

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL CHECHILE and SONIA
LOPEZ, individually and as
Representatives of a Class of
Participants and Beneficiaries of the
Baystate Heath, Inc. Retirement Plan,

Plaintiffs,

Case No: 3:22-cv-30155-KAR

v.

BAYSTATE HEALTH, INC. et al.,

Defendants

**ORDER ON PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT
(Dkt. No. 23)**

This litigation arose out of claims of alleged breaches of fiduciary duties in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”), asserted against Baystate Health, Inc. and the Board of Directors of Baystate Health, Inc.¹ (“Defendants”) in connection with the management of the Baystate Health, Inc. Retirement Plan (the “Plan”).

Presented to the Court for preliminary approval is a settlement of the litigation as against all Defendants. The terms of the Settlement are set out in a Class Action Settlement Agreement dated April 26, 2023, executed by Class Counsel, Baystate, and Defendants’ Counsel and filed with the Court (Dkt. No. 24-1). Except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as ascribed to them in the Settlement Agreement.

¹ The Complaint improperly names the Board of Directors of Baystate Health, Inc. as a Defendant, but Baystate does not have a Board of Directors—it has a Board of Trustees.

Upon reviewing the Settlement Agreement and the papers submitted in connection with the Motion for Preliminary Approval, and good cause appearing therefore,

It is hereby ORDERED as follows:

1. Preliminary Findings Regarding Proposed Settlement: The Court preliminarily finds that:

A. The proposed Settlement resulted from arm's-length negotiations by experienced and competent counsel overseen by a neutral mediator;

B. The Settlement was negotiated only after Class Counsel had received pertinent information and documents from Defendants;

C. Class Counsel and the Class Representatives have submitted declarations in support of the Settlement (Dkt. Nos. 24-26); and

D. Considering the relevant First Circuit factors, the Settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the Settlement to the Settlement Class.

2. Fairness Hearing: A hearing will be held on November 14, 2023, at 2 p.m., in the Hampshire Courtroom of the United States District Court for the District of Massachusetts, before the undersigned United States Magistrate Judge, to determine, among other issues:

A. Whether the Court should approve the Settlement as fair, reasonable, and adequate;

B. Whether the Court should enter the Final Approval Order, and

C. Whether the Court should approve any motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation.

3. Settlement Administrator: The Court approves and orders that Analytics shall be the Settlement Administrator responsible for carrying out the responsibilities set forth in the Settlement Agreement.

- A. The Settlement Administrator shall be bound by the non-disclosure or security protocol jointly required by the Settling Parties, set forth in writing to the Settlement Administrator.
- B. The Settlement Administrator shall use the data provided by Defendants and the Plans' recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator and for no other purpose.
- C. The Settling Parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain, store, and dispose of information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.

4. Class Certification: The following Settlement Class is preliminarily certified for settlement purposes only pursuant to Fed. R. Civ. P. 23(b)(1):

All Participants and beneficiaries in the Baystate Health, Inc. Retirement Plan during the Class Period. Excluded from the Settlement Class are participants who joined the Plan for the first time on or after May 27, 2022.

The Court appoints Michael Chechile and Sonia Lopez as representatives for the Settlement Class. Further, the Court appoints Walcheske & Luzi, LLC and Jonathan Feigenbaum as counsel for the Settlement Class.

5. Class Notice: The Settling Parties have presented to the Court the Settlement Notice, which is the proposed form of notice regarding the Settlement for electronic mailing to Settlement Class members (Dkt. No. 36).

A. The Court approves the text of the Settlement Notice and finds that the form and contents therein fairly and adequately:

- i. Summarize the claims asserted;
- ii. Describe the terms and effect of the Settlement;
- iii. Notify the Settlement Class that Class Counsel will seek compensation from the Qualified Settlement Fund for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation;
- iv. Give notice to the Settlement Class of the time and place of the Fairness Hearing and Settlement Class members' right to appear; and
- v. Describe how the recipients of the Class Notice may object to the Settlement or any requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation.

B. Pursuant to Rules 23(c)(2) and (e) of the Federal Rules of Civil Procedure, the contents of the Settlement Notice and e-mailing the Settlement Notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Settlement Class members, and complies fully with the requirements of Federal Rule of Civil Procedure 23 and due process.

C. The Settlement Administrator shall send by electronic mail the appropriate Settlement Notice to each Class Member within forty-five (45) calendar days of the date of this Order, as specified in the Settlement Agreement, based on data provided by the Plan's recordkeeper. The Settlement Notices shall be electronically mailed to the last known e-mail address of each Class Member provided by the Plans' recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known email addresses

provided by the Plan's recordkeeper (or its designee). The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and resend such documents one additional time.

D. Pursuant to the Plan of Allocation approved and filed with this Court (Dkt. No. 24-5), Current Participants will receive their settlement payments to their Plan accounts, while Former Participants will receive their settlement payments via check.

E. On or before the date that the Settlement Notice is sent to the Settlement Class, the Settlement Administrator shall establish a Settlement Website and telephone support line as provided by the Settlement Agreement. The Settlement Administrator shall post a copy of the Settlement Notice on the Settlement Website.

6. Objections to Settlement: Any objections to any aspect of the Settlement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been timely sent to Class Counsel and Defendants' Counsel. To be timely, the objection and any supporting documents must be sent to Class Counsel and Defendants' Counsel at least twenty-eight (28) calendar days before the scheduled Fairness Hearing.

7. Responses to Objections and Final Approval Motion: Any party may file a response to an objection by a Class Member at least fourteen (14) calendar days before the Fairness Hearing, and Class Counsel shall file the Final Approval Motion at least fourteen (14) calendar days before the Fairness Hearing.

8. Continuance of Hearing: The Court may adjourn, modify, or continue the Fairness Hearing without further direct notice to the Settlement Class members, other than by notice via the Court's docket or the Settlement Website.

9. **CAFA Notices:** The Court approves the form of the CAFA notices (Dkt. No. 38), and, upon the mailing of the CAFA notices by the Settlement Administrator, Defendants fulfilled their obligations under the Class Action Fairness Act, 28 U.S.C. §§ 1711, *et seq.*

IT IS SO ORDERED.

/s/ Katherine A. Robertson
KATHERINE A. ROBERTSON
United States Magistrate Judge

DATED: July 19, 2023