

1 EXPEDITE
2 No hearing set
3 Hearing is set
4 Date: September 16, 2022
Time: 9:00 a.m.
Judge/Calendar: Hon. Indu Thomas

5
6 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON**

7 SYLVIA LIANG, MANUEL BRITO, and
8 SHAZIA ANWAR, individually and on behalf
9 of all those similarly situated,

10 Plaintiffs,

11 v.

12 STATE OF WASHINGTON;
13 WASHINGTON STATE DEPARTMENT OF
14 SOCIAL AND HEALTH SERVICES, a
15 Washington State Agency; CHERYL
16 STRANGE, in her official capacity as the
17 Secretary of the Washington State Department
18 of Social and Health Services,

19 Defendants.

No. 20-2-02506-34

**[REVISED ~~PROPOSED~~] ORDER
GRANTING PLAINTIFFS' MOTION
FOR FINAL APPROVAL**

Clerk's Action Req.

20 This matter comes before the Court on Plaintiffs' motion for final approval of the
21 settlement class certification and Settlement Agreement in this case (Plaintiffs' Motion).

22 WHEREAS, the Court has considered Plaintiffs' Motion, the declarations filed in support
23 of Plaintiffs' Motion, the Parties' signed Settlement Agreement, and all of the other pleadings,
24 papers, and filings herein, including Plaintiffs' Motion for Preliminary Approval and supporting
25 declarations;

**[REVISED PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL APPROVAL -**

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Case No. 20-2-02506-34

18 WEST MERCER ST., STE. 400 **BARNARD**
SEATTLE, WASHINGTON 98119 **IGLITZIN &**
TEL 800.238.4231 | FAX 206.378.4132 **LAVITT LLP**

1 WHEREAS, as used herein, all terms defined in the Parties' Settlement Agreement, (a
2 copy of which is Exhibit 6 to the April 7, 2022 Declaration of Jennifer Robbins in support of
3 Plaintiffs' Motion for Preliminary Approval) shall have the same meaning here; and

4 WHEREAS, on May 6, 2022, the Honorable Indu Thomas entered an Order Granting
5 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, certifying, solely for
6 purposes of implementing the Parties' Settlement Agreement, the following Settlement Class:

7 all current and former IPs who, between March 7, 2014 and February 28, 2021,
8 contracted with DSHS to provide personal care services for a client whose in-
9 home care hours were reduced because DSHS, through its agents, coded the client
10 in a CARE assessment as having a status of "shared benefit" with respect to one
11 or more instrumental activity of daily living (IADL).

12 And excluding from the Settlement Class any persons who opt out of the Settlement Class in
13 accordance with the terms of the Settlement Agreement and Paragraph 13 of the Court's May 6,
14 2022, Order; and

15 WHEREAS, the Court's May 6, 2022, Order directed the Settlement Administrator to
16 provide notice to members of the Settlement Class, which informed them of: (1) the proposed
17 Settlement and the Settlement's key terms; (2) the date, time, and location of the Final Approval
18 Hearing; (3) the right to object to the proposed Settlement and the procedure for doing so; and
19 (4) the right to opt out of the proposed Settlement and the procedure for doing so;

20 WHEREAS, the Court has considered these materials, responses, if any, and the
21 statements of counsel at the Final Approval Hearing on September 16, 2022;

22 NOW, THEREFOER, IT IS HEREBY ORDERED as follows:
23
24

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1 1. This Court has jurisdiction over this matter and over all Parties, including all
2 members of the Settlement Class.

3 2. This Court confirms the proposed Settlement Class satisfies the requirements of
4 Civil Rule 23, as found in the Court's May 6 Order Granting Preliminary Approval, and finds
5 that the Settlement Class is properly certified as a class for settlement purposes only.

6 3. The Notice provided to the Settlement Class conforms with the requirements of
7 CR 23, the Washington and United States Constitutions, and any other applicable law, and
8 constitutes the best notice practicable under the circumstances, by providing notice to Class
9 Members who could be identified through reasonable effort, and by providing due and adequate
10 notice of the proceedings and of the matters set forth herein to the other Class Members. The
11 notice fully satisfied the requirements of due process.

12 4. The Court finds the Settlement was entered into in good faith as the result of
13 arms'-length negotiations between experienced attorneys, that the Settlement is fair, reasonable,
14 and adequate, and that the Settlement satisfies the standards and applicable requirements for
15 approval of this class action Settlement under Washington law, including the provisions of CR
16 23.

17 5. Mr. Jeff L. Sandaine validly opted-out of the settlement and is therefore excluded.
18 This Court's May 6 Preliminary Order provided that only a class member "who has not validly
19 requested exclusion [from the class] may submit written objections to the settlement."
20 Preliminary Order at ¶ 14. Therefore, the Court finds that Mr. Sandaine has exercised his right
21 under CR 23(c)(2)(A) to exclude himself from the class and concludes that he has done so
22 because he properly submitted a request to opt-out, contained in Exhibit E to the Shaffer
23 Declaration. In light of Mr. Sandaine's valid request to be excluded from the Settlement, he has

1 no standing to object to the Settlement Agreement and the Court does not address the issues he
2 raised in his various submissions to Court, attached as Exhibit C to the Declaration of Jonathan
3 Shaffer, including the letters dated June 12, 2022, June 29, 2022, July 8, 2022, July 14, 2022, and
4 July 21, 2022, and the letters provided to the Court dated July 4, 2022, October 15, 2021,
5 October 29, 2021, and February 22, 2022.

6 6. The Court finds that there was only one objection made to the Settlement, the
7 objection made by Mr. Charles Whitney. The objector also had the opportunity to and **[did]/[did**
8 **not]** address the Court at the final approval hearing, and the Court has fully considered his
9 objection. The Court finds that the objection lacks merit and that the Settlement is fair,
10 reasonable, and adequate notwithstanding the objection. Specifically, the objection was to the
11 settlement's use of a pro rata distribution of the Settlement Fund based on each class members'
12 alleged harm; Mr. Whitney instead proposed that each class member receive an equal amount of
13 the Settlement Fund, regardless of their asserted harm or the data showing the extent of
14 authorized hours lost as a result of the Shared Benefit Rule. The Court finds that the objector's
15 proposed distribution would not be fair, reasonable, or adequate, and therefore rejects and denies
16 Mr. Whitney's objection to the Settlement.

17 7. The individuals who have validly opted out of the Settlement are identified in
18 Exhibit E to the August 12, 2022, Declaration of Jonathan Shaffer. Class members who (1)
19 provided written notice postmarked or emailed to the Settlement Administrator on or before July
20 22, 2022 that they wanted to revoke their opt out request; or (2) returned opt out forms that were
21 unsigned, are not considered to have validly opted out, consistent with this Court's May 6, 2022
22 Order and with the Settlement Agreement. Those individuals, identified in Exhibit F to the
23 August 12, 2022, Shaffer Declaration, are included in the class because their exclusion forms

1 were not signed, properly revoked, or otherwise deficient. Individuals who submitted their opt-
2 out request after the July 22, 2022, deadline set by this Court's May 6 Order, identified in
3 Exhibit G to the August 12, 2022, Shaffer Declaration and in the September 2, 2022, Shaffer
4 Declaration, have not validly opted out and remain part of the Class.

5 8. The Court approves Class Counsel's request for an attorneys' fee and costs award
6 of \$1,625,000 from the Settlement Fund.

7 9. The Court approves Class Counsel's request to pay the Settlement
8 Administrator's costs from the Settlement Fund.

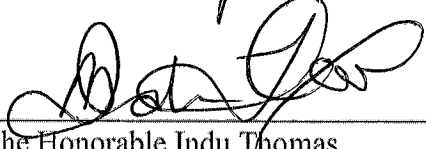
9 10. The Court amends the timelines in the Settlement Agreement as follows, to allow
10 additional time for the parties to process information regarding Class Members' tax information:

- 11 • Paragraph 6.4(c) shall be amended to require the Settlement Administrator mail
12 ~~all Class Member Settlement Payments for the initial Distribution to Settlement~~
13 Class Members within **twenty (20) business days** of the Effective date, rather
14 than ten (10) business days. The remainder of the paragraph is unchanged.


15 IT IS ORDERED that Plaintiffs' Motion for Final Approval is hereby GRANTED;

16 *Hearing set for 9/14/2022 is stricken.*

17 IT IS SO ORDERED this 14th day of Sept, 2022.

18 
19 _____
20 The Honorable Indu Thomas
21 Thurston County Superior Court Judge

21 Presented by:

22 
23 _____
24 Jennifer L. Robbins, WSBA No. 40861
Darin M. Dalmat, WSBA No. 51384

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