

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TANA R. CUMMINS, class representative,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No. 02-4201-JPG
	)	
STATE OF ILLINOIS,	)	
	)	
Defendants.	)	

**NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING**

**Your rights may be affected if you are a member of the following class:**

All current and former employees of the State of Illinois from August 31, 2000 to June 30, 2004, who were provided a health benefits plan as part of their employment that excluded contraceptive medication from health insurance coverage.

**PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.**

- The court has preliminarily approved a proposed settlement (the “Settlement”) of a class action lawsuit brought under Title VII of the Civil Rights Act of 1964 for sex discrimination (“Title VII”) against the State of Illinois. The Settlement will provide for money to members of the class who have out-of-pocket expenses incurred for the purchase of prescription contraceptives from August 31, 2000 to June 30, 2004.
- A hearing on the final approval of the Settlement and for approval of the Class Representatives’ petition for Attorneys’ Fees and Costs will take place on July 21, 2011, at 1:30 p.m., before U.S. District Court Judge J. Phil Gilbert, at United States Courthouse, 301 West Main Street, Benton, IL, 62812 .
- Any objections to the Settlement, or to the petition for Attorneys’ Fees and Costs, must be served in writing on Class Counsel and Defendants’ Counsel, as identified on page 5 of this settlement notice.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement. Capitalized terms used in this Settlement Notice but not defined in this Settlement Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.Ilclassaction.com](http://www.Ilclassaction.com).
- 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 under the Settlement will be made only if the Court approves the Settlement and that approval is upheld in the event of any appeal.
- Further information regarding litigation, the Settlement, and this Settlement Notice, including any changes to the terms of the Settlement and all orders of the Court regarding the Settlement can be obtained at [www.Ilclassaction.com](http://www.Ilclassaction.com).

<b>YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT</b>	
<b>MAKE A CLAIM FOR REIMBURSEMENT FOR PRESCRIPTION CONTRACEPTION COSTS</b>	<b>Fill out and send in the attached claim forms for your actual costs for prescription contraceptives during the class period.</b>
<b>You Can Object (No later than June 21, 2011)</b>	If you wish to object to any part of the settlement, you may (as discussed below) write to the Court and counsel about why you object to the Settlement.
<b>You Can Attend A Hearing On July 21, 2011</b>	If you submit a written objection to the Settlement to the Court and counsel before the Court-approved deadline, you may attend the hearing about the Settlement and present your objections to the Court. You may attend the hearing even if you do not file a written objection, but you will not be permitted to address the Court at the hearing if you do not notify the Court and counsel of your intention to appear at the hearing by June 21, 2011.

**The Class Action**

The case is called Tana Cummins v. State of Illinois (“Class Action”). The court supervising the case is the U.S. District Court for the Southern District of Illinois. The individual who brought this suit is called the Class Representative, and the entity they sued is called defendant. The Class Representative is Tana R. Cummins. The defendant is the State of Illinois.

**What is the Amount of the Settlement?**

A Settlement Fund of \$600,000 is being established in the Class Action. The court will approve payments to class members according to the formula set out in the next page.

**Statements of Attorneys’ Fees And Costs Sought In The Action**

Class counsel will apply to the Court for payment of Attorneys’ Fees and for reimbursement of their costs for their work in the case. The amount of costs and fees that Class Counsel will request will not exceed \$100,000. Any Attorneys’ Fees and costs awarded by the Court to any Class Counsel will be paid from the State of Illinois with money separate from the Settlement Fund.

**1. Why Did I Receive This Settlement Notice?**

The Court caused this Settlement Notice to be sent to you because if you fall within the definition of the Settlement Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Settlement Fund will be allocated among Settlement Class Members according to a Court-approved Plan of Allocation.

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

Until July 1, 2004, the State of Illinois's Quality Care Health Plan, and some other State sponsored health plans, did not provide coverage for prescription contraceptives. This lawsuit is about whether the State's past exclusion of prescription contraceptives from its Quality Care Health Plan constituted sex discrimination in violation of Title VII, and, if so, whether the Eleventh Amendment to the United States Constitution bars recovery for monetary relief. More information about federal laws prohibiting employment discrimination can be found at the website of the U.S. Equal Employment Opportunity Commission, at [www.eeoc.gov](http://www.eeoc.gov).

### 3. Why Is There a Settlement?

No final decision was reached in connection with Class Representatives' claims against defendants. Instead, the Class Representatives and defendants have agreed to the Settlement. The Settlement is the product of extensive negotiations between Class Counsel and defendants' counsel. All of the parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representatives and Class Counsel believe that the Settlement is best for all Settlement Class Members.

### 4. What does the settlement provide?

With this Notice are forms for YOU to make a claim for money for your out-of-pocket expenses incurred in paying for contraceptives which were not covered under your healthcare plan while you were employed by the State of Illinois. After you receive this Notice you have ninety (90) days to return your completed claim form and/or doctor statement to: Dept of Central Management Services, Bureau of Benefits, ATTN: CUMMINS SETTLEMENT, 201 E Madison Street, PO Box 19208, Springfield, IL, 62794-9208. You need to provide receipts or proof of this contraception. You can also provide a doctor's statement identifying the prescription and the time period to be reimbursed.

The State of Illinois will establish a Six Hundred Thousand Dollar (\$600,000.00) fund to compensate individuals for their out-of-pocket contraceptive payments. After review of all the claims received during the ninety day claim period, the each class member will be paid as follows:

<u>TIME PERIOD PAID FOR OWN CONTRACEPTION</u>	<u>PAYMENT</u>
6 months or less	\$ 40.00
More than 6 but less than 12 months	\$ 70.00
More than 12 months but less than 18 months	\$100.00
18 months up to 23 months	\$130.00
More than 23 months but less than 36 months	\$180.00
More than 36 months of claims damage	\$240.00

Note that if the total claim amounts exceed Six Hundred Thousand Dollars (\$600,000.00), then payments to class member claimants will be reduced pro rata among claimants so the State's payout will be limited to \$600,000, and the Settlement Administrator will pay the class members that reduced pro-rata amount.

### 5. How Do I Get My Distribution?

**YOU MUST SUBMIT A CLAIM FORM TO GET YOUR DISTRIBUTION.**

**CLAIM FORMS ARE ATTACHED TO THIS NOTICE. YOU CAN GET ANOTHER COPY AT [WWW.ILCLASSACTION.COM](http://WWW.ILCLASSACTION.COM) OR BY WRITING OR CALLING CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR.**

Provide all the information in the Claim Form and provide receipts, benefit statements, credit card

QUESTIONS? VISIT [WWW.ILCLASSACTION.COM](http://WWW.ILCLASSACTION.COM)

receipts, copies of checks or any other documentary proof you have. If you do not have documents, have your physician fill out a Physician Statement about the type and time period of your contraceptive use and submit the Physician Statement with your Claim Form.

**SEND YOUR COMPLETED CLAIM FORM WITH RECEIPTS AND/OR PHYSICIAN STATEMENT TO:** Dept of Central Management Services, Bureau of Benefits, ATTN: CUMMINS SETTLEMENT, 201 E Madison Street, PO Box 19208, Springfield, IL, 62794-9208

#### 6. How Much Will My Distribution Be?

**If you send in a supported claim and after the** ninety day claim period, you will get a check from the State of Illinois for the following amount, depending on how long you paid for your own contraceptives:

<u>TIME PERIOD PAID FOR OWN CONTRACEPTION</u>	<u>PAYMENT</u>
6 months or less	\$ 40.00
More than 6 but less than 12 months	\$ 70.00
More than 12 months but less than 18 months	\$100.00
18 months up to 23 months	\$130.00
More than 23 months but less than 36 months	\$180.00
More than 36 months of claims damage	\$240.00

Note that if the total claim amounts exceed Six Hundred Thousand Dollars (\$600,000.00), then your payment could be reduced pro rata among claimants - the State's payout is limited to \$600,000.

#### 6. When will I Get my Distribution?

As soon as possible after the 90 day claim period ends, the Court will consider a final approval of the Settlement and distribution of the proceeds. That approval itself has to become final and no longer subject to appeals in any court. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution will likely occur at the end of 2011.

#### 7. Can I Get Out of The Settlement?

No. The Class Action was certified under Federal Rule of Civil Procedure 23 (b) (1). Therefore, as a Settlement Class Member, you will be bound by any judgments or orders that are entered in the Class Action for all claims that were or could have been asserted in the Class Action, or are otherwise included in the release under the Settlement.

#### 8. Do I Have A Lawyer In The Case?

The Court has appointed the law firm Cantor & Burger as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### 9. How Will The Lawyers Be Paid?

Class counsel will file a petition for the award of Attorneys' Fees and Costs. This petition will be considered at the Fairness Hearing. Defendants do not oppose the amount of Attorneys' Fees and costs, consistent with the terms of the Settlement Agreement. Class Counsel has agreed to limit application for an award of Attorneys' Fees and expenses up to an amount of \$100,000. The Court will determine what fees and costs will be approved.

QUESTIONS? VISIT [WWW.ILCLASSACTION.COM](http://WWW.ILCLASSACTION.COM)

## 10. How Do I Tell The Court If I Don't Like The Settlement?

If you are a Settlement Class Member, you can tell the Court that you do not agree with the Settlement or some part of it, including Attorneys' Fees and costs. To object, you must send the Court a written statement that you object to the Settlement in Tana Cummins v. State of Illinois, Case No. 02-CV-4201. Be sure to include your name, address, telephone number, signature, and a full explanation of why you object to the Settlement. Your written objection must be received by the Court no later than June 21, 2011. The Court's address is Clerk of the Court U.S. District Court, Southern District of Illinois, 301 West Main Street, Benton, IL, 62812. Your written objection must also be mailed to the lawyers listed below, **to be received by no later than 30 days before the date of the Fairness Hearing**:

Gary K. Burger, Jr.  
Cantor & Burger, LLC  
12283 Olive Boulevard  
St. Louis, Missouri 63141  
(314) 542-9999 (Office)  
(314) 434-4459 (Fax)

Karen McNaught  
Assistant Attorney General  
500 South Second Street  
Springfield, IL 62706  
(217) 782-2077  
(217) 782-7046 FAX

## 11. When And Where Will The Court Decide Whether to Approve the Settlement?

The Court will hold a Fairness Hearing at 1:30 p.m. on July 21, 2011, at the United States District Court for the Southern District of Illinois, 301 West Main Street, Benton, IL, 62812, First Floor, Courtroom of Judge J. Phil Gilbert.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the Settlement. The Court will also rule on the petition for Class Counsel's Attorneys' Fees and Costs.

## 12. Do I Have To Attend The Fairness Hearing

No, but you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it when the Court considers whether to approve the Settlement as fair, reasonable and adequate. You also may pay your own lawyer to attend the Fairness Hearing, but such attendance is not necessary.

## 13. May I Speak At The Fairness Hearing

If you are a Settlement Class Member, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in the case Tana Cummins v. State of Illinois, Case No. 02-CV-420" Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be mailed to the attorneys and filed with the Clerk of the Court, at the addresses listed in the Answer to Question No. 10, **no later than June 21, 2011**.

## 14. What Happens If I Do Nothing At All?

QUESTIONS? VISIT [WWW.ILCLASSACTION.COM](http://WWW.ILCLASSACTION.COM)

**If you do nothing, you will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is approved, BUT YOU WILL NOT RECEIVE ANY MONEY.**

**To get money in the Settlement, you must return a completed Claim Form.**

#### **15. How Do I Get More Information?**

If you have general question regarding the Settlement, you can:

visit this website: [www.IIClassAction.com](http://www.IIClassAction.com)

contact Class Counsel at:

Gary K. Burger, Jr.  
Cantor & Burger, LLC  
12283 Olive Boulevard  
St. Louis, Missouri 63141  
(314) 542-9999 (Office)  
(314) 434-4459 (Fax)

contact Defendant's Counsel at:

Karen McNaught  
Assistant Attorney General  
500 South Second Street  
Springfield, IL 62706  
(217) 782-2077  
(217) 782-7046 FAX

**CLAIM FOR REIMBURSEMENT OF  
COSTS FOR PRESCRIPTION CONTRACEPTIVES**

I, \_\_\_\_\_, hereby certify that I was enrolled in the QCHP  Health Alliance HMO  PersonalCare  Health Alliance Illinois  OSF Healthplan  OSF Winnebago  PersonalCare East  State of Illinois health care coverage (check whichever applies) for 2000  2001  2002  2003  2004  (check whichever applies) and that I had incurred out-of-pocket costs for prescription contraceptive drugs, devices or procedures that I purchased during the period of August 31,2000, to June 30, 2004, for my personal use.

Last Name

First Name

Middle Initial

Former Last Name (complete only if name was different at time cost incurred)

First Name

Middle Initial

Street Address

Street Address 2

City

    

State

Zip Code

()

Phone Number

Social Security Number

Date of Birth (DD/MM/YYYY)

E-Mail Address (Optional)

My total out-of-pocket cost for prescription contraceptive drugs, devices or procedures during the period August 31, 2000, to June 30, 2004, is as follows:

Type	Out-of-Pocket Cost	Inclusive Dates
<input type="checkbox"/> Pill		
<input type="checkbox"/> Diaphragm		
<input type="checkbox"/> Patch		
<input type="checkbox"/> Implant		
<input type="checkbox"/> IUD		
<input type="checkbox"/> Injection		
<input type="checkbox"/> Other		

Total:

I have attached to this claim form pharmaceutical receipts or records and/or my treating physician's statement as support for each claim for reimbursement listed above. I authorize the dissemination of all information I submit on this form, and any information I include as a supplement to this form, to the courts, all party counsel, the third party administrator, and the appropriate state agency in furtherance of the administration of each claim for reimbursement. For purchases of prescribed contraceptive drugs or devices where I do not have and cannot obtain pharmaceutical receipts or records, I have attached my prescribing physician's statement certifying that such drugs or devices had been prescribed during the relevant period. I certify that the information contained on this form is true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**NOTE: This form must be submitted in order to obtain reimbursement.**



**PHYSICIAN STATEMENT IN SUPPORT OF CLAIM  
FOR CONTRACEPTIVE PRESCRIPTION REIMBURSEMENT**

I, \_\_\_\_\_, hereby certify that I prescribed the following  
contraceptive drugs or devices to \_\_\_\_\_, during the period  
August 31, 2000, to June 30, 2004.

Type	Date	Date	Date	Date	Date
<input type="checkbox"/> Pill					
<input type="checkbox"/> Diaphragm					
<input type="checkbox"/> Patch					
<input type="checkbox"/> Other**					

\* If additional space is needed, you must use an additional form.

\*\* If you checked "other" you must list the medication prescribed:

I certify that the information contained on this form is true and correct to the best of my  
knowledge, information and belief.

\_\_\_\_\_  
Physician Name

\_\_\_\_\_  
National Provider Identifier

\_\_\_\_\_  
Physician Signature

Clinic/Office Name and Address:

**This form must be submitted as a supporting document with your completed "Claim for Reimbursement of Costs of Prescription Contraceptives" if you do not have receipts or other proof of payment.**