UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

TODD J. TAYLOR AND THOMAS LAHOWETZ, individually and on behalf of all others similarly situated, **Plaintiffs,** **v.** **BLUE CROSS BLUE SHIELD, HEALTHCARE PLAN OF GEORGIA, INC. AND ANTHEM INSURANCE COMPANIES, INC.** **Defendants.**	**Civil Action No.: 3:23-cv-00541**

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into by and among Todd J. Taylor and Thomas Lahowetz ("Plaintiffs"), for themselves and on behalf of the Settlement Class (as defined below), on the one hand, and Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. (together, "Anthem") on the other hand (collectively, the "Parties"), in the action captioned *Taylor, et al. v. Anthem Insurance Companies, Inc., et al.*, No. 3:23-cv-00541, in the Middle District of Tennessee (the "Action").

RECITALS

WHEREAS, Plaintiffs, individually and on behalf of the Settlement Class Members, filed the Action, alleging, among other things, that Anthem improperly denied benefits for proton beam radiation therapy ("PBRT") under ERISA § 502(a)(1)(B);

WHEREAS, Anthem denies any liability in the Action and has vigorously defended itself in the Action;

WHEREAS, during the course of litigation and settlement discussions, the Parties engaged in motion practice concerning the viability of Plaintiffs' claims, exchanged written discovery, and made document productions, and were able to evaluate the merits of their respective claims and defenses;

WHEREAS, after an arm's length negotiations supervised by a mediator, the Parties reached a settlement;

WHEREAS, Plaintiffs and Class Counsel consider it desirable and in the Settlement Class Members' best interests that the claims against Anthem in the Action be settled on behalf of Plaintiffs and the Settlement Class Members upon the terms set forth below, and they have concluded that such terms are fair, reasonable, and adequate, and that this settlement will result in significant benefits to the Settlement Class;

WHEREAS, Anthem admits no wrongdoing or liability and expressly denies any and all of the allegations or claims asserted by Plaintiffs in the Action, and this Settlement Agreement and the settlement discussions between the Parties preceding it shall in no manner constitute, be construed as, or be deemed evidence of, an admission or concession of fault or liability of any kind by Anthem;

WHEREAS, the Parties have concluded that it is desirable that the Action be finally settled upon the terms and conditions set forth in this Agreement;

WHEREAS the Parties have decided to enter into this Agreement because it provides substantial and meaningful benefits to the Settlement Class Members and to avoid the uncertainties of continued litigation; and

NOW, THEREFORE, it is agreed, by and among the undersigned, that this Action shall be settled and thereafter be dismissed with prejudice on the terms and conditions set forth herein, subject to judicial approval. In consideration of the promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS

1.1. "Action" shall mean the lawsuit styled *Taylor, et al. v. Anthem Insurance Companies, Inc., et al.*, No. 3:23-cv-00541, in the U.S. District Court in the Middle District of Tennessee.

1.2. "Administrative Costs" means all reasonable costs and expenses of the Settlement Administrator incurred in carrying out its duties under this Agreement, including, without limitation, validating Settlement Class Members and determining eligibility for benefits under the Settlement; administering, calculating, and distributing the Settlement Payments to Settlement Class Members; and paying taxes.

1.3. "Attorneys' Fees" shall mean any and all attorneys' fees of Class Counsel for their past, present, and future work and efforts in connection with this Action and the resulting Settlement.

1.4. "Anthem" means Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

1.5. "Anthem Counsel" shall mean Crowell & Moring LLP and Nelson Mullins Riley & Scarborough, LLP.

1.6. "Anthem's Released Parties" shall mean Anthem, including its predecessor and successor entities, firms, affiliated companies, current and former parents and subsidiaries (and their parents and subsidiaries), and all of their respective shareholders, partners, joint venturers, directors, officers, employees, agents, administrators, executors, members, managers, trustees, representatives, attorneys, insurers, mutual assurance entities, assigns, and any third parties including any health-benefit plans, employer groups, or other Blue Cross and/or Blue Shield Plans for which Anthem processed health-benefit claims.

1.7. "Business Days" means Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays observed by the State of Tennessee.

1.8. "Claim Form" shall mean the form attached hereto as **Exhibit A** and described in paragraph 8.2(b).

1.9. "Claims Period" shall have the meaning ascribed to it in paragraph 8.1.

1.10. "Class Counsel" shall mean Jordan Lewis, P.A.; Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC; Morgan & Morgan; and Strauss Troy Co., LPA.

1.11. "Court" means the U.S. District Court in the Middle District of Tennessee.

1.12. "Defendants" shall mean Anthem.

1.13. "Distributable Settlement Amount" shall have the meaning ascribed to it in paragraph 4.2(a).

1.14. "Effective Date" shall mean the date upon which the Final Order and Judgment is no longer subject to appeal or review, whether by exhaustion of any possible appeal, lapse of time, or otherwise.

1.15. "Entity" means any corporation, partnership, limited liability company, association, trust, or other organization of any type.

1.16. "Escrow Account" shall mean an account at an established financial institution agreed upon by the Parties that is established for the deposit of any amounts relating to the Settlement.

1.17. "Fairness Hearing" shall mean the hearing to be held before the Court pursuant to Fed. R. Civ. P. 23 to determine whether the Settlement Agreement should receive Final Approval by the Court.

1.18. "Fee and Expense Application" shall mean the petition, to be filed by Class Counsel, seeking approval of an award of Attorneys' Fees and Reimbursable Expenses.

1.19. "Final Approval" shall mean the entry of the Final Order and Judgment.

1.20. "Final Order and Judgment" or "Final Approval Order" shall mean an order and judgment that the Court enters after the Fairness Hearing, which finally approves the Agreement, certifies the Settlement Class, dismisses Anthem with prejudice, and otherwise satisfies the settlement-related provisions of Fed. R. Civ. P. 23 in all respects.

1.21. "Individual Settlement Cap" shall have the meaning ascribed to it in paragraph 8.2(c).

1.22. "Notice Date" shall mean 21 days after the Court enters the Preliminary Approval Order.

1.23. "Notice Costs" shall mean all reasonable costs and expenses of the Settlement Administrator, including without limitation, all expenses or costs associated with providing Notice to the Settlement Class.

1.24. "Objection Deadline" shall mean 45 days after Notice Date.

1.25. "Opt-Out" shall have the meaning ascribed to it in paragraph 2.4.

1.26. "Opt-Out Deadline" shall mean 45 days after Notice Date.

1.27. "Parties" shall mean Plaintiffs and Anthem (individually, each a "Party").

1.28. "Plan" shall mean a self-funded employer sponsored, ERISA-governed health benefit plan issued by Anthem and effective during any period from May 25, 2017 to the date of this Agreement.

1.29. "Plan of Allocation" shall mean the plan or formula of allocation of the Distributable Settlement Amount as approved by the Court, which plan or formula shall govern the distribution of the Distributable Settlement Amount, as reflected in Section 8 of this Settlement Agreement.

1.30. "Preliminary Approval Order" shall mean an order entered by the Court preliminarily approving the Settlement pursuant to paragraph 3.1, substantively identical in all material respects to that attached hereto as **Exhibit B**.

1.31. "Qualifying Payment(s)" shall have the meaning ascribed to it in paragraph 8.2.

1.32. "Reimbursable Expenses" shall mean any and all costs and expenses of Class Counsel for their expenditures made in connection with this Action and the Settlement.

1.33. "Released Claims" shall mean any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether representative, class, or individual in nature or sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorneys' fees, based upon, arising from, or relating in any way to the factual predicates or legal claims that were brought in the Action, or could have been brought in the Action, relating in any way to the denial of coverage under a health benefit plan for PBRT for the treatment of prostate cancer to the persons identified by Anthem in discovery who: (1) were beneficiaries of an ERISA-regulated health plan; (2) had coverage under a health plan underwritten or to which Anthem's Released Parties provided administrative services; (3) sought coverage for PBRT for treatment of prostate cancer; (4) and were denied coverage based on a determination that PBRT was experimental, investigational, unproven, not sufficiently proven in effectiveness, not medically necessary, did not meet clinical policy, criteria or guidelines for coverage, or for (1) through (4), words to that effect.

1.34. "Request to Opt-Out" shall have the meaning ascribed to it in paragraph 2.4.

1.35. “Settlement” shall mean the compromise and resolution embodied in this Settlement Agreement.

1.36. “Settlement Administrator” shall mean Verita Global, LLC.

1.37. “Settlement Amount” shall mean a common settlement fund in the amount of three million, six hundred and twenty-five thousand United States Dollars ($3,625,000). The Settlement Class Members acknowledge that this Settlement Amount is in full and complete satisfaction of all Released Claims they may have against Anthem.

1.38. “Settlement Class” or “Settlement Class Members” shall be limited to the persons identified by Anthem in discovery in this Action who sought coverage from Anthem for PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise). Excluded from the Settlement Class are (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff: (ii) Anthem Counsel, their employees, and their immediate family, (iii) Class Counsel, their employees, and their immediate family, and (iv) any person who validly opts-out of the Settlement Class.

1.39. “Settlement Information Line” shall have the meaning ascribed to it in paragraph 3.4.

1.40. “Settlement Notice” shall mean (i) the notice, substantively identical in all material respects to that attached hereto as **Exhibit C and D**, to be made available on the Settlement Website and mailed to Settlement Class Members, pursuant to paragraph 3.2.

1.41. “Settlement Payment” shall mean that portion of the Distributable Settlement Amount paid or payable to a specific Settlement Class Member, as calculated pursuant to paragraph 8.2.

1.42. “Settlement Website” shall have the meaning ascribed to it in paragraph 3.3.

1.43. "Service Award" shall have the meaning ascribed to it in paragraph 7.2.

1.44. "Service Award Application" shall mean the petition, to be filed by Class Counsel, seeking approval of a Service Award as described in paragraph 7.2.

1.45. "Taxes" shall have the meaning ascribed to it in paragraph 4.1(g).

1.46. "Tax-Related Costs" shall have the meaning ascribed to it in paragraph 4.1(g).

2. CLASS CERTIFICATION

2.1 **Stipulation to Settlement Class**. Solely for purposes of the Settlement and for no other purpose, each of the Parties stipulates and agrees that the Action shall proceed as a class action under Fed. R. Civ. P. 23. Plaintiffs shall seek, and Anthem will not oppose, certification of the Settlement Class, pursuant to Fed. R. Civ. P. 23, for settlement purposes only.

2.2 **No Agreement or Admission**. Nothing in this Agreement shall be construed as an agreement or admission by Anthem that the Action or any similar case is amenable to class certification for trial or any other purpose. Nothing in this Agreement shall be construed as an agreement or admission by Plaintiffs that the Action or any similar case is not amenable to class certification for trial or any other purpose.

2.3 **No Waiver**. Nothing in this Agreement shall prevent Plaintiffs from seeking class certification or appealing any denial of class certification if the Settlement does not receive Final Approval or the Effective Date does not occur for any reason. Nothing in this Settlement Agreement shall prevent Anthem from opposing or appealing class certification or seeking de-certification of any class if the Settlement does not receive Final Approval or the Effective Date does not occur for any reason.

2.4 **Requests to Opt-Out from Settlement Class.** Any person included within the Settlement Class who wishes to "Opt-Out" (*i.e.*, to be excluded) from the Settlement Class must do so in writing by making a written request to Opt-Out from the Settlement to the Settlement

Administrator (a “Request to Opt-Out”). Such request must be postmarked no later than the Opt-Out Deadline. The request must (a) identify the case name and number, (b) be signed by the person seeking to Opt-Out from the Settlement Class, (c) clearly express the person’s desire to Opt-Out from the Settlement Class, and (d) include the person’s name, address and telephone number and, if represented by counsel, counsel’s name, address and telephone number. Any person within the Settlement Class who wishes to Opt-Out from the Settlement Class can Opt-Out only for himself or herself and cannot Opt-Out for any other person or any group of persons, nor can any person within the Settlement Class authorize any other person to Opt-Out on its or her behalf. Any Request to Opt-Out that fails to satisfy the requirements of this Section, or that has not been timely postmarked by the deadline set forth in the Preliminary Approval Order, shall be deemed ineffective, and any person included within the Settlement Class who does not property and timely submit a Request to Opt-Out shall be deemed to have waived all rights to Opt-Out and shall be deemed a Settlement Class Member for all purposes under this Agreement.

3. MOTION FOR PRELIMINARY APPROVAL

3.1. **Motion for Preliminary Approval**. As soon as is practicable after execution of this Agreement, Plaintiffs shall move the Court for preliminary approval of the Settlement, including entry of an Order substantively identical in all material respects to the form of the Preliminary Approval Order attached as **Exhibit B** hereto.

3.2. **Settlement Notice**. Within 21 days of the entry of the Preliminary Approval Order, the Settlement Administrator shall post to the Settlement Website the long form of the Settlement Notice (substantively identical in all material respects to that attached hereto as **Exhibit C**) and shall send the short form of the Settlement Notice (substantively identical in all material respects to that attached hereto as **Exhibit D**) by first-class mail or electronic mail (if reasonably available) to the Settlement Class Members. The short form of the Settlement Notice will be sent to the last known mailing address or last known email address (if reasonably available) of the known Settlement Class Members, which shall be based on the good faith assistance from Anthem to provide last known mailing addresses and email addresses (if reasonably available) in its files, with the good faith assistance of Class Counsel, and updated through the National Change of Address database by the Settlement Administrator before mailing (with all returned mail skip-traced and promptly re-mailed).

3.3. **Settlement Website**. Within 21 days of the entry of the Preliminary Approval Order and no later than the first date that the mailing of the short form of the Settlement Notice occurs, the Settlement Administrator shall establish the Settlement Website, which will contain the Settlement Notice and this Settlement Agreement and its exhibits. The Settlement Notice will identify the web address of the Settlement Website.

3.4. **Settlement Information Line**. No later than the first date of mailing of the Settlement Notice, the Settlement Administrator shall establish a toll-free telephone number (the "Settlement Information Line") to which Settlement Class Members can direct questions about the Settlement. The Settlement Administrator shall develop a question-and-answer-type script, with input and approval from Class Counsel and Anthem, for use in answering calls to the Settlement Information Line.

3.5. **Right to Object**. Settlement Class Members shall be permitted to object to the Settlement by the Objection Deadline. Requirements for filing an objection shall be as set forth in the Preliminary Approval Order.

4. PAYMENTS TO THE CLASS

4.1. **The Settlement Amount**.

(a) Within 14 days of the Court granting Preliminary Approval of the Settlement, Anthem shall pay $20,000.00 of the Settlement Amount into the

Escrow Account by wire transfer for use in the payment of initial Notice and Administration Expenses, which will be credited toward the total Settlement Amount owed by Anthem. In the event that the Settlement is terminated, the Court does not grant Final Approval, the Effective Date does not occur, or the Settlement otherwise fails for any reason, the Settlement Administrator shall return any unused portion of the $20,000.00 to Anthem within 14 Business Days.

(b) Anthem shall cause the Settlement Amount (less the $20,000.00 deposited pursuant to paragraph 4.1(a) above) to be deposited via wire transfer into the Escrow Account within 30 Business Days of entry of the Final Order and Judgment.

(c) The Settlement Amount shall be used solely for the purposes set forth in paragraph 4.1(h) below.

(d) Subject to Court approval and oversight, the Escrow Account will be controlled by the Settlement Administrator. The Settlement Administrator shall not disburse the Settlement Amount or any portion thereof except as provided for in this Agreement, by an Order of the Court, or with prior written agreement of both Class Counsel and Anthem Counsel.

(e) The Settlement Administrator is authorized to execute transactions on behalf of the Settlement Class Members that are consistent with the terms of this Agreement and Orders of the Court.

(f) All funds held in the Escrow Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until the funds are distributed in accordance with this Settlement Agreement.

(g) All (i) taxes on the income of the Escrow Account ("Taxes") and (ii) expenses and costs incurred in connection with the taxation of the Escrow Account (including, without limitation, expenses of tax attorneys and accountants) ("Tax-Related Costs") shall be timely paid by the Settlement Administrator out of the Escrow Account.

(h) The "Settlement Amount," together with any interest accrued thereon, will be used to pay the following amounts associated with the Settlement:

(i) Compensation to Settlement Class Members determined in accordance with paragraph 4.2 and Section 8;

(ii) All Attorneys' Fees and Reimbursable Expenses approved by the Court;

(iii) All Service Awards to Class Representatives approved by the Court;

(iv) Notice Costs and Administrative Costs incurred by the Settlement Administrator; and

(v) Taxes and Tax-Related Costs.

(i) For the avoidance of doubt, the Settlement Amount represents the total amount Anthem owes under this Settlement Agreement.

4.2. **Distribution to Settlement Class Members.**

(a) The money remaining from the Settlement Amount, including any accrued interest thereon, after the removal of amounts for payment of any approved Attorneys' Fees and Reimbursable Expenses, Service Awards to Class Representatives, Notice Costs and Administrative Costs incurred by the Settlement Administrator, Taxes and Tax-Related Costs, shall be available for distribution to Settlement Class Members (the "Distributable Settlement Amount").

(b) The Distributable Settlement Amount shall be divided among Settlement Class Members in accordance with the Plan of Allocation set forth in Section 8 below.

(c) The Settlement Administrator shall disburse the Distributable Settlement Amount as promptly as possible after the Effective Date and, in any event, no later than 60 days after the Effective Date.

(d) The Settlement Administrator shall make all Settlement Payments by check made payable to the Settlement Class Members according to the addresses provided by Anthem or otherwise provided by the Settlement Class Members.

(e) Settlement Class Members must each or otherwise negotiate and present Settlement Payment checks within 180 days of issuance. If they do not do so, the checks will be void. This limitation shall be printed on the face of each check. For any checks that are mailed but become void after the first issuance, the Settlement Administrator shall reissue and undertake a second mailing of such checks. Settlement Class Members must each or otherwise negotiate and present such reissued checks within 60 days of reissuance or those reissued checks will be void. The voidance of checks shall have no effect on the Settlement Class Members' release of claims, obligations, representations, or warrantees as provided herein, which shall remain in full effect.

4.3. **Treatment of Uncashed Checks**. If any Settlement Payment checks are issued and reissued pursuant to paragraph 4.2(e) above but remain uncashed 60 days after reissuance, then the Settlement Administrator shall within 81 days after the check's reissuance date remit the amount of such uncashed check(s) to Anthem by wire transfer as indicated in written instructions to be provided by Anthem to the Settlement Administrator. The Settlement Administrator shall retain records of any such payment to Anthem and provide those records to Class Counsel and/or Anthem Counsel upon request.

4.4. **Certification of Settlement Administrator**. Within 10 Business Days of completing all actions required by paragraphs 4.2 and 4.3, the Settlement Administrator shall provide Class Counsel and Anthem Counsel with one or more affidavits stating the following: (a) confirmation that the Settlement Administrator sent the Settlement Notice to each Settlement Class Member using the addresses provided by Anthem and/or updated by the Settlement Administrator; (b) the date(s) upon which the Settlement Administrator sent the Settlement Notice; (c) the name of each Settlement Class Member whose Settlement Notice was returned as undeliverable; and (d) the name of each Settlement Class Member to whom the Settlement Administrator made a Settlement Payment, together with the amount of the Settlement Payment, the name of the payee, the date of the Settlement Payment, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

4.5. **Entire Monetary Obligation**. In no event, and notwithstanding anything else in this Settlement Agreement shall Anthem be required to pay any amounts other than the Settlement Amount. It is understood and agreed that Anthem's monetary obligations under this Settlement Agreement will be fully discharged by paying the amounts specified in paragraph 4.1 above, and that Anthem shall have no other monetary obligations, or obligations to make any other payments under this Settlement Agreement or otherwise in connection with this Settlement.

4.6. **Undistributed Funds**. To the extent that there is any undistributed portion of the

Distributable Settlement Amount, for example as a result of Opt-Outs and/or the Individual Settlement Cap described in paragraph 8.2(c), the undistributed portion shall be paid to the mutually agreed upon *cy pres* recipient: Beam of Hope Foundation (https://www.beamofhopefoundation.org/). For the sake of clarity, paragraph 4.6 does not apply to the uncashed checks described in paragraph 4.3.

5. SETTLEMENT ADMINISTRATION

5.1. The Settlement Administrator shall perform the functions as are specified in this Agreement and its Exhibits, including, but not limited to, providing notice of this Settlement Agreement to Settlement Class Members; overseeing administration of the Settlement Amount; operating the Settlement Website and a toll-free number; and administering and distributing the Settlement Payments described herein. In addition to other responsibilities that are described in this Agreement, the duties of the Settlement Administrator include:

(a) Reviewing information obtained from Anthem and determining the validity and accuracy of any Claim Forms and other submissions to calculate and process Settlement Payments to Settlement Class Members;

(b) Providing Settlement Class Members with their total Qualifying Payment(s) for purposes of calculating their pro rata distribution used to process Settlement Payments;

(c) Establishing a reasonably practical procedure, with the good faith assistance of Anthem Counsel and Class Counsel, to verify that individuals who submit a Claim Form are Settlement Class Members and have valid Qualifying Payment(s);

(d) Establishing and maintaining a post office box for mailed Claim Forms, written objections, and Requests to Opt-Out from the Settlement Class;

(e) Establishing and maintaining the Settlement Website;

(f) Establishing and maintaining a toll-free telephone line for Settlement Class

Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries;

(g) Responding to Settlement Class Member inquiries in conjunction with Class Counsel and Anthem Counsel via U.S. mail, e-mail, and telephone;

(h) Mailing to Settlement Class Members who request it paper copies of the Settlement Notice;

(i) Paying Taxes;

(j) Processing all objections and Requests to Opt-Out from the Settlement Class;

(k) Receiving Requests to Opt-Out and objections from Settlement Class Members and promptly providing copies thereof to Class Counsel and Anthem Counsel. If the Settlement Administrator receives any Requests to Opt-Out, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Anthem Counsel;

(l) Providing, no later than 21 Business Days after the Opt-Out and Objection Deadlines, a final report to Class Counsel and Anthem Counsel that summarizes the number of written Requests to Opt-Out, objections, and other pertinent information as requested by Class Counsel or Anthem Counsel;

(m) After the Effective Date, processing and transmitting Settlement Payments to Settlement Class Members;

(n) In accordance with all applicable orders of the Court, processing and transmitting to Class Counsel all amounts approved by the Court for Attorneys' Fees and Reimbursable Expenses and for Service Awards;

(o) In advance of the Fairness Hearing, preparing a report for Class Counsel and

Anthem Counsel and an affidavit to submit to the Court that provides: (i) information regarding the Settlement Administrator's execution of mailed Settlement Notice; (ii) information regarding its determinations of the number of Settlement Class Members eligible for Settlement Payments, calculated pro rata percentages for use in processing Settlement Payments, and the total anticipated amount of such eligible Settlement Payments; and (iii) a list of each Settlement Class Member who timely and properly provided written Requests to Opt-Out from the Settlement Class; and

(p) Performing any function at the agreed-upon instruction of both Class Counsel and Anthem Counsel, including, but not limited to, verifying that Settlement Payments have been distributed to Settlement Class Members.

5.2. The Parties, Class Counsel, and Anthem Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of the Settlement Administrator's designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Amount; (iii) the formulation, design, or terms of the disbursement of the Settlement Amount; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Amount; (v) any losses suffered by, or fluctuations in, the value of the Settlement Amount; or (vi) the payment or withholding of any taxes, expenses, or costs incurred in connection with the taxation of the Settlement Amount or the filing of any returns.

5.3. The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, and Anthem Counsel for (i) any act, omission, or determination of the Settlement Administrator, or any of the Settlement Administrator's designees or agents, in connection with the administration of the Settlement; (ii) the management, investment, or distribution of the Settlement Amount; (iii) the formulation, design, or terms of the disbursement of the Settlement

Amount; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Amount; (v) any losses suffered by, or fluctuations in, the value of the Settlement Amount; or (vi) the payment or withholding of any taxes, expenses, or costs incurred in connection with the taxation of the Settlement Amount or the filing of any returns.

6. RELEASES, COVENANTS, AND INJUNCTION

6.1. **Released Claims**. Upon entry of the Final Approval Order, Plaintiffs and the Settlement Class Members, on behalf of themselves, and their past, present, and future administrators, executors, agents, insurers, attorneys, trusts, beneficiaries, heirs, devisees, legatees, spouses, co-insureds, family members, additional plan members, descendants, dependents, predecessors- and successors-in-interest and assigns, shall be deemed to have, and by operation of the Final Order and Judgment, shall have, fully, finally, and forever settled, released, relinquished, waived and discharged any and all Released Claims against Anthem's Released Parties. The Settlement Class Members acknowledge, and shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part. Each Plaintiff and Settlement Class Member hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order, the Settlement Class Members shall be conclusively deemed to, and by operation of the Final Approval Order shall settle, release, relinquish, waive, and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims pertaining specifically to Section 1542 of the California Civil Code, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Upon entry of the Final Approval Order, the Plaintiffs and Settlement Class Members shall also, with respect to the Released Claims, waive any and all provisions, rights, and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable, or equivalent in substance to Section 1542 of the California Civil Code.

6.2. **Injunction**. Upon the Effective Date, all Plaintiffs and each of the Settlement Class Members shall be enjoined from instituting, maintaining, prosecuting, or asserting any claim, cause of action or demand on the basis of, connected with, or arising out of the Released Claims, whether arising before or after the date of the Final Order and Judgment, whether known or unknown, against any and all of Anthem's Released Parties. Nothing herein shall bar any claim seeking enforcement of this Settlement Agreement, the Preliminary Approval Order, or the Final Approval Order.

7. ATTORNEYS' FEES, EXPENSES AND SERVICE AWARDS

7.1. **Fee and Expense Application**. Class Counsel intends to submit a Fee and Expense Application, seeking Attorneys' Fees based on the value of the Settlement and the work performed in an amount not to exceed 25% of the Settlement Amount (*i.e.*, $906,250), and $68,325.48 in costs and expenses, which amount constitutes Class Counsel's reasonable Attorneys' Fees and Reimbursable Expenses. Anthem will not oppose the Fee and Expense Application up to this amount. Any amount awarded by the Court in response to such Fee and Expense Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within 45 Business Days of entry of the Final Approval Order and Judgment. Anthem agrees not to oppose the Fee and Expense Application up to the above specified amount.

7.2. **Service Award**. Class Counsel intends to submit a Service Award Application for the Class Representatives for a total amount of $20,000, which will be paid from the Settlement Amount. Any amount awarded by the Court in response to such Service Award Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within 45 Business Days of entry of the Final Approval Order and Judgment and then distributed to each Class Representative. Anthem agrees not to oppose the Service Award Application up to the above specified amount.

7.3. **No Termination**. Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of the Attorneys' Fee and Reimbursable Expense Application as well as the Service Award Application to be paid out of the Settlement Amount shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any Order or proceedings relating to the award of Attorneys' Fees and Reimbursable Expenses or Service Award, or any appeal of any Order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

8. PLAN OF ALLOCATION

8.1. **Claims Period**. There will be a claims period that will run for 120 days after the Notice Date.

8.2. **Claims Process**. During the Claims Period, the Settlement Administrator, with the good faith assistance from Anthem to provide certain last known address information in its records and with the assistance of Class Counsel, shall identify the Settlement Class Members who submit a valid Claim Form and are eligible for a Settlement Payment as set forth herein, and their corresponding Qualifying Payment(s).

(a) "Qualifying Payment(s)" shall mean the total amount of out-of-pocket payments made by a Settlement Class Member for PBRT for the treatment of prostate cancer (meaning the treatments were not covered by insurance (by Anthem or otherwise)).

(b) Settlement Class Members need to submit a Claim Form, attached hereto as **Exhibit A**, within 120 days of the Notice Date, to be eligible to receive a Settlement Payment. Settlement Class Members must also submit documentation, as set forth in the Claim Form, that demonstrates that the Settlement Class Member incurred a Qualifying Payment(s). The documentation must include the (1) provider's name, (2) provider's address, (3) date of service, (4) description of services provided, and (5) provider charges for which the Settlement Class Member paid out-of-pocket.

(c) The Settlement Administrator shall determine, for each Settlement Class Member and based on their total Qualifying Payment(s), their pro rata percentage that will be used to determine their Settlement Payment. In no event shall any Settlement Class Member receive a Settlement Payment that exceeds the aggregate sum of the Settlement Class Member's Qualifying Payment(s) (the "Individual Settlement Cap").

(d) The Settlement Administrator shall have the sole discretion and authority to determine whether a claim is deficient in whole or part but may consult with the Parties in making individual determinations.

8.3. **Tax Obligations**. The Parties acknowledge that any payments to Settlement Class Members or their attorneys may be subject to applicable tax laws. Anthem, Anthem's Counsel, Class Counsel, and Plaintiffs will provide no tax advice to the Settlement Class Members and make no representation regarding the tax consequences of any of the Settlement Payments described in this Settlement Agreement. To the extent that any portion of any Settlement Payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Each Settlement Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Settlement Class Member shall hold Anthem, Anthem's Counsel, Plaintiffs, Class Counsel, and the Settlement Administrator harmless from any tax liability including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Anthem, Anthem's Counsel, Plaintiffs, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings, (including for example, investigation and suit), related to such tax liability.

9. CONTINGENCIES, EFFECT OF DISAPPROVAL, OR TERMINATION OF SETTLEMENT

9.1. **Right to Terminate**. If the Court or, in the event of an appeal, any appellate court, refuses to approve, or modifies any material aspect of this Agreement or the proposed Preliminary Approval Order or Final Order and Judgment, Plaintiffs or Anthem may terminate this Agreement and the Settlement as set forth below.

9.2. **Termination Events**. This Agreement and the Settlement shall terminate and be cancelled if, within 20 Business Days after any of the following events, one of the Parties provides written notification of an election to terminate the Settlement.

(a) The Court declines to provide preliminary approval of this Agreement, or declines to enter, or materially modifies the contents of the Preliminary Approval Order attached hereto as **Exhibit B**, or materially changes the definitions of Released Claims or Anthem's

Released Parties; or

(b) The Court declines to provide final approval of this Agreement, or declines to enter, or materially modifies the contents of the Final Order and Judgment; or

(c) The Court's Final Order and Judgment is vacated, reversed, or modified in any material respect on any appeal, or other review, or in a collateral proceeding occurring prior to the Effective Date.

For purposes of this Agreement and this paragraph 9.2, no Order of the Court, or modification, or reversal on appeal of any Order of the Court, solely concerning the administrative functions of the Settlement or the person(s) performing such administrative functions, or the amount, advancement, or award of any Attorneys' Fees shall constitute grounds for cancellation or termination of the Agreement.

9.3. **Anthem's Right to Terminate**. If the number of valid Requests to Opt-Out from the Settlement is 10% or more of the potential Settlement Class Members, Anthem may, but is not obligated to, elect to terminate the Settlement. The Parties agree that if Anthem terminates on this basis, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither party will have any further obligation to perform under this Agreement. Anthem must notify Class Counsel and the Court of its election to terminate not later than 30 days after the Opt-Out Deadline.

9.4. **Effect of Termination**. If for any reason this Agreement is terminated or fails to become effective, then the Parties shall be deemed to have reverted to their respective status, which shall then resume proceedings in the Court, and the Parties shall proceed in all respects as if this Agreement and any related orders had not been entered.

10. MISCELLANEOUS

10.1. **Duty to Cooperate**. Each of the Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement. The Parties shall not encourage persons included within the Settlement Class or attorneys representing such persons to object to the Court's approval of the Agreement. The Parties further represent, agree, and acknowledge that the Settlement is a fair resolution of these claims for the Parties and the Settlement Class. Neither the Parties nor their respective counsel shall make any statements suggesting the contrary, either before or after the Court's approval of the Settlement and this Agreement. Class Counsel and Anthem's Counsel further agree not to, in any public discussion, discourse, or presentation, including but not limited to any interviews with the press or on social media, accuse the Parties, or any of them, of any wrongdoing regarding this Settlement or the subject matter thereof (provided, however, this sentence does not include claims for breach of this Agreement).

10.2. **Entire Agreement**. This Agreement is the entire agreement among the Parties concerning the settlement of the Action and it supersedes any prior agreements, written or oral, between the Parties. In executing this Agreement, the Parties have not seen, heard, or relied upon any promises, statements, representations, covenants, warranties, or inducements, whether express or implied, made by one another or by any representative or other person or entity, except for those expressly contained in this Settlement Agreement and the exhibits thereto. This Settlement Agreement cannot be altered, modified, or amended except through a writing executed by all Parties.

10.3. **Waiver**. The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

10.4. **Construction of Agreement**. This Settlement Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity shall not be resolved by virtue of a presumption in favor of any Party. The Settlement Agreement was reached at arm's-length by the Parties, all of which were represented by counsel. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the sections or paragraphs they caption. References to a person are also to the person's permitted successors and assigns, except as otherwise provided herein. Whenever the words "include," "includes" or "including" are used in this Settlement Agreement, they shall not be limiting but shall be deemed to be followed by the words "without limitation."

10.5. **Executed in Counterparts**. This Agreement may be executed in counterparts, all of which shall be considered the same as if a single document had been executed and shall become effective when such counterparts have been signed by each of the Parties and delivered to each of the other Parties. Counterpart copies of signature pages, whether delivered in original, by electronic mail in pdf format, and/or by facsimiles, taken together shall all be treated as original and binding signatures.

10.6. **Notices.** Unless otherwise provided herein any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, shall be in writing and delivered personally or sent by certified mail or overnight delivery service, postage pre-paid, with copies by electronic mail to the attention of Class Counsel or Anthem Counsel (as well as to any other recipients that a court may specify). As of the date hereof, the respective representatives are as follows:

For Plaintiffs:

Jordan Lewis
Jordan Lewis, P.A.
4473 N.E. 11th Ave
Fort Lauderdale, FL 33334
jordan@jml-lawfirm.com

Alyson S. Beridon
Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC
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alyson@hsglawgroup.com

John Yanchunis
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jyanchunis@ForThePeople.com

Robert R. Sparks
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150 E. Fourth Street, 4th Floor
Cincinnati, OH 45202
rrsparks@strausstroy.com

For Anthem:

Robert Deegan
Crowell & Moring LLP
300 N. LaSalle Drive, Suite 2500
Chicago, IL 60654
rdeegan@crowell.com

10.7. **Extensions of Time**. The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

10.8. **Governing Laws**. This Agreement shall be governed by and construed in accordance with the laws of the state of Tennessee without giving effect to any conflict of law provisions that would cause the application of the laws of any state other than Tennessee.

10.9. **Fees and Expenses**. Except as otherwise expressly set forth herein, each Party hereto shall pay all fees, costs, and expenses incurred in connection with the Action, including fees, costs, and expenses incident to his, her, or its negotiation, preparation, or compliance with this Agreement, and including any fees, expenses, and disbursements of its counsel, accountants, and other advisors. Nothing in this Agreement shall require Anthem to pay any monies other than as expressly provided herein.

10.10. **Advice of Counsel**. Each Party to this Settlement Agreement hereby acknowledges that he, she, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that Party by his, her, or its counsel.

10.11. **Disputes**. Class Counsel, Anthem's Counsel and the Parties agree that any and all disputes concerning compliance with the Settlement Agreement, with the exception of any and all disputes concerning compliance with Section VIII, shall be exclusively resolved as follows:

(a) If Class Counsel, Anthem's Counsel, or a Party has reason to believe that a legitimate dispute exists concerning the Settlement Agreement, the Party raising the dispute shall first promptly give written notice under the Settlement Agreement to the other party including in such notice: (a) a reference to all specific provisions of the Settlement Agreement that are involved; (b) a statement of the alleged non-compliance; (c) a statement of the remedial action sought; and (d) a brief statement of the specific facts, circumstances, and any other arguments supporting the position of the party raising the dispute;

(b) Within 30 days after receiving the notice described in subparagraph (a), the receiving Party shall respond in writing with its position and the facts and arguments it relies on in support of its position;

(c) For a period of not more than 7 days following mailing of the response described in subparagraph (b), the Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute;

(d) If the dispute is not resolved during the period described in subparagraph (c), the Parties shall conduct a mediation of the dispute with the Mediator on the earliest reasonably practicable date, provided however, that the scope of such mediation shall be expressly limited to the dispute;

(e) Within 30 days after the conclusion of the Meditator's attempt to resolve the dispute (the date of the conclusion of the mediation shall be determined by agreement of the parties or by the Mediator), if the dispute persists, either Party may request that the Court resolve the dispute;

(f) The Parties will attempt to resolve any disputes quickly, expeditiously, inexpensively, and in good faith;

(g) In connection with any disputes concerning compliance with the Settlement Agreement, each Party shall bear its own fees and costs unless the Court orders otherwise.

10.12. **Retention of Jurisdiction**. As provided in the Final Approval Order, the Court retains exclusive jurisdiction over the interpretation and enforcement of the Settlement Agreement, including but not limited to, any issues regarding the Parties and the Released Claims.

10.13. **Non-Admission of Liability**. This Agreement is for settlement purposes only, and neither the fact of, nor any specific provision contained in, this Agreement nor any action of any claim or any fact alleged by Plaintiffs or by any other person included within the Settlement Class of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Released Parties. This Agreement constitutes a compromise under Fed. R. Evid. 408 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable. It shall not be offered or be admissible either in whole or in part, as evidence against the Released Parties, except in any action or proceeding to enforce the terms of this Agreement taken hereunder shall constitute, or be construed as, any admission of the validity or lack of merit.

10.14. **No Impact on Release**. No default by any person in the performance of any covenant or any obligation arising under this Agreement, or any order of judgment entered in connection therewith, shall affect the discharge and release of the Released Parties, or any other provision of the Settlement Agreement. Notwithstanding the above, nothing in this sub-section shall prevent a Party from seeking enforcement of or compliance with the terms of the Settlement Agreements or the intervention of the Court to compel any such default to be cured.

10.15. **No Assignment**. The Parties each represent and warrant that they have not assigned, transferred or purported to assign or transfer, in whole or in part, any interest in any of the rights and claims that are the subject of the Settlement Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: ___________________ ________________________________
Todd J. Taylor, Plaintiff

Dated: ___________________ ________________________________
Thomas Lahowetz, Plaintiff

Dated: ___________________ ________________________________
By: ____________________________
Title: __________________________
Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

We undersigned counsel, have approved the Settlement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

/s/ Alyson S. Beridon
Alyson S. Beridon (BPR #40040)
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/s/ Robert Deegan
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4473 N.E. 11th Avenue
Fort Lauderdale, FL 33334
(954) 616-8995
Email: jordan@jml-lawfirm.com

Counsel for Plaintiffs

Dated: ____________________

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: 5-3-2026 ____________________ Todd J. Taylor, Plaintiff

Dated: ________________ ____________________ Thomas Lahowetz, Plaintiff

Dated: ________________ ____________________
By: ____________________
Title: ____________________
Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

We undersigned counsel, have approved the Settlement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

/s/ Alyson S. Beridon
Alyson S. Beridon (BPR #40040)
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/s/ Robert Deegan
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300 N. LaSalle Drive, Suite 2500
Chicago, IL 60654
(312) 321-4200
Email: rdeegan@crowell.com

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: ________________

____
Todd J. Taylor, Plaintiff

Dated: 5/4/2026

Thomas Lahowetz
Thomas Lahowetz, Plaintiff

Dated: ________________

____
By: ____________________
Title: __________________
Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

We undersigned counsel, have approved the Settlement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

/s/ Alyson S. Beridon
Alyson S. Beridon (BPR #40040)
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/s/ Robert Deegan
Crowell & Moring LLP
300 N. LaSalle Drive, Suite 2500
Chicago, IL 60654
(312) 321-4200
Email: rdeegan@crowell.com

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: ________________ ____________________________
Todd J. Taylor, Plaintiff

Dated: ________________ ____________________________
Thomas Lahowetz, Plaintiff

Dated: 5/14/26

By: C. Morgan Kendrick
Title: EVP & President Comm. and Specialty Heath Ben.
Anthem Insurance Companies, Inc. and Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.

We undersigned counsel, have approved the Settlement as to form. We and our law firms agree to abide by and be bound by Paragraph 10.1 of the Agreement.

/s/ Alyson S. Beridon
Alyson S. Beridon (BPR #40040)
Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC
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/s/ Robert Deegan
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A

<u>CLAIM FORM</u>

Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc., Case No. 3:23-cv-00541
United States District Court Middle District of Tennessee
SUBMIT BY ------------------------, 2026 to:

Taylor, et al v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies Settlement Administrator Verita Global, LLC
[INSERT Settlement Admin Contact Information]

<u>GENERAL CLAIM FORM INFORMATION</u>

This Claim Form should be submitted by mail if you received a notice of the Action, alleging among other things, that Anthem improperly denied benefits for proton beam radiation therapy ("PBRT") for prostate cancer under ERISA § 502(a)(1)(B).

Please refer to the detailed Notice posted on the Settlement Website www.xxxxx.com, for more information on submitting a Claim Form and if you are a member of the Settlement Class.

Did you receive treatment for prostate cancer after your request for coverage for PBRT coverage was denied by Anthem and you paid out-of-pocket for the treatment (*i.e.*, the treatment was not covered by insurance)?

YES or NO (check boxes)

You must complete this Claim Form to be eligible to receive a Settlement Payment. Settlement Class Members must also submit documentation that demonstrates that the Settlement Class Member incurred a Qualifying Payment(s). This document must include the **(1) provider's name, (2) provider's address, (3) date of service, (4) description of services provided, and (5) amount that Settlement Class Member paid out-of-pocket for services**. Claim Forms may be mailed to the address on the form or printed from the website and mailed to the address on the form. Please print clearly in blue or black ink. This Claim Form must be mailed and postmarked by no later than **DD, MM, 2026**. You may either complete the questions below **or** submit documentation that contains the requested information.

1) **<u>Provider's name</u>**

2) **<u>Provider's address</u>**

3) **<u>Date(s) of service</u>**

4) **Description of services provided**

5) **Amount paid out of pocket for provided services**

I. Claimant Information

____

Full Name of Class Member

____

Street/P.O. Box City State Zip Code

____

Phone Number

____

Email Address

II. Attestation and Signature

I swear and affirm under the laws of my state that the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

____

Signature

Date

____

Print Name

B

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Todd J. Taylor and **Thomas Lahowetz**, on their own behalf and on behalf of all others similarly situated; Plaintiffs, v. **Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.,** and **Anthem Insurance Companies, Inc.** Defendants.	CASE NO. 3:23-cv-00541 Judge William L. Campbell Jr. Magistrate Judge Jeffrey S. Frensley

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND FOR APPOINTMENT OF SETTLEMENT CLASS REPRESENTATIVES, SETTLEMENT CLASS COUNSEL AND SETTLEMENT ADMINISTRATOR

The Court, having considered the filings and having heard from counsel and being fully apprised of the considerations, now makes the following **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:**

FINDINGS OF FACT

This lawsuit arises out of coverage denials for the treatment of prostate cancer. Both named plaintiffs were diagnosed with prostate cancer. Both named plaintiffs were advised to treat the cancer with proton beam radiation therapy. Both named plaintiffs sought coverage from defendants Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc. Defendants denied coverage to both named plaintiffs because – according to defendants – proton beam radiation therapy is not "medically necessary" for prostate cancer. Both named plaintiffs decided to treat their prostate cancer with proton beam radiation therapy anyway; both named plaintiffs paid for the therapy out-of-pocket.

Plaintiffs contend that there is no material difference between the named plaintiffs and other class members identified by defendants. Plaintiffs contend that, in all cases, class members were diagnosed with prostate cancer. Plaintiffs contend that in all cases, defendants denied coverage for proton beam radiation therapy. Plaintiffs contend that in nearly all cases, the stated basis for denial was that the treatment wasn't medically necessary.

Defendants deny that they acted improperly or wrongfully in any way in denying plaintiffs' requests for proton beam radiation therapy coverage.

Plaintiffs' case theory is that defendants concluded that proton beam radiation therapy is not based on individual treatment considerations but instead based on internal clinical guidelines that are identical and apply across-the-board to all class members. In late 2025, the parties agreed to conduct a mediated negotiation to attempt to resolve this dispute. The parties agreed on Pamela Perry, a well-known Miami-based mediator/arbitrator. The mediation occurred in Miami on January 20, 2026. Plaintiff Tom Lahowetz and counsel appeared in person; Todd Taylor appeared via Zoom. Defendants were represented in-person by counsel; their corporate representative appeared through Zoom. The parties agreed to the principal elements of this settlement by the end of the day. Since that date, the parties have fine-tuned the settlement terms through drafting and negotiation of the executed settlement agreement attached to plaintiffs' motion.

The parties' settlement is summarized as follows:

- Unopposed certification of a class consisting of the persons identified by defendants in their responses to plaintiffs' discovery and for whom defendants produced claims files.
- The class is defined as: the persons identified by Anthem in discovery in this Action who sought coverage from Anthem for PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise.
- Defendants will create a $3,625,000 common fund. The payment is non-recourse, with the exception of uncashed checks. This common fund will be used to pay for class compensation, attorneys' fees, reimbursement of costs, service awards and claims administration.
- Claims forms are required for class members to participate. The forms require class members to state: a) they were treated by proton beam radiation therapy b) for prostate cancer and c) the treatments were not covered by insurance.
- The formula for class recovery is as follows: $3,625,000 *minus* (attorneys' fees *plus* service awards *plus* cost reimbursement *plus* claims administration) *divided by* participating and eligible class members. Class recovery is capped at actual payment for the prostate radiation treatment service. Class counsel estimates that class members' individual recovery will be between $20,000 to $25,000.
- In exchange for payment, class members will release named defendants and related entities from all legal claims arising out of the denial of coverage for prostate beam radiation therapy.
  Defendants have the option to terminate the settlement if 10% or more of the 142 class members opt out of the settlement.

CONCLUSIONS OF LAW

The 6th Circuit "favor[s] settlement of class actions."[1] Indeed, "[t]here is a strong public interest in encouraging settlement of complex litigation and class action suits

[1] *Int'l Union, United Auto., Aerospace, & Agr. Implement Workers of Am. v. Gen. Motors Corp.*, 497 F.3d 615, 632 (6th Cir. 2007).

because they are 'notoriously difficult and unpredictable' and settlement conserves judicial resources."[2]

Rule 23(e) requires that a class settlement be "fair, reasonable, and adequate." At the preliminary approval stage, under Rule 23(e)(1), the settling parties must provide the Court with "information sufficient to enable it to determine whether to give notice" of the proposed settlement to the class. To decide whether preliminary approval is warranted, the Court must find that it will "likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." A settlement should be preliminarily approved if it (**1**) "does not disclose grounds to doubt its fairness or other obvious deficiencies, such as unduly preferential treatment to class representatives or of segments of the class, or excessive compensation for attorneys," and (**2**) "appears to fall within the range of possible approval."[3]

The Court must also evaluate whether the Settlement Class satisfies Rule 23(a) and the relevant provisions of Rule 23(b). Evaluation under Rule 23(a) requires examination of numerosity, commonality, typicality, and adequacy. Rule 23(b)(3), under which plaintiffs are proceeding, evaluates questions of predominance and superiority.

A. Certification of the proposed Settlement Class

The settlement contemplates a conditional certification of the following class:

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[2] *Does 1-2 v. Déjà vu Servs., Inc.*, 925 F.3d 886, 899 (6th Cir. 2019) (quoting *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 530 (E.D. Mich. 2003)).
[3] *Garner Props & Mgt., LLC v. City of Inkster,* 333 F.R.D. 614, 621 (E.D. Mich. 2020) (quoting multiple cases).

The persons identified by Anthem in discovery in this Action who sought coverage from Anthem for PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise). Excluded from the Settlement Class are (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff: (ii) Anthem Counsel, their employees, and their immediate family, (iii) Class Counsel, their employees, and their immediate family, and (iv) any person who validly opts-out of the Settlement Class.

Though this conditional certification is an element of the settlement, the Court must engage in traditional Rule 23 analysis.

1. Ascertainability

Fed. R. Civ. P. 23 presumes the existence of "a definite or ascertainable class."[4] "[A] class must exist," and it must "be susceptible of precise definition."[5] The requirement "focus[es] on the question of whether the class can be ascertained by objective criteria" as opposed to "subjective standards *(e.g.,* a plaintiff's state of mind) or terms that depend on resolution of the merits (*e.g*., persons who were discriminated against)."[6] Here, defendants have identified approximately 140 persons who fit the class definition, which dispositively resolves the question of whether the class is ascertainable.

Though not embedded in the text of Rule 23, plaintiffs must also demonstrate individual standing as part of the class certification inquiry.[7] The requirements:

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[4] 1 Rubenstein, *Newberg on Class Actions* §3:2 (5th ed. 2013).
[5] 5 *Moore's Federal Practice* §23.21[1] (3d ed. 1997).
[6] Newberg, §3:3; *Manual for Complex Litigation* §21.222 (4th ed. 2004).
[7] *Fox v. Saginaw Cnty.,* 67 F.4th 284, 294 (6th Cir. 2023)("First, and most obviously, the Court has held that its usual three-part test for standing applies with full force in the class action context.").

"Plaintiffs must have suffered an injury. They must trace this injury to the defendant. And they must show that a court can redress it."[8]

In this case, the uncontested record is that plaintiffs' health benefit plans were administered by defendants and their requests for coverage for proton beam radiation therapy were denied by defendants in accordance with their clinical guidelines. Both plaintiffs have standing to challenge those denials under the guidelines, and thus have standing to bring their individual ERISA claims.

2. *Rule 23(a)(1)-(a)(4)*

To achieve certification, plaintiff must satisfy all four subparts of Rule 23(a).

i. <u>Rule 23(a)(1) – Numerosity</u>

Rule 23(a)(1) requires that the class "is so numerous that joinder of all members is impracticable." While there is no strict numerical test, "a class of 40 or more members raises a presumption of numerosity."[9] Here, defendants have identified approximately 140 persons who qualify as class members, which easily surpasses the numerosity threshold.

ii. <u>Rule 23(a)(2) – Commonality</u>

Rule 23(a)(2) requires that "there are questions of law or fact common to the class." This subpart is satisfied when plaintiffs demonstrate "a common question that will yield a common answer for the class … and that the common answer relates to the

---

[8] *Id.* at 293.
[9] *Pickett v. City of Cleveland,* 2025 U.S. App. LEXIS 14104, *10 (6th Cir. June 9, 2025)(internal citation and quote marks omitted).

actual theory of liability in the case."[10] Here, a single over-arching issue unites the class: Whether defendants' clinical guidelines that resulted in the decision that proton beam radiation therapy was not covered under the relevant health benefit plans breached the promise defendants made to cover "medically necessary" services. "Plaintiffs can show that Defendants caused harm on a general basis if Plaintiffs can show that Defendants applied an incorrect standard in evaluating their claims. In other words, the claimed harm is 'one of process, not outcome,' and therefore harm and causation can be resolved on a class-wide basis."[11]

iii. Rule 23(a)(3) – Typicality

Under Rule 23(a)(3), plaintiffs must show that their claims fairly encompass the claims of all unnamed class members.[12] All class members – including the two named plaintiffs – a) sought health insurance to cover proton beam radiation therapy b) for prostate cancer c) whose claims were denied by defendants d) in conformity with defendants' clinical guidelines. Typicality is met.

iv. Rule 23(a)(4) – Adequacy

Rule 23(a)(4) requires that plaintiffs demonstrate that the named representatives share common interests with the class members and will vigorously assert those

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[10] *Rikos v. Procter & Gamble Co.*, 799 F.3d 497, 505 (6th Cir. 2015).
[11] *Des Roches*, 320 F.R.D. at 499 (quoting *Hart v. Colvin*, 310 F.R.D. 427, 435 (N.D. Cal. 2015)).
[12] *Sprague v. Gen. Motors Corp.*, 133 F.3d 388, 399 (6th Cir. 1998).

interests for all. Further, the rule seeks to "uncover conflicts of interest between named parties and the class they seek to represent."[13]

Plaintiffs have done all that's required in this case. They've personally reviewed all key documents before filing and worked with their lawyers in answering interrogatories and producing documents. They prepared for and then attended and fully participated in a full day mediation. As for their lawyers, they have submitted declarations demonstrating their *bona fides*.

3. Rule 23(b)(3)

Plaintiffs must also satisfy one of the three subparts of Rule 23(b) to achieve class certification. Here, plaintiffs satisfy Rule 23(b)(3).

To satisfy Rule 23(b)(3), plaintiffs must demonstrate that "questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy."

Rule 23(b)(3) identifies factors relevant to the superiority requirement:

> (A) the Class Members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against Class Members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

[13] *Amchem Prods., Inc. v. Windsor,* 521 U.S. 591, 625 (1997).

In assessing superiority, courts "look to the purpose of class action litigation," which is "to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights."[14] But because this is a settlement class, the Court does not need to consider "[w]hether trial would present intractable management problems."[15]

A class action is the superior method for resolving this case. The common questions of law and fact predominate. And, to the extent any individual Settlement Class member wishes to control the prosecution of their own action, they will have the opportunity to opt-out of the Settlement Class.

B. Preliminary approval of the class action settlement

The Court is also asked to grant the uncontested motion for preliminary approval of the proposed class action settlement. Rule 23(e)(2) sets forth factors the Court must consider:

- the class representatives and class counsel have adequately represented the class;
- the proposal was negotiated at arms'-length;
- the relief provided for the class is adequate, taking into account:
    - the costs, risks, and delay of trial and appeal;
    - the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
    - the terms of any proposed award of attorney's fees, including timing of payment; and
    - any agreement required to be identified under Rule 23(e)(3) and
    - the proposal treats class members equitably relative to each other.[16]

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[14] *Hicks*, 965 F.3d at 463–64
[15] *Amchem*, 521 U.S. at 620.
[16] Fed. R. Civ. P. 23(e)(2)(A)-(D).

The 2018 Advisory Committee Notes make clear, however, that these factors do not displace the "lists of factors" courts have traditionally applied to assess proposed class settlements. While overlapping with many the Rule 23(e) factors, in the Sixth Circuit, these traditional factors include:

- the risk of fraud or collusion
- the complexity, expense and likely duration of the litigation
- the amount of discovery engaged in by the parties
- the likelihood of success on the merits
- the opinions of class counsel and class representatives
- the reaction of absent class members; and
- the public interest.[17]

This Court is not required to consider all these final approval factors at preliminary approval.[18]

1. **Rule 23(e)(2)(A) – *Plaintiffs have adequately represented the class***

Plaintiffs and their counsel meet the requirement to "adequately represent [] the class" under Rule 23(e)(2)(A). Plaintiffs, and their lawyers, have done the work this case requires. They defeated a motion to strike class allegations that – if they had lost – would have resulted in a classwide defeat. They carefully studied the tens of thousands of pages produced by defendants. And when an opportunity to negotiate arose, they accepted it believing (correctly) they could deliver meaningful classwide results. This factor strongly supports preliminary approval of the settlement. In addition, plaintiffs

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[17] *Day v. AMC Corp.*, 2019 U.S. Dist. LEXIS 143021, at *18 (E.D. Ky. July 26, 2019) (quoting *Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 349 (6th Cir. 2009)).

[18] *Kizer v. Summit Partners, L.P.*, 2012 U.S. Dist. LEXIS 63795, at *1 (E.D. Tenn. May 7, 2012); *cf. Garner Props. & Mgmt., LLC v. City of Inkster*, 333 F.R.D. 614, 621 (E.D. Mich. Jan. 17, 2020) (observing that while factors vary, "it is clear the bar is lower for preliminary approval than it is for final approval").

and counsel believe the settlement results are in the best interest of the Settlement Class, satisfying the fifth traditional factor, which considers "the opinions of class counsel and class representatives."[19]

2. **Rule 23(e)(2)(b) –** ***The settlement resulted from arms'-length negotiation***

"Courts presume the absence of fraud or collusion in class action settlements unless there is evidence to the contrary."[20] There is no suggestion that the deal negotiated occurred after anything less than arms'-length negotiation.

3. **Rule 23(e)(2)(C) –** ***The relief provided is more than adequate***

i. **<u>The costs, risks, and delay of trial and appeal</u>**

The complexity, cost, and duration of ongoing litigation are significant factors in evaluating settlement fairness, as settlements should reflect a compromise that accounts for the risks, expenses, and delays of continued litigation.[21] "This is especially true of . . . class action litigation, which is unpredictable."[22] Courts favor early class settlements because they enable class members to obtain recovery without unnecessary delay while conserving judicial resources.[23]

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[19] *Day*, 2019 U.S. Dist. LEXIS 143021, at *22.
[20] *See Peck v. Air Evac EMS, Inc.*, 2019 U.S. Dist. LEXIS 118626, *19-20 (E.D. Ky. July 17, 2019) (quoting *Thacker v. Chesapeake Appalachia, L.L.C.*, 695 F. Supp. 2d 521, 531 (E.D. Ky. 2010)).
[21] *Smith v. Specialty Networks LLC,* 2025 U.S. Dist. LEXIS 134484, *13-14 (E.D. Tenn. July 15, 2025).
[22] *Id.* at *14.
[23] *Aro Corp. v. Allied Witan Co.*, 531 F.2d 1368, 1372 (6th Cir. 1976) ("By such agreements are the burdens of trial spared to the parties, to other litigants waiting their turn before over-burdened courts, and to the citizens whose taxes support the latter. An amicable compromise provides the more speedy and reasonable remedy for the dispute.").

This case was three years old when it settled, but it had years left to go. The parties had a minimum of six months remaining to complete discovery, which would have been followed by a class certification motion, the results of which would almost certainly been appealed to the 6th Circuit. Once returned, the parties would have then turned to dispositive motion practice, the results of which would – again – almost certainly have been appealed to the 6th Circuit. Cutting short this process with an acceptable settlement argues strongly in favor of approval.

ii. The effectiveness of proposed method of distributing class relief

The settlement contemplates a straightforward method of distributing class relief. Class members, who are identified through defendants' records, will be required to sign a simple form that confirms a) they received proton beam radiation therapy and b) that they paid out-of-pocket for the service. Neither plaintiffs nor defendants have an independent way of confirming either fact; it is fair and appropriate that the class members prove up those two elements. Once these two elements are shown, class members will be qualified to share in the common fund.

iii. Rule 23(e)(2)(D) – the settlement treats class members equitably

Consideration under this factor "could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the release may affect class members in different ways that bear on the apportionment of relief."[24] This factor is satisfied. Class members are

[24] Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment.

similarly situated, and under the settlement will be share equally in the common fund (with the limitation that their recovery is capped at their actual treatment payment).

4. Traditional class action factors

Of the seven traditional factors, most have already been addressed in connection with the preceding Rule 23(e)(2) analysis: the risk of fraud and collusion is addressed by Rule 23(e)(2)(B); the complexity, expense and likely duration of the litigation is addressed by Rule 23(e)(2)(C)(i); and the amount of discovery engaged in by the parties and the opinions of class counsel and class representatives is addressed above. The sixth traditional factor, "the reaction of absent class members," is premature at the preliminary approval stage because notice has not yet been issued. This factor will be addressed at the final fairness hearing.

Under Fed. R. Civ. 23(c)(2)(B), for any Rule 23(b)(3) class, the Court must direct notice to class members the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.[25] Rule 23(e)(1)(B) similarly provides that "[t]he court must direct notice in a reasonable manner to all class members who would be bound "[26] Due process also gives unnamed members of a class the right to notice of a class action settlement. Notice must be reasonably calculated to reach interested parties.[27] Due process does not require actual

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[25] Fed. R. Civ. P. 23(c)(2)(B); *see also Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 175-76 (1974).
[26] Fed. R. Civ. P. 23(e)(1)(B).
[27] *Tennille*, 785 F.3d at 436.

notice to each party intended to be bound by the adjudication of the class action.[28] Notice under Rule 23 is generally coextensive with due process.[29]

Here, the parties' proposed notice plan satisfies the federal rules and due process. First, notice will be sent and administered by the Claims Administrator. It will be sent by U.S. mail to all class members. Second, the notice, attached as Exhibit _ to the Settlement Agreement, also satisfies Rule 23 and due process requirements. It provides clear instructions in plain language about the nature of this case, the class definition, the claims and defenses, the right of a class member to appear by counsel, the right to exclusion (and the time/method for doing so), and the effect of a class judgment. It also explains the reasons for seeking a class settlement and the methodology for recovery and sets out important deadlines for Class Members to exercise their rights, along with the benefits of the Settlement and all possible fees and deductions from the Settlement. The notices also direct Class Members to the Settlement website and a toll-free number to obtain additional information.

C. Appointment of class administrator and establishing schedule

Plaintiffs request that Court appoint Verita Global, LLC as the Claims Administrator. Verita Global, LLC has extensive experience with class action claims administration across the country.

The Court is further advised that the parties propose the following schedule:

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[28] *DeJulius v. New England Health Care Employees Pension Fund*, 429 F.3d 935, 944 (10th Cir. 2005); *see also Grunin v. Int'l House of Pancakes*, 513 F.2d 114, 120-21 (8th Cir. 1975).
[29] *LaVigne v. First Cmty. Bancshares, Inc.*, 330 F.R.D. 293, 296 (D.N.M. 2019).

Event	Cite in Settlement Agreement	Date
"**Notice Date**" shall mean XX days after the Court enters the Preliminary Approval Order.	p. 5, para. 1.22	21 days
"**Objection Deadline**" shall mean XX days after Notice Date.	p. 5, para. 1.24	45 days
"**Opt-Out Deadline**" shall mean XX days after Notice Date.	p. 5, para. 1.26	45 days
Settlement Notice: Within XX days of the entry of the Preliminary Approval Order	p. 9, para. 3.2	21 days
Settlement Website: Within XX days of the entry of the Preliminary Approval Order	p. 10, para. 3.3	21 days
Settlement Information Line: Within XX days of the entry of the Preliminary Approval Order	p. 10, para. 3.4	Needs to be live the day the notices are mailed
Settlement Amount: Within XX days of the entry of the Preliminary Approval Order	p. 11, para. 4.1(a)	7 days
…the Settlement Administrator shall return any unused portion of the $XX to Anthem within XX business days.	p. 11, para. 4.1(a)	14 days
Settlement Amount…deposited via wire transfer into the Escrow Account within XX Business Days of entry of the Final Order and Judgment.	p. 11, para. 4.1(b)	30 days
The Settlement Administrator shall disburse the Distributable Settlement Amount…no later than XX days after the Effective Date.	p. 13, 4.2(c)	60 days
Distribution to Settlement Class Members: Settlement Class Members must each or otherwise negotiate and present Settlement Payment checks within XX days of issuance.	p. 13, para. 4.2(e)	180 days
Settlement Class Members must each or otherwise negotiate and present such reissued checks within XX days of reissuance or those reissued checks will be void.	p. 13, para. 4.2(e)	60 days
Treatment of Uncashed Checks. If any Settlement Payment checks are issued and reissued…but remain uncashed XX days after reissuance, then the Settlement Administrator	p. 14, para. 4.3	60 days after reissuance (stale period); 81 days after check's
shall within XX days after the check's reissuance date remit the amount of such uncashed		reissuance (21 days after stale date)

check(s) to Anthem by wire transfer….		
Certification of Settlement Administrator. Within XX Business Days of completing all actions required by paragraphs 4.2 and 4.3	p. 14, para. 4.4	10 days
Providing, no later than XX Business Days after the Opt-Out and Objection Deadlines, a final report to Class Counsel and Anthem Counsel that summarizes the number of written Requests to Opt-Out, objections, and other pertinent information as requested by Class Counsel or Anthem Counsel….	p. 16, para. 5.1(l)	21 days
Any amount awarded by the Court in response to such Fee and Expense Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within XX Business Days of entry of the Final Approval Order and Judgment.	p. 20, para. 7.1	45 days
Service Award Application shall be paid by the Settlement Administrator solely out of the Settlement Amount and shall be deducted (to the extent approved by the Court) from the Settlement Amount and paid to Class Counsel within XX Business Days of entry of the Final Approval Order and Judgment and then distributed to each Class Representative.	p. 20, para. 7.2	45 days
Claims Period. There will be a claims period that will run for XX days after the Notice Date.	p. 21, para. 8.1	120 days
Settlement Class Members need to submit a Claim Form, attached hereto as Exhibit A, within XX days of the Notice Date, to be eligible to receive a Settlement Payment.	p. 21, para. 8.2(b)	120 days
Termination Events. This Agreement and the Settlement shall terminate and be cancelled if, within XX Business Days after any of the following events, one of the Parties provides written notification of an election to terminate the Settlement.	p. 23, para. 9.2	20 days
Anthem must notify Class Counsel and the Court of its election to terminate not later than XX days after the Opt-Out Deadline.	p. 24, para. 9.3	30 days

Within XX days after receiving the notice described in subparagraph (a), the receiving Party shall respond in writing with its position and the facts and arguments it relies on in support of its position….	p. 28, 10.11(b)	30 days
For a period of not more than XX days following mailing of the response described in subparagraph (b), the Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute….	p. 28, 10.11(c)	7 days
Within XX days after the conclusion of the Meditator's attempt to resolve the dispute (the date of the conclusion of the mediation shall be determined by agreement of the parties or by the Mediator); if the dispute persists, either Party may request that the Court resolve the dispute….	p. 28, 10.11(e)	30 ays

ORDER

The Court now makes the following **ORDER**:

A. The Court conditionally certifies the following settlement class:

The persons identified by Anthem in discovery in this Action who sought coverage from Anthem for PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise). Excluded from the Settlement Class are (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff: (ii) Anthem Counsel, their employees, and their immediate family, (iii) Class Counsel, their employees, and their immediate family, and (iv) any person who validly opts-out of the Settlement Class.

B. The Court finds that the proposed settlement satisfies the elements of Fed. R. Civ. P. 23 and further meets the requirements required for preliminary approval of a class action settlement.

C. The Court agrees to the retention of Verita Global, LLC as claims administrator.

D. The Court adopts the proposed settlement calendar as set forth above.

IT IS SO ORDERED.

Dated:

____

Chief Judge William L. Campbell

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

If you received PBRT for prostate cancer and sought coverage from Anthem but your treatments were not covered by insurance (by Anthem or otherwise), you may be eligible for benefits from a class action Settlement.

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

- A Settlement has been reached in a class action lawsuit against Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc. (together, "Anthem"), relating to the Action, alleging, among other things, that Anthem improperly denied benefits for proton beam radiation therapy ("PBRT") under ERISA § 502(a)(1)(B).
- If you are receiving this Notice, you have been identified by Anthem as someone who sought coverage from Anthem for PBRT for prostate cancer and Anthem denied coverage. Persons so identified by Anthem are "Settlement Class Members."
- Your legal rights are affected whether you act or don't act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you do nothing, you will not receive Settlement benefits. You will also give up your rights to be part of any other lawsuit against Anthem for the legal claims made in this case and released by the Settlement Agreement.
SUBMIT A CLAIM FORM	If you want to be eligible to receive Settlement benefits, you must submit a Claim Form. Claim Forms must be postmarked no later **120 DAYS AFTER PRELIMINARY APPROVAL**
EXCLUDE YOURSELF FROM THE SETTLEMENT	If you exclude yourself or "Opt-Out", you will not get Settlement benefits. This is the only option that allows you to be part of any other lawsuit against Anthem for the legal claims made in this case and released by the Settlement Agreement.
OBJECT TO THE SETTLEMENT	If you object, you must write to the Court with reasons why you do not agree with the Settlement.
GO TO THE FINAL APPROVAL HEARING	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. If the Court denies final approval, the Settlement will be void and the litigation will continue against Anthem.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed Settlement that has been reached in a class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

Judge William L. Campbell Jr. of the United States District Court for the Middle District of Tennessee is overseeing this class action. The case is known as *Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc.*, Case No. 3:23-cv-00541, and is referred to as the "Action." The people who filed the lawsuit are called Plaintiffs and the companies they sued, Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc. (together, "Anthem"), are called Defendants.

2. What is this lawsuit about?

Plaintiffs allege that, among other things, Anthem improperly denied benefits for proton beam radiation therapy ("PBRT") under ERISA § 502(a)(1)(B). Anthem has identified persons who received PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise).

The lawsuit claims that Anthem denied health insurance coverage for PBRT for the treatment of prostate cancer to persons who: (1) were beneficiaries of an ERISA-regulated health plan; (2) had coverage under a health plan underwritten or administered by Anthem; (3) sought PBRT for treatment for prostate cancer; (4) were denied coverage based on a determination that PBRT was experimental, investigational, unproven, not sufficiently proven in effectiveness, or for (1) through (4), words to that effect; and (5) include persons whose pre-service requests for authorization were denied and persons whose post-service claims for reimbursement were denied. Anthem denies these claims and any wrongdoing.

3. What is a class action?

In a class action, one or more people called "Class Representatives" (in this Action, Todd J. Taylor and Thomas Lahowetz) sue on behalf of people who have similar claims. Together, all these people are called a Settlement Class or Settlement Class Members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Anthem. Instead, the Plaintiffs negotiated a Settlement with Anthem that allows them to avoid the risks and costs of lengthy and uncertain litigation and the uncertainty of a trial. The Class Representatives and their attorneys think the Settlement is best for all Settlement Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

The Settlement includes the persons identified by Anthem in discovery in this Action who received PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise).

6. Are there exceptions to being included in the Settlement?

Yes, the Settlement does not include (i) any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff; (ii) Anthem, their employees, and their immediate family; (iii) Class Counsel, their employees, and their immediate family; and (iv) any person who validly Opts-Out of the Settlement Class.

7. I am still not sure if I am included.

If you are still not sure whether you are included, call 1-___-___-____, email XXXX@XXXXXXX.COM or visit www.[website].com for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

Anthem has agreed to pay a total of $3,625,000 to settle the Action. After deducting Court-approved attorneys' fees and costs, service awards, and the costs of administering the Settlement, the balance will be used to make payments to Settlement Class Members who submit valid Claim Forms.

9. What can I get from the Settlement?

If you are a Settlement Class Member, you may file a claim to receive payment. The Settlement Administrator shall determine the Settlement Payment based on the Settlement Class Member's total Qualifying Payment(s). Qualifying Payment(s) means the total amount of out-of-pocket payments made by a Settlement Class Member for PBRT for the treatment of prostate cancer (meaning treatments were not covered by insurance).

HOW TO GET SETTLEMENT BENEFITS

10. How do I get Settlement benefits?

You must file a Claim Form within 120 days of the Notice Date, to be eligible to receive a Settlement Payment. Settlement Class Members must also submit documentation, as set forth in the Claim Form, that demonstrates that the Settlement Class Member incurred a Qualifying Payment(s). This document must include the (1) provider's name, (2) provider's address, (3) date of service, (4) description of services provided, and (5) provider charges for which the Settlement Class Member paid out-of-pocket. Claim Forms may be printed from the website and mailed to the address on the form. Claim Forms must be postmarked no later 120 days after the Notice Date.

11. When will I get my payment?

The Court will hold a Fairness Hearing at __:_0 _.m. on Month __, 2026, to determine whether the Settlement Agreement should receive Final Approval by the Court. If the Court approves the Settlement, there may be appeals. It is always uncertain whether any appeals can be resolved favorably, and resolving them can take time, perhaps more than a year. Settlement benefits will be distributed after the Settlement is approved and becomes final.

12. What am I giving up to get Settlement benefits or stay in the Settlement?

Unless you exclude yourself from the Settlement, you will give up your right to sue, continue to sue, or be part of any other lawsuit against Anthem and certain Anthem's Released Parties for any claim related to the Action or released by the Settlement Agreement. You will be legally bound by all of the Court's orders, as well as the "Released Claims," below.

"Anthem's Released Parties" means Anthem, including its predecessor and successor entities, firms, affiliated companies, current and former parents and subsidiaries (and their parents and subsidiaries), and all of their respective shareholders, partners, joint venturers, directors, officers, employees, agents, administrators, executors, members, managers, trustees, representatives, attorneys, insurers, mutual assurance entities, assigns, and any third parties including any health-benefit plans, employer groups, or other Blue Cross and/or Blue Shield Plans for which Anthem processed health-benefit claims.

13. What are the Released Claims?

"Released Claims" mean any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether representative, class, or individual in nature or sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorneys' fees, based upon, arising from, or relating in any way to the factual predicates or legal claims that were brought in the Action, or could have been brought in the Action, relating in any way to the denial of health insurance coverage for PBRT for the treatment of prostate cancer to the persons identified by Anthem in discovery who: (1) were beneficiaries of an ERISA-regulated health plan; (2) had coverage under a health plan underwritten or to which Anthem's Release Parties provided administrative services; (3) sought coverage for PBRT for treatment of prostate cancer; and (4) were denied coverage based on a determination that PBRT was experimental, investigational, unproven, not sufficiently proven in effectiveness, not medically necessary, did not meet clinical policy, criteria or coverage, or for (1) through (4), words to that effect. More information about the Released Claims can be found in the Settlement Agreement and Release, available at www.[website].com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a written request to Opt-Out from the Settlement to the Settlement Administrator. The request must

1) Identify the case name and number,
2) Be signed by the person seeking to Opt-Out from the Settlement Class,
3) Clearly express the person's desire to Opt-Out from the Settlement Class, and
4) Include the person's name, address and telephone number and, if represented by counsel, counsel's name, address and telephone number.

You must mail postmarked no later than 120 days after the Notice Date to:

Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc., et al. Settlement Administrator
P.O. Box _____
City, ST _____-____

15. If I exclude myself, can I still get benefits from the Settlement?

No. If you exclude yourself from the Settlement, you will not receive any benefits because you will no longer be eligible for them.

16. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. If you stay in the Settlement (*i.e.*, do nothing or do not exclude yourself from the Settlement), you give up any right to separately sue Anthem or Anthem's Released Parties for the claims released by the Settlement Agreement and Release.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

Yes. The Court appointed Jordan Lewis of Jordan Lewis, P.A., Alyson Beridon of Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC, John Yanchunis of Morgan & Morgan, and Robert Sparks of Strauss Troy Co., LPA to represent you and other Settlement Class Members. These lawyers are called Class Counsel. 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.

18. How will Class Counsel be paid?

If the Settlement is approved and becomes final, Class Counsel will ask the Court to award attorneys' fees of up to 33.33% of the $3,625,000 Settlement Amount and reimbursement of reasonable costs, as well as a $10,000 service award for each of the Class Representatives. If approved, these amounts will be deducted from the Settlement Amount before making payments to Settlement Class Members who submit valid Claim Forms.

OBJECTING TO THE SETTLEMENT

19. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you do not like it or a portion of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. To object, you must file a written objection with the Court, and mail copies to Class Counsel, Defense Counsel, and the Settlement Administrator. Your objection must be filed and postmarked by 45 days after the Notice Date.

Your objection must include:

1) the case name and number (*Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc., et al.*, No. 3:23-cv-00541)
2) your full name, mailing address, telephone number, and email address (if any);
3) the reasons why you object to the Settlement, including any documents supporting your objection;
4) the number of times you have objected to a class action settlement within the 5 years preceding the date of this objection, including:
   a. the caption of each case that you have made an objection, and
   b. a copy of any orders related to or ruling upon those objections as issued by the trial and appellate courts in each case
5) the name, address, and telephone number of your attorney (if any) representing you in your objection, including any former or current counsel who may be entitled to compensation for any reason related to your objection;
6) the number of times your attorney or their law firm have objected to a class action settlement within the 5 years preceding the date of this objection, including:
   a. the caption of each case that your attorney or their law firm have made an objection, and
   b. a copy of any orders related to or ruling upon those objections as issued by the trial and appellate courts in each case
7) a statement indicating whether you or your attorney intend to appear at the Final Approval Hearing;
8) if you have retained an attorney and your attorney will appear at the Final Approval Hearing,
   a. the name, address, telephone number, and email address of your attorney, and
   b. a list of all persons who will be called to testify in support of your objection
9) your signature (your attorney's signature is <u>not</u> sufficient).

Your objection must be filed with the Court and copies must be mailed to Class Counsel, Defense Counsel and the Settlement Administrator using the addresses below.

Court	Class Counsel	Defense Counsel	Settlement Administrator
Clerk of the Court	Jordan Lewis Jordan Lewis, P.A.	Robert Deegan Crowell & Moring LLP	*Taylor, et al. v. Blue Cross*

Fred D. Thompson U.S. Courthouse and Federal Building 719 Church Street, Suite, 1300 Nashville, TN 37203	4473 N.E. 11th Ave Fort Lauderdale, FL 33334 Alyson S. Beridon Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC 600 Vine Street, Suite 2720 Cincinnati, OH 45202 John Yanchunis Morgan & Morgan, Complex Litigation Group 201 N. Franklin Street, 7th Floor Tampa, FL 33602 Robert R. Sparks Strauss Troy Co., LPA 150 E. Fourth Street, 4th Floor Cincinnati, OH 45202	300 N. LaSalle Drive, Suite 2500 Chicago, IL 60654	*Blue Shield Healthcare Plan of Georgia, Inc., et al.* Settlement Administrator P.O. Box _____ City, ST _____-____

20. What is the difference between objecting to and excluding myself from the Settlement?

Objecting is telling the Court that you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Class in this Settlement. If you exclude yourself from the Settlement, you have no basis to object because the Settlement no longer applies to you.

THE COURT'S FINAL APPROVAL HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at __:_0 _.m. on Month __, 2026, to determine whether the Settlement Agreement should receive Final Approval by the Court at the United States District Court for the Middle District of Tennessee 719 Church Street, Suite 1300, Nashville, TN 37203. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will take into consideration any properly-filed objections and may also listen to people who have asked to speak at the hearing (*see* Question 22). The Court will also decide whether to approve payments of attorneys' fees, costs, and service awards.

22. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have, but you are welcome to come at your own expense. If you file an objection, you do not have to come to Court to talk about it. You may also hire your own lawyer to attend, at your own expense, but you are not required to do so.

23. May I speak at the Final Approval Hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must follow the instructions provided in Question 19 above. You cannot speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

24. What happens if I do nothing?

If you do nothing, you will not receive any payment from this Settlement and you will be bound by the terms of the Settlement Agreement and Release if it is approved and becomes final. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant or the Released Parties about the issues resolved by this Settlement and released by the Settlement Agreement.

GETTING MORE INFORMATION

25. How do I get more information?

More details are in the Settlement Agreement and Release, which is available at www.[website].com. You may also call 1-___-___-___, email xxxx@xxxxxxx.com, or write to the *Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc., et al.* Settlement Administrator, P.O. Box _____, City, ST _____-____.

Please do not call the Court or the Clerk of the Court for additional information. They cannot answer any questions regarding the Settlement or the Action.

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If you received PBRT for prostate cancer and sought coverage from Anthem but your treatments were not covered by insurance (by Anthem or otherwise), you may be eligible for benefits from a class action Settlement.

A Settlement has been reached in a class action lawsuit against Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. and Anthem Insurance Companies, Inc. (together, "Anthem"), relating to the Action, alleging, among other things, that Anthem improperly denied benefits for proton beam radiation therapy ("PBRT") under ERISA § 502(a)(1)(B). You are receiving this Notice because you are one of the persons identified by Anthem in discovery in this Action who sought coverage from Anthem for PBRT for prostate cancer but whose treatments were not covered by insurance (by Anthem or otherwise). As part of the Settlement, you may be able to file a claim for a Settlement Payment. This notice is only a summary. For more complete information, please read the full notice by visiting the website www.website.com, by emailing XXXX@XXXXXXX.com, or by calling toll-free (888)___-____.

What Are My Legal Rights?

- If you do nothing, you will not receive Settlement benefits. You will also give up your rights to be part of any other lawsuit against Anthem for the legal claims made in this case and released by the Settlement Agreement.
- If you want to be eligible to receive Settlement benefits, you must submit a Claim Form. Claim Forms must be postmarked no later than 120 days after the Notice Period.
- If you exclude yourself or "Opt-Out", you will not get Settlement benefits. This is the only option that allows you to be part of any other lawsuit against Anthem for the legal claims made in this case and released by the Settlement Agreement. The Opt-Out request must be postmarked no later than 45 days after the Notice Period and mailed to the address below.
- If you object, you must write to the Court with reasons why you do not agree with the Settlement. Your objection must be filed with the Court and postmarked by 45 days after the Notice Period.
- You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing.

Taylor, et al. v. Blue Cross Blue Shield Healthcare Plan of Georgia, Inc.
and Anthem Insurance Companies, Inc.
c/o Administrator Verita Global, LLC
P.O.____

(888)___-_____