

ATTENTION: IF YOU OR A FAMILY MEMBER RECEIVED MEDICAID-FUNDED PERSONAL CARE AS A CHILD, OR YOU WERE AN INDIVIDUAL PROVIDER OF MEDICAID-FUNDED PERSONAL CARE TO A CHILD WITH WHOM YOU LIVED, A PROPOSED SETTLEMENT AGREEMENT MAY AFFECT YOUR RIGHTS.

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

- *M.T.E. et al. v. Wash. Dept. of Soc. & Health Servs.* is a class action case in which a child Medicaid recipient and an individual provider of Medicaid-funded personal care sued the Washington Department of Social and Health Services (DSHS) over WAC 388-106-0213, referred to here as the “Children’s Assessment Rule” or “Rule.” This Rule was in place from July 1, 2005 through November 30, 2011. The Washington Supreme Court determined that the Rule was invalid.
- In October 2015, the Parties in *M.T.E.* reached a settlement. DSHS has agreed to provide a \$4,000,000 Settlement Amount, out of which claims will be paid for (1) out-of-pocket costs for MPC services that would have been covered but for the application of the Rule, and (2) unpaid work performed by individual providers who lived with their child Medicaid client that would have been covered but for the application of the Rule.
- Thurston County Superior Court preliminarily approved the proposed Settlement Agreement. This notice has been ordered to explain your legal rights.

YOUR LEGAL RIGHTS IN THIS LAWSUIT	
You may comment on the proposed Settlement Agreement.	You have the right to comment on, object to, or support the proposed Settlement Agreement. The Court will decide whether to approve or reject the proposed Settlement Agreement after a Fairness Hearing on May 20, 2016 at 9:00 a.m., at the Thurston County Courthouse, 2000 Lakeridge Drive SW, Room 204, Olympia, Washington 98502.
You may submit a claim.	You may submit claims for either (1) reimbursement of out-of-pocket costs you paid for MPC services that you or a family member received as a child, or (2) compensation for unpaid MPC work that you performed for a child.
You may ask to be excluded.	You may get out of this lawsuit. If you ask to be excluded, you will not be able to submit a claim for reimbursement or compensation. However, you will keep any rights to sue DSHS separately about the same claims in this lawsuit.
You may do nothing.	If you do nothing, then you will remain in one of the Classes. By doing nothing, if you are a Class Member, you give up any rights to sue DSHS separately about the same legal claims in this lawsuit. Unless you submit a claim, you will not receive any benefit from the proposed Settlement Agreement. You will not be responsible for the payment of attorneys’ fees and costs out of your own pocket.

Если Вы желаете прочитать это извещение на русском языке, пожалуйста, посетите <https://www.dshs.wa.gov/dda/mte>.

如果您想閱讀中文的本通知書，請前往網站 <https://www.dshs.wa.gov/dda/mte>.

Nếu quý vị muốn đọc thông báo này bằng tiếng Việt Nam, xin đến <https://www.dshs.wa.gov/dda/mte>.

이 통지서를 한국어로 읽으시기 원할 경우는 <https://www.dshs.wa.gov/dda/mte> 을 방문하십시오.

Haddii aad jeclaan lahayd inaad akhrido ogeysiiskan oo Somali ah, fadlan tag <https://www.dshs.wa.gov/dda/mte>.

ប្រសិនបើអ្នកចង់អានសេចក្តីជូនដំណឹងនេះជាភាសាខ្មែរ សូមទៅកាន់ <https://www.dshs.wa.gov/dda/mte>។

Si desea leer esta notificación en español, por favor diríjase a <https://www.dshs.wa.gov/dda/mte>.

ຖ້າຫາກວ່າທ່ານຢາກຈະອ່ານໃບຜະຈົນໄພນີ້ເປັນພາສາລາວ, ກະຮຸນາໄປທີ່ <https://www.dshs.wa.gov/dda/mte>.

FREQUENTLY ASKED QUESTIONS

1. Why did I get this notice?

You received this notice because DSHS determined that you or your family member **may** be a member of one of the following two Classes:

Settlement Recipient Class

All individuals who, during the Class Period: (1) were recipients of Medicaid-funded personal care services; (2) had their Medicaid-funded personal care services determined by application of the former WAC 388-106-0213; and (3) who paid out of pocket for additional personal care services during any month in the Class Period.

Settlement Provider Class

All individuals who, during the Class Period: (1) were authorized by DSHS to provide personal care services to individuals whose personal care service hours were determined by application of former WAC 388-106-0213; (2) lived with those individuals during that month; and (3) provided unpaid personal care services that exceeded the amount of personal care services authorized by DSHS during that month.

“Class Period,” as used in this definition, means July 1, 2005 through November 30, 2011.

2. What is this lawsuit about?

This lawsuit was brought by two individuals who alleged that DSHS improperly applied WAC 388-106-0213, the Children’s Assessment Rule. They alleged that the improper application of this Rule caused members of the Settlement Recipient Class to pay out of pocket for necessary personal care services. They also alleged that the Rule improperly required members of the Settlement Provider Class to work without pay to meet the personal care needs of the child Medicaid recipients with whom they lived. As a remedy, they alleged that, pursuant to RCW 74.04.080 and RCW 34.05.574, the Settlement Recipient Class is entitled to past back benefits to the date that the Children’s Assessment Rule was first applied. They also alleged that DSHS breached its contracts with the Settlement Provider Class by applying the invalid Rule, such that those providers are entitled to payment for unpaid work performed that would have been paid but for the application of the Rule. DSHS denies all claims.

3. What is a class action, and who is involved?

In a class action lawsuit, one or more people (“Class Representatives”) sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” All of the Class Members are called the “Plaintiffs.” One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class. In this case, M.T.E., a child Medicaid recipient, and Sheryl Wagner Houlihan, an individual provider, are the Class Representatives. The Department of Social and Health Services is the Defendant.

4. What does the proposed Settlement Agreement provide?

The main points of the proposed Settlement Agreement are described below. You can review the entire Agreement, which is available at www.sylaw.com/mtesettlement. The Agreement will only become effective if the Court approves the Agreement after the Fairness Hearing.

• \$4,000,000 Settlement Amount

The Agreement provides for a \$4,000,000 Settlement Amount to pay for claims submitted by Settlement Recipient Class Members and Settlement Provider Class Members, attorneys’ fees, litigation costs, payments for all potential disputed claims relating to the Collective Bargaining Agreements in effect during the Class Period, claims administration costs, and case contribution awards.

• Claims Process for *Recipient* Class Members

A Settlement Recipient Class Member, on his or her own behalf or through his or her parents and/or legal guardian, will be eligible for payment from the Settlement Amount by submitting a claim form (included, with instructions, as part of this notice) that attests to the following four items:

1. The Recipient received Medicaid-funded personal care services and was under the age of 18 when the services were provided;
2. The Recipient received personal care services in excess of the amount DSHS authorized during the Class Period (July 1, 2005 through November 30, 2011);
3. The name of the provider(s) of personal care services and the amount and date of the personal care services (month/year); and
4. The out-of-pocket costs associated with those personal care services.

The claims must also be documented with some evidence of payment(s) or obligation, such as (but not limited to) cancelled checks, credit card account statements, checking account statements, provider ledgers, or signed letters from the provider or the provider's employer documenting the amount paid or due (so long as the letter clearly connects payments with the personal care service dates by at least the month/year). The Recipient must also authorize the Claims Administrator to obtain any necessary information from DSHS and/or the identified personal care provider to confirm the Recipient's attestation and documentation. Note: Reimbursement is available only for payments made to cover the difference between authorized hours and the claimant's base hours at the time of payment. See WAC 388-106-0125 for an explanation of base hours and classification groups.

• **Claims Process for *Provider* Class Members**

A Settlement Provider Class Member will be eligible for payment from the Settlement Amount by submitting a claim form (included, with instructions, as part of this notice) that attests to the following four items:

1. The Provider was a qualified Individual Provider who was living with, and provided services to, a recipient of Medicaid-funded personal care services who was under the age of 18 when the services were provided;
2. The Provider provided personal care services in excess of the amount authorized by DSHS during the Class Period (July 1, 2005 through November 30, 2011);
3. The date (month/year) that personal care services in excess of the authorized amount were provided; and
4. The Provider was not paid for those services.

The Provider must also authorize the Claims Administrator to obtain any necessary information from DSHS and/or the relevant Medicaid-funded personal care recipient to confirm the Provider's attestation. All valid provider claims will be compensated at a per-month "proxy" amount of \$450 per month, unless there are insufficient funds to pay each claim at 100%.

A Claims Administrator will review the claims to confirm that the four requisite items are present in the relevant claim forms and that the submitted documentation supports the claimed amounts. The Claims Administrator will also confirm that the Provider was on the list provided by DSHS of potential Settlement Class Members during the time of the claim, and that claimed sums are not duplicative.

The Claims Administrator must provide a claimant with a deficient claim form and opportunity to fix any problems. Class Counsel can assist the claimant with fixing any problems with her/his claim.

• **Collective Bargaining Agreement Settlement Amount**

The proposed Settlement Agreement includes an *Appendix A*, which contains a separate agreement between Defendant, Service Employees International Union ("SEIU") 775, SEIU Healthcare NW Health Benefits Trust ("HBT"), and SEIU Healthcare NW Training Partnership ("TP"), referred to as the "CBA Settlement." Under the CBA Settlement, SEIU 775 shall receive \$115,000, HBT shall receive \$30,000, and TP shall receive \$5,000 from the Settlement Amount, in exchange for a release of some potential claims against Defendant.

• **Attorneys' fees, Litigation Costs, and Costs of Claims Administration**

Under the proposed Settlement Agreement, Class Counsel will apply for their attorneys' fees from the Settlement Amount, based upon their normal hourly rates and the hours spent on the litigation. In addition, litigation costs (money Class Counsel paid out of pocket on behalf of the Classes) and costs for claims administration will be requested to be paid from the Settlement Amount. Class Counsel's attorneys' fees, litigation costs, and claims administration costs are subject to review and must be approved by the Court.

- **Case Contribution Awards**

Case contribution awards of up to \$25,000 for each Class Representative (M.T.E. and Sheryl Wagner Houlihan) for a total of no more than \$50,000 will be requested from the Settlement Amount. The Court must approve the case contribution awards.

- **Insufficient Funds or Excess Funds**

If, after payment of the Collective Bargaining Agreement Settlement Amount, attorneys' fees, case contribution awards, litigation costs, and claims administration costs, there are insufficient funds to pay 100% of all valid claims, then all valid claims, including both Recipient and Provider claims, shall be paid on a *pro rata* (percentage) distribution of their approved claim amount.

After payment of the Collective Bargaining Settlement Amount, attorneys' fees, case contribution awards, litigation costs, claims administration costs, and all valid claims at 100%, if there are excess funds in the Settlement Trust Fund, then those excess funds shall be returned to the State of Washington.

5. When will the Settlement Amount be available?

The Court must finally approve the proposed Settlement Agreement, and if any Class Members appeal, a final adjudication of any appeal(s) must be made before the funds are available.

6. How do I respond to the proposed Settlement Agreement?

- **You May Submit a Claim**

As described above, you may submit claims if you are a member of either the Settlement Recipient Class or the Settlement Provider Class. Claims must be received by the Claims Administrator by **April 20, 2016**. Please follow the instructions on the enclosed claim form to submit your claim. Additional claim forms can be downloaded from www.symslaw.com/mtesettlement.

- **You May Exclude Yourself or Your Dependent (Opt Out)**

If you wish to exclude yourself or your dependent from the Class, you must write a letter stating that you wish to be excluded or send in the enclosed Exclusion or "Opt-Out" Form. Your letter or form must be postmarked by **April 20, 2016** and sent to:

M.T.E., et al. v. DSHS Claims Processing
P.O. Box 3266
Portland, OR 97208-3266

If you opt out of one of the Classes, you will not be entitled to make a claim or receive a payment if the proposed Settlement Agreement is approved. You will, however, retain any rights you may have to pursue an individual claim for back benefits or breach of contract damages against DSHS regarding its application of WAC 388-106-0213, the Children's Assessment Rule. If you believe that you have such claims, you may wish to consult with an attorney. You should confer with the attorney about the relevant statute of limitations.

- **You May Comment on, Object to, or Support the Proposed Settlement Agreement**

The Court will hold a Fairness Hearing on the proposed Settlement Agreement on **May 20, 2016**, at 9:00 a.m., at the Thurston County Courthouse, 2000 Lakeridge Drive SW, Room 204, Olympia, Washington 98502.

You are not required to attend the hearing, and you are not required to be present to submit comments for consideration. All comments on the proposed Settlement Agreement, however, must be submitted in advance and in writing to the Court.

You may attend the hearing, and you may bring a legal representative if you wish at your own expense. You must tell the Court in advance and in writing that you plan to come to the hearing to object to, comment on, or formally support the proposed Settlement Agreement or the Class Representatives' request for payment of attorneys' fees, litigation costs, costs of claims administration, or case contribution awards.

If you choose to submit written comments or appear at the Court hearing, your letter must be received no later than **April 20, 2016** and must be mailed to:

Richard E. Spoonemore and Eleanor Hamburger,
Class Counsel
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
999 Third Avenue, Suite 3650
Seattle, WA 98104

William McGinty and Martin Wyckoff
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 40124
Olympia, WA 98504-0124

7. Where can I get more information?

For more information, you may visit the website for Class Counsel, www.symslaw.com/mtesettlement. You can contact DSHS at (360) 725-3449. If you are an individual provider, you can also call the SEIU 775 Member Resource Center at (866) 371-3200. You may also call or write Class Counsel to request copies of any of the documents in this matter:

Richard E. Spoonemore and Eleanor Hamburger, Class Counsel
SIRIANNI YOUTZ SPOONEMORE HAMBURGER
999 Third Avenue, Suite 3650
Seattle, WA 98104
Tel. (206) 838-3210
Email: ehamburger@syllaw.com or rspoonemore@syllaw.com

Если Вы желаете прочитать это извещение на русском языке, пожалуйста, посетите <https://www.dshs.wa.gov/dda/mte>.

如果您想閱讀中文的本通知書, 請前往網站 <https://www.dshs.wa.gov/dda/mte>.

Nếu quý vị muốn đọc thông báo này bằng tiếng Việt Nam, xin đến <https://www.dshs.wa.gov/dda/mte>.

이 통지서를 한국어로 읽으시기 원할 경우는 <https://www.dshs.wa.gov/dda/mte> 을 방문하십시오.

Haddii aad jeclaan lahayd inaad akhrido ogeysiiskan oo Somali ah, fadlan tag <https://www.dshs.wa.gov/dda/mte>.

ប្រសិនបើអ្នកចង់អានសេចក្តីជូនដំណឹងនេះជាភាសាខ្មែរ សូមទៅកាន់ <https://www.dshs.wa.gov/dda/mte>។

Si desea leer esta notificación en español, por favor dirijase a <https://www.dshs.wa.gov/dda/mte>.

ຖ້າຫາກວ່າທ່ານຢາກຈະອ່ານໃບຜັງງານໃບນີ້ເປັນພາສາລາວ, ກະລຸນາໄປທີ່ <https://www.dshs.wa.gov/dda/mte>.

THURSTON COUNTY SUPERIOR COURT, WASHINGTON STATE
CAUSE No. 11-2-01209-1

EXCLUSION or "OPT-OUT" FORM

This form is to be completed only by those individuals who are Class Members, but who do NOT wish to remain Class Members and who do NOT want any monetary award that may result from this litigation.

First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Address (Number and Street)

City	State	ZIP Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

Date of Birth	Telephone
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>

By signing this form, I certify that I have read the notice to Class Members, and I understand that:

1. I am removing myself as a member of the Class;
2. I will receive no financial benefit from the lawsuit;
3. I have a right to pursue claims on my own, with or without my own attorney; and
4. I understand that my claims may be affected by the relevant statute of limitations and that I should discuss the statute of limitations with any attorney with whom I wish to consult.

Signature:

Date: - -
MM DD YYYY

City and State where signed:

Please return the completed form postmarked by April 20, 2016 to:

M.T.E., et al. v. DSHS Claims Processing
P.O. Box 3266
Portland, OR 97208-3266