

LEGAL NOTICE

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA
Bingaman, et al. v. Avem Health Partners, Inc., Case No. CIV-23-130-SM

A COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

PLEASE READ THIS NOTICE CAREFULLY

IF AVEM HEALTH PARTNERS, INC. NOTIFIED YOU OF A DATA SECURITY INCIDENT IN OR AROUND DECEMBER 2022, YOU MAY BE ELIGIBLE FOR CASH PAYMENTS OR OTHER BENEFITS FROM A CLASS ACTION SETTLEMENT.

- A Settlement has been reached in a class action lawsuit against Avem Health Partners, Inc. (collectively, “Avem” or “Defendant”) concerning a data security incident that occurred on or before May 14, 2022 (the “Data Security Incident”).
- The lawsuit is called *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SM (the “Action”). The lawsuit alleges that the Data Security Incident potentially exposed certain personal identifying information (“PII”) and protected health information (“PHI”), including names, dates of birth, Social Security numbers, driver’s license numbers, health insurance information, and/or diagnoses and treatment information.
- The Settlement Class includes all individuals who were sent notification by Avem that their PII/PHI (names, dates of birth, Social Security numbers, driver’s license numbers, health insurance information, and/or diagnoses and treatment information) was or may have been compromised in the Data Security Incident. Excluded from the Settlement Class are: (i) the judges presiding over this Action, and members of their direct families; and (ii) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.
- Your legal rights are affected regardless of whether you act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM	This is the only way you may receive benefits from this Settlement. Claim Forms must be submitted online or postmarked by May 25, 2024.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You will receive no payment, but you will retain any rights you currently have with respect to Defendants and the issues in this case. The deadline to exclude yourself from the Settlement is April 25, 2024 .
OBJECT TO THE SETTLEMENT	Write to the Court explaining why you do not agree with the Settlement. The deadline to object is April 25, 2024 .
ATTEND THE FINAL APPROVAL HEARING	You or your attorney may attend and speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on May 10, 2024 at 10:00 a.m.
DO NOTHING	You will not get any benefits from the Settlement and you will give up certain legal rights. You will remain in the Class and be subject to the Release.

- These rights and options, and the deadlines to exercise them, are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at www.AvemSettlement.com.
- The Court in charge of this case still has to decide whether to approve the Settlement. **No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.**

Si necesita ayuda en español, comuníquese con el administrador (866) 604-5254.

BASIC INFORMATION

1. WHAT IS THIS NOTICE AND WHY SHOULD I READ IT?

The Court authorized this Notice to inform you about a proposed Settlement with Avem. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Suzanne Mitchell, United States Magistrate Judge of the United States District Court for the Western District of Oklahoma is overseeing this class action. The case is called *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SM.

2. WHAT IS A CLASS ACTION LAWSUIT?

A class action is a lawsuit in which one or more plaintiffs sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs claim that Avem failed to implement and maintain reasonable security measures to adequately protect the PII/PHI in its possession and to prevent the Data Security Incident from occurring.

Avem denies that it is liable for the claims made in the lawsuit and denies any allegations of wrongdoing. More information about the complaint in the lawsuit can be found on the Settlement Website at www.AvemSettlement.com.

4. WHY IS THERE A SETTLEMENT?

The Court has not decided whether the Plaintiffs or Avem should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense of ongoing litigation, and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Class Representatives and attorneys for the Settlement Class Members, called Class Counsel, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by Avem.

WHO'S INCLUDED IN THE SETTLEMENT?

5. HOW DO I KNOW IF I AM IN THE SETTLEMENT CLASS?

You are part of the Settlement as a Settlement Class Member if you received a notification letter from Avem stating that your PII/PHI may have been compromised during the Data Security Incident. PII/PHI may include names, dates of birth, Social Security numbers, driver's license numbers, health insurance information, and/or diagnoses and treatment information.

Settlement Class Members will have been mailed notice of their eligibility. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling 866-604-5254, by emailing info@AvemSettlement.com, or by visiting the website www.AvemSettlement.com.

This Settlement Class does not include (i) the judges presiding over this Action, and members of their direct families; and (ii) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

THE SETTLEMENT BENEFITS

6. WHAT DOES THE SETTLEMENT PROVIDE?

Under the proposed Settlement, Avem will pay (or cause to be paid) \$1,450,000.00 into a Settlement Fund. The Settlement Fund, plus interest accrued thereon, will pay notice and administration costs, Court-approved attorneys' fees and expenses, Court-approved service awards for class representatives, and certain Settlement Fund taxes and tax expenses (the "Net Settlement Fund"). The Net Settlement Fund will be used to provide eligible Settlement Class Members with payments and benefits described below.¹

Reimbursement for Lost Time and Out-of-Pocket Expenses: If you spent time responding to the Data Security Incident, you may be eligible to receive compensation for Lost Time. If you incurred financial losses that are fairly traceable to the Data Security Incident, you may be eligible to receive compensation for Out-of-Pocket Expenses.

- A. **Lost Time:** A claim for reimbursement may also include a claim for up to 5 hours of time spent in response to the Data Security Incident. Lost Time will be compensated at \$25.00/hour and requires a brief description of the action taken in response to the Data Security Incident and the time associated with those actions.
- B. **Out-of-Pocket Expenses or Losses:** A claim for reimbursement may include, but is not limited to the following, provided the expenses are fairly traceable to the Data Security Incident: costs associated with credit monitoring or identity theft insurance purchased directly by the claimant; costs associated with requesting a credit report; costs associated with a credit freeze; costs associated with cancelling a payment card and/or obtaining a replacement payment card; costs associated with closing a bank account and/or opening a new bank account; postage, long-distance phone charges, express mail and other incidental expenses; unrefunded overdraft and/or overdraft protection fees; unrefunded late and/or missed payment fees and/or charges; unrefunded fraudulent charges occurring on or after May 14, 2022; and damage and costs associated with any stolen benefits or tax returns.

Identity Theft and Credit Monitoring: All Settlement Class Members (except for those who elect to receive an Alternative Cash Payment) are eligible to receive three (3) years of identity theft protection and credit monitoring, which includes identity theft monitoring, alerts, three bureau credit monitoring, fraud resolution, and up to \$1 million identity theft insurance coverage for certain costs, identity restoration, and unauthorized electronic fund transfers.

The maximum claim for Lost Time and Out-of-Pocket Losses is \$7,000.00.

Alternative Cash Payment: In lieu of receiving a reimbursement for Out-of-Pocket Losses, reimbursement for Lost Time, and/or Credit Monitoring and Identity Theft Protection Services, all Settlement Class Members may elect to submit a claim for a one-time Alternative Cash Payment of \$100.00.

Confirmatory Discovery: Avem has also agreed to provide documents and information to Class Counsel showing that Avem has taken data security measures to remedy the issues that led to the Data Security Incident and has implemented other business practices to help ensure information security. For complete details, please see the Settlement Agreement, whose terms control, available at www.AvemSettlement.com.

¹ If the benefits claimed by all Settlement Class Members meets or exceeds the amount of the Net Settlement Fund, then the payments and/or benefits for your Claim may be reduced *pro rata* by the Settlement Administrator so that the aggregate cost of all payments and benefits does not exceed the amount of the Net Settlement Fund.

HOW TO GET BENEFITS

7. HOW DO I MAKE A CLAIM?

To qualify for a Settlement benefit, you must complete and submit a Claim Form.

Settlement Class Members who want to submit a Claim must fill out and submit a Claim Form online at www.AvemSettlement.com or by mail to the Settlement Administrator. Claim Forms are available through the Settlement website at www.AvemSettlement.com or by calling 866-604-5254.

All Claim Forms must be submitted no later than May 25, 2024.

8. WHEN WILL I GET MY PAYMENT?

The hearing to consider the fairness of the Settlement is scheduled for May 10, 2024, at 10:00 a.m. If the Court approves the Settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will be sent payment after all appeals and other reviews, if any, are completed. Please be patient.

THE LAWYERS REPRESENTING YOU

9. DO I HAVE A LAWYER IN THIS CASE?

Yes, the Court has appointed Federman & Sherwood as “Class Counsel” to represent you and all class members. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

10. HOW WILL THE LAWYERS BE PAID?

To date, Class Counsel has not received any payment for their services in conducting this litigation on behalf of the Class and have not been paid for their out-of-pocket expenses. Class Counsel will ask the Court for an award of attorneys’ fees not to exceed 30% of the Settlement Fund and for the reimbursement of litigation costs and expenses not to exceed \$35,000.00, which were incurred in connection with the Action. Such sums as may be approved by the Court will be paid from the Settlement Fund.

Class Counsel will also request a service award of \$1,500.00 for each of the Plaintiffs, for a total of \$7,500.00.

The Court will determine the proper amount of any attorneys’ fees, costs, and expenses to award Class Counsel and the proper amount of any service awards to Plaintiffs.

Class Counsel will file their request for attorneys’ fees, costs, and expenses and Service Awards for Plaintiffs with the Court, which will also be posted on the Settlement Website, at www.AvemSettlement.com.

YOUR RIGHTS AND OPTIONS

11. WHAT CLAIMS DO I GIVE UP BY PARTICIPATING IN THIS SETTLEMENT?

If you do not exclude yourself from the Settlement, you will not be able to sue Avem about the Data Security Incident, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included Release. This is true

regardless of whether you submit a Claim Form. However, you may exclude yourself from the Settlement (*see* Question 14). If you exclude yourself from the Settlement, you will not be bound by any of the Released Claims, which are described in the Settlement Agreement at www.AvemSettlement.com.

12. HOW HAPPENS IF I DO NOTHING AT ALL?

If you do nothing, you will receive no payments or benefits under the Settlement. You will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in the Settlement and will be subject to the provisions of Section 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Defendants for the claims or legal issues released in this Settlement.

13. WHAT HAPPENS IF I ASK TO BE EXCLUDED?

If you exclude yourself from the Settlement, you will receive no payments or benefits under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and Defendants in this class action.

14. HOW DO I ASK TO BE EXCLUDED?

You can ask to be excluded from the Settlement. To do so, you must send a letter to the Settlement Administrator stating that you want to be excluded from the Settlement in *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SM. Your letter must include (1) your full name and current address; (2) a statement that you wish to be excluded from the Settlement Class; and (3) your signature. You must mail your exclusion request, postmarked no later than April 25, 2024, to the following address:

Avem Settlement
Attn: EXCLUSIONS
P.O. Box 25232
Santa Ana, CA 92799

You cannot exclude yourself by phone or email. Any individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

15. IF I DON'T EXCLUDE MYSELF, CAN I SUE AVEM FOR THE SAME THING LATER?

No. Unless you exclude yourself, you give up any right to sue Avem for the claims or legal issues released in this Settlement, even if you do nothing.

16. IF I EXCLUDE MYSELF, CAN I GET ANYTHING FROM THE SETTLEMENT?

No. If you exclude yourself, do not submit a Claim Form for payment or benefits.

17. HOW DO I OBJECT TO THE SETTLEMENT?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must file a written notice with the Court stating that you object to the Settlement in *Bingaman, et al. v. Avem Health Partners, Inc.*, Case No. CIV-23-130-SM. Your objection must be filed no later than April 25, 2024.

The objection must be in writing and be personally signed by you. The objection must include: (i) the name of this case; (ii) your full name, current mailing address, and telephone number; (iii) a statement of your position(s), including the grounds for the objection; (iv) a statement as to whether the objection applies only to the objector, to a specific subset of the class,

or to the entire class; (v) copies of any documents supporting the objection; (vi) the identity of any attorneys representing the objector; (vii) a statement regarding whether you (or your attorney) intends to appear at the Final Approval Hearing; (viii) a list of all other matters in which you and/or your attorney has lodged an objection to a class action settlement; and (ix) your signature or the signature of your attorney.

In addition to filing your objection with the Court, you must also mail copies of your objection and any supporting documents to both Class Counsel and Defendants' lawyers at the addresses listed below, postmarked no later than April 25, 2024:

Class Counsel	Defendants' Counsel
William B. Federman FEDERMAN & SHERWOOD 10205 N. Pennsylvania Ave. Oklahoma City, OK 73120	Casie D. Collignon BAKER & HOSTETLER LLP 1801 California Street, Suite 4400 Denver, CO 80202

18. WHAT'S THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING MYSELF FROM THE SETTLEMENT?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

19. WHEN AND WHERE WILL THE COURT HOLD A HEARING ON THE FAIRNESS OF THE SETTLEMENT?

The Court will hold the Final Approval Hearing on May 10, 2024, at 10:00 a.m. at the United States District Court for the Western District of Oklahoma, located at 200 NW 4th Street, Oklahoma City, Oklahoma 73102. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees, costs, and expenses and the service awards to Plaintiffs.

The location, date and time of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the Settlement Website, www.AvemSettlement.com, or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time have not been changed.

20. DO I HAVE TO COME TO THE HEARING?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. However, you may appear on your behalf or pay a lawyer to attend on your behalf to assert your objection if you would like.

21. MAY I SPEAK AT THE HEARING?

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Approval Hearing concerning any part of the proposed Settlement.

GETTING MORE INFORMATION

22. WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at www.AvemSettlement.com or by writing to *Avem Settlement*, P.O. Box 25232, Santa Ana, CA 92799.

23. HOW DO I GET MORE INFORMATION?

Go to www.AvemSettlement.com, call 866-604-5254, email info@AvemSettlement.com or write to *Avem Settlement*, P.O. Box 25232, Santa Ana, CA 92799.

PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE DEFENDANTS WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.