

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH RAYMOND, et al.,)	CASE NO. 1:15-CV-00559-MRB
)	
Plaintiffs,)	Judge Michael R. Barrett
)	
v.)	
AVECTUS HEALTHCARE)	
SOLUTIONS, LLC, et al.)	
)	
Defendants.)	

**ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT,
CERTIFICATION OF A SETTLEMENT CLASS, APPOINTMENT OF LEAD CLASS
COUNSEL AND APPOINTMENT OF SETTLEMENT ADMINISTRATOR**

This matter comes before the Court on the Parties' Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator. The Court has reviewed the Motion and the Class Action Settlement Agreement and Release dated October 31, 2023, entered into among Plaintiffs Keith Raymond and Timothy Strunk and Defendants Avectus Healthcare Solutions, LLC and Mercy Health ("Defendants") and finds that the Motion should be GRANTED.

NOW, THEREFORE, the Court hereby **FINDS, CONCLUDES, AND ORDERS:**

1. The Court does hereby preliminarily and conditionally approve, for settlement purposes, the following Settlement Class and Mercy Only Settlement Subclass:

“Settlement Class” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles.

“Mercy Only Settlement Subclass” means all health insured persons, with a health insurance plan accepted by Mercy Health: (1) who were patients at any Mercy Health facility in the State of Ohio between August 27, 2009, and August 31, 2023; (2) who presented evidence of health insurance to Mercy Health; and (3) who thereafter paid, or were requested to pay, any amount of money for the treatment received at any Mercy Health operated facility, other than for co-pays and deductibles; and (4) who were not contacted by Avectus on Mercy Health’s behalf.

2. Based upon information provided: the class is ascertainable; it numbers in the thousands, satisfying numerosity; there are common questions of law and fact, including whether the billing practices of Defendants were proper, satisfying

commonality; and the proposed Class Representatives' claims are typical, in that they are members of the Class, they allege the same damage by the same conduct as other members of the Class. The proposed Class Representatives and Class Counsel can fully, fairly and adequately protect the interests of the Class. Questions of law and fact common to members of the Class predominate over questions affecting only individual members. A class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this controversy.

3. The Court appoints Plaintiffs Keith Raymond and Timothy Strunk as Class Representatives.

4. The Court appoints Gary F. Franke and Michael D. O'Neill of GARY F. FRANKE CO., L.P.A., and C. David Ewing of EWING & WILLIS as Class Counsel for the Class.

5. The Court appoints Atticus Administration LLC as Settlement Administrator and approves the proposed class notices and claim forms submitted with the Motion for Preliminary Approval.

6. The Court does hereby preliminarily approve the Settlement as being fair, reasonable, and adequate as to the Class Members, subject to further consideration at the Fairness Hearing described below.

7. A hearing (the "Fairness Hearing") shall be held before the Court on February 8, 2024 at 11:00 a.m. at Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio for the following purposes:

a. To determine whether the proposed Settlement on the terms and conditions provided for by the Agreement is fair, reasonable, and adequate and should be approved by the Court;

b. To determine whether a Final Approval Order, as defined in the Agreement, should be entered;

c. To determine whether Plaintiffs' application for attorneys' fees and reimbursement of expenses, and requested Incentive Awards for the Class Representatives, should be approved; and

d. To rule upon such other matters as the Court may deem appropriate.

8. All Class Members shall be bound by all determinations and judgments in the class action concerning the Settlement, including, but not limited to, the releases provided for in the Agreement, whether favorable or unfavorable.

9. Pending final determination of whether the Agreement should be approved, Class Counsel, Plaintiffs and Class Members are barred and enjoined from commencing or prosecuting any action that contains or asserts any Released Claims against Defendants.

10. All papers in support of the Settlement, and Class Counsel's Fee Application and request for expenses and Service Awards, shall be filed with the Court no later than 14 days prior to the scheduled Fairness Hearing.

11. Any Class Member may appear and show cause, if that Class Member has any reason why the proposed Settlement should not be approved as fair, reasonable, and adequate, or why Class Counsel's application for an award of attorneys' fees and for reimbursement of expenses should not be granted; provided,

however, that no person shall be heard or entitled to contest such matters unless that person has delivered by hand or sent by first-class mail, sufficient written objections and copies of all papers and briefs any such person wishes to submit in support of any such objection, delivered or post-marked no later than 45 days following Notice to each of the following:

OFFICE OF THE CLERK
Potter Stewart U.S. Courthouse
Room 103
100 East Fifth Street
Cincinnati, Ohio 45202

GARY F. FRANKE CO., L.P.A.
Gary F. Franke, Esq.
201 East Fifth Street, Suite 910
Cincinnati, Ohio 45202
Class Counsel

TAFT, STETTINIUS & HOLLISTER LLP
Ronald D. Holman, Esq.
200 Public Square, Ste. 3500
Cleveland, Ohio 45202
Counsel for Defendant, Aevectus Healthcare Solutions, LLC

ICE MILLER LLP
Kris M. Dawley, Esq.
250 West Street
Columbus, Ohio 43215
Counsel for Defendant, Mercy Health

12. Any person who fails to make his, her, or its objection in the manner provided in this Order shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Agreement, unless otherwise ordered by the Court. Any

papers in response to any such objections or in further support of the above-named motions shall be filed no later than February 1, 2024.

13. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions, and proceedings in connection with this Order, the Agreement, and the Settlement, shall not constitute evidence, or an admission by Defendants that any of the alleged acts of wrongdoing have been committed and shall not be deemed to create any inference that there is any liability on the part of Defendants. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions and proceedings in connection with this Order, the Agreement and the Settlement shall not be offered or received in evidence or used for any purpose in this or any other proceeding in any court, administrative agency, arbitration tribunal, or other forum of any kind or character in the United States or any other country except as necessary to enforce the terms of this Order or the Settlement. Notwithstanding the foregoing, the Agreement and the Settlement may be admitted and considered as evidence in an action to determine insurance coverage or the apportionment of the Settlement Fund to claims asserted in this litigation.

14. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Plaintiffs and Defendants, if appropriate, without further notice to the Class.

Per Fed. R. Civ. P. 23, *et seq.*, the Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Tentative Settlement Class, Appointment of Lead Class Counsel and Appointment of Settlement Administrator is hereby **GRANTED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett

Judge Michael R. Barrett
United States District Court Judge