

## **Plan of Allocation and Distribution**

1. **Class Administrator:** The Administrator will direct the distribution of the Settlement Fund consistent with this Plan of Allocation and Distribution and shall be compensated for its services from the Settlement Fund pursuant to approval of the Court. The Court will appoint the Administrator to be the legal representative, pursuant to section 41-2-3, NMSA, of the estate of each decedent pediatric cancer patient with respect to whose death any claimants filed claim forms.

2. **Determination of Eligible Decedent Class Members:** The Administrator shall determine the identities of Eligible Decedent Class Members in the following manner:

a. The Administrator shall: (i) include claim forms in all mailed notices pursuant to paragraph 33 of the Settlement Agreement, (ii) make available claim forms on the Decedent Class website, and (iii) furnish claim forms to all persons who request them or to any other persons who the Administrator has reason to believe may be a potential Decedent Class Member.

b. The Administrator shall review all claims forms filed on behalf of Decedent Class Members to determine whether the claimant (i) is a statutory beneficiary, pursuant to section 41-2-3, NMSA, of (ii) a pediatric cancer patient with a diagnosis of Acute Lymphoblastic Leukemia who presented for treatment at University of New Mexico Hospital (“UNMH”) from January 1, 1977 through March 31, 1997, (iii) whose claim was not previously settled with UNMH, (iv) whose treatment protocols were not principally administered or designed elsewhere and who did not receive initial or relapse induction treatment in New Mexico, and (v) who by

December 1, 2019, was deceased. Claimants who satisfy all five conditions are Eligible Decedent Class Members.

**3. Determination of Pro Rata Share of Settlement Fund:**

- a. The Administrator shall determine the net Settlement Fund available for distribution to Eligible Decedent Class Members after payments made pursuant to paragraph 27(a) – (c) of the Settlement Agreement.
- b. The Administrator shall determine the number of decedent cancer patients for whom claim forms have been filed.
- c. The pro rata shares of the Settlement Fund to be allocated to each of the estates of decedent cancer patients for whom claim forms have been filed shall be the product of the net Settlement Fund, determined under 3(a), above, divided by the number of the estates of decedent cancer patients for whom claim forms have been filed , determined under 3(c), above.

**4. Distribution of Net Settlement Proceeds to Eligible Decedent Class Members:**

- a. The Administrator shall solicit information from Eligible Decedent Class Members about identities of other statutory beneficiaries who may not have filed claim forms. The Administrator then shall make mailed notice (where possible) and publication notice pursuant to NMRA Rule 1-105 to all potential statutory beneficiaries as defined by section 41-2-3, NMSA, who have not previously filed claim forms with the Administrator, providing information of this Settlement and soliciting persons to file claim forms as statutory beneficiaries.

- b. After the deadline for return of claim forms pursuant to the notice described in 4(a), the Administrator shall determine, pursuant to the criteria described in 2(b), all Eligible Decedent Class Members and the amounts of their statutory shares, under section 41-2-3, NMSA, of the pro rata allocations of the net settlement fund to the estates of the decedent pediatric cancer patient relevant to each Eligible Decedent Class Member.
- c. The Administrator shall provide to the Court, Decedent Class Counsel, UNM Counsel and all persons who have filed claim forms with a report detailing the identities of Eligible Decedent Class Members, pro rata share amounts attributed to the estates of decedent cancer patients for whom claim forms have been filed and the amounts proposed to be distributed to each Eligible Decedent Class Members within thirty days of the deadline for returning claim forms pursuant to the notice described in 4(a). Eligible Class Members shall also be informed of their right to dispute the Administrator's determinations and how to make their objections, if any.
- d. Any dispute regarding the Administrator's determination as to whether a claimant is or is not an Eligible Decedent Class Member or the amounts of the net settlement fund to be distributed to each Eligible Decedent Class Member shall be resolved by the Court.
- e. The Administrator shall distribute their shares to Eligible Decedent Class members, according to the schedule of payments as approved by the Court within forty-five days of entry of the Court's approval of the schedule of distributions.