

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

HEALTH REPUBLIC INSURANCE  
COMPANY,

Plaintiff,  
on behalf of itself and all others  
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

No. 1:16-cv-00259-MMS  
(Judge Sweeney)

**DECLARATION OF JENNIFER M. KEOUGH  
CONCERNING PROPOSED NOTICE PROGRAM**

I, JENNIFER M. KEOUGH, declare and state as follows:

**INTRODUCTION**

1. I am the Chief Executive Officer of JND Legal Administration LLC (“JND”). This Declaration is based on my personal knowledge, as well as upon information provided to me by Counsel and experienced JND employees, and if called on to do so, I could and would testify competently thereto.

2. JND is a legal administration services provider with operations centers in Denver, Minneapolis and Seattle. JND has extensive experience with all aspects of legal administration, and our team has designed and implemented notice programs in hundreds of cases.

3. JND was retained to develop and implement the proposed legal notice program (the “Notice Program”) in the above-captioned litigation (“Action”). This Declaration describes the specialized Notice Program and addresses why it is consistent with, and indeed exceeds, other similar court-approved best notice practicable notice programs.

**NOTICE PROGRAM SUMMARY**

4. The objective of this Notice Program is to reach as many potential class members as possible and provide them with the opportunity to review a plain language notice with the ability to easily take the next step and learn more about this Action. The Court defines the certified class as follows:

All persons or entities offering Qualified Health Plans under the Patient Protection and Affordable Care Act in the 2014 and 2015 benefit years, and whose allowable costs in either the 2014 or 2015 benefit years, as calculated by the Centers for Medicare and Medicaid Services, were more than 103 percent of their target amounts (as those terms are defined in the Patient Protection and Affordable Care Act). Excluded from the Class are the Defendant and its members, agencies, divisions, departments, and employees.

5. The Notice Program described and detailed below has been specifically designed to reach potential class members and attract their attention in order to educate them about the case and the opportunity for them to opt-in as class members. As such, the proposed Notice Program includes the following components: 1) Cover letter, notice and opt-in form (“Notice Packet”) via Federal Express to each potential class member and the respective, Chief Executive Officer (“CEO”), Chief Financial Officer (“CFO”), General Counsel, and person responsible for risk corridors receivables, if known; 2) a Federal Express return envelope; 3) Notice Packet via electronic-mail; 4) an informational and interactive case-specific website on which the notices and other important Court documents are posted and where potential class members may opt-in to the class action on-line; and 5) a dedicated team to provide information and service to the class members of this Action.

**NOTICE VIA FEDERAL EXPRESS AND ELECTRONIC-MAIL**

6. Based on the class definition and the information provided by the parties to date, JND will use Federal Express as the means to most effectively reach the potential class members.

7. JND understands there are approximately 250 potential class members. In order to maximize the probability of the Notice Packet reaching those potential class members, JND will send it via Federal Express to each individual or entity as provided by the Defendant, the respective CEO, CFO, General Counsel, and the person responsible for risk corridors receivables, if known. JND will gather the necessary contact information from publicly available material as well as from data provided by the parties, including the list of potential class members the Government provided to Health Republic on January 13, 2017.

8. Sending the Notice Packet via Federal Express and directed to potential class member executives is important so that the companies recognize the Notice Packet is a key communication that requires their attention.

9. Using this approach and based on the information received to date, JND projects an initial notice campaign comprised of at least 750 Notice Packets.

10. Once received, JND will load class data into a dedicated database that it will establish for this Notice Program. Prior to using Federal Express, to increase Notice Packet deliverability to the class members, JND will update address information through the National Change of Address (“NCOA”) database. In addition, JND will employ sophisticated advanced address search methods in attempt to update and complete the mailing list where addresses are not currently available. JND will also conduct additional research on any Notice Packets that are returned as undeliverable at the address used for the initial delivery and re-deliver any Notice Packets for which an alternative address is located, as needed.

11. Additionally, JND will disseminate a Notice Packet one-time via electronic-mail to the current or last known email of the potential class members as provided by the Defendant.

#### **NOTICE PACKET DESIGN AND CONTENT**

12. The Notice Packet will include a cover letter addressed to the respective CEO, CFO, General Counsel, or person responsible for risk corridors receivables, if known, long-form notice and opt-in form.

13. To encourage potential class members to act, JND proposes including a Federal Express return label with the Notice Packet.

#### **DEDICATED CASE WEBSITE AND CONTACT SERVICE**

14. An informational, interactive website dedicated to the case will be developed to enable potential class members to get information about the litigation. The website will have an easy-to-navigate design and will be formatted to emphasize important information and deadlines.

15. Other available features will include an email contact form, frequently asked questions page, and links to downloadable copies of the long-form notice, Court documents and other important documents.

16. Additionally, JND proposes an online filing system that would allow opt-ins to be processed electronically. In order to accomplish this, JND would assign each company a unique identifier which would be included as part of the Notice Packet.

17. The site will be optimized for mobile visitors so that information loads quickly on mobile devices and will also be designed to maximize search engine optimization through Google and

other search engines. Key words and natural language search terms will be included in the site's metadata in order to maximize search engine rankings.

18. Once established, the dedicated website will be maintained and will serve as an important resource to provide important updates to potential class members over the lifetime of the litigation.

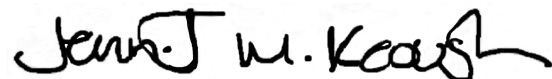
19. In addition, JND will make available a dedicated team to manage the incoming telephone calls received in response to the Notice Program.

### **CONCLUSION**

20. This tailored and extensive notice campaign reflects a best-practices approach to give effective notice to this certified class.

I declare under the penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed on January 23, 2017, at Seattle, Washington.



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JENNIFER M. KEOUGH