

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ORIGINAL FILED

JACOB A., et al.,

Plaintiffs,

v.

LOS ANGELES COUNTY DEPARTMENT OF
CHILDREN AND FAMILY SERVICES, et al.

Defendants.

CASE NO. BC390627

CLASS ACTION

JUL 17 2009

LOS ANGELES
SUPERIOR COURT

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT AND HEARING,
AND DATE FOR COURT APPROVAL**

Complaint Filed: May 13, 2008

Judge Emilie H. Elias, Dept. 324

TO: All adopting/adoptive parents of Dual Agency Children (children who are both adopted from foster care or adoptively placed foster children and also consumers of California Regional Centers due to having developmental disabilities) **who did not receive the Adoption Assistance Payment (AAP) benefits at the Alternative Residential Model ("ARM") rate any time from May 12, 2005 through the present.**

PLEASE READ THIS! YOU MAY BE ENTITLED TO RECEIVE MONEY FOR MISSING AAP PAYMENTS AT THE HIGHER ARM RATE.

Pursuant to the order of the Superior Court of the State of California for the County of Los Angeles entered on July 17, 2009, PLEASE TAKE NOTICE that the parties have reached a settlement (the "Settlement") in the *Jacob A., et al v. L.A. County Department of Children and Family Services, et al.* class action case (the "lawsuit"). The purpose of this Notice is to describe the lawsuit, tell you about the proposed settlement, and tell you about your rights and choices.

As is explained in more detail below, this notice gives you four (4) options:

1. **TO SUBMIT THE ATTACHED PROOF OF ELIGIBILITY FORM VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED ON OR BEFORE SEPTEMBER 7, 2009, TO DECIDE WHETHER YOU ARE ELIGIBLE TO RECEIVE MISSING AAP PAYMENTS;**
2. **TO SUBMIT A WRITTEN REQUEST FOR EXCLUSION VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ON OR BEFORE SEPTEMBER 7, 2009, IF YOU DO NOT WANT TO BE PART OF THE SETTLEMENT AT ALL;**
3. **TO OBJECT TO THE PROPOSED SETTLEMENT BY FILING A WRITTEN OBJECTION OR NOTICE TO APPEAR WITH THE COURT, AND MAILING COPIES TO THE ATTORNEYS INVOLVED IN THE SETTLEMENT, ON OR BEFORE SEPTEMBER 7, 2009, AND, RETURN THE PROOF OF ELIGIBILITY FORM TO DETERMINE ELIGIBILITY;**

4. DO NOTHING AND LOSE ANY RIGHTS YOU MAY HAVE AS A CLASS MEMBER IN THIS LITIGATION.

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I. Background of the Case

On May 13, 2008, Plaintiffs Jacob A. and Keith H., minors, by and through their Guardians *ad Litem*, and John H., Rebecca H., and Norma A., on behalf of themselves and all other Class Members, filed a lawsuit in Los Angeles Superior Court. They complained that Defendants (i) Los Angeles County Department Of Children And Family Services (“DCFS”), (ii) Harbor Regional Center, (iii) Frank D. Lanterman Regional Center, (iv) North Los Angeles County Regional Center, (v) San Gabriel/Pomona Regional Center, (vi) South Central Los Angeles Regional Center, (vii) Westside Regional Center, (viii) Eastern Los Angeles Regional Center, (ix) The California Department Of Social Services (“DSS”), (x) The California Department Of Developmental Services, and (xi) The California Health And Human Services Agency (hereinafter “Defendants”) did not follow California law that sets out the amount of money that adoptive and adopted parents are required to receive for the support and adoption of children who are both (i) adopted from foster care or adoptively placed foster children and (ii) consumers of California Regional Centers due to having developmental disabilities (known as “Dual Agency” Children).

Specifically, Plaintiffs complained that Defendant DCFS did not pay Adoption Assistance Program (“AAP”) benefits at the ARM rate amount which should have started either on the date of adoptive placement of the Dual Agency Child or the date the child was determined eligible for Regional Center services if that is a later date. As a result, some Plaintiffs may not have full amount of AAP benefits due to them from May 12, 2005 to the present.

The Court has not made a decision as to whether Plaintiffs are correct in their complaint in *Jacob A.* But, on September 24, 2008, the parties filed a document with the court wherein Defendant DSS said that Plaintiffs are entitled to AAP payments at the ARM rate, if they were not paid, and has directed Defendant DCFS to make such payments.

The purpose of this Notice is to advise you of the Settlement and to describe important legal rights which may be affected by the Litigation and the Settlement.

II. Summary of Proposed Settlement

A. Settlement Payment Formula

Under the proposed Settlement Agreement, Defendants DSS and DCFS must pay each eligible Class Member the total amount of AAP benefits they are owed with interest.

The settlement payment owed is being calculated by taking: (1) the difference between the ARM rate-based AAP benefits to which you were entitled and the amount of AAP benefits the Class Member actually received, multiplied by the number of months—with pro-ration to be applied for partial months—during which you were owed money and did not receive it, and (2) interest owed to you, at ten percent (10%) simple interest on the total amount of your unpaid AAP benefits, calculated from the date you were owed the higher payments but did not receive them through the date on which your Settlement Award is paid. If partial payments of the money owed you were made to you before the final payment is due, interest will be calculated for the period between the date you were owed the higher payments and the date of the partial payment; the interest from this period will be added to the balance owed you, and interest will continue to accrue on that balance until the date of final settlement payment. If additional partial payments are made before the final settlement payment, this process shall be repeated by adding the interest accrued between payments to the remaining balance and subtracting the partial payment to obtain the new balance, on which interest will accrue until final settlement payment.

The attorneys for the Class (“Class Counsel”) are not tax lawyers and are not providing any tax advice. They recommend that all people who receive money from this settlement seek advice on the effect of receiving the money, if any, on the money they might owe in taxes, and/or eligibility or continuing eligibility for any government benefits programs.

B. Settlement Class

For purposes of Settlement only, the Settlement Class includes all adopting/adoptive parents of Dual Agency Children who did not receive the AAP benefits at the ARM rate from May 12, 2005 through the present.

C. Attorneys’ Fees

Class Counsel will ask for attorneys’ fees and costs in the amount of \$100,000 in a lump sum. Attorneys’ fees are being figured out separate and apart from the Settlement Award and do not affect the payments/money that will be given to individual Class Members. The parties to this action believe the amounts for attorneys’ fees and costs are fair and reasonable.

D. Reasonableness of the Settlement

The Class Representatives and the Class Counsel strongly support this settlement. Among the reasons given for support include that the Defendants have agreed to pay the AAP benefits payments owed in full, including 10 percent simple interest. The way that eligible Class Members are being identified and located is fair and the way that a Class Member’s eligibility for payment and amount of payment is being decided involves an impartial Administrative Law Judge and a streamlined process for a final decision. The relief being provided is fair, reasonable, and adequate.

III. How To Prove That You Are Eligible for a Settlement Payment

A. Proof of Eligibility

At this time, the Defendants do not have enough information in their files to decide whether you are eligible to receive a Settlement Award. To be eligible to receive a payment, you must be an adopting/adoptive parent of a Dual Agency child – a child who is both adopted from foster care or adoptively placed and also a client/consumer of Regional Center due to having a developmental disability – and you did not receive the Adoption Assistance Payment at the higher ARM rate any time from May 12, 2005, through the present.

If think you fit the description above, then you must complete and sign the Proof of Eligibility Form attached hereto, provide any supporting materials and return it, via certified return receipt requested, to:

Los Angeles Department of Children and Family Services (DCFS)
ATTENTION: Monica Biernat, SCSW
Adoption and Permanency Resources Division
3530 Wilshire Blvd., 4th Floor
Los Angeles, CA 90010
(213) 351-0228

The Proof of Eligibility Form must be postmarked no later than September 7, 2009, and sent via certified mail, return receipt request. If you lose, misplace, or need another Proof of Eligibility Form, you may contact the attorneys for the Plaintiffs and Class listed below, or you may contact DCFS at the number listed above.

If your completed Proof of Eligibility Form is lost in the mail or for any reason is not in the possession of DCFS when it is ready to pay claims, your request will not be considered for payment unless you have a U.S. Mail return receipt as evidence that the Claim Form was received by Los Angeles DCFS.

Although potential members of the Settlement Class who do not submit a valid and timely Proof of Eligibility Form shall not receive a Settlement Award, they are still bound by all of the terms of this Agreement.

B. Determination of Disputes With Respect to Eligibility

Within twenty (20) business days from September 7, 2009, the final date on which the Class Members' Proof of Eligibility Form must be postmarked, Defendant DCFS shall make a determination as to whether any individual Potential Class Member is eligible to receive a Settlement Award. If Defendant DCFS decides you are not eligible for a Settlement payment, it must provide the reason(s) for its decision, the Proof of Eligibility Form, and the documentation you provided to Class Counsel (the attorneys for the plaintiffs) and an Administrative Law Judge. The Administrative Law Judge will be a judge from Department of Social Services who has been agreed upon by Defendant DCFS and the attorneys for the plaintiffs.

The Administrative Law Judge will have twenty (20) business days to make a final decision as to whether you are eligible for a settlement payment. The decision of the Administrative Law Judge will be provided in writing to you and Class Counsel and will be the final administrative decision and will not be subject to further administrative review. You, however, retain the right to participate in the final approval process in this Court.

IV. What Are Your Rights As Potential Class Members?

As a potential class member, you have four (4) options:

A. Prove Your Eligibility

As discussed above, to decide whether you are eligible to participate in the Settlement and receive a payment, you must complete, sign, date and mail the attached Proof of Eligibility Form to the Los Angeles Department of Children and Family Services, via certified mail, return receipt requested, and it must be postmarked no later than September 7, 2009.

B. Excluding Yourself From the Settlement

Any Class Member who does not wish to participate in the Settlement may exclude himself or herself (i.e., "opt out") by informing Class Counsel and Defendants in writing that they wish to be excluded. A request for

exclusion from the Settlement must be signed, dated, and returned via certified mail, return receipt requested to all attorneys in the lawsuit that are listed below.

A request for exclusion from the Settlement must be postmarked no later than 5:00 p.m. on September 7, 2009 and sent via certified mail, return receipt requested. If your request for exclusion is lost in the mail or for any reason is not in the possession of Defendant DCFS when it is ready to make payments, your request for exclusion will not be valid, and you will be bound by the terms of the Settlement even though you will not receive any money.

Any Class Member who timely files a request for exclusion from the Settlement shall, upon receipt, no longer be a member of the Settlement Class, shall be barred from participating in any portion of the Settlement, and shall not be entitled to a share of the Settlement Fund.

Any person who timely asks to be excluded, at their own expense, may pursue any claims he/she has against Defendants. However, there is a deadline to pursue such a claim known as a "statute of limitations." Please contact an attorney immediately to discuss this important deadline should you wish to exclude yourself by filing a request for exclusion.

Do NOT submit both the Proof of Eligibility Form and a written request for Exclusion. If you submit both, the request for exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

C. Objection to Settlement

You can object to the terms of the Settlement before final approval. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. To object, you must file a written objection or Notice of Intention to Appear at the Final Approval Hearing currently set for December 18, 2009 at 10:00 a.m. in Dept. 324, with the Clerk of the Superior Court of the State of California for the County of Los Angeles, 600 South Commonwealth Avenue, Los Angeles, CA 90005, and mail copies to all the following counsel:

CLASS COUNSEL

Brian Capra, Esq.
Public Counsel
610 South Ardmore Avenue
Los Angeles, California 90005
Phone: (213) 385-2977

Cynthia Billey, Esq.
Alliance for Children's Rights
3333 Wilshire Blvd., Suite 550
Los Angeles, California 90010
Phone: (213) 368-6010

DEFENDANTS' COUNSEL

Dawyn Harrison, Esq.
Office of County Counsel
Social Services Division
648 Kenneth Hahn Hall of Administration
500 West Temple St.
Los Angeles, CA 90012

Gregory M. Cribbs, Esq.
Office of the Attorney General
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013

Julie Ocheltree
Enright & Ocheltree, LLP
9100 Wilshire Blvd., Suite 715-E
Beverly Hills, CA 90212

Any written objections or Notice of Intention to Appear shall state each specific reason in support of your objection and any legal support for each objection. Your objection or Notice of Intention to Appear must also

state your full name, address, dates during which the ARM rate was denied, the name of the case and the case number. To be valid and effective, any objections to approval of the Settlement or Notice of Intention to Appear must be filed with the Clerk of the Court at the above address and served upon each of the above-listed attorneys no later than September 7, 2009. DO NOT TELEPHONE THE COURT.

If you choose to file an objection to the terms of the Settlement, you may enter an appearance by representing yourself or through your own attorney. To do so, you must file a Notice of Intention to Appear with the Clerk of the County of Los Angeles Superior Court, and mail copies to each of the attorneys listed above. Such Notice of Intention to Appear must contain the specific information discussed in the paragraph before and must be filed with the Court and mailed to each of the above attorneys not later than September 7, 2009.

You will then continue as a class member either by representing yourself or with representation by your own attorney, and you will be solely responsible for the fees and costs of your attorney. The Final Approval Hearing at which time the Court will be asked to approve the Settlement will be held at 10:00 a.m. on December 18, 2009 in Dept. 324 of the State of California for the County of Los Angeles, 600 South Commonwealth Avenue, Los Angeles, CA 90005, or such other later date as the Court may decide.

IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH TO DETERMINE WHETHER YOU ARE ELIGIBLE FOR A PAYMENT, YOU MUST TIMELY FILE YOUR PROOF OF ELIGIBILITY FORM AS STATED ABOVE. IF THE COURT APPROVES THE SETTLEMENT DESPITE ANY OBJECTIONS AND YOU DO NOT HAVE A PROOF OF ELIGIBILITY FORM ON FILE, YOU WILL NOT BE ENTITLED TO ANY MONEY FROM THE SETTLEMENT.

D. If You Do Nothing

If you do nothing – that is, if you do not submit a Proof of Eligibility Form, send a written request to be excluded from the Settlement, or file an objection to the Settlement – you will not be entitled to any payment and will waive any objection to the Settlement. You will be bound by the terms of the Settlement even though you will not receive any money.

V. Effects of the Settlement

A. Release of Rights and Claims

If the Court approves the Settlement, each Class Member who does not opt out shall be bound by the Settlement and shall have exclusive recourse to the benefits, rights, and remedies provided in the Settlement Agreement. If the Settlement is not approved by the Court or does not become final for some other reason, however, the lawsuit will continue and there will be no release of claims.

B. Payment to Eligible Class Members and Appeal Rights

The payments to Class Members who submit timely Proof of Eligibility Claims forms and are determined to be eligible to receive awards will be paid within approximately sixty (60) days after all appeal rights are exhausted.

Along with the Settlement Award payment, eligible Class Members will receive a Notice of the Proposed Settlement Award. This will tell you how Defendant DCFS decided how much money you were owed, including the total interest amount. It will also explain that you have a right to appeal the amount, if you disagree with it, using the following procedures.

Any Class Member may submit an objection to the amount of the payment calculated in the Notice of Proposed Settlement Award and must mail his or her objection with any supporting documents to Defendant DCFS by the date specified on the Notice of the Proposed Settlement Award.

Defendant DCFS will either decide that the objection is valid and pay the new amount with interest or it will provide the objection, any supporting documents and its response to an Administrative Law Judge ("ALJ") with DSS. The ALJ will be someone who has been agreed upon by Defendant DCFS and Class Counsel. The ALJ will make a decision about the correct amount. The decision will be provided in writing to the Class Member (you) and Class Counsel and shall be final and binding on all parties and shall not be subject to appeal.

VI. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a Final Settlement Approval Hearing in Department 324 of the Superior Court of the State of California, County of Los Angeles, 600 South Commonwealth Avenue, Los Angeles, CA 90005, on December 18, 2009 at 10:00 a.m. to decide whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and reimbursement of costs. Class Counsel's application for attorneys' fees and reimbursement of costs will be on file with the Court no later than December 4, 2009 and will be available for review after that date. Class Counsel are seeking approval of a total of not more than \$100,000.00 which includes both attorneys' fees and costs incurred or to be incurred.

The hearing may be postponed without further notice to the Class. **It is not necessary for you to appear at this hearing unless you have timely filed a Notice of Intention to Appear with the Court.**

VII. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the exact terms and conditions of the Settlement, you will want to look at the detailed Settlement Agreement which is on file with the Clerk of the Court. The pleadings and other records in this lawsuit, including the Settlement Agreement, may be examined at any time during regular business hours at the Office of the Clerk of the County of Los Angeles Superior Court of the State of California, 600 South Commonwealth Avenue, Los Angeles, CA 90005.

PLEASE DO NOT TELEPHONE THE COURT OF THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THE SETTLEMENT OR THE CLAIM PROCESS.

BY ORDER OF THE SUPERIOR COURT

Date: JUL 17 2009


By: _____
EMILIE H. ELIAS
JUDGE OF THE SUPERIOR COURT