

## THURSTON COUNTY SUPERIOR COURT

*Liang, et al. v. State of Washington Dep't of Social & Health Services (DSHS), et al.*

**If you are or were an Individual Provider (IP) who provided personal care to clients whose paid care hours were reduced by DSHS because of the “shared benefit” rules, you could receive a payment from a class action settlement.**

***A court authorized this notice. This is not a solicitation from a lawyer.***

A settlement will provide \$116 million to pay claims by Individual Providers (IPs) who provided personal care to clients whose paid care hours were reduced by DSHS because of DSHS's “shared benefit” rules between March 7, 2014, and February 28, 2021.

The settlement resolves a lawsuit over whether IPs were denied full compensation for hours worked because of the shared benefit rules; pays money to IPs; avoids risks from continuing the lawsuit; pays money to IPs like you; and releases DSHS and other defendants from liability.

Your legal rights are affected whether or not you act. Read this notice carefully. More information is available at [www.IPWageSettlement.com](http://www.IPWageSettlement.com).

### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<b>Do Nothing and, if you receive a check, cash it</b>	<b>Stay in this lawsuit. Give up certain rights.</b> By doing nothing, you will remain in the class. If the settlement is approved and you have a share of it, you will receive a check. See Sections 9-13. If you cash or deposit that check, you are verifying that you worked for an affected client, provided the client a certain amount of care, and were not paid for those services. This verification is detailed in Section 13 below. If you do not cash the check, that amount will be redistributed to other IPs but you still give up your right to sue DSHS for the claims covered by the settlement.
<b>Exclude Yourself</b>	<b>Get out of this lawsuit. Get no benefits from it. Keep rights.</b> If you exclude yourself or “opt out” from this settlement, you will not receive a settlement payment. But, you will keep any rights you may have to pursue claims against DSHS separately. To opt out, you must act by <b>July 22, 2022</b> .
<b>Object</b>	<b>Tell the Court if you do not like the settlement.</b> If you are not satisfied with the terms of the proposed settlement, you may file a written objection with the Court and/or appear in Court to explain your objections. You cannot both opt out and object to the settlement.

- Your rights and options – and the deadlines to exercise them – are explained in this notice.
- The Court still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

تتوفر نسخة من هذا الإشعار باللغة العربية على الموقع الإلكتروني [www.IPWageSettlement.com](http://www.IPWageSettlement.com).  
یک نسخه از این اطلاعیه به زبان فارسی در [www.IPWageSettlement.com](http://www.IPWageSettlement.com) موجود است.

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Ogeysiiskan oo Af-Soomaali ah ayaa laga heli karaa [www.IPWageSettlement.com](http://www.IPWageSettlement.com). · KMENCA

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цього Повідомлення доступна українською тут [www.IPWageSettlement.com](http://www.IPWageSettlement.com). · Một phiên bản của

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Questions? Visit: [www.IPWageSettlement.com](http://www.IPWageSettlement.com) or Call: 1-888-964-0102

## **BASIC INFORMATION**

### **1. Why did I receive this notice?**

You received this notice because Washington's Department of Social and Health Services (DSHS) records show that you are or were an Individual Provider (IP) who contracted with DSHS at some point between March 7, 2014, and February 28, 2021, to provide personal care services for a client whose paid care hours were reduced because DSHS coded the client's status in a CARE assessment as "shared benefit" for at least one task.

The Court ordered that you be sent this notice because you have a right to know about a proposed settlement and your legal rights and options before the Court decides whether to approve the settlement. The lawsuit is known as *Liang, et al. v. State of Washington, et al.*, No. 20-2-02506-34; is pending in the Washington Superior Court for Thurston County; and was brought by certain IPs (referred to as "Plaintiffs" in this notice) against the State of Washington, DSHS, and the DSHS Secretary (together referred to as "DSHS" in this notice).

### **2. What is this lawsuit about?**

The Plaintiffs allege that from March 7, 2014, through February 28, 2021, DSHS did not pay certain IPs all the wages they were owed. Plaintiffs say this happened when DSHS reduced paid care hours because it found that an IP and a client, or multiple clients in the same household, shared in the benefit of certain personal care tasks performed by the IP, like making meals, shopping, housework, or supplying wood. The lawsuit seeks back pay and other money damages under state contract and wage law for work Plaintiffs claim IPs worked without pay.

DSHS denies that it violated any laws or did anything wrong.

### **3. What is a settlement class action?**

A class action is a kind of lawsuit where the named plaintiffs sue for themselves and also for other people who are similarly situated. In this case, the Plaintiffs are three IPs, Sylvia Liang, Manuel Brito, and Shazia Anwar. Other IPs are known as "class members." In a class action, one court resolves the issues for all class members, except for those who exclude themselves from the class.

The Court has certified this case as a class action only for purposes of the proposed settlement. The Court has not decided whether this case should be certified as a class action for purposes of deciding the merits of Plaintiffs' claims. If the Court does not grant final approval of the settlement for any reason, there will not be a settlement class and the parties will go back to litigating the case. IPs covered by the settlement are known as "Settlement Class Members," except for those who exclude themselves from the settlement class.

### **4. Why is there a settlement?**

Both sides believe they would win in court, but the court has not ruled in favor of either party. Both sides agreed to a settlement to avoid the costs, delays, risks, and uncertainties associated with a trial and appeals. They did so after lengthy investigation and exchange of information. Settlement Class Members who qualify under the calculation described in Section 10 below get compensation.

Plaintiffs and their lawyers (Class Counsel) think the settlement is in the best interests of all Settlement Class Members and that the terms of the settlement are fair, reasonable, and adequate.

## **WHO IS IN THE SETTLEMENT?**

### **5. Who is part of the settlement class?**

The settlement class is defined as: “all current and former IPs who contracted with DSHS to provide personal care services for a client whose in-home care hours were reduced because DSHS, through its agents, coded the client in a CARE assessment as having a Status of ‘shared benefit’ with respect to one or more IADLs.”

### **6. Am I part of the settlement class?**

Yes, unless you exclude yourself by opting out (see Sections 15–16). You are getting this notice because DSHS’s records show that you worked for at least one client whose authorized care hours were reduced during the Class Period because DSHS coded the client’s “status” in the CARE assessment as “shared benefit” for at least one personal care task.

### **7. What if I did not get notice directly, but think I am a member of the settlement class?**

If you did not receive this notice directly but think you worked for a DSHS client whose authorized personal care hours were reduced during the Class Period because DSHS assessed the client as having a “shared benefit”, please contact the settlement administrator at 888-964-0102.

## **THE SETTLEMENT BENEFITS—WHAT YOU GET**

### **8. What does the settlement provide?**

DSHS has agreed to pay \$116,068,000, which will be used for payments to Settlement Class Members, DSHS’s and IPs’ shares of payroll taxes, Class Counsel’s attorneys’ fees and costs, the costs of settlement administration and notice, and, where applicable, union dues.

### **9. How much will my payment be?**

Your estimated payment is [FILL IN]. Like all other Settlement Class Members, your individual payment is a pro rata (or proportionate) share of the settlement based on the number of hours Plaintiffs claim you worked without pay during the Class Period and the applicable wage rate for those hours.

### **10. How was my payment calculated?**

The parties agreed on a method to calculate payments for each Settlement Class Member, individually, based on data in DSHS’s records. The data show which clients DSHS assessed as having a “shared benefit,” the IPs who cared for those clients, how many authorized hours were reduced and unpaid because of “shared benefit” status coding, the paid providers assigned to “shared benefit” tasks, and how much the State paid those providers.

Your estimated share of the settlement was calculated by dividing your estimated back pay by the total back pay for all Settlement Class Members, and multiplying that amount by \$105 million.

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\$105 million is the total settlement fund minus amounts held back to pay for DSHS's share of payroll taxes, Class Counsel's attorney's fees and costs, settlement administration and class notice costs, and other expenses. Back pay for this calculation is the number of unpaid hours due to "shared benefit" multiplied by the applicable wage rate (including overtime, where applicable), without double damages or interest. If multiple providers for the same client were affected by "shared benefit" in the same month, unpaid hours were spread proportionately among them.

If other class members do not cash their checks or other settlement expenses cost less than estimated, you may get up to two additional payments that will be your proportionate share of the remaining overall settlement fund, plus interest that has accrued on the fund.

### **11. Why is my estimated payment more or less than someone else's?**

The settlement fund is allocated among Settlement Class Members based on pro rata (*i.e.*, proportionate) percentages of the fund, taking into account each IP's estimated individual damages as a portion of the overall damages. Individual settlement amounts will vary based on factors such as the length of time the IP worked between March 7, 2014, and February 28, 2021, the number of care hours that were reduced from authorized hours due to "shared benefit" (which could be very different depending on the client's total care hours and how much "shared benefit" DSHS decided there was), the IP's wage rate, and whether overtime rates apply.

### **12. Why might my estimated share be zero?**

You might be a Settlement Class Member but not be owed any money if DSHS's records show other providers, and not you, were assigned to "shared benefit" tasks in a client's care plan, if DSHS did not select "shared benefit" as the "status" for the client, or if DSHS assessed shared benefit outside the Class Period.

### **13. What are other important terms of the settlement?**

**Verification:** By cashing or depositing your settlement payment, you are verifying that:

1. You are or were an IP for a client whose monthly in-home personal care services authorization was reduced because of "shared benefits" you provided;
2. You provided in-home personal care services to that client that were included in the client's care plan for at least the number of shared benefit adjusted hours indicated in DSHS's data, by month and year, that was used to calculate your pro rata (proportional) share of the settlement fund (these hours are listed on page 9 of this notice); and
3. You were not paid for those services.

**Redistributions:** If you do not cash or deposit your settlement payment, your share (and any interest on it) will be redistributed to other Settlement Class Members. Similarly, if other Settlement Class Members do not cash their checks, their shares will be redistributed to the settlement class (including you, if you do not opt out). There will be two redistributions. Any payments that are not cashed after the second re-distribution will be sent back to the State.

**Payroll Taxes:** Your settlement payment is back pay subject to applicable income and payroll taxes. The settlement administrator will report those amounts to the IRS on a W-2 form.

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**Union Dues:** If you are currently a member of SEIU 775, or were a member when you were last paid as an IP, the settlement administrator will deduct 3.2% from your payment for the months that you were a member of SEIU 775 and will send that money to the union.

**Settlement Requirements:** The settlement required the federal agency that runs Medicaid to confirm that it would provide matching federal funds for all settlement payments. It provided that confirmation in December 2021. It also required that the Washington Legislature fully fund the settlement. The Legislature did that in March 2022, and the Governor signed the budget on March 31, 2022.

**Opt Outs:** If more than 3% of the class members decide to opt out of the settlement, DSHS can void the settlement.

#### **14. What is the effect of staying in the settlement class?**

Unless you exclude yourself (as explained in Section 15 below), you will remain in the settlement class. The Court will dismiss the case “with prejudice” if it approves the settlement. If it does so, any claims that were or could have been asserted in this lawsuit, including by you, will be permanently dismissed. In other words, the Court’s dismissal order will release and discharge DSHS from claims for unpaid wages or overtime, exemplary or double damages, attorneys’ fees, and interest that were or could have been asserted by the Plaintiffs or Settlement Class Members based on the facts and allegations in the Complaint between March 7, 2014, and February 28, 2021, including but not limited to claims under the state Minimum Wage Act, RCW 49.46, the Wage Rebate Act, RCW 49.52, and the duty of good faith and fair dealing in the contracts between IPs and DSHS. When claims are “released” that means a person covered by the release cannot later sue or recover from the State or the other released parties (such as DSHS and their agents) for any of the claims that are covered by the release.

If the Court approves the settlement, DSHS also releases the Plaintiffs and the Settlement Class Members who have not opted out of the settlement class from all claims that were or could have been asserted relating to this lawsuit, including claims for breach of contractual obligations by IPs, contract actions against Settlement Class Members, including actions claiming that the Settlement Class Members worked unauthorized hours related to the shared benefit rules.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to keep the right to sue DSHS on your own about the legal issues in this case, you must exclude yourself from the settlement class. The process of excluding yourself is also called “opting out” of the settlement class.

### **15. How do I opt out of the settlement?**

If you want to exclude yourself from the settlement, you must mail, via First Class United States Mail, the form provided with this notice to

Liang v. State of WA: IP Wage Settlement  
c/o JND Legal Administration  
PO Box 91373  
Seattle, WA 98111

and include your name, current address, telephone number, and email address. To be effective, an opt-out statement must be completed, signed, and postmarked no later than **July 22, 2022**.

If you submit a valid and timely request for exclusion from the settlement class, you will not be entitled to receive any benefits under the proposed settlement agreement, and you will not be bound by its terms or any release of claims or dismissal if the settlement agreement is approved by the Court. You may also be able to sue (or continue to sue) DSHS in the future, if your claims accrued within the applicable statute of limitations. If you want to exclude yourself in order to file an individual lawsuit against the Defendants, you should speak to a lawyer as soon as possible because your claims are subject to statutes of limitations.

### **16. If I exclude myself, can I get money from this settlement?**

No. If you opt out or exclude yourself, you will not receive any money from this settlement. You may sue, continue to sue, or be part of a different lawsuit against DSHS regarding the same claims, subject to all applicable defenses.

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the settlement or some part of it.

### **17. How do I tell the Court that I don't like the settlement?**

If you stay in the settlement class, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. You can object by filing a written objection with the Court by **July 22, 2022** at 2000 Lakeridge Dr. SW, Bldg. 3, Olympia, WA 98502. You must also mail copies of your written objection to Plaintiffs' Counsel and DSHS's counsel at the addresses listed below, postmarked no later than **July 22, 2022**.

Jennifer Robbins  
Darin M. Dalmat  
Sarah E. Derry  
Barnard Iglitzin & Lavitt  
18 W. Mercer St., Suite 400  
Seattle, WA 98119

William McGinty  
Dan Judge  
Margaret McLean  
Sara L. Wilmot  
Attorney General's Office  
P.O. Box 40124  
Olympia, WA 98504

Questions? Visit: [www.IPWageSettlement.com](http://www.IPWageSettlement.com) or Call: 1-888-964-0102

Your objection must contain your name, current address, telephone number, and email address, as well as the reasons why you object. You may also appear in person at the final hearing to explain your objection(s). The hearing will take place at the date and time indicated below. You may hire an attorney at your own expense to represent you at this hearing and to make objections to the settlement.

Only Settlement Class Members who object to the proposed settlement through these procedures can appeal any decision in this case. If you do not object by the deadline, you cannot object later.

### **18. What is the difference between objecting to the settlement and excluding myself?**

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you remain in the settlement class. Excluding yourself is telling the Court that you do not 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 LAWYERS REPRESENTING YOU**

### **19. Do I have a lawyer in this case?**

The Court decided that the lawyers at Barnard Iglitzin & Lavitt LLP are qualified to represent you and all Settlement Class Members. These lawyers have been designated as “Class Counsel” in this lawsuit. More information about these lawyers’ work and experience is available at [www.workerlaw.com](http://www.workerlaw.com). You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **20. How will the lawyers be paid?**

Class Counsel will ask the Court to approve payment of \$1,625,000 (1.4% of the settlement fund) for their attorneys’ fees and litigation costs. If approved, this amount would be paid out of the total settlement fund. If the legal work after September 17, 2021, costs more than Class Counsel expected, they may ask the Court to be reimbursed for supplemental attorneys’ fees. DSHS can object if Class Counsel make that request. The settlement can still be effective even if the Court denies some or all of Class Counsel’s request for fees and costs.

## **THE COURT’S FAIRNESS HEARING**

### **21. When is the fairness hearing?**

On **September 16, 2022, at 9:00 a.m.**, at the Thurston County Superior Court, 2000 Lakeridge Dr. SW, Bldg. 3, Olympia, WA 98502, the Court will conduct a hearing to determine whether the proposed settlement is fair, adequate, and reasonable, and should be granted final approval. The date and time of the Final Settlement Approval Hearing might change without further notice. You should monitor the settlement website at [www.IPWageSettlement.com](http://www.IPWageSettlement.com) for any updates or call the settlement administrator toll-free at 888-964-0102.

## **22. Do I have to come to the fairness hearing?**

No, unless you objected to the settlement. If you do not opt out of the settlement, Class Counsel can represent you at the hearing. You are welcome to come at your own expense. If you send an objection, you do not have to come to Court. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary for your objection to be considered.

## **23. May I speak at the fairness hearing?**

If you file a timely objection, you may ask the Court for permission to speak at the fairness hearing. To do so, please include the words “I intend to appear at the fairness hearing” in your written objection. Your testimony will be limited to the reasons you included in your objection. You cannot speak at the hearing if you exclude yourself from the settlement.

## **GETTING MORE INFORMATION**

### **24. Are there more details about the settlement?**

This notice summarizes the proposed settlement. More details are in a Settlement Agreement, which you can get by calling 888-964-0102 or visiting [www.IPWageSettlement.com](http://www.IPWageSettlement.com).

### **25. How do I get more information?**

You can call 888-964-0102; write to the Settlement Administrator at:

Liang v. State of WA: IP Wage Settlement  
c/o JND Legal Administration  
PO Box 91373  
Seattle, WA 98111

or visit the website at [www.IPWageSettlement.com](http://www.IPWageSettlement.com), where you will find answers to common questions about the settlement, an opt-out form, plus other useful information in relation to the settlement.



## **SUMMARY OF SHARED BENEFIT ADJUSTED HOURS IN DSHS'S DATA**

The shared benefit adjusted hours indicated in DSHS's data by month and year that was used to calculate your share of the settlement fund are as follows:

[FILL IN FROM DATA]

## REQUEST FOR EXCLUSION

*Liang, et al. v. Wash. State Dep't of Social and Health Servs., Case No. 20-2-02506-34*  
Thurston County Superior Court

[Name]

[Address1], [Address2]

[City], [ST] [Zip]

Phone: [Phone]

**If the information listed above has changed or is incorrect, please update your information below:**

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**Provide your email address, or, if you do not have an email address, write 'none':**

Email address: \_\_\_\_\_

By signing below and returning this form, I opt out of the IP shared benefit settlement.

\_\_\_\_\_ Date Signed: \_\_\_\_\_

Signature

In order to exclude yourself from the settlement class in this case, you must complete, sign, and mail this form, postmarked no later than **July 22, 2022** to:

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c/o JND Legal Administration  
PO Box 91373  
Seattle, WA 98111

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