s) that you think are unfair and why. Your letter should include your name, address, telephone number and the last four digits of your social security number. To be considered, the objection must be mailed or emailed to the Claims Administrator at the address listed above no later than June 28, 2021. If the Court rejects your objection, you will still be bound by the terms of the Settlement.

(2) To Exclude Yourself From the Settlement: If you do not want to

participate in the Settlement and do not want to give up any claims you have against the Defendants, you must affirmatively ask to be excluded from the Settlement by writing or emailing the Claims Administrator and asking to be excluded. Your request to be excluded must be mailed or emailed to the Claims Administrator at the address below no later than June 28, 2021. Any request to be excluded that is post-marked after that date will not be valid. If you ask to be excluded you will not be bound by the Settlement and you will remain free to pursue whatever claims you may have against Defendants.

(3) To Do Nothing: You can ignore this notice and not respond to it in any way.

DECEASED CLASS MEMBERS

If the Class Member to whom this Notice is addressed is no longer alive, his or her spouse or estate representative has the same rights with respect to the Settlement that the Class Member would have had if he or she were still alive. The spouse or estate representative may choose to claim a deceased Class Members' Settlement Award by filling out the "Claim Form" and the "Change of Information Form" enclosed with this notice and may object to the Settlement terms or contest the calculation. Alternatively, the spouse or estate representative may request to be excluded from the Settlement by writing to the Claims Administrator. Whichever the spouse or estate representative does, it must be done in the manner and within the time limits explained above.

NO RETALIATION

Whether you decide to participate in this Settlement or opt-out of it you are free to make your choice without fear of retaliation. Defendants are prohibited by law from retaliating against you in any way.

DO I HAVE A LAWYER REPRESENTING ME?

The Lawyers for the Class identified below have been appointed by the Court to represent you and you may contact them if you have questions.

WHEN WILL THE COURT MAKE A FINAL DECISION ABOUT THE SETTLEMENT?

The Court will hold a hearing on August 24, 2021 to consider whether the Settlement is fair, reasonable and adequate for all of the affected Class Members. The Court will consider any timely objections that Class Members file and make a decision whether to approve the Settlement. The hearing will be held at 3:00 p.m. in courtroom three at the federal courthouse located at Richard C. Lee U.S. Courthouse, 141 Church Street, Courtroom Three, New Haven, CT 06510. **You do not need to attend this**

hearing. Even if you file a timely objection your written objection will be considered by the Court whether you attend or not. However, you have the right to attend if you want to speak in favor of or against the Settlement at the hearing. You also have a right to have your own lawyer represent you at the hearing at your own expense if you so desire.

Please note that the date or venue for the hearing may change without further notice. Please check with the Claims Administrator in advance if you are planning to attend.

THE SETTLEMENT WEBSITE

The parties have established a Settlement website which provides copies of important documents regarding the case, including the Settlement Agreement, various forms available with respect to the Settlement, and information regarding the calculation of your Settlement Award. You may also complete and electronically file the claim form on the website. The Claims Administrator will also post updates about the Settlement on the website: www.HHWsettlement.com

THE CLAIMS ADMINISTRATOR

The Claims Administrator retained by the parties to send notices, track addresses, answer questions, and receive claims, exclusions and objections, is:

Kinkead v. Humana Claims Administrator
Post Office Box 10269
Tallahassee, FL 32302-2269
Facsimile: (850) 385-6008
Email: claims@ssicclaims.com
Toll-Free: (855) 948-1762

THE LAWYERS FOR THE CLASS

The lawyers for the Class are:

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WHERE CAN YOU OBTAIN FURTHER INFORMATION?

This notice provides only a summary of the Settlement Agreement. If you would like to see a copy of the Settlement Agreement or obtain general Settlement information, or forms, you may obtain all relevant documents at the Settlement website www.HHWsettlement.com, or you may contact the Claims Administrator, or the lawyers for the class.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANTS OR DEFENDANTS ATTORNEYS WITH QUESTIONS. THEY
CANNOT ANSWER QUESTIONS**