

COMMONWEALTH OF MASSACHUSETTS

If your personal information was affected by a 2020 Data Incident at UMass Memorial Health Care, you may be eligible for a payment and/or credit monitoring services from a class action settlement.

Para una notificación en Español, visitar www.UMMHCclasssettlement.com.

A state court authorized this Notice. This is not junk mail, an advertisement, or a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit against UMass Memorial Health Care, Inc. (“UMMHC” or “Defendant”) relating to a data security incident impacting Defendant’s computer systems that occurred between June 24, 2020 and January 7, 2021 (the “Data Incident”). The computer systems affected by the Data Incident contained personal identifying information and protected health information of certain individuals. The Plaintiffs claim that Defendant was responsible for the Data Incident and assert claims such as negligence, negligence per se, breach of express and implied contract, breach of fiduciary duty, and unjust enrichment. Defendant denies all of the claims.
- If you received a notification from Defendant of the Data Incident, you are included in this Settlement as a “Settlement Class Member.”
- The Settlement provides payments to people who submit valid claims for expenses and lost time relating to the Data Incident, and for credit monitoring and identity protection services. Alternately, you may forego those benefits for a cash payment of approximately \$40.00 that is subject to proration, depending on how many claims are made.
- Your legal rights are affected regardless of whether you do or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY APRIL 14, 2023	This is the only way you can get payment or a code for credit monitoring services.
OBJECT TO THE SETTLEMENT BY MARCH 15, 2023	Write to the Court with reasons why you do not agree with the Settlement.
GO TO THE FINAL FAIRNESS HEARING ON MAY 23, 2023	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Fairness Hearing.

DO NOTHING	You will not get any compensation or credit monitoring from this Settlement and you will give up certain legal rights. Submitting a claim form is the only way to obtain payment or credit monitoring from this Settlement.
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- These rights and options—and the deadlines to exercise them—are explained in this Notice. For complete details, view the Settlement Agreement, available at www.UMMHCclasssettlement.com, or call 1-844-696-1314.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will only be made after the Court grants final approval of the Settlement and after any appeals of the Court’s order granting final approval are resolved.

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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 this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after objections or appeals, if any, are resolved, the Settlement Administrator appointed by the Court will distribute the payments that the Settlement allows. This Notice explains the lawsuit, the Settlement, your legal rights, what payments are available, who is eligible for them, and how to get them.

The Court in charge of this case is the Worcester County Superior Court, Worcester, Massachusetts. The case is known as *Kesner v. UMass Memorial Health Care, Inc.*, Case No. 2185 CV 01210 (the “Lawsuit”). The people who filed the Lawsuit are called the Plaintiffs and the entity they sued, UMass Memorial Health Care, Inc., is called the Defendant.

2. What is this lawsuit about?

The Lawsuit claims that the Defendant was responsible for the Data Incident and asserts claims such as: negligence, negligence per se, breach of fiduciary duty, breach of express and implied contract, and unjust enrichment. The Lawsuit seeks, among other things, payment for persons who were allegedly injured by the Data Incident.

Defendant has denied and continues to deny all of the claims made in the Lawsuit, as well as all charges of wrongdoing or liability against it.

3. What is a class action?

In a class action, one or more people called Class Representatives sue on behalf of people who have similar claims. Together, all these people are called a Class or Class members. One Court and one judge resolves the issues for all Class members.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, the Plaintiffs negotiated a settlement with Defendant that allows both the Plaintiffs and Defendant to avoid the risks and costs of lengthy and uncertain litigation and the uncertainty of a trial and appeals. It also allows Settlement Class Members to obtain payment and credit monitoring services without further delay. The Class Representatives and their attorneys think the Settlement is best for all Settlement Class Members. This Settlement does not mean that Defendant did anything wrong.

WHO IS INCLUDED IN THE SETTLEMENT?

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

You are part of this Settlement as a Settlement Class Member if your personal information was compromised in the Data Incident or you previously received a notification from Defendant pertaining to the Data Incident.

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

Yes. Specifically excluded from the Settlement Class are: (i) Defendant and its affiliates, parents, subsidiaries, officers and directors; (ii) the Judge(s) presiding over this matter and the clerks of said judge(s). This exclusion does not apply to the Defendant's employees who received notification regarding the Data Incident.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the Settlement provide?

Under the Settlement, Defendant will pay \$1,200,000.00 into a non-reversionary Settlement Fund that will be used to provide the following benefits:

- Settlement Class Members may elect to file a claim for either 1) a claim for reimbursement of certain losses and credit monitoring or 2) a cash payment. Specifically, Settlement Class Members can claim:
 - Settlement Class Members can claim: (i) up to \$150 for Ordinary Expense Reimbursements (Question 8, below); (ii) Lost Time of up to 3 hours (Question 8, below); and (iii) up to \$5,000 in Extraordinary Expense Reimbursements (Question 8, below). You may submit a claim for any or all of these types of payments. In order to claim each type of payment, you must provide related documentation with the Claim Form. Settlement Class Members can also make a claim for (iv) up to 24-months of credit monitoring and identity protection services (Question 9, below); or
 - Settlement Class Members can forego the benefits outlined above in exchange for a one-time Cash Payment of approximately \$40 that is subject to proration, depending on how many claims are made.
- Attorneys' fees and expenses as approved by the Court (Question 17, below), service awards as approved by the Court (Question 17, below) and the costs of notifying the class and administering the Settlement.

Depending on the number of valid claims, the costs of settlement administration, and the amount awarded by the Court for attorneys' fees and costs and service awards, payments for certain benefits may be reduced proportionally or withheld as set forth in paragraphs 37 and 91 of the Settlement Agreement.

8. What payments are available for Expense Reimbursement?

Settlement Class Members are eligible to receive reimbursement of up to \$150 (in total) for the following categories of documented out-of-pocket expenses resulting from the Data Incident including but not limited to:

- bank fees,
- long distance phone charges,
- cell phone charges (only if charged by the minute),
- data charges (only if charged based on the amount of data used),
- postage, and
- gasoline for local travel.

Settlement Class Members can also receive reimbursement of fees for credit reports, credit monitoring, or other identity theft insurance products, purchased between June 24, 2020, and the date of the close of the claims period.

In addition to these reimbursements, Settlement Class Members may make a claim for up to three (3) hours of lost time spent dealing with the Data Incident, to be paid out at \$25 per hour. Such time can include, for example:

- time spent dealing with replacement card issues, reversing fraudulent charges, rescheduling medical appointments and/or finding alternative medical care and treatment, retaking or submitting to medical tests, locating medical records, retracing medical history, and any other demonstrable form of disruption to medical care and treatment, but only if at least one-half hour was spent.

Settlement Class Members may also make a claim for up to \$5,000 in Extraordinary Expense Reimbursements for monetary losses proven more likely than not to directly arise from identity theft or other fraud perpetrated against Settlement Class Members if those losses: are actual, documented, and unreimbursed monetary losses; more likely than not resulted from the Data Incident; occurred between June 24, 2020, and the date of the close of the claims period; are not already covered by Ordinary Expense Reimbursements; and Settlement Class Members made reasonable efforts to avoid or seek reimbursement for losses.

Claims for Ordinary Expense Reimbursements, Lost Time, and Extraordinary Expense Reimbursements must be supported by reasonable documentation.

9. What credit monitoring and identity theft protections are available?

Settlement Class Members who submit a valid claim are eligible to enroll in a total of 24-months of credit monitoring services through IDX Identity Protection Services. IDX services include: real time monitoring of the credit file at all three major credit bureaus, identity theft insurance (no deductible) of one million dollars (\$1,000,000), and access to fraud resolution agents to help resolve identity thefts.

More details are provided in the Settlement Agreement, which is available at www.UMMHCclasssettlement.com.

10. What cash compensation is available?

In lieu of the benefits described in Questions 8 and 9 above, Settlement Class Members may file a claim for a cash payment estimated at \$40. This cash payment is subject to proration, depending on how many claims are made.

HOW TO GET BENEFITS—SUBMITTING A CLAIM FORM

11. How do I get benefits from the Settlement?

To ask for a payment, you must complete and Submit a Claim Form. Claim Forms are available at www.UMMHCclasssettlement.com, where you may also submit your Claim Form online. You may also request one by mail by calling 1-844-696-1314. Read the instructions carefully, fill out the Claim Form, and either submit it online or mail it postmarked no later than **April 14, 2023** to:

UMMHC Settlement Administrator
PO Box 58220
Philadelphia, PA 19102

12. How will claims be decided?

The Settlement Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Settlement Administrator may require additional information from any claimant and will specify a time within which any such additional information must be provided. If the required information is not provided within the time specified, the claim will be considered invalid and will not be paid.

Additional information regarding the claims process can be found in Section VI of the Settlement Agreement, available at www.UMMHCclasssettlement.com.

13. When will I get my payment?

The Court will hold a Final Fairness Hearing at 2:00 p.m. on May 23, 2023, to decide whether to approve the Settlement. 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. It also takes time for all the Claim Forms to be processed, depending on the number of claims submitted and whether any appeals are filed. Please be patient.

REMAINING IN THE SETTLEMENT

14. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement, but if you want a payment or credit monitoring services you must submit a Claim Form postmarked or submitted online by **April 14, 2023**.

15. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue Defendant for the claims being resolved by this Settlement. The specific claims you are giving up against Defendant are described in Section XIV of the Settlement Agreement. You will be “releasing” Defendant and all related people or entities as described in Section XIV of the Settlement Agreement. The Settlement Agreement is available at www.UMMHCclasssettlement.com

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions about what this means you can talk to the law firms listed in Question 16 for free or you can, of course, talk to your own lawyer at your own expense.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

Yes. The Court appointed Ben Barnow and Anthony Parkhill of Barnow and Associates, P.C., located at 205 W. Randolph St., Ste. 1630, Chicago, IL 60606; Andrew W. Ferich of Ahdoot & Wolfson, PC, located at 201 King of Prussia Road, Suite 650, Radnor, PA 19087; and David Pastor of Pastor Law Office, PC, located at 63 Atlantic Avenue, 3d Floor, Boston, Massachusetts 02110, 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.

17. How will Class Counsel be paid?

If the Settlement is approved and becomes final, Class Counsel will ask the Court to award attorneys' fees in the amount of \$400,000 plus reasonable litigation costs and expenses. Class Counsel will also request approval of a service award of \$3,000 for each of the two Class Representatives. If approved, these amounts, as well as the costs of notice and settlement administration, will be taken from the settlement amount prior to payments made to Settlement Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

18. 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 with the Court and mail copies to Class Counsel and Defendant's Counsel a written notice stating that you object to the Settlement in *Kesner v. UMass Memorial Health Care, Inc.*, Case No. 2185 CV 01210.

Your objection must:

- (i) set forth your full name, current address, telephone number, and email address;
- (ii) contain your original signature;
- (iii) contain proof that you are a member of the Settlement Class (e.g., copy of settlement notice, copy of original notice of the Data Incident);
- (iv) state that you object to the Settlement, in whole or in part;
- (v) set forth a statement of the legal and factual basis for the Objection;
- (vi) provide copies of any documents that you wish to submit in support of your position;
- (vii) identify all counsel representing you, if any;
- (viii) contain the signature of your duly authorized attorney or other duly authorized representative, along with documentation setting forth such representation; and
- (ix) contain a list, including case name, court, and docket number, of all other cases in which you and/or your counsel has filed an objection to any proposed class action settlement in the past three (3) years.

Your objection must be filed with the Clerk of the Worcester County Superior Court, 225 Main St., Worcester, Massachusetts 01608 and served upon Class Counsel and Defendant's Counsel at the addresses below no later than **March 15, 2023**.

CLASS COUNSEL	DEFENDANT'S COUNSEL
Ben Barnow Barnow and Associates, P.C. 205 W. Randolph St., Suite 1630 Chicago, Illinois 60606	David A. Carney Baker & Hostetler, LLP 127 Public Square, Suite 2000 Cleveland, Ohio 44114

An objecting Settlement Class Member has the right, but is not required, to attend the Final Approval Hearing. If you intend to appear at the Final Approval Hearing, either with or without counsel, you must also file a notice of appearance with the Court (as well as serve the notice on Class Counsel and Defendant's Counsel) by the Objection Deadline.

If you intend to appear at the Final Approval Hearing through counsel, you must also identify the attorney(s) representing you who will appear at the Final Approval Hearing and include the attorney(s) name, address, phone number, e-mail address, state bar(s) to which counsel is admitted, as well as associated state bar numbers.

If you fail to timely file and serve an Objection and notice, if applicable, of your intent to appear at the Final Approval Hearing in person or through counsel, you will not be permitted to object to the approval of the Settlement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

THE COURT'S FINAL FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

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

The Court will hold a Final Fairness Hearing at 2:00 p.m. on May 23, 2023, in the Worcester County Superior Court, Room 19, 225 Main St., Worcester, Massachusetts 01608. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will take into consideration any properly-filed written objections and may also listen to people who have asked to speak at the hearing (*see* Question 18). The Court will also decide whether to approve fees and reasonable litigation costs to Class Counsel, and the service award to the Class Representatives.

20. Do I have to come to the Final Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend 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.

21. May I speak at the Final Fairness Hearing?

Yes, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must follow the instructions provided in Question 18 above.

IF YOU DO NOTHING

22. What happens if I do nothing?

If you do nothing, you will not receive any compensation from this Settlement. If the Court approves the Settlement, you will be bound by the Settlement Agreement and the Release. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant or related parties about the issues involved in the Lawsuit, resolved by this Settlement, and released by the Settlement Agreement.

GETTING MORE INFORMATION

23. Are more details about the Settlement available?

Yes. This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at www.UMMHCclasssettlement.com or by writing to the UMMHC Settlement Administrator, P.O. Box 58220, Philadelphia, PA 19102.

24. How do I get more information?

Go to www.UMMHCclasssettlement.com, call 1-844-696-1314, or write to the UMMHC Settlement Administrator, P.O. Box 58220, Philadelphia, PA 19102.

***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 Lawsuit.***