

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMMA GOIDEL, ILANA LEE, MADELEINE
LEE, and LESLEY BROWN, on behalf of
themselves and all others similarly situated,

Plaintiff,

-against-

AETNA LIFE INSURANCE CO.

Defendant.

Case No. 1:21-cv-07619 (VSB)

**SUPPLEMENTAL ORDER PRELIMINARILY APPROVING SETTLEMENT AND
DIRECTING NOTICE TO CLASS MEMBERS**

WHEREAS, on April 18, 2024, the Named Plaintiffs, on behalf of themselves and the Class, reached a settlement agreement (the "Settlement Agreement") with Defendant (together with the Named Plaintiffs, the "Parties");

WHEREAS, on May 3, 2024, Named Plaintiffs filed a motion asking the Court to preliminarily approve the April 18, 2024, Settlement Agreement, attaching the same to their motion, along with:

- (i) proposed Notices and the Claim Form Package, consisting of the proposed Attestation Form, Out-of-Pocket Expense Documentation Submission, Miscellaneous Harm Submission, Proof of Greater Covered Care Submission, and Claim Form Submission (collectively, the "Notices and Forms"), to be mailed to potential Class Members, as well as the Published Notice to be posted online;
- (ii) Named Plaintiffs' proposed Allocation Plan;
- (iii) a proposed Preliminary Approval Order;

WHEREAS, on October 8, 2024, the Court entered an order preliminarily approving the settlement, directing notice to class members and scheduling a fairness hearing.

WHEREAS, the parties have amended the Settlement Agreement to establish an additional category of class members, Category D and to clarify that the Notices and Forms will be available on the settlement website, or can be requested from the Settlement Administrator.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court hereby supplements its prior order, ECF No. 98 at ¶ 4, and certifies the following Damages Settlement Class pursuant to Fed. R. Civ. P. 23 pending a Fairness Hearing and further order of the Court: a Rule 23(b)(3) Class made up of individuals who may establish their eligibility in one of the following four ways:

- a) Category A Class Members, comprising the people identified through discovery and whom the Parties agree sought and were denied coverage due to the Definition of Infertility and who were in an Eligible LGBTQ+ Relationship during the Class Period;
- b) Category B Class Members, comprising the individuals whom the Parties agree sought and were denied coverage due to the Definition of Infertility during the Class Period, and who submit an attestation certifying that at the time they sought coverage, they were in an Eligible LGBTQ+ Relationship (the "Attestation"); and
- c) Category C Class Members, comprising individuals who submit an Attestation, were members of a New York Aetna plan during the Class Period, who submit a Claim Form Submission evidencing out-of-pocket expenses for artificial

insemination services received that would have been covered by their Aetna plan, and either:

1. never sought coverage for any fertility services from Aetna during the Class Period, or
 2. never sought coverage for IUI or other donor insemination from Aetna during the Class Period, but sought and received approval for IVF, or were denied coverage for IVF due to the Definition of Infertility;
- d) Category D Class Members, individuals whom the Parties agree sought and were denied coverage due to the Definition of Infertility during the Class Period, but whose denial was followed by an approval within 90 days or otherwise paid by Aetna.
1. D-A: Members of Category D who were in an Eligible LGBTQ+ Relationship during the Class Period; and
 2. D-B: Members of Category D who must submit an attestation certifying that at the time they sought coverage, they were in an Eligible LGBTQ+ Relationship.

2. *Notice* - The Court hereby approves, as to form and content, the Notices and Forms submitted by the Parties to the Court which have been amended to account for Category D and the provision of the Forms online as described above. The Court finds that the Notices and Forms will fully and accurately inform potential Class Members of all material elements of the proposed Settlement Agreement, of the right to be excluded from the Class, and of each Class Member's right and opportunity to object to the proposed Settlement Agreement. The Court further finds that the mailing of the Notices and the distribution of the Forms online, or via mail by request, substantially

in the manner and form set out in this Order will meet the requirements of due process, Fed. R. Civ. P. 23, the Rules of this Court, and any other applicable law, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all person and entities entitled to such notice.

3. The Court hereby sets a deadline of December 6, 2024 by which the parties will begin issuing the revised notices to all potential class members.

SO ORDERED.

Dated: November 4, 2024

A handwritten signature in black ink that reads "Vernon Broderick". The signature is written in a cursive style with a large initial "V".

THE HONORABLE VERNON S. BRODERICK
United States District Judge