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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ELIZABETH T. MAGLIULO, for herself and others similarly situated, PLAINTIFF. VS. METROPOLITAN LIFE INSURANCE COMPANY and METLIFE CHOICES PLAN (a/k/a MetLife Choices Health Plan), DEFENDANTS	CIVIL ACTION NO. 01-CV-8599 Class Action Judge Lawrence M. McKenna

FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT AND DISMISSING THIS ACTION WITH PREJUDICE

Currently before the Court is an application for approval of a class action settlement pursuant to Fed. R. Civ. P. 23(e), and Class Counsel's petition for attorney's fees and expenses pursuant to Fed. R. Civ. P. 23(h). The application for approval is made jointly on behalf of Plaintiff Elizabeth T. Magliulo ("Plaintiff") and Defendants Metropolitan Life Insurance Company ("Metropolitan") and MetLife Choices Plan (the "Plan") (collectively, the "Defendants").

This litigation is a class action brought by Plaintiff individually and on behalf of a class of Metropolitan retirees and employees receiving long-term disability ("LTD") benefits ("Plan participants"), spouses or dependents (collectively the "dependents"), who were insured under the Plan from January 1, 1995 through December 31, 2009, whose Medicare eligibility date provided by the Department of Health and Human Services ("HHS") commenced prior to December 31, 2009 and for whom the Defendants appeared to have a Medicare start date after

the date provided by HHS. Plaintiff alleges that the Plan participants and dependents were improperly charged a higher non-Medicare rate for their medical insurance in violation of the Plan and the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. § 1001 et seq. Defendants deny these allegations.

Plaintiff, on behalf of herself and the Proposed Class, and Defendants have agreed to settle this class action lawsuit (the "Litigation") as set forth in the Settlement Agreement And Release dated November 4, 2011 (the "Settlement Agreement") a copy of which has been filed with the Clerk of the Court and, together with all of its exhibits, is incorporated in this Judgment.[1]

On November 15, 2011, the Court entered an Order granting Preliminary Approval of Class Action Settlement, which directed that notice be given to the Proposed Class of the proposed settlement and of a Fairness Hearing. The Court approved the form and content of the Class Notice directed to the Proposed Class, which was attached as an Exhibit to the Settlement Agreement. The Notice informed the Proposed Class Members of the pendency of this class action, of the settlement terms, of their right to accept those terms, elect claim review or to opt out from the Settlement Class, and of the fact that the Court would consider whether to grant final approval of the settlement at the Fairness Hearing.

In accordance with the Class Notice, a Fairness Hearing was held on March 15, 2012. There were no objection(s) to the Settlement Agreement was/were filed with the Court and/or made at the Fairness Hearing.

The Court, having heard argument in support certification of the settlement Class for settlement purposes, the settlement and Class Counsel's fee petition, and having reviewed all of

[1] Unless otherwise specifically defined herein, capitalized terms used in this Final Order and Judgment ("Judgment") have the same meaning as defined in the Agreement.

the evidence and other submissions presented with respect to the settlement and the record of all proceedings in this case, enters the following findings:

1. The Court has jurisdiction over the subject matter and the Parties to this Litigation, including the Class Members.

2. The proposed settlement Class is merely an expansion of the time period of the litigation Class certified by this Court in its January 20, 2005. The Court is satisfied that the conduct at issue is sufficiently similar in the extended time period as that for the time period for the litigation Class for purposes of settlement. The Court therefore finds the settlement Class meets the criteria for certification of a class under Fed.R.Civ. P. 23(a) and (b)(3) for the same reasons set forth in this Court's January 20, 2005 Order certifying the litigation Class.

3. The Court finds that the payments to be made under this settlement are fair, reasonable and adequate taking into account remedies available to aggrieved parties under ERISA and the likely duration of Litigation and the risks that Plaintiff and the Class Members would not prevail.

4. On December 6, 2011, a Notice Administrator sent the Class Notice to all Class Members. On March 1, 2012, the Administrator filed with the Court declarations attesting to the sending of the Class Notice and an appropriate Class Action Fairness Act Notice.

5. Notice to the Class Members has been given in an adequate and sufficient manner, and the procedures employed for sending notice were the most practicable under the circumstances, and were reasonably calculated to apprise the Class Members of the pendency of this Litigation and the proposed settlement, and to afford any Class Member an opportunity to present any objections to the settlement. The Notice and the manner in which it was sent

complied in all respects with the Federal Rules of Civil Procedure, the Due Process Clause, and the Rules of this Court.

6. Defendants have served upon the appropriate official of the State of New York and the appropriate Federal official, a Notice of Proposed Settlement that complies in all respects with the requirements of the Class Action Fairness Act, 28 U.S.C. §§ 1711-15.

7. In response to the Notices to the Class Members, no Class Member(s) filed any objection(s) to the settlement prior to the Fairness Hearing. No objection(s) by Class Members were presented at the Fairness Hearing.

8. On February 1, 2012, Class Counsel filed their Petition for Attorney's Fees and Expenses totaling $325,000.00.

9. The factors the Court has considered include "(1) the complexity, expense and likely duration of the litigation, (2) the reaction of the class to the settlement, (3) the stage of the proceedings and the amount of discovery completed, (4) the risks of establishing liability, (5) the risks of establishing damages, (6) the risks of maintaining the class action through the trial, (7) the ability of the defendants to withstand a greater judgment, (8) the range of reasonableness of the settlement fund in light of the best possible recovery, [and] (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation." *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974). Having considered these factors, the Court finally approves the settlement in all respects as fair, reasonable, adequate, and in the best interests of the Settlement Class Members pursuant to Fed. R. Civ. P. 23(e).

10. The terms of the Settlement Agreement and all Exhibits to the Agreement and to this Judgment, shall be forever binding on all Settlement Class Members.

11. Neither the Settlement Agreement, this Judgment, any papers related to the settlement, nor the fact of settlement shall be used as an admission by Plaintiff and/or the Defendants, or any other person, of any fault, omission, mistake, or liability, nor shall they be offered as evidence of any claimed liability in this or any other proceeding. Evidence of the Settlement Agreement and this Court's Order approving same shall be admissible only in proceedings to enforce the Settlement Agreement or this Judgment, but not as an admission of liability in the underlying Litigation.

It is, therefore, ORDERED, ADJUDGED, AND DECREED that:

1. The Settlement Class is hereby certified under Fed.R.Civ. P. 23(a) and (b)(3).

2. The Settlement Agreement is approved in its entirety and without modification.

3. The Parties shall carry out all the terms of the Settlement Agreement, including the payment to the Settlement Class Members, proceed with the Claim Review Procedure and independent third-party Neutral review in accordance with the terms of the Agreement.

4. Each Releasor is bound by this Judgment and, as a result, has fully, finally, and forever released acquitted and discharged the Released Parties from the Released Claims. Releasors are, without limitation, precluded and estopped from bringing in the future any claim or cause of action relating to the Release Claims.

5. Except as otherwise provided in the Settlement Agreement and this Judgment, Plaintiff and the Settlement Class Members shall take nothing in this Litigation and the Court hereby dismisses the claims of Plaintiff and the Settlement Class Members against Defendants with prejudice and without costs.

6. The Class Settlement Payment Total under the Settlement Agreement is $350,000, which shall be paid in accordance with the Settlement Agreement.

7. Class Counsel is entitled to be paid attorney's fees and costs in the amount of $325,000 to be paid in accordance with the Settlement Agreement.

8. Plaintiff is entitled to a Case Contribution Award in the amount of $2,000 for her time and effort in connection with the litigation.

9. Without affecting the finality of this Judgment in any way, this Court will retain continuing jurisdiction over all Parties and Class Members solely for purposes of enforcing this Judgment and, pursuant to it, the settlement, and may order any appropriate legal or equitable remedy necessary to enforce the terms of this Judgment and/or the Settlement.

10. This is a final and appealable judgment.

11. The Action is dismissed on the merits and with prejudice and without fees or costs to any party, except as provided in the Settlement Agreement.

SO ORDERED.

DATED 3/16, ~~2011~~ 2012

Hon. Lawrence M. McKenna
United States District Court Judge

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