

OCT 14 2016

Sherri R. Carter, Executive Officer/Clerk
By Kelly Jameson, Deputy

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8 Attorneys for PLAINTIFF
9 RAUL G. RECIO on behalf of himself and others similarly
10 situated.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

RECEIVED
Central Civil West
OCT 11 2016
By: I. Arellanes

13 RAUL G. RECIO on behalf of himself and
14 others similarly situated.

Case No.: BC591773

15 PLAINTIFF,

CLASS ACTION

16 vs.

[Assigned for all purposes to Honorable Elihu
M. Berle, Department 323]

17 EASY CHOICE HEALTH PLAN, INC., a
18 California corporation; EASY CHOICE
19 HEALTH PLAN, a business entity unknown;
20 EMPLOYERS RESOURCE, a California
21 corporation; WELLCARE HEALTH PLANS OF
22 CALIFORNIA, INC., a California corporation;
23 WELLCARE HEALTH PLANS, INC., a
24 Delaware corporation; and DOES 1 to 100,
25 Inclusive.

**[PROPOSED] ORDER GRANTING
PLAINTIFF RAUL RECIO'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

26 DEFENDANTS.

Date: October 13, 2016
Time: 1:30 p.m.
Location: Department 323
Central Civil West Courthouse
600 South Commonwealth Ave.,
Los Angeles, CA 90005

1 Plaintiff's Motion for Preliminary Approval of Class Action Settlement initially came before
2 the Court on August 12, 2016. Following the parties' compliance with the Court's order to make
3 changes to the settlement and class notice, the motion came on for hearing on October 13, 2016.

4 Having considered the changes to the proposed Settlement Agreement and Class Notice; the
5 Motion for Preliminary Approval of Class Action Settlement filed by the parties; and all documents
6 and supplemental documents submitted by the parties in support thereof; and good cause appearing,
7 **HEREBY ORDERS THE FOLLOWING:**

8 The Court grants preliminary approval of the settlement which has adopted the Court's
9 recommended changes and finds the terms to be within the range of reasonableness of a settlement
10 that ultimately could be granted approval by the Court at the final Fairness Hearing. For purposes of
11 the settlement, the Court finds that the proposed settlement class is ascertainable and that there is a
12 sufficiently well-defined community of interest among the Class in questions of law and fact.
13 Therefore, for settlement purposes only, the Court grants conditional certification of the following
14 "Class Members" defined as follows:

15 All non-exempt persons who are or have been employed by one or
16 more of Defendants Easy Choice Health Plans, Inc., WellCare Health
17 Plans, Inc., WellCare Health Plans of California, Inc., or
18 Comprehensive Health Management, Inc. of California, Inc. in the
19 State of California from August 18, 2011 through October 13, 2016.

20 1. For purposes of the settlement, the Court further designates named Plaintiff Raul G.
21 Recio as Class Representative, and Joseph Lavi and Jordan Bello of the law firm of Lavi &
22 Ebrahimian, LLP as Class Counsel.

23 2. The Court confirms Simpluris as the Settlement Administrator.

24 3. A final fairness hearing on the question of whether the proposed settlement should be
25 finally approved as fair, reasonable and adequate as to the members of the Settlement Class is
26 scheduled in Department 311 of this Court, located at 600 South Commonwealth Avenue, Los
27 Angeles, CA 90005, on February 3, 2017 at 9:00 a.m. The Court reserves the right to adjourn or
28 continue the date of the final approval hearing and all dates provided for in this Order without
further notice to Class Members, and retains jurisdiction to consider all further applications arising
out of or connected with the proposed Settlement.

1 4. At the final fairness hearing, the Court will consider: (a) whether the settlement
2 should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment granting
3 approval of the settlement should be entered; and (c) whether Plaintiff's application for an award of
4 attorneys' fees, reimbursement of litigation expenses, and class representative enhancement should
5 be granted.

6 5. Counsel for the parties shall file memoranda, declarations, or other statements and
7 materials in support of their request for final approval by no later than December 5, 2016.

8 6. The Court approves, as to form and content, the amended Class Notice which is
9 attached hereto as Exhibit "1."

10 7. The class notice shall provide until January 4, 2017, for a proposed member of the
11 class to opt out of settlement or object to the settlement.

12 8. The Court directs the mailing of the Class Notice by first class mail to the members
13 of the Settlement Class on or before ~~the Notice Date.~~ 11/4/16 .

14 9. The Court finds that the form of notice to the Class Members regarding the pendency
15 of the action and of this settlement, and the methods of giving notice to members of the Class
16 Members to constitute the best notice practicable under the circumstances and constitute valid, due,
17 and sufficient notice to all members of the Settlement Class. They comply fully with the
18 requirements of California Code of Civil Procedure section 382, California Civil Code section 1781,
19 California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other
20 applicable law.

21 10. The Court further approves the procedures for Class Members to participate in, opt
22 out of, or object to the Settlement, as set forth in the settlement agreement and class notice.

23 11. To validly object to the Settlement Agreement, an objecting settlement class member
24 must serve the written objection on the Settlement Administrator by January 4, 2017 and must
25 provide the following information in the written objection: (1) the name and case number of the
26 lawsuit; (2) the full name and address of the Class Member; (3) the dates of employment; (4) the last
27 four digits of the Settlement Class Members' Social Security number; (5) the basis and specific
28

1 reasons for the objection; and (6) whether the Class Member intends to appear at the final approval
2 hearing.

3 12. The procedures and requirements for filing objections in connection with the fairness
4 hearing are intended to ensure the efficient administration of justice and the orderly presentation of
5 any Class Member's objection to the Settlement Agreement, in accordance with the due process
6 rights of all Class Members.

7 13. Pending the Fairness Hearing, all proceedings in this action, other than proceedings
8 necessary to carry out or enforce the terms and conditions of the settlement agreement and this
9 Order, are stayed. To facilitate administration of the Settlement pending final approval, this Court
10 hereby enjoins Class Members from filing or prosecuting any claims, suits or administrative
11 proceedings (including filing claims with the California Department of Industrial Relations,
12 Division of Labor Standards Enforcement (DLSE)) regarding claims released by the settlement
13 unless and until such Class Members have filed valid Requests for Exclusion with the Settlement
14 Administrator in this case.

15 14. Counsel for the parties are hereby authorized to utilize all reasonable procedures in
16 connection with the administration of the settlement which are not materially inconsistent with
17 either this Order or the terms of the Settlement Agreement.

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15. The Court orders the following schedule for further proceedings:

Event	Timing
Preliminary Approval Order	October 13, 2016
Last Day for Defendants to provide Class Member data to the Claims Administrator	October 17, 2016
Notice Date: last day for claims administrator to mail the Class Notice	November 4, 2016
Last Day for Plaintiff to File: 1. the Motion for Final Approval of Settlement, Enhancement, Attorney's Fees and supporting evidence; and 2. Declarations in support of the request for dismissal of Defendant Employer's Resource	December 5, 2016
Deadline for Objections, and Exclusion Requests	January 4, 2017
Deadline for the filing of: 1. Any Response to objections; 2. Plaintiff's supplemental brief and settlement administrator's report regarding the result of the settlement process	January 23, 2017
Hearing on Final Approval of Class Action Settlement	February 3, 2017 at 9:00 a.m.

16. The Court reserves the right to adjourn or continue the date of the Settlement Fairness Hearing and all dates provided for in the Stipulation without further notice to the Class, and retains jurisdiction to consider all further applications arising out of or connected with the Stipulation.

IT IS SO ORDERED.

Dated: 10/14/16

ELIHU M. BERLE

Judge of the Superior Court

2 **PROOF OF SERVICE**

3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 I am an employee in the County of Los Angeles, State of California. I am over the age of 18
5 and not a party to the within action; my business address is 8889 W. Olympic Blvd., Suite 200,
Beverly Hills, California 90211.

6 On October 11, 2016, I served the foregoing document, described as "[PROPOSED]
7 **ORDER GRANTING PLAINTIFF RAUL RECIO'S MOTION FOR PRELIMINARY**
8 **APPROVAL OF CLASS ACTION SETTLEMENT**" on all interested parties in this action by
placing a true copy thereof in a sealed envelope, addressed as follows:

9 Counsel for Defendants Wellcare Health Plans,
10 Inc., Wellcare Health Plans of California, Inc.,
and Easy Choice Health Plan, Inc.:

11 Michael D. Mandel, Esq.
12 Regina A. Musolino, Esq.
13 Sean M. Sullivan, Esq.
14 MCGUIREWOODS LLP
1800 Century Park East, 8th Floor
Los Angeles, CA 90067

Counsel for Defendant Employers Resource:

Jennifer L. Santa Maria
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4370 La Jolla Village Drive, Suite 990
San Diego, CA 92122

15 **(BY MAIL)** As follows:

16 I placed such envelope, with postage thereon prepaid, in the United States mail at Los
17 Angeles, California.

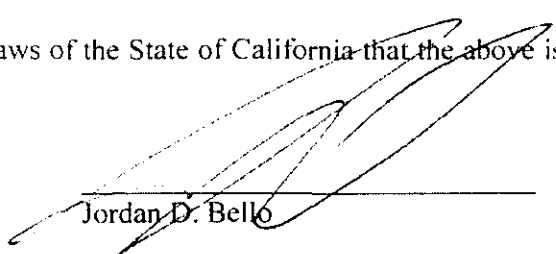
18 I am "readily familiar" with the firm's practice of collecting and processing correspondence
19 for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that
20 same day, with postage thereon fully prepaid, at Los Angeles, California, in the ordinary
course of business. I am aware that, on motion of the party served, service is presumed
invalid if the postal cancellation or postage meter date is more than one day after the date of
deposit for mailing in this affidavit.

21 **(BY ELECTRONIC SERVICE)** I sent such document via Case Anywhere.

22 **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the
23 attorney listed above.

24 I declare under penalty of perjury under the laws of the State of California that the above is
true and correct.

25 Executed on October 11, 2016.

26 
27 Jordan D. Bello
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