IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

If You Paid for One or More Prescription Drugs with Insurance At Kroger,[1] A Class Action Settlement Could Affect You

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

INFORMATION REGARDING CLASS ACTION SETTLEMENT

A proposed Settlement[2] has been reached in a class action lawsuit regarding The Kroger Co.'s ("Kroger") usual and customary ("U&C") pricing practices on behalf of individuals who paid for one or more prescription drugs at Kroger using their insurance. The class action lawsuit, *Kirkbride et al. v. The Kroger Co.*, No. 2:21-cv-00022 (S.D. Ohio), relates to how Kroger determined its U&C prices in submitting claims for prescription reimbursement, specifically whether it should have considered its Savings Club prices in determining its U&C prices. Kroger denies any wrongdoing and maintains that it correctly reported its retail prices as its U&C prices. The Court has not decided who is right.

The Court has preliminarily approved the proposed Settlement described in this Notice. To resolve the claims, the proposed Settlement provides for $17,000,000 to be paid by Kroger. As discussed below, all Court-approved attorneys' fees and expenses, the costs of notice and administering the Settlement, service awards, and other Court-allowed costs will be deducted from this amount. The remaining amount (the "Net Settlement Fund") will be paid to members of the Settlement Class (defined below) who submit valid claims.

The Court has scheduled a Fairness Hearing to decide whether to approve the Settlement, the plan for allocating the Net Settlement Fund among claimants, Class Counsel's request for attorneys' fees and payment of litigation expenses out of the Settlement Fund, and the named Plaintiffs' request for payment of services awards. The Fairness Hearing is scheduled for **JANUARY 11, 2027**, at 10am EST, before Judge Algenon L. Marbley of the U.S. District Court for the Southern District of Ohio at the United States Courthouse, 85 Marconi Boulevard, Columbus, OH 43215. The time and date of the Fairness Hearing may change. For up-to-date information on the Fairness Hearing, check www.krogersavingsclubsettlement.com.

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[1] Kroger includes The Kroger Co. and all pharmacies owned and/or operated by The Kroger Co. or any of its affiliates. A list of all pharmacies owned and/or operated by Kroger is set forth in Exhibit A of the Plan of Allocation and Distribution, available at www.krogersavingsclubsettlement.com.

[2] Unless otherwise defined, capitalized terms shall be those defined in the Class Action Settlement Agreement ("Settlement Agreement") and Plan of Allocation and Distribution, both of which can be found at www.krogersavingsclubsettlement.com.

What is this action about?

Plaintiffs allege that Kroger inflated its U&C prices by not considering the prices it charged under its Savings Club in determining the U&C price, allegedly resulting in insured customers paying inflated amounts for prescription drugs. Plaintiffs brought claims against Kroger for fraud, negligent misrepresentation, and unjust enrichment.

Kroger denies Plaintiffs' allegations and maintains that it acted appropriately in reporting its retail prices as its U&C prices, as Kroger contends the special prices available to club members who elected to join the Savings Club, pay an annual membership fee, and satisfy other terms and conditions are not Kroger's "usual" or "customary" prices. This matter has settled with no findings of liability or wrongdoing by Kroger as to any of Plaintiffs' allegations.

Who Is Included?

The Settlement Class is defined as follows:

- All individuals in the United States and its territories who, at any point in time from December 9, 2018, through August 23, 2026 ("Settlement Class Period"), paid in whole or in part for one or more prescription drugs from Kroger using their insurance.

- The following individuals are excluded from the Settlement Class: (1) any Judge presiding over any portion of this Action, including appeals, and immediate members of the Judges' families, any members of the Judges' respective staffs (but not members of the immediate families of judicial staff); (2) officers and directors of Kroger, its subsidiaries, parent companies, successors, predecessors, affiliates, and any entity in which Kroger has a controlling interest; (3) individuals who timely and validly request exclusion from the Settlement Class; (4) the legal representatives, successors, or assigns of any such excluded individuals; and (5) all individuals that have sued (other than through this Action), filed an arbitration demand, or participated in a settlement in a suit against Kroger relating to its determination of usual and customary prices in connection with the Savings Club (this exclusion from the Settlement Class does not apply to individuals that have voluntarily dismissed their claims without prejudice in any suit or arbitration).

What Does The Class Action Settlement Provide?

Kroger will pay $17,000,000 into a Settlement Fund to settle all claims in the lawsuit brought on behalf of Settlement Class Members.

The Settlement Fund will be distributed pursuant to a Plan of Allocation and Distribution, the latest version of which can be reviewed at www.krogersavingsclubsettlement.com. Class Counsel will ask the Court to award attorneys' fees not to exceed one third of the Settlement Fund, as well as out-of-pocket costs, expenses, and charges not to exceed $610,325.71, and interest, as well as Service Award payments to the named Plaintiffs not to exceed $5,000 to each named Plaintiff, each to be paid out of the Settlement Fund. Notice and Administration Expenses also will be paid out of the Settlement Fund.

The Net Settlement Fund will be distributed to Settlement Class Members who file valid Claim Forms. Payments will be calculated based on the amount a claimant paid, in whole or in part, during the Settlement Class Period, for the purchase of one or more prescription drugs from Kroger, where prescription insurance benefits were used in filling the prescription(s), as described below. The precise amount that you might receive from the Net Settlement Fund will depend on how much you (and other members of the Settlement Class) paid, in whole or in part, during the Settlement Class Period, for the purchase of prescription drug(s) from Kroger, where prescription insurance benefits were used in filling the prescription(s).

The Plan of Allocation and Distribution provides for distribution of the Settlement Fund as follows:

- The Settlement Administrator will first calculate the Net Settlement Fund amount by subtracting any Court-approved Attorneys' Fees and Expenses, Service Awards, Notice and Administration Expenses, and any other Court-approved deductions (which may include taxes, tax expenses, and escrow fees) from the total Settlement Fund.

- The Net Settlement Fund amount will be shared by all Settlement Class Members who submit valid claims. Each Settlement Class Member's claim on the Settlement Fund will be distributed on a *pro rata* basis based on the relative size of the Recognized Claims and determined as follows:

    - The Distribution Amount shall be that Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund, *i.e.*:

$$\frac{\text{Authorized Claimant's Recognized Claim Amount}}{\text{Sum of All Authorized Claimant's Recognized Claim Amounts}} \times \text{Net Settlement Fund}$$

The proposed Plan of Allocation and Distribution groups those submitting claims into Known Claimants and Unknown Claimants based on whether Kroger identified the claimant as a potential member of the Settlement Class. There are different documentation requirements for each category of claimants, as discussed below. This is a summary of the Plan of Allocation and Distribution. For additional details, the latest version of the Plan of Allocation and Distribution can be reviewed at www.krogersavingsclubsettlement.com.

The proposed Plan of Allocation and Distribution is subject to change until the Court approves it. To view the most current version, visit www.krogersavingsclubsettlement.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

PARTICIPATE IN THE SETTLEMENT BY SUBMITTING A CLAIM FORM	To exercise your right to obtain a share of the Net Settlement Fund, you will need to complete, sign and submit a Claim Form (and documentation, if required) by **DECEMBER 21, 2026**. You may fill out and submit the Claim Form found at the website www.krogersavingsclubsettlement.com. The Claim Form asks you to attest to your estimated and/or actual payments to Kroger for one or more prescription drugs during the Settlement Class Period where insurance benefits were used in filling the prescription(s). All individuals submitting a Claim Form where the total amount claimed is $8,000 or more will be required to submit supporting documentation or data sufficient to identify that individual's payments to Kroger for prescription drug purchases during the Settlement Class Period. In addition, those individuals submitting a Claim Form where the total amount claimed is less than $8,000, who the Settlement Administrator determines is not on a list of individuals known to have purchased one or more prescription drugs from Kroger during the Settlement Class Period where insurance benefits were used in filling the prescription(s), will be contacted by the Settlement Administrator and also asked to submit supporting documentation or data sufficient to identify that individual's payments to Kroger for prescription drug purchases during the Settlement Class Period. Please see the Claim Form (available at www.krogersavingsclubsettlement.com) for further details about these documentation requirements.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS	If you believe you are a member of the Settlement Class, you may choose to exclude yourself, or "opt out," from the Settlement Class. If you decide to exclude yourself, you will not be bound by any decision in this lawsuit relating to Kroger. This is the only option that allows you to ever be part of any lawsuit (other than this lawsuit) against Kroger relating to the legal claims against Kroger in this case. To exclude yourself, you will need to inform the Settlement Administrator of your decision by **OCTOBER 22, 2026**, by mailing your exclusion to: Attn: Exclusions P.O. Box 58220 Philadelphia, PA 19102 and provide the information set forth below in this Notice. If the Settlement is approved by the Court and you do not notify the Settlement Administrator by the deadline of your election to "opt out" of the Settlement Class, you will be bound by the Settlement. If you opt out, you may not submit a Claim Form.

OBJECT TO THE SETTLEMENT	If you object to all or any part of the proposed Settlement, plan of allocation, and/or requested attorneys' fees, expenses, or service awards, you may write to the Court and object. You may only object to the proposed Settlement, plan of allocation, and/or requested attorneys' fees, expenses, or service awards if you have not excluded yourself from the Settlement Class. Any objections must be submitted to the Court by **OCTOBER 22, 2026,** by mailing your objection to: Attn: Objections P.O. Box 58220 Philadelphia, PA 19102 and provide the information set forth below in this Notice.
DO NOTHING	If you are a member of the Settlement Class and do not file a valid claim, you will not receive any payment from the Settlement. Moreover, even if you do not file a valid claim, unless you exclude yourself from the Settlement Class, you will nevertheless be bound by past and any future Court rulings, including rulings on the Settlement, if approved, and settlement releases but will not be eligible to receive any payment from the Settlement.
GET MORE INFORMATION	If you have any questions, or would like to receive more information about the case or the Settlement, please contact the Settlement Administrator in the following ways: • By mail at: Kroger Savings Club Litigation Settlement, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103 • By email at info@krogersavingsclubsettlement.com • By phone at **(888) 535-4262**.

How Do I Get A Payment?

You must submit a Claim Form by **DECEMBER 21, 2026** to be eligible for a payment.

- If you received a notice and a claim identification number from the Settlement Administrator you are a Known Claimant, as defined in the Plan of Allocation and Distribution. If you want to participate in the Settlement, then you will need to submit a Claim Form in order to be eligible to obtain a share of the proposed Settlement. Please visit www.krogersavingsclubsettlement.com for more information and to submit a Claim Form. You will be asked to provide information proving that you are a member of the Settlement Class. You also may be asked to provide supporting documentation or data sufficient to identify your eligible purchases. If you are unable to access the Settlement Website identified above, please contact the Settlement Administrator by mail at Kroger Savings Club Litigation Settlement, Attn: Claim Form, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103, by email at info@krogersavingsclubsettlement.com, or by phone at **(888) 535-4262**.

- If you did not receive a notice and a claim identification number from the Settlement Administrator, but believe you are a potential Settlement Class Member, then you will need to submit a Claim Form in order to be eligible to obtain a share of the proposed Settlement. Please visit www.krogersavingsclubsettlement.com for more information and to submit a Claim Form. You will be asked to provide information proving that you are a member of the Settlement Class. After you submit the Claim Form, if the Settlement Administrator determines you are not on a list of individuals known to have purchased one or more prescription drugs from Kroger during the Settlement Class Period where insurance benefits were used in filling the prescription(s), you will be an Unknown Claimant, as defined in the Plan of Allocation and Distribution. You will be contacted by the Settlement Administrator and asked to provide supporting documentation or data sufficient to identify your eligible purchases. If you are unable to access the Settlement Website identified above, please contact the Settlement Administrator by mail at Kroger Savings Club Litigation Settlement, c/o Angeion Group, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103, by email at www.krogersavingsclubsettlement.com, or by phone at **(888) 535-4262**.

- When and whether you receive your payment depends on several matters, including whether your claim is approved and whether and when the Court grants final approval of the Settlement. The initial Distribution of the Net Settlement Fund will be allocated to Settlement Class Members within 120 days after the Effective Date. If the proposed Settlement is given final approval, but there is an appeal of the final approval, the appeal could take several years to resolve. In the event the Settlement is finally approved by all necessary courts, any accrued interest on the Settlement Fund will be included, consistent with the Plan of Allocation and Distribution, in the amount paid to Settlement Class Members.

What am I giving up to receive a payment?

Unless you exclude yourself, you remain a Settlement Class Member. That means you cannot sue, continue to sue, or be part of any other lawsuit about the Plaintiffs' Released Claims in this case against Kroger or any of the Defendant's Released Persons. Upon the Effective Date of the Settlement, Plaintiffs and all Settlement Class Members, on behalf of themselves and each of the Plaintiffs' Released Persons, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Plaintiffs' Released Claims against Kroger and the Defendant's Released Persons, regardless of whether Plaintiffs and Settlement Class Members execute and deliver Claim Forms. The capitalized terms used in this paragraph are defined in the Settlement Agreement. For easy reference, the relevant parts of those terms are copied below:

- "Defendant's Released Persons" means Kroger and its respective legal representatives, predecessors, successors and assigns, present and former parents and subsidiaries and affiliated entities, present and former employees, partners, agents, representatives, independent contractors, officers, directors, shareholders, attorneys, accountants, managers, and all other legally associated individuals or entities.

- "Plaintiffs' Released Persons" means Plaintiffs, Settlement Class Members, and Plaintiffs' Related Parties. In turn, "Plaintiffs' Related Parties" means Plaintiffs' respective legal representatives, including Class Counsel, heirs, executors, administrators, beneficiaries, trustees, predecessors, successors in interest, transferees and assignees, in their capacities as such.

- "Plaintiffs' Released Claims" means all claims, demands, damages, harm, injuries, actions, causes of action, suits, proceedings, matters, disputes, obligations, costs, and losses of any kind whatsoever, whether known or Unknown Claims[3], suspected or unsuspected, accrued or unaccrued, and contingent or non-contingent, which now exist or have existed upon any theory of law or equity (whether contractual, common law, statutory, federal, state, local, or otherwise), including any claims for compensatory or punitive damages, or for attorneys' fees, costs, or disbursements of any kind, against Defendant's Released Persons arising out of or related to the conduct challenged in the Action, including any and all claims relating to the reporting of U&C prices for pharmaceuticals, regardless of whether "usual and customary" or "U&C" appears as a defined contractual term in any relevant contract, except for claims relating to the enforcement of the Settlement Agreement.

What Are My Other Rights?

If you are a member of the Settlement Class and you do not want to be legally bound by the Settlement, you must exclude yourself. The exclusion deadline is **OCTOBER 22, 2026**. If you do not timely exclude yourself, you will not be able to sue Kroger or Defendant's Released Persons for any claims relating to the lawsuit and will be bound by the Settlement, if finally approved.

<u>To exclude yourself from the Settlement Class</u>, you must send a letter via first-class U.S. mail with postage prepaid or overnight delivery to: Kroger Savings Club Litigation Settlement, Attn: Exclusions, P.O. Box 58220, Philadelphia, PA 19102. You must include the following: (1) your full name, current mailing address, telephone number, and social security number; (2) a statement that you purchased and paid for one or more prescription drugs from Kroger using insurance during the Settlement Class Period; (3) a statement that you wish to be excluded from the Settlement Class (e.g., "*I request that I be excluded from the Kirkbride et al. v. The Kroger Co. settlement.")*; and (4) your signature.

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[3] The complete definition of "Unknown Claims" is set forth at Section 1.43 of the Settlement Agreement and includes "(a) any Plaintiffs' Released Claims that Plaintiffs or any Settlement Class Member does not know or suspect to exist in his or her favor at the time of the release of Defendant's Released Persons which, if known by him or her, might have affected such Plaintiff's or Settlement Class Member's settlement or decisions with respect to the Settlement, including the release of Defendant's Released Persons or the decision not to object to or opt out of this Settlement; and (b) any Defendant's Released Claims that Defendant does not know or suspect to exist in its favor at the time of the release of Plaintiffs' Released Persons, which if known by it, might have affected its settlement or decision with respect to the Settlement, including the release of Plaintiffs' Released Persons."

Settlement Class Members shall not be permitted to exclude other Settlement Class Members. Moreover, group or class-wide exclusions shall not be permitted. A request for exclusion must be submitted by each Settlement Class Member on an individual basis, and any request for exclusion by a purported authorized agent or representative of a Settlement Class Member must include proof of the representative's legal authority and authorization to act and request exclusion on behalf of each Settlement Class Member they seek to opt out. If you exclude yourself from the Settlement Class, you will not receive any benefits of the Settlement, you will not be legally bound by anything that happens in the lawsuit, and you may be able to sue (or continue to sue) Kroger in the future about the legal issues in this case.

Your letter requesting exclusion must be postmarked no later than **OCTOBER 22, 2026**.

A request for exclusion that does not include all of the foregoing information, that does not contain the proper signature, that is sent to an address other than the one designated above, or that is not sent within the time specified shall be invalid and the individual filing such an invalid request shall be a Settlement Class Member and shall be bound by the Settlement, if approved.

If you do not exclude yourself from the Settlement Class, you may object to the Settlement by **OCTOBER 22, 2026**.

<u>To object to the Settlement</u>: If you are a Settlement Class Member and you have not excluded yourself from the Settlement Class, you can object to all or any part of the proposed Settlement, Plan of Allocation and Distribution, and/or requested attorneys' fees, expenses, or service awards. You can give reasons why you think the Court should not approve it, and the Court will consider your views.

To object to the proposed Settlement, you must file or send a letter via first-class U.S. mail (or file electronically with the Court) saying that you object to the Settlement in *Kirkbride et al. v. The Kroger Co.*, No. 2:21-cv-00022 (S.D. Ohio), with the following information:

> (a) your name, address, email address, and the identity of and contact information for any attorney representing you; (b) the legal or factual bases for your objection; (c) documentation sufficient to prove your membership in the Settlement Class (such as evidence of your relevant prescription purchases or payments); (d) a list of any witnesses, exhibits, or legal authority that you intend to offer; (e) whether you intend to appear, either in person or through counsel, at the Fairness Hearing; (f) whether your objection applies only to yourself, to a subset of the Settlement Class, or to the Settlement Class as a whole; and (g) a list of all class action settlements to which you and/or your counsel have previously objected.

File or mail any objections to the Clerk of the United States District Court for the Southern District of Ohio, United States Courthouse, 85 Marconi Boulevard, Columbus, OH 43215, with a copy to Joseph I. Marchese, Andrew Obergfell, Bursor & Fisher, P.A., 1330 Avenue of the Americas, New York, NY 10019; Joshua D. Arisohn, Arisohn LLC, 94 Blakeslee Road, Litchfield, CT 06759; Joel D. Smith, Smith Krivoshey, PC, 867 Boylston Street, 5th Floor #1520, Boston, MA 02116; Selina Coleman, Reed Smith LLP, 1301 K Street, N.W., Suite 1000 – East Tower, Washington, D.C. 20005-3373, and Michael S. Leib, Reed Smith LLP, 10 S. Wacker Dr. #4000, Chicago, IL 60606.

You also may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter via first-class U.S. mail saying that it is your "Notice of Intention to Appear in *Kirkbride et al. v. The Kroger Co.*, No. 2:21-cv-00022 (S.D. Ohio)." Be sure to include your name, address, email address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **OCTOBER 22, 2026,** and must be filed or sent to the Clerk of the Court and to counsel at the addresses listed in the prior paragraph. You may not be able to speak at the Fairness Hearing if you have excluded yourself from the Settlement Class or if you do not send a Notice of Intention to Appear.

The Lawyers Representing the Settlement Class

The Court has appointed Bursor & Fisher, P.A., Arisohn LLC, and Smith Krivoshey, PC as Class Counsel. You may contact the following lawyers regarding questions: Joseph I. Marchese, Andrew Obergfell, Bursor & Fisher, P.A., 1330 Avenue of the Americas, New York, NY 10019; Joshua D. Arisohn, Arisohn LLC, 94 Blakeslee Road, Litchfield, CT 06759; Joel D. Smith, Smith Krivoshey, PC, 867 Boylston Street, 5th Floor #1520, Boston, MA 02116.

The Lawyers for the Defendant

Defendant is represented by Reed Smith LLP, including Selina Coleman, 1301 K Street, N.W., Suite 1000 – East Tower, Washington, D.C. 20005-3373 and Michael S. Leib, 10 S. Wacker Dr. #4000, Chicago, IL 60606.

If You Want More Information

If you have any questions, or would like to receive more information about the case or the Settlement, please contact the Settlement Administrator in the following ways:

- By mail at: **Kroger Savings Club Litigation Settlement, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103**
- By email at: **info@krogersavingsclubsettlement.com**
- By phone at: **(888) 535-4262**

This Notice is only a summary of the proposed Settlement and is qualified in its entirety by the terms of the Settlement Agreement. Copies of the Settlement Agreement are on public file with the United States District Court for the Southern District of Ohio Courthouse, 85 Marconi Boulevard, Columbus, OH 43215. The Settlement Agreement is also available on the Settlement Website: **www.krogersavingsclubsettlement.com.**

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THE SETTLEMENT OR THE CLAIMS PROCESS

FOR MORE INFORMATION AND TO SUBMIT A CLAIM:
CALL: (888) 535-4262 OR VISIT www.krogersavingsclubsettlement.com.