

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

DOUGLAS L. MOORE, MARY CAMP, GAYLORD
CASE, and a class of similarly situated individuals,

Plaintiffs,

v.

HEALTH CARE AUTHORITY, STATE OF
WASHINGTON,

Defendants.

NO. 06-2-21115-4 SEA

NOTICE OF CLASS ACTION AND RIGHT TO
OPT OUT

To: <<NAME1>> <<NAME2>>:

**Please read this carefully.
It may affect your legal rights.**

1. PURPOSE OF THIS NOTICE.

Your rights may be affected in the above-entitled lawsuit, *Moore v. Health Care Authority*. This notice is given by order of the King County Superior Court. The purpose of this notice is to inform you that the Court has certified this case as a class action and that you may be a member of the class. Whether you are, in fact, a member of the class will be determined at a later date. However, you have the right at this time to “opt-out” of the class action in order to pursue your own individual action. Members of the class who want to participate in the class action are automatically included and need not do anything at this time.

2. BACKGROUND OF THE LAWSUIT.

The plaintiff state employees filed this class action alleging that the State of Washington wrongly omitted them from employer-paid health insurance after they met the eligibility criteria. Plaintiffs seek monetary relief for themselves and the present and former state employees who are class members. You have been identified as a potential class member.

In 2007 the Court certified the class for the purpose of determining the State’s liability. The Court subsequently held in a series of rulings that the State had wrongly failed to provide plaintiffs and class members employer-paid health insurance. Based on this litigation and the Court’s rulings, in 2009 the Washington Legislature passed legislation to ensure the eligibility rules are correctly applied in the future.

In 2011 the Court granted plaintiffs’ request to continue certification of the class for the purpose of determining the appropriate monetary relief for plaintiffs and the class members, if any. There remain issues as to who is a class member and whether any particular class member is entitled to monetary relief, and these issues still need to be resolved by the Court.

3. ORDER DEFINING THE CLASS.

The Court has defined the class to include the following individuals:

Non-Permanent Employees. Persons who worked an average of at least half-time over a six month period and who were denied health care benefits commencing in the seventh month of employment, or in any month thereafter where the employee received pay for at least eight hours of work.

Career Seasonal/Instructional Year Employees. Persons who worked: a) an average of at least half-time over a nine, ten or eleven month working season with some hours worked in each month of the season; b) followed by a three, two or one month off-season, respectively, in which the person did not work; c) followed by a return to work in the same position as demonstrated by some hours worked in the first month of the second season; and d) who were denied health care benefits.

For purposes of identifying persons who meet the class definition, “half-time” means 80 hours per month. There remains an issue, however, as to whether “half-time” for determining eligibility for health insurance and any entitlement to monetary relief is a greater number of hours at certain state agencies. This issue will be resolved in the future.

An employee receiving or waiving health benefits who is terminated or voluntarily resigns, but is later rehired, may not use hours worked prior to termination or resignation to establish eligibility for health benefits after the rehire.

The class does not include the following individuals:

- A. Employees who waived health benefits;
- B. Members of the Washington Conservation Corp. unless the employee holds an administrative or supervisory position;
- C. Employees of Washington State University's Cooperative Extension Program who hold a federal civil service appointment and who elected to participate in a federal health program in lieu of state employee health benefits;
- D. Officers and employees of the state convention and trade center;
- E. Enrollees in the Washington Service Corp;
- F. Students of a higher education institution who are employed by the institution;
- G. Work study students; and
- H. Employees who received health benefits as the spouse, dependent or other family member of another Public Employees Benefits Board subscriber.

The Court approved Douglas Moore, Mary Camp, and Gaylord Case as the representative plaintiffs.

4. CLASS COUNSEL.

The class is represented by the law firm of Bendich, Stobaugh & Strong, P.C. Information about the law firm and its attorneys can be found on the firm's website, www.bs-s.com. The law firm has represented the class and pursued this matter on behalf of the class since 2007.

5. COSTS TO THE CLASS.

Class Counsel will not receive any fees for their work unless and until the class action is successful. In a fee award, which requires court approval, the class as a whole will pay out of the total recovery a reasonable contingency fee or percentage of recovery to Class Counsel. This amount is often in the range of 20 to 30 percent of the total recovery and the "benchmark award" is 25 percent of the total recovery obtained. *Bowles v. Dep't of Retirement Systems*, 121 Wn.2d 52, 72 (1993). The Court has made no determination regarding the amount of any fee award in this case.

6. DO NOTHING TO PARTICIPATE IN THE CLASS ACTION.

Class members who want to participate in the class action are automatically included and do not need to do anything at this time. Class Counsel will represent your interests in the action and seek recovery on your behalf.

The Class will consist of all class members who do not opt out. Any final judgment in this litigation will be binding on all class members.

7. YOU MUST OPT OUT IF YOU DO NOT WANT TO PARTICIPATE IN THE CLASS ACTION.

Class members who do not want to participate in the class action must opt out of the class action.

If you elect to opt out, (a) you will not share in any recovery that may be paid to class members, (b) you will not be bound by any further orders or judgments entered for or against the class after the day this notice was issued, (c) Class Counsel will no longer represent you, and (d) you may pursue any claims you have against the State of Washington only by filing your own lawsuit at your own expense.

If you want to opt out of the class action, you must provide Class Counsel with a signed letter stating your decision to opt out by first class mail postmarked on or before September 17, 2012.

The letter must contain the following information:

- 1. Your name;
- 2. Your address;
- 3. Your telephone number and email address;
- 4. Your social security number (see below);
- 5. A statement that you "elect to opt out of the *Moore v. Health Care Authority* class action;"
- 6. The letter must be signed by you and dated.

If you elect to opt out, your social security number is needed to ensure the correct person is removed as a class member. The social security number will be held in strict confidence by the parties and will not be publicly disclosed in any manner. Please sign your letter and mail your opt-out notification to:

Class Counsel in *Moore v. HCA*
Bendich, Stobaugh & Strong, P.C.
701 Fifth Ave., #6550
Seattle, WA 98104

Unsigned requests will not be accepted. Letters requesting to opt out that are not postmarked on or before September 17, 2012 will not be accepted. If a member of the class is deceased, his or her estate has the right to opt out.

If you were to opt out of this class action, the statute of limitations (the deadline for filing and pursuing a claim) will start to run again on any claim you may have. The deadline for filing the claim was tolled or suspended from the date this action was filed, June 29, 2006, through September 17, 2012. If you do not file your individual claim in the appropriate court before the statute of limitations or time deadline expires, the claim will be forever barred. If you elect to opt out to pursue an individual claim, you should immediately consult a lawyer regarding this matter.

8. ADDITIONAL INFORMATION.

Additional information about this action is available at class counsel's website: www.bs-s.com. For more detailed information, all documents in the court file may be inspected during regular business hours at the Clerk's Office in the King County Superior Court, 516 Third Avenue, Seattle, WA 98104.

Please Do Not Contact the Judge or Court Clerk About This Matter. Neither the Judge nor the Clerk of King County Superior Court will be able to answer any questions you have about the matters in this notice, other than the Clerk's office can inform you when and where you can review the court records. Please contact Class Counsel if you have questions remaining after first visiting their website, www.bs-s.com. Questions should be directed in writing to Class Counsel at the mailing address above or emailed to healthcarecase@bs-s.com.

Dated August 17, 2012.

This Notice has been approved and ordered to be given by
King County Superior Court Judge Catherine Shaffer