

STATE OF MAINE
PENOBSCOT, ss

BUSINESS AND CONSUMER COURT
LOCATION: WEST BATH
DOCKET NO: BCD-WB-CV-07-27

CHRISTY STOUT, M.S.P.T., individually
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED

Plaintiff

v.

ANTHEM HEALTH PLANS OF MAINE,
INC. D/B/A ANTHEM BLUE CROSS AND
BLUE SHIELD

Defendant

**FINAL ORDER OF DISMISSAL
WITH PREJUDICE AND JUDGMENT**

The action entitled *Christy Stout, M.S.P.T., individually and on behalf of all others similarly situated v. Anthem Health Plans of Maine, Inc., d/b/a Anthem Blue Cross and Blue Shield*, Docket No: BCD-WB-CV-07-27, (“the Class Action”), came before the Court for a Fairness Hearing pursuant to the Order of this Court entered on the application of the parties for preliminary approval of the Settlement set forth in the Settlement Agreement dated April 1, 2009 (“Settlement Agreement”). Due and adequate notice having been given to the Class Members as required in said Order, and the Court having considered all papers filed and proceedings had herein and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of the Class Action and over all parties to the Class Action, including all members of the Class.

3. Pursuant to Rule 23 of the Maine Rules of Civil Procedure, this Court previously conditionally certified the Class for purposes of Settlement. The Class is defined as:

(A) all licensed physical therapists who, at any time before April 1, 2006, executed either or both of the Blue Cross and Blue Shield of Maine Professionals' Service Division Agreement with Participating Professionals and the Blue Cross and Blue Shield of Maine Health Maintenance Organization Professional Agreement (the "Provider Contracts"), and who rendered health care services on or after April 1, 2006 for which a claim was submitted to and reimbursed by Anthem Health Plans of Maine under one or both of those Provider Contracts, and (B) all entities and individuals who received reimbursement for some or all of such a claim from Anthem Health Plans of Maine, including by assignment (collectively the "Class").

For the reasons set forth in the Court's Preliminary Approval Order, the Court permanently certifies the Class for purposes of settlement. Pursuant to Rule 23(e) of the Maine Rules of Civil Procedure, this Court also hereby approves the Settlement set forth in the Settlement Agreement and finds that said Settlement is, in all respects, fair, reasonable, and adequate.

4. The Class Action and all claims brought therein or that could have been asserted therein against the Defendant, including all individual and class claims, by the Class Representative and the Class Members, are dismissed with prejudice. The parties shall bear their own costs, except as otherwise provided herein or in the Settlement Agreement.

5. The Court finds that the Settlement Agreement, and Settlement contained therein, are fair, reasonable and adequate as to each of the Parties and to all Class Members, and that the Settlement Agreement, and Settlement contained therein, are hereby finally approved in all respects, and the Parties are hereby directed to perform its terms. Payments to Class Members (other than the Class Representative award discussed below) are hereby ordered to be made in the amounts, time and manner set forth in the Settlement Agreement and the Notice and Settlement Distribution Plan attached thereto.

6. Upon the Effective Date of the Settlement Agreement, the Class Representative and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally and forever released, relinquished and discharged all Settled Claims as defined in Paragraph 1.16 of the Settlement Agreement against the Defendant.

7. All Members of the Class are hereby forever barred and enjoined from prosecuting the Settled Claims against the Defendant.

8. The Notice given to the Class Members provided the best notice practicable in the circumstances regarding the proposed Settlement set forth in the Settlement Agreement, to all Persons entitled to such Notice, and said Notice fully satisfied the requirements of Rule 23(c)(2) and the requirements of due process.

9. Based upon the duration of this litigation and the Class Representative's participation, the Court finds the compensation requested by the Class Representative, Plaintiff Christy Stout, is reasonable and she is awarded Twenty-Five Thousand Dollars (\$25,000) as compensation for being Class Representative.

10. The Court further finds that Counsel for the Class – Gregory Brodek, Alice Braunstein, and Katherine Fergus of Duane Morris, LLP – are experienced and qualified to represent Plaintiff and the Class and have served as competent and diligent advocates for the interests of Plaintiff and the Class. Class Counsel are hereby approved.

11. In addressing Class Counsel's application for an award of attorneys' fees and costs, the Court has considered the affidavit of Class Counsel, and other submissions regarding that request. The Court has carefully considered the relevant factors in determining the reasonableness of the fee which includes the following: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to properly perform the legal services; (2) the likelihood that acceptance of the particular employment will preclude

other employment by the lawyers or their law firms; (3) the fee customarily charged for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

Based upon the foregoing factors, Class Counsel is hereby awarded an attorneys' fee and reimbursement of litigation costs and out-of-pocket expenses in the total amount of \$599,950.²⁷. Such fees and expense are to be paid by Defendant as described in the Settlement Agreement within fourteen (14) days of Final Approval as defined in the Settlement Agreement.

12. Neither the Settlement Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Settled Claim, or of any wrongdoing or liability of Anthem, or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of Anthem or any of them in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Anthem may file the Settlement Agreement and the Judgment from this action in any other action that may be brought against them arising out of the claims asserted or which could have been asserted in this action in order to support a defense or counterclaim based on any applicable principles of *res judicata*, collateral estoppel, release, full faith and credit, good faith settlement, judgment bar or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over implementation of this Settlement Agreement and all parties hereto for the purpose of construing and enforcing the terms of the Settlement Agreement.

AND IT IS SO ORDERED.

DATED:

June 24, 2009



Honorable Chief Justice Thomas E. Humphrey
Maine Superior Court, Business & Consumer Docket