

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

IF YOU HAVE RECENTLY APPLIED FOR MEDICAID ON THE BASIS OF DISABILITY OR PLAN TO APPLY FOR MEDICAID ON THE BASIS OF DISABILITY IN THE FUTURE, READ THIS NOTICE ABOUT A PROPOSED SETTLEMENT THAT MAY AFFECT YOU

What is the case about?

Under federal regulations, when an individual applies for Medicaid on the basis of disability, the New York City Human Resources Administration (“HRA”) must determine the individual’s eligibility for Medicaid no later than 90 days after receiving the individual’s application. In October 2016, a lawsuit was filed alleging that HRA did not determine a disabled person’s eligibility for Medicaid within 90 days of receiving her application. The lawsuit also alleged that HRA has a policy and/or practice of not making eligibility determinations for individuals in New York City who apply for Medicaid on the basis of disability in a timely manner. The lawsuit is called *Garcia v. Banks*, 16-CV-8370 (S.D.N.Y.). In October 2018, the parties agreed to settle the lawsuit and submitted their proposed settlement agreement to the Court for approval.

The lawsuit is a class action. This means that it applies to a group of people, known as “Class Members.” The term Class Members is defined below.

Who does the proposed settlement affect?

The proposed settlement will affect any individual who recently applied for Medicaid or will apply for Medicaid on the basis of disability in the future and for whom HRA must make an eligibility determination within 90 days of receiving the individual’s application. Individuals who fit this description are referred to as “**Class Members**” in this notice and their Medicaid applications are referred to as “**Class Medicaid Applications**.”

There are several ways to be eligible for Medicaid if you are disabled. You may already have a disability determination or you may be seeking a disability determination for the first time. Class Members include people who are disabled and ask HRA to exempt income and/or resources placed in certain types of trusts in determining their eligibility for Medicaid.

Who represents Class Members?

Nina Keilin and Aytan Bellin represent the Class Members. Their contact information is listed below. They are referred to as “**Class Counsel**” in this notice. You may contact them if you have any questions about the proposed settlement.

Nina Keilin, Esq.
225 Broadway #2008
New York NY 10007
(212) 302-7760

Aytan Y. Bellin, Esq.
50 Main Street, Suite 1000
White Plains, NY 10606
(914) 358-5345

What are the basic terms of the proposed settlement?

No money will be paid to any Class Members. Instead, the proposed settlement requires HRA to process all Medicaid applications based on disability in a timely manner.

The entire settlement agreement can be viewed on **HRA's Website** (<https://www1.nyc.gov/site/hra/index.page>) by clicking on a link called "*Garcia v. Banks* Class Settlement Agreement." However, the essential terms of the settlement are as follows.

1. **Electronic Systems Reforms.** HRA will update its electronic systems to improve its ability to process Class Medicaid Applications.
2. **Troubleshooter.** HRA will appoint an individual in its Office of Legal Affairs to answer any questions it receives from Class Counsel regarding Class Medicaid Applications.
3. **Backlog.** HRA will make eligibility determinations for all Medicaid applications it received prior to June 1, 2018 on or before December 31, 2018.
4. **Monitoring.** HRA will provide Class Counsel with monthly monitoring reports identifying any Class Medicaid Applications that were not decided within 90 days and the reason for the delay. For any Class Medicaid Application identified as untimely in a 2019 or 2020 monitoring report, HRA will make a decision regarding the application within 5 days of issuing the report to Class Counsel.
5. **Enforcement.** Provided the proposed settlement is approved, the Court will retain jurisdiction over the settlement for two years.

When will the Court review the proposed settlement?

The Honorable Sarah Netburn will hold a fairness hearing regarding the settlement on March 12, 2019 at 10:00 a.m. at:

Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 219
New York, NY 10007-1312

What are Class Members' rights regarding the proposed settlement?

If you are a Class Member and agree with the proposed settlement, you do not need to do anything. You will be bound by the settlement's terms.

If you are a Class Member and feel that the proposed settlement is not fair, reasonable, and adequate, you may object to the settlement by either:

- (1) stating your objection in-person or through your attorney at the fairness hearing, and/or
- (2) sending a letter marked "*Garcia v. Banks* Class Settlement" and postmarked by February 25, 2019, to the Court at the address identified above and to Class Counsel at the addresses identified above.

Is this notice available in other languages and alternative formats?

Yes. This notice is available in English and Spanish. The notice can be viewed electronically at **HRA's Website** by clicking on a link called "*Garcia v. Banks* Notice of Class Settlement Agreement."

If you would like a printed copy of the notice, please contact Class Counsel.