

**If you received telephone calls made by, or on behalf of Highmark BCBSD Health Options Inc., you may be entitled to benefits under a class action Settlement**

*A federal court has authorized this Notice. This is not a solicitation from a lawyer.*

- A \$1,850,000 Settlement has been reached in a class action lawsuit against Highmark BCBSD Health Options Inc. and Cotiviti, Inc. (collectively, the “Defendants”) regarding alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”). The TCPA is a federal law that restricts the use of prerecorded calls. The Plaintiffs allege that Highmark Health Options violated the TCPA by placing, through their vendor Cotiviti, pre-recorded/artificial voice telephone calls to individuals without their consent. The Defendants deny the allegations in the lawsuit, and the Court has not decided who is right.
- The Settlement offers Cash Awards to Settlement Class Members who file a valid and timely claim. The amount of money you may be eligible for depends on the number of calls received.

**This Notice may affect your rights. Please read it carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>		<b>DEADLINE</b>
<b>SUBMIT A CLAIM FORM</b>	To get a Cash Award you must submit a Claim Form.	<b>March 27, 2023</b>
<b>EXCLUDE YOURSELF</b>	Get no Settlement benefits, including a Cash Award. Keep your right to file your own lawsuit against the Defendants about the legal claims in this case.	<b>March 10, 2023</b>
<b>OBJECT</b>	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it.	<b>March 10, 2023</b>
<b>DO NOTHING</b>	Get no Settlement benefits, including a Cash Award. Be bound by the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case must still decide whether to approve the Settlement and the requested attorneys’ fees and costs. No Settlement benefits or payments will be provided unless the Court approves the Settlement, and it becomes final.

**Questions? Go to [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) or call 1-800-944-1017**

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## BASIC INFORMATION

### 1. Why is this Notice being provided?

A federal court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Christy Criswell Wiegand of the United States District Court of the Western District of Pennsylvania is overseeing this class action known as *Walker v. Highmark BCBSD Health Options, Inc.; Cotiviti, Inc.*, Case No. 20-cv-1975 (the “Action”). The people who filed this lawsuit are called the “Plaintiffs” or “Class Representatives” and the companies they sued, Highmark BCBSD Health Options Inc. (“Highmark Health Options”) and Cotiviti, Inc. (“Cotiviti”) are collectively known as the “Defendants.”

### 2. What is this lawsuit about?

The Plaintiffs allege violations of the Telephone Consumer Protection Act (“TCPA”) arising from certain calls made by, or on behalf of, Highmark Health Options. The TCPA is a federal law that restricts the use of prerecorded telephone calls. The Plaintiffs allege that Highmark Health Options violated the TCPA by placing, through its vendor Cotiviti, pre-recorded/artificial voice telephone calls to individuals without their consent.

The Defendants deny any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing, or that any law has been violated. The Defendants deny these and all other claims made in the litigation. By entering the Settlement, the Defendants are not admitting any wrongdoing.

### 3. Why is the lawsuit a class action?

In a class action, Class Representatives sue on behalf of all people who have similar claims. Together, all these people are called a Settlement Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those Settlement Class Members who timely exclude themselves (opt out) from the Settlement Class. The Class Representatives in this case are Plaintiffs Christopher Walker, Kim Sterling, and Ernie Fisher.

### 4. Why is there a Settlement?

Plaintiffs and the Defendants do not agree about the claims made in this litigation. The litigation has not gone to trial, and the Court has not decided in favor of the Plaintiffs or the Defendants. Instead, the Plaintiffs and the Defendants have agreed to settle the litigation. The Plaintiffs and the attorneys for the Settlement Class (“Class Counsel”) believe the Settlement is best for all Settlement Class Members because of the Settlement benefits and the risks and uncertainty associated with continued litigation and the nature of the defenses raised by the Defendants.

## WHO IS INCLUDED IN THE SETTLEMENT?

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

You are a Settlement Class Member if you were the subscriber or primary user of a cellular telephone number that received prerecorded/artificial voice calls from or on behalf of Defendant Highmark Health Options Inc. You are a Settlement Class Member if your cellular telephone number (or a cellular telephone number currently or previously associated with you) has been identified as meeting the following definition:

- A. During the Class Period (November 30, 2016, through December 13, 2022), all persons within the United States who are subscribers or primary users of a cellular telephone number to which Defendant Highmark BCBSD Health Options Inc. placed (or had placed on its behalf by Defendant Cotiviti, Inc.) a telephone call using a pre-recorded or artificial voice,
  - 1) when such a call to that cellular telephone number had previously resulted in (a) a “WRONG\_NUMBER” disposition or (b) a “MSG\_DECLINED” disposition without a subsequent disposition of “CORRECT\_PERSON” or “MSG\_HUMAN” and

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- 2) when at least one subsequent call to that cellular telephone number had the disposition “WRONG\_NUMBER”, “MSG\_MACHINE”, “CORRECT\_PERSON”, “MSG\_HUMAN”, “HANGUP”, “NO\_CONTINUE”, or “MSG\_DECLINED”.

This means you are a Settlement Class Member if from November 30, 2016, through December 13, 2022, a call with a pre-recorded message was made by the Defendants to your cellular telephone number and this call was answered, and a previous call possibly indicated or should have indicated a wrong number was reached, and, possibly, there was no subsequent notation that the correct number was reached.

You do not need to know if calls placed to you actually resulted in one of the dispositions listed above. If you have received a notice, your cellular telephone number (or a cellular telephone number currently or previously associated with you) has already been identified as qualifying.

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

Yes. Excluded from the Settlement Class are those persons who *only* received calls as part of a COVID Campaign; Defendants and any entities in which Defendants have a controlling interest; Defendants’ agents and employees; and any Judge and Magistrate Judge to whom this action is assigned and any member of their staffs and immediate families.

#### **7. What if I am still not sure whether I am part of the Settlement?**

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement Website at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) or call the Claims Administrator’s toll-free number at 1-800-944-1017.

### **THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY**

#### **8. What does the Settlement provide?**

If you are a Settlement Class Member and submit a valid and timely claim, you may be eligible to receive a Cash Award. The Defendants have agreed to pay or cause to be paid \$1,850,000 to create a “Settlement Fund.” The Settlement Fund will be used to pay approved Claims and all Settlement Costs (any incentive payment to the Class Representatives, any awarded attorneys’ fees and costs, and any costs associated with the administration of this Settlement).

Your Cash Award will be a *pro rata* (meaning proportional) share of all Eligible Calls claimed during the Claims Period. An Eligible Call is a prerecorded call made after a disposition in Defendants’ records identified in (A)(1) of the Settlement Class definition (see question 5).

What this means is that your Cash Award, if any, will be determined by the following formula: (Settlement Fund – Settlement Costs) ÷ (Total Number of Calls Made to Settlement Class Members who submit a claim) = Cash Award Per Call. This is subject to possible adjustments if multiple persons make a claim for the same unique cellular telephone number.

For example, if there is \$1,000,000 in the Settlement Fund after Settlement Costs, and there are 1,000 Settlement Class Members who make valid and timely claims, whose combined total number of Eligible Calls is 20,000, the *pro rata* share would be \$50 per Call (i.e. \$1,000,000 ÷ 20,000).

In this example, someone who received 20 Eligible Calls would receive \$1,000. This example is for illustrative purposes only. Your Cash Award, if any, may be significantly more or significantly less than the above.

If multiple people make a claim for the same unique cellular telephone number, the Claims Administrator will contact each person who submitted a claim to obtain the approximate month and year of when each person was the subscriber or primary user of the cellular telephone number to determine the payment to the Settlement Class Members.

#### **9. How do I submit a claim for a Cash Award?**

Settlement Class Members seeking a Cash Award must complete and submit a Claim Form to the Claims Administrator by **March 27, 2023**. Claim Forms can be submitted online at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) or by mail. If by mail, the Claim Form must be **postmarked** by **March 27, 2023**.

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You should file a single Claim Form for each unique cellular telephone number on which you received telephone calls, regardless of the number of times you were called on a particular cell number.

#### **10. What am I giving up to receive Settlement benefits or stay in the Settlement Class?**

Unless you exclude yourself (opt out), you are choosing to remain in the Settlement Class. If the Settlement is approved and becomes final, all Court orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against the Defendants and Released Parties about the legal issues in this litigation that are released by this Settlement. The specific rights you are giving up are called “Released Claims.”

#### **11. What are the Released Claims?**

The Settlement Agreement in Section XII describes the Release of Claims, in necessary legal terminology, so please read this section carefully. The Settlement Agreement is available at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) or in the public Court records on file in this lawsuit. For questions regarding the Released Parties or Released Claims and what the language in the Settlement Agreement means, you can also contact Class Counsel listed in Question 15 for free, or you can talk to your own lawyer at your own expense. You should not contact Defendants directly with questions about the settlement.

### **HOW TO GET BENEFITS FROM THE SETTLEMENT**

#### **12. How do I make a claim for Settlement benefits?**

To submit a claim for a Cash Award you must timely submit a valid Claim Form. Settlement Class Members seeking benefits under the Settlement must complete and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before **March 27, 2023**. Claim Forms may be submitted online at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) or printed from the Settlement Website and mailed to the Claims Administrator at the address on the Form. The quickest way to submit a claim is online. Paper Claim Forms are also available by calling 1-800-944-1017 or by writing to:

Walker v. Highmark Health Options Claims Administrator  
P.O. Box 3937  
Portland, OR 97208-3937

#### **13. What happens if my contact information changes after I submit a claim?**

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Claims Administrator of your updated information. You may notify the Claims Administrator of any changes by calling 1-800-944-1017 or by writing to:

Walker v. Highmark Health Options Claims Administrator  
P.O. Box 3937  
Portland, OR 97208-3937

#### **14. When will I receive my Settlement benefits?**

If you file a timely and valid Claim Form, payment will be provided by the Claims Administrator after the Settlement is approved by the Court and becomes final.

It may take time for the Settlement to be approved and become final. Please be patient and check [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) for updates.

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## THE LAWYERS REPRESENTING YOU

### 15. Do I have a lawyer in this case?

Yes, the Court has appointed Jeremy M. Glapion of The Glapion Law Firm, LLC as Class Counsel to represent you and the Settlement Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this litigation.

### 16. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award attorneys' fees and costs not to exceed 1/3 of the Settlement Fund, plus Class Counsel's actual expenses. They will also ask the Court to approve an incentive payment, not to exceed \$10,000, to Plaintiff Walker, and incentive payments not to exceed \$2,500 to Plaintiffs Sterling and Fisher for their involvement in this litigation and for their efforts in achieving the Settlement. If awarded by the Court, attorneys' fees and costs and the incentive awards will be paid out of the Settlement Fund. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees, costs, and service awards will be made available on the settlement website at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com) before the deadline for you to comment or object to the Settlement.

## OPTING OUT OF THE SETTLEMENT

If you are a Settlement Class Member and want to keep any right you may have to sue or continue to sue the Defendants on your own based on the claims raised in this litigation or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from or "opting out" of the Settlement.

### 17. How do I get out of the Settlement?

To opt out of the Settlement, you must mail a written notice to the Claims Administrator of your intent to opt out. The written notice must be signed, include your full name, address, telephone number, and the cellular telephone number(s) called by Defendants and clearly state that you wish to be excluded from the Settlement Class.

The opt out request must be **postmarked** and sent to the Claims Administrator at the following address by **March 10, 2023**:

Walker v. Highmark Health Options Claims Administrator  
Exclusions  
P.O. Box 3937  
Portland, OR 97208-3937

You cannot exclude yourself by telephone or by email.

### 18. If I opt out, can I get anything from the Settlement?

No. If you opt out, you are telling the Court you do not want to be part of the Settlement. You can only get Settlement benefits if you stay in the Settlement.

### 19. If I do not opt out, can I sue the Defendants for the same thing later?

No. Unless you opt out, you give up any right to sue the Defendants and Released Parties for the claims this Settlement resolves and Releases. You must opt out of this litigation to start or continue with your own lawsuit or be part of any other lawsuit against the Defendants, or any of the Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

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## OBJECTING TO THE SETTLEMENT

### 20. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member, you can tell the Court you do not agree with all or any part of the Settlement or requested attorneys' fees and costs. You can also give reasons why you think the Court should not approve the Settlement or attorneys' fees and costs. To object, you must file timely written notice with the Court as provided below no later than **March 10, 2023**, stating you object to the Settlement. The objection must include all the following additional information:

- (1) Your full name, address and telephone number;
- (2) The cellular telephone number(s) called by Defendants (if different);
- (3) The reasons for your objection;
- (4) The name of counsel for the objection (if any);
- (5) Information about other objections you or your counsel have made in other class action cases in the last four (4) years; and
- (6) Whether you intend to appear at the Final Approval Hearing on your own behalf or through counsel. Any documents supporting the objection must also be attached to the objection.

Your objection must be submitted to the Court either by filing it with the Court or by mailing it via U.S. Mail to the Court so that it is **received** by **March 10, 2023**, to the following address:

Clerk of Court  
United States District Court  
Western District of Pennsylvania  
700 Grant Street  
Pittsburgh, PA 15219

### 21. What is the difference between objecting and asking to opt out?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees and costs. You can object only if you stay in the Settlement Class (meaning you do not opt out of the Settlement). Opting out of the Settlement is telling the Court you do not want to be part of the Settlement Class or the Settlement. If you opt out, you cannot object to the Settlement.

## THE FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing on **May 2, 2023, at 1:00 p.m. Eastern** before Judge Christy Criswell Wiegand at United State District Court, Western District of Pennsylvania, Joseph F. Weis, Jr. U.S. Courthouse, Courtroom 9B, 700 Grant Street, Pittsburgh, PA 15219.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve the Settlement, Class Counsels' application for attorneys' fees and costs, and the incentive payments to the Plaintiffs. If there are objections, the Court will consider them. The Court may also listen to people who have asked to speak at the hearing.

Note: The date and time of the Final Approval Hearing are subject to change. The Court may also decide to hold the hearing via Zoom or by telephone. Any change will be posted at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com).

### 23. Do I have to attend to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to speak about it. As long as you file or mail your written objection on time, the Court will consider it.

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## **24. May I speak at the Final Approval Hearing?**

Yes, as long as you do not exclude yourself (opt out), you can (but do not have to) participate and speak for yourself in this litigation and Settlement. This is called making an appearance. You also can have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer instead of Class Counsel to speak for you at the hearing, you must follow all of the procedures for objecting to the Settlement listed in Section IX and specifically include a statement whether you and your counsel will appear at the Final Approval Hearing.

## **IF YOU DO NOTHING**

## **25. What happens if I do nothing at all?**

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement benefits. You will give up the rights explained in the “Opting Out from the Settlement” section of this Notice (see questions 10 and 19 above), including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants, the Released Parties about the legal issues in this litigation that are released by the Settlement Agreement.

## **GETTING MORE INFORMATION**

## **26. How do I get more information?**

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [www.hhotcpasettlement.com](http://www.hhotcpasettlement.com), by calling 1-800-944-1017 or by writing to:

Walker v. Highmark Health Options Claims Administrator  
P.O. Box 3937  
Portland, OR 97208-3937

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT’S CLERK OFFICE REGARDING THIS NOTICE.**

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