

## EXHIBIT 2 TO MOTION FOR PRELIMINARY APPROVAL

*Peters v. Aetna Inc., et al.*, Civ. No. 15-109-MR (W.D.N.C.)

### PLAN OF ALLOCATION

- I. Objective: The goal of this Plan of Allocation is to distribute the Settlement Fund completely and efficiently by: (i) paying eligible Member Class members their respective shares of the Member Class Settlement Fund Share (as defined below); and (ii) paying eligible Plans of members of the Plan Class such Plans' respective shares of the Plan Class Settlement Fund Share (as defined below).
- II. Definitions
  1. Member Class member means a person within the definition of the Member Class, defined as: "All participants or beneficiaries of ERISA health insurance plans insured or administered by Aetna for whom coinsurance responsibility for a claim was assessed using an agreed rate between Optum and Aetna that exceeded the provider's contracted rate with Optum for the treatment provided."
  2. Plan Class Plan means a self-insured ERISA health insurance plans administered by Aetna plan with one or more persons within the definition of the Plan Class, defined as: "All participants or beneficiaries of self-insured ERISA health insurance plans administered by Aetna for which plan responsibility for a claim was assessed using an agreed rate between Optum and Aetna that exceeded the provider's contracted rate with Optum for the treatment provided."
  3. "Class Data" means a spreadsheet provided to the Settlement Administrator and Class Counsel by Aetna that lists, for all Member Class members, the following fields:
    - a. Name of Member Class member
    - b. Last Known Address of Member Class member
    - c. Name of Plan of Member Class member
    - d. Individual Claim for Member Class member
  4. "Class Period" refers to the period of time from July 12, 2012 to December 17, 2024.
  5. "Individual Claim" means the total amount, for all claims, where the Member Class member paid the "Optum fee"—i.e., the difference between (A) the agreed rate between Optum and Aetna and (B) the provider's contracted rate with Optum—for covered chiropractic and/or physical therapy services received during the Class Period.

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Example: For example, if a Member Class member paid an Optum fee of \$2 for each of 5 claims, the member's Individual Claim would be \$10 (5 x \$2). The Individual Claim is capped at \$5,000.

An Individual Claim for claims between June 12, 2012 and December 31, 2017 will be based on Aetna Data. An Individual Claim for claims after December 31, 2017 will be based on Aetna Data **plus** information submitted by the Member Class member showing that the Individual Claim was incurred at a time when their Plan document (the Summary Plan Description) did not include language disclosing that the allowed amount could include an administrative fee.

6. "Total Member Class Claim" means the sum of the Individual Claims for all of the Members Class members.
7. "Plan Claim" means, for each Plan, the sum of the Individual Claims for Members Class members who were beneficiaries of such Plan.
8. "Total Plan Class Claim" means the sum of the Plan Claims for all of Plans of members of the Plan Class.
9. "Member Pro Rata Percentage" means a percentage that is equal to (A) the Member Class Settlement Fund Share divided by (B) the Total Member Class Claim, except that if the Member Pro Rata Percentage is greater than 1.0, it will be fixed at 1.0.
10. "Member Pro Rata Share" means, for each Member Class member, the Individual Claim multiplied by the Member Pro Rata Percentage, except that if the Member Pro Rata Share is less than \$15 (the "Member de minimis amount"), it will be set to \$0.
11. "Plan Pro Rata Percentage" means the percentage that is (A) the Plan Class Settlement Fund Share divided by (B) the Total Plan Class Claim.
12. "Plan Pro Rata Share" means, for each Plan, the Plan Claim multiplied by the Plan Pro Rata Percentage, except that if the Plan Pro Rata Share is less than \$500 (the "Plan de minimis amount"), such Plan's Plan Pro Rata Share will be set to \$0.
13. "Settlement Amount" means \$4,800,000.
14. "Incentive Award" means the incentive award to the named Plaintiff (Sandra M. Peters) in the amount approved by the Court.
15. "Settlement Fund" means the Settlement Amount less the Incentive Award and Plaintiffs' share of the expenses for Settlement Administration (as that term is defined in the Settlement Agreement).
16. "Member Class Settlement Fund Share" means \$2,400,000 less 50% of the sum of the Incentive Award and Plaintiff's share of Settlement Administration expenses.

17. "Plan Class Settlement Fund Share" means \$2,400,000 less 50% of the sum of the Incentive Award and Plaintiff's share of Settlement Administration expenses.
18. "Member Payment" means the amount distributed to a qualifying Member Class member pursuant to this Plan of Allocation.
19. "Plan Payment" means the amount distributed to a qualifying Plan pursuant to this Plan of Allocation.

### III. Calculation of Member Pro Rata Shares

- A. Calculate the Member Pro Rata Share for each Member Class member.
- B. If the Member Pro Rata Percentage is greater than 1.0, add the difference between (X) the total of the Member Pro Rata Shares and (Y) the Member Class Settlement Fund Share to the Plan Class Settlement Fund Share. For avoidance of doubt, this means that if the Total Member Class Claim is less than \$2.4 million, the difference will be added to the Plan Class Settlement Fund Share for distribution to qualifying Plans.

### IV. Distribution of Member Payments

1. Within sixty (60) days after the date of the order granting final approval, Aetna or the Settlement Administrator will issue a check (a "Settlement Check") to each qualifying Member Class member in the amount of such member's Member Payment. If Aetna or the Settlement Administrator does not have a reliable address for a qualifying member, payment will be issued as soon as practicable after reasonable best efforts to identify a working address for such qualifying member.
2. Each Settlement Check issued pursuant to this Settlement will be void if not negotiated within one hundred and twenty (120) calendar days after its date of issue ("Void Date"), and will contain a legend to such effect. Settlement Checks that are not negotiated by the Void Date will not be reissued unless otherwise directed by Class Counsel or ordered by the Court, but this Settlement will in all other respects be fully enforceable against a Class member who was the payee of a Settlement Check not negotiated.
3. All Member Payments that are unclaimed, including all returned Settlement Checks, all undeliverable Settlement Checks, and all Settlement Checks not cashed by the Void Date will revert to the Member Class Settlement Fund Share. Class Counsel, in consultation with the Settlement Administrator, will determine whether the re-issuance of Settlement Checks, or additional pro rata distributions to Member Class members after the deduction of any additional fees and expenses incurred in administering the funds including for such re-distributions, would be cost-effective.
4. When Class Counsel, in consultation with the Settlement Administrator, determines that the re-issuance of Settlement Checks or additional pro rata distributions would not be cost-effective, all funds remaining in the Member Class Settlement Fund Share

will be added to the Plan Class Settlement Fund Share and distributed as provided in Section V. below.

V. Calculation of Plan Pro Rata Shares and Distribution of Plan Payments

1. After completion of the distribution to Member Class members pursuant to Section IV, calculate the Plan Pro Rata Share for each Plan.
2. Within sixty (60) days after completion of the distribution to Member Class members pursuant to Section IV., Aetna or the Settlement Administrator will issue a Settlement Check or other form of payment from the Plan Class Settlement Fund Share to each qualifying Plan in the amount of the Plan Payment for such Plan. If Aetna or the Settlement Administrator does not have a reliable address for a qualifying Plan, payment will be issued as soon as practicable after reasonable best efforts to identify a working address for such qualifying Plan.
3. After the initial distribution of Plan Payments, Class Counsel, in consultation with the Settlement Administrator, will determine how to efficiently and equitably distribute any remaining amounts in the Plan Class Settlement Fund Share to Plans.

VI. The Settlement Administrator may exercise reasonable judgment to resolve questions concerning the allocation of the Settlement Fund. The Settlement Administrator may consult with Class Counsel concerning this Plan of Allocation to address such questions as they arise.