

This Notice may affect your rights. Please read it carefully.
A court has authorized this Notice. This is not a solicitation from a lawyer.

YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
Submit a Claim Form	To receive a Benefit under this Settlement, you must submit a Claim Form by the Claim Form Deadline.	November 5, 2019
Opt-Out	Get out of the lawsuit and the Settlement. This is the only option that allows you ever to bring or join another lawsuit raising the same legal claims against the Defendants. You will receive no Benefit from this Settlement.	October 7, 2019
File Objection	Write to the Court about any aspect of the Settlement you don't like, or you don't think is fair, adequate, or reasonable. If you object to any aspect of the Settlement, you must submit a written Objection by the Objection Deadline.	October 7, 2019
Go to the Hearing	Speak in Court about the Settlement. (If you object to any aspect of the Settlement, you must first submit a written Objection by the Objection Deadline noted above.)	October 7, 2019
Do Nothing	You will not receive any Benefit; also, you will have no right to sue later for the claims released by the Settlement.	

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court still has to decide whether to approve the Settlement. Payments will be sent to Settlement Class Members only if the Court approves the Settlement. If there are appeals, payments will not be made until the appeals are resolved and the Settlement becomes effective. Please be patient.
- **Fairness Hearing.** On November 19, 2019 at 1:30 p.m. Central Time, the Court will hold a hearing to determine: (i) whether the Proposed Settlement should be approved as fair, reasonable, and adequate and should receive final approval; (ii) whether the Released Claims of the Settlement Class against the Released Parties should be dismissed with prejudice; (iii) whether Class Counsel's application for a Fee Award should be granted; and (iv) whether the application for the Class Service Awards payments should be granted. The hearing will be held in the Milwaukee County Circuit Court, 901 N. 9th St., Milwaukee WI 53233. The hearing will be held in the Courtroom of the Honorable Judge Marshall Murray, which is located in Courtroom 208, 2nd Floor. This hearing date may change without further notice to you. Consult the Settlement Website at www.MoyaSettlement.com, or the Court docket in this case, for updated information on the hearing date and time.
- This Notice concerns a case called *Moya v. HealthPort Technologies LLC* (now known as Ciox Health LLC), Case No. 13CV2642 (the "Lawsuit"), that was filed in the Milwaukee County Circuit Court, Wisconsin (the "Court").
- A class action settlement in the Lawsuit will resolve claims against Ciox Health LLC ("Ciox"), HealthPort Technologies LLC ("HealthPort") (now part of Ciox), IOD Incorporated ("IOD") (now

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part of Ciox), and Aurora Healthcare, Inc (“Aurora”) (collectively, the “Defendants”). This Settlement affects all Persons who, from July 1, 2011 through the August 1, 2019: (i) paid a basic, retrieval and/or a certification fee(s) charged by Ciox, IOD, Aurora or Columbia St. Mary’s (“CSM”), in violation of Wis. Stat. §146.83(3f)(b)(4) - (5); who (ii) have not already been reimbursed for such basic, retrieval, and/or certification fees. Please see below for specific definitions and exclusions relating to these criteria.

- The Lawsuit contends that the Defendants charged fees above those permitted by Wisconsin law for certain categories of medical records requests—specifically, basic certification and retrieval fees. The Lawsuit seeks return of the basic certification and retrieval fees, exemplary damages, and certain other remedies.
- Defendants deny liability.
- To settle the case, Defendants have agreed to pay each Class Member who submits a Claim for basic, retrieval and/or a certification fees twice the total amount of any basic, retrieval and/or a certification fees paid by the Class Member to Ciox, HealthPort, Aurora, IOD, or Columbia St. Mary’s. The average of such charges for each individual Class Member is approximately \$22.58. Ciox will provide funds up to \$35,421,442 to pay all Valid Claims. Defendants have also agreed to pay a Service Award of \$15,000 for named Plaintiff Carolyn Moya and \$15,000 for named Plaintiff Timothy Rave.
- Defendants have also agreed to pay for the costs associated with the administration of the case, including the claims process described below.
- The lawyers who brought the Lawsuit will ask the Court for up to \$8,000,000 in Attorneys’ Fees and Expenses, which will be paid by Defendants.
- **Your legal rights are affected whether you act or do not act. Read this Notice carefully.**

This Notice summarizes the Proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.MoyaSettlement.com, or contact the Settlement Administrator at Moya v. HealthPort Technologies LLC, c/o Settlement Administrator , P.O. Box 58728 Philadelphia, PA 19102-8728.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

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1. How Do I Know If I Am Affected By The Settlement?

This case involves claims that the Defendants charged certification and retrieval fees for certain medical records requests for which those fees were not permitted under Wisconsin law.

For purposes of Settlement only, the Court has conditionally certified a Settlement Class that is defined as:

- Any Person who, from July 1, 2011 through the August 1, 2019: (i) paid a basic, retrieval and/or a certification fee charged by Ciox, IOD, HealthPort, Aurora or Columbia St. Mary's, in violation of Wis. Stat. § 146.83(3f)(b)(4) - (5); and who (ii) has not already been reimbursed for such basic, retrieval and/or certification fees.
- "Person" as used above means any individual, corporation, partnership, limited partnership, limited liability or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, affiliates, attorneys, predecessors, successors, representatives, and/or assignees.
- Excluded from the Settlement Class are (i) Defendants, any predecessor, subsidiary, sister and/or merged companies, and all of the present or past directors, officers, employees, principals, shareholders and/or agents of the Defendants; (ii) Any and all Federal, State, County and/or Local Governments, including, but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, councils and/or any other subdivision, and any claim that such governmental entities may have, directly or indirectly; (iii) Any currently-sitting Wisconsin state court Judge or Justice, or any federal court Judge currently or previously sitting in Wisconsin, and the current spouse and all other persons within the third degree of consanguinity to such judge/justice; and (iv) Any law firm of record in these proceedings, including any attorney of record in these proceedings.

You are receiving this Notice because, according to the Defendants' records, you may be a member of the Settlement Class.

If the Settlement does not become effective (for example, because it is not finally approved, or the approval is reversed on appeal), then this litigation will continue.

2. What Is The Lawsuit About?

Plaintiffs allege that Defendants improperly charged fees of approximately \$22.58 for medical records requests made by persons authorized in writing by the patient to receive those medical records.

Earlier in this case, the Parties disputed the interpretation of the Wisconsin statutes governing when basic certification and retrieval fees could be charged. The Plaintiffs prevailed on this issue in the Wisconsin Supreme Court. Following that ruling, the Parties continued to dispute other matters regarding liability and the scope of damages.

3. Why Is There A Lawsuit?

Plaintiffs contend that they and the Class are entitled to reimbursement of improperly charged basic certification and retrieval fees, as well as actual and exemplary damages and certain other relief. Defendants have denied that they are liable to Plaintiffs or the Class.

4. Why Is This Case Being Settled?

Counsel for both Plaintiffs and Defendants have determined that there is significant risk in continuing the litigation. Among other issues, the issues in the case include: (i) Whether Defendants acted willfully, negligently; (ii) whether Plaintiffs deserve any exemplary damages; and/or (iii) whether Defendants may establish other defenses. In particular, even if Plaintiffs convince the judge or jury that they are entitled to reimbursement of the certification or retrieval fees, there is a substantial risk that a judge or jury would not impose any additional damages such as exemplary damages. Even if Plaintiffs were to succeed in the trial court, any judgment would be at risk on appeal and the collectability of that judgment might be uncertain. After considering the risks and costs of further litigation, the Parties have concluded that it is desirable that the Plaintiffs' claims be settled and dismissed on the terms of the Settlement Agreement. Plaintiffs and their counsel believe that the terms and conditions of the Settlement are fair, reasonable, adequate, and equitable, and that the Settlement is in the best interest of the Settlement Class Members.

5. What Can I Get In The Settlement?

Settlement Class Members who submit Valid Claims will receive a Benefit equal to approximately twice the total amount paid by the Class Member for basic, certification, and/or retrieval fees charged in connection with a request made with written authorization from the patient for healthcare records. In order to file a Valid Claim, each Settlement Class Member will need to follow the instructions on the Claim Form and, among other things, provide the unique Invoice Number. A Claim Form will need to be submitted for each set of records obtained and for which the Settlement Class Member was charged. Defendants will provide funds up to \$35,421,442 to pay Valid Claims. Valid Claims will be paid only if the Court approves the Settlement.

No Claims may be submitted as a group, aggregate, or class of persons.

A Settlement Class Member that has already been reimbursed for basic, retrieval and/or certification fees is ineligible to submit a Claim. And for the avoidance of doubt, if a law firm paid for basic, retrieval, and/or certification fees in connection with medical records it requested on behalf of its client for use in a lawsuit, and that lawsuit has since resolved with the law firm receiving or obtaining for its client some amount of monetary relief (e.g. payment or reimbursement), then in that situation, the presumption is that the law firm would be ineligible to submit a Claim.

6. How Do I Make A Claim?

To make a Claim, you must access the Claim Form using a unique Class Member identifier contained on the Notice provided by the Settlement Administrator and complete the Claim Form available on the Settlement Website, www.MoyaSettlement.com. You can submit the Claim Form online, or you can print it and mail it to the Settlement Administrator at: Moya v. HealthPort Technologies LLC, c/o Settlement Administrator, P.O. Box 58728 Philadelphia, PA 19102-8728.

Claim Forms must be submitted online or received by 11:59 p.m. Central Time on November 5, 2019.

To receive a Benefit, *Individual Patient Claimants* must submit a signed certification that the Claimant, among other things:

- i. Has read and understands the proof of Claim Form;
- ii. Believes in good faith that he/she is a member of the Settlement Class because he/she (i) has previously requested directly or had authorized someone in writing to obtain copies of their medical records, or (ii) has requested a patient's medical records pursuant to a written authorization from the patient;
- iii. Was charged for basic, certification, and/or retrieval fees;
- iv. Has neither assigned any right to recover these fees to any other party nor been reimbursed in part or in whole by a third-party for the fees; and
- v. Has not submitted any other Claim for the same payments and has not authorized any other Person or entity to do so, and knows of no other Person or entity having done so on his or her behalf.

To receive a Benefit, *Requestor Claimants* must submit a signed certification¹ stating, among other things:

- i. That the Claimant has read and understands the proof of Claim Form and believes in good faith that it is a member of the Class because it was previously authorized in writing by an individual to obtain copies of that person's medical records;
- ii. The amount paid for basic, certification, and/or retrieval fees;
- iii. The Invoice Number related to the basic, certification, and/or retrieval fees in question;
- iv. The case style, including cause number and court, or the claim number and insurance company name for any lawsuit or legal claim for which medical records were requested;

¹ For law firms, the certifications shall be provided by the managing shareholder, partner or other person who has authorized to settle or resolve the law firm's legal rights under the penalty of perjury, and for other entities the certifications shall be provided by such person who has authority to settle and resolve that entity's legal rights.

- v. Whether the lawsuit or legal claim for which the medical records were requested is still open or pending;
- vi. If the lawsuit or legal claim for which the medical records were requested is not still open or pending, then the date on which the matter for which the medical records were obtained for the individual was closed without reimbursement of the basic, certification, and/or retrieval fees;
- vii. An explanation as to why the basic, certification, and/or retrieval fees were not reimbursed;
- viii. That neither the individual nor anyone else has reimbursed the Requestor Party, directly or indirectly, in part or in whole, for payment of any Attorneys' Fees or Expenses in connection with representation, including but not limited to the basic, certification, and/or retrieval fees for the medical records in question;
- ix. That the entity has not assigned any right to recover these fees to any other party;
and
- x. The entity's tax payer identifier.

For the avoidance of doubt, if a law firm paid for basic, retrieval, and/or certification fees in connection with medical records it requested on behalf of its client for use in a lawsuit, and that lawsuit has since resolved with the law firm receiving or obtaining for its client some amount of monetary relief (e.g. payment or reimbursement), then in that situation the law firm would be ineligible to submit a Claim.

Payments will be issued only if the Court gives final approval to the Proposed Settlement and after the Final Approval is no longer subject to appeal. Please be patient as this may take months or even years in the event of an appeal.

7. When Do I Get My Payment?

Filing a Claim does not provide a guaranteed payment. A Fairness Hearing is scheduled for November 19, 2019 at 1:30 PM Central Time. If the Court approves the Settlement and there are no appeals, then Benefit Payments will be distributed after the Settlement is no longer subject to appeal or review and the Settlement Administrator has completed its review and audit of all Claim Forms against the Defendants' records to validate the veracity of the Claims and prevent the payment of Claims which

represent waste, fraud, and abuse, unless otherwise ordered by the Court. If the Court does not approve the Settlement, or if the Settlement is overturned on appeal, no payments will be issued at such time.

8. What Do Plaintiffs And Their Lawyers Get?

To date, Class Counsel has not been compensated for any of their work on this case since it was filed in 2013. As part of the Settlement, Class Counsel may apply to the Court to award them an amount to be determined, but up to \$8,000,000, from Defendants to pay their Attorneys' Fees and Expenses. Defendants have agreed not to object to Class Counsel's application for Attorneys' Fees and Expenses.

In addition, the named Plaintiffs (Carolyn Moya, in this Lawsuit, and Timothy Rave in a parallel lawsuit in federal court) will receive a Service Award. The Class Service Awards of \$15,000, each, will be paid from the amount provided by Defendants to satisfy claims for the Plaintiff Carolyn Moya and for the Plaintiff Timothy Rave. These payments are designed to compensate the named Plaintiffs for the time, effort, and risks they undertook in pursuing litigation.

Class Counsel shall file their application for a Fee Award and Class Service Awards no later than fourteen (14) days prior to the Fairness Hearing. A copy of that application will be available on the Settlement Website. The Court will determine the amount of Attorneys' Fees and Expenses as well as the amount of Class Service Awards. Any award of Attorneys' Fees and Expenses shall be in addition, not part of or subject to, the cap on the Settlement Amount.

9. What Happens If I Do Not Opt-Out From The Settlement?

If you are a Class Member and you do not Opt-Out from the Settlement, you will be legally bound by all orders and judgments of the Court, and you will also be legally bound to the Releases of the Claims in the Settlement. This means that in exchange for being a Settlement Class Member and being eligible for the Benefits of the Settlement, you will not be able to sue, continue to sue, or be part of any other lawsuit against Ciox, HealthPort, IOD, Aurora, Columbia St. Mary's and/or any of the Released Parties that involves the Released Claims.

You will not be responsible for any out-of-pocket costs or Attorneys' Fees concerning this case if you stay in the class.

Staying in the class also means that you agree to the following terms of the Settlement that describe exactly the legal Claims that you give up:

Upon the entry of a Final Approval Order and without any further action by the Court or by any Party to this Agreement, the Settlement Class Members and Plaintiffs, including any Person claiming rights derivative of any Settlement Class Member or Plaintiff as their parent, child, heir, guardian, associate, co-owner, attorney, agent, administrator, executor, devisee, predecessor, successor, assignee, assigns, representative of any kind, shareholder, partner, director, employee or affiliate, shall be deemed to have, and by operation of the judgment shall have fully, finally, and forever released, relinquished, and discharged against the Released Persons all Released Claims (including, without limitation, any unknown claims), as well as any claims arising out of, relating to, or in connection with, the prosecution, defense, mediation, settlement, disposition, or resolution of the Action or the Released Claims.

Without limiting the foregoing, the Releases specifically extend to any claims that the Releasing Parties do not know or suspect to exist in their favor at the time that the Settlement, and the Releases contained herein, becomes effective. This Section constitutes a waiver of any and all provisions, rights,

and benefits conferred by any law of any state of the United States, or principle of common law or otherwise, which is similar, comparable, or equivalent to section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Releasing Parties understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule, or regulation relating to limitations on releases. In connection with such waivers and relinquishment, the Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Settlement, but that it is their intention to release fully, finally, and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

10. How Do I Opt-Out From The Settlement?

You can Opt-Out from the Settlement Class if you wish to retain the right to sue Defendants separately for the Released Claims. If you Opt-Out, you cannot file a Claim or Objection to the Settlement.

To Opt-Out, you must complete the online form at the Settlement Website or mail an Opt-Out request to the Settlement Administrator pursuant to the instructions on the Settlement Website at www.MoyaSettlement.com, with copies mailed to Class Counsel and counsel for Defendants. The Opt-Out request must be submitted online or received by the Settlement Administrator by the Opt-Out Deadline set forth above.

11. How Do I Object To The Settlement?

You can ask the Court to deny approval of the Settlement by timely filing an Objection with the Court. You cannot ask the Court to order a larger Settlement; the Court can only approve or disallow the Settlement. If the Court denies approval to the entire Settlement, no Benefit Payments will be sent out, and the lawsuit will continue.

You can also ask the Court to disapprove the requested payments to Plaintiffs and to their attorneys.

You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. If you want to raise an Objection to the Settlement at the Fairness Hearing, you must submit that Objection in writing, by the Objection Deadline.

If you want to raise an Objection to the Settlement at the Fairness Hearing, you must submit that Objection in writing, by the Objection Deadline set forth above. Any Objection must include: (i) a reference at the beginning to this case, *Moya v. HealthPort Technologies LLC (now known as Ciox Health*

LLC), Case No. 13CV2642, Milwaukee County Circuit Court, 901 N. 9th St., Milwaukee WI 53233; (ii) the name, address, telephone number, and, if available, the email address of the Class Member objecting, and if represented by counsel, of his/her/its counsel; (iii) a written statement of all grounds for the Objection, accompanied by any legal support for such Objection; (iv) whether he/she/it intends to appear at the Fairness Hearing, either with or without counsel; (v) a statement of his/her/its membership in the Settlement Class, including all information required by the Claim Form; (vi) a detailed list of any other objections submitted by the Settlement Class Member, or his/her/its counsel, to any class actions submitted in any court, whether in this state or otherwise, in the United States in the previous five (5) years. If the Class Member or his/her/its counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement; and (vii) the Objector's signature and the signature of the Objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation). Failure to include this information and documentation may be grounds for overruling and rejecting your Objection. All information listed herein must be filed with the Clerk of the Court, delivered by mail, express mail, personal delivery, or electronic filing, such that the Objection is received by the Clerk on or before the Objection Deadline.

By filing an Objection, you consent to the jurisdiction of the Court, including to any order of the Court to produce documents or provide testimony prior to the Fairness Hearing. You further consent to a deposition, at the request of Class Counsel or Defendants' counsel, at least five (5) days prior to the Fairness Hearing.

If you file an Objection to the Settlement but still want to submit a Claim in the event the Court approves the Settlement, you must still timely submit a Claim Form according to the instructions described above.

You **must** also send a copy of your Objection to the Settlement Administrator, Class Counsel, and Defendants' counsel:

<u>Counsel for Class:</u>	<u>Counsel for Defendants:</u>
Robert Welcenbach, Welcenbach Law Offices, S.C. 933 N. Mayfair Rd., Suite 311, Milwaukee, WI 53226,	Jay P. Lefkowitz Gilad Bendheim Kirkland & Ellis LLP 601 Lexington Ave New York, New York 10022
	Michael Sullivan Womble Bond Dickinson 271 17th Street NW Atlanta, GA, 30363

Daniel Manna
Gass Webber Mullins LLC
241 North Broadway
Milwaukee, Wisconsin

Bradley S. Foley
Gutglass, Erickson, Bonville & Larson S.C.
735 North Water Street, Suite 1400
Milwaukee, WI 53202

12. When Will The Court Decide If The Settlement Is Approved?

The Court will hold a hearing on November 19, 2019 to consider whether to approve the Settlement. The hearing will be held in the Milwaukee County Circuit Court, 901 N. 9th St., Milwaukee WI 53233, before the Honorable Judge Marshall Murray Courtroom 208, 2nd Floor, on November 19, 2019 at 1:30 p.m. The hearing is open to the public. This hearing date may change without further notice to you. Consult the Settlement Website at www.MoyaSettlement.com for updated information on the hearing date and time.

13. How Do I Get More Information?

You can inspect many of the Court documents connected with this case on the Settlement Website. Other papers filed in this lawsuit are available by accessing the Court docket in this case available through the Court's website (<https://county.milwaukee.gov/EN/Courts>).

You can contact the Settlement Administrator at:

Moya v. HealthPort Technologies LLC
c/o Settlement Administrator
P.O. Box 58728
Philadelphia, PA 19102-8728
1-833-927-0818
www.MoyaSettlement.com

You can also obtain additional information by contacting Class Counsel:

Robert Welcenbach
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