

EXHIBIT A

WHEREAS, Named Plaintiff's Counsel thoroughly analyzed and evaluated the merits of the claims made against Defendants in the Complaint, and based on their analysis and evaluation of a number of factors, and in light of the uncertainty and delay attendant to litigation, Class Counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interests of the Named Plaintiff, the California Damages Class, and the National Injunctive Relief Class; and

WHEREAS, Defendants deny all the allegations made in the Complaint but nonetheless, without admitting or conceding any liability or damages whatsoever, have agreed to settle the action on the terms and conditions set forth in this Agreement to avoid the burden, expense, and uncertainty of continuing litigation; and

WHEREAS, the Parties desire to enter into an agreement to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, the terms of this Agreement were extensively and vigorously negotiated at arms' length and in good faith over the course of more than six months; and

WHEREAS, the Parties engaged in three full-day mediation sessions with Mediator the Honorable Steven M. Gold (retired) to negotiate the terms of this Agreement; and

WHEREAS, the negotiations have resulted in this Agreement, which, subject to the approval of the Court, settles this Civil Action (as defined below) in the manner and upon the terms set forth below; and

WHEREAS, the signatories hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties to the terms and conditions hereof, subject to Court approval.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

INTRODUCTION

1. The Parties consider this Agreement to be fair, reasonable, and adequate.
2. Defendants deny any and all liability and deny that they discriminated on the basis of sex, including sexual orientation, and gender identity, as alleged in the Complaint.
3. This Agreement does not, and shall not be deemed to, constitute an admission by Defendants as to the validity or accuracy of any of the allegations, assertions, or claims made by Named Plaintiff. This Agreement does not constitute an admission, adjudication, or finding on the merits of this Civil Action.
4. This Agreement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this Agreement.
5. The Parties agree that this Agreement shall apply only to Commercial Plans, as that term is defined below.
6. Class Counsel have extensively investigated and litigated the claims asserted in this Civil Action and—taking account of the contested issues involved, the expense and time necessary to prosecute the Civil Action through trial, the risks and costs associated with further prosecution of the Civil Action, the uncertainties of complex litigation, and the substantial benefits to be received pursuant to this Agreement—the Named Plaintiff is sufficiently informed and satisfied that the terms of this Agreement are an appropriate and fair resolution of the California Damages Class Members’ and National Injunctive Relief Class Members’ claims.

DEFINITIONS

7. The capitalized terms below shall have the meanings defined in this Section wherever used in this Agreement or any appendices integrated by reference, and for the purposes of this Agreement only. Capitalized terms defined in other Sections of this Agreement shall have the defined meanings whenever used in this Agreement, and for the purposes of this Agreement only.

8. “Administrative Costs” are the fees, charges, and expenses incurred by the Administrator in connection with or related to the implementation, administration, or performance of any of the duties of the Administrator set forth in this Agreement, including any expenses or costs the Administrator incurs for notice to California Damages Class Members, as described in paragraphs 83-94 of this Agreement.

9. “Administrator” means the Claims Administrator appointed by the Court to administer the Settlement Fund, disseminate the Claim Form Package and provide notice, and review and determine the validity and amount of claims submitted by California Damages Class Members, according to the procedures set forth herein, with its further duties defined in paragraphs 83-94 of this Agreement, and described in further detail in the Administrative Proposal of Atticus attached as Appendix A. The Parties agree that, subject to Court approval, Atticus will serve as the Administrator and will act pursuant to the terms of this Agreement and the terms of all Court orders, including the Preliminary Approval Order and the Final Approval Order. In the event of any contradiction between the terms of this Agreement and the terms of the Administrative Proposal, the terms of this Agreement control. However, the Parties agree that the Administrative Proposal may be revised by mutual assent as needed.

10. “Aetna” means Defendants Aetna Life Insurance Company and Aetna Health Inc., as administrator of certain Commercial Plans as defined herein.

11. “Allocation Plan” means the plan setting the terms for the division and distribution of any settlement payments made to California Damages Class Members hereunder, as established by Class Counsel and the Administrator, with assistance from the Special Master, as appropriate, attached hereto as Appendix B.

12. “Attestation” refers to the section of the Category B through D claim form, which the Parties will agree upon prior to submission of the preliminary approval motion, which will require that, in order to be eligible for payment pursuant to paragraphs 71–74 of this Agreement, Category B, Category C, and Category D California Damages Class Members provide information establishing that they were an individual with a uterus in an Eligible LGBTQ+ Relationship (as defined herein) at the time they received an infertility service for which they sought, or could have sought, coverage from Aetna during the Damages Class Period.

13. “California Damages Class” means all California Commercial Plan members: (1) who were covered during the California Damages Class Period and at the time of service by a plan that offered coverage for infertility treatments; (2) for whom there is not a reason, other than the Definition of Infertility, why the individual did not qualify for coverage for infertility treatments obtained under the individual’s healthcare plan; (3) who meet the criteria for Categories A, B, C, or D as set forth in paragraph 70 of this Agreement; and (4) who, if members of Categories B, C, or D, file any Attestation and/or Claim Form Submission required by this Agreement to participate in the Settlement.

14. “California Damages Class Period” means the period commencing on April 17, 2019, and ending on December 31, 2024.

15. “Civil Action” means *Berton v. Aetna Inc., et al.*, Case No. 4:23-cv-01849 (HSG) (N.D. Cal.).

16. “Claim Form” means the forms, which the Parties will agree upon prior to submission of the preliminary approval motion, and supporting documentation that Category B, C, and D Class Members are required to submit and that Category A Class Members may submit if seeking higher Dollars for Benefits Payments or Special Harm Payments, to be distributed or made available to Category A Class Members and Potential California Damages Class Members by the Administrator.

17. “Claim” refers to a submitted Claim Form and any supporting documentation.

18. “Class Counsel” means Katz Banks Kumin LLP, Altshuler Berzon LLP, and the National Women’s Law Center.

19. “Class Representative” or “Named Plaintiff” means Mara Berton.

20. “Commercial Plan” means domestic health benefits plans, student health benefits plans, or individually purchased health insurance plans (including individually-sold Aetna plans eligible for a premium subsidy pursuant to the Patient Protection and Affordable Care Act) administered by Aetna Life Insurance Company or Aetna Health, Inc. that rely on and utilize Aetna’s CPB No. 327 and Aetna Life Insurance Company’s claims processing systems and procedures. For purposes of clarity, the obligations on Aetna herein do not apply to (1) products and services offered outside the United States by Aetna International Inc. and its subsidiaries; (2) products or services provided to government entities or government-sponsored plans (i.e., Medicare Advantage plans and/or Medicaid plans) by Aetna Medicaid Administrators LLC, the Aetna Better Health entities, or any other Aetna affiliate; (3) those plans, such as Joint Claim

Administration plans, where Aetna Life Insurance Company was not or is not the party responsible for handling health benefits claims adjustment and adjudication, or medical necessity determinations; or (4) any benefits plan administered by any subsidiary or affiliate of CVS Health Corporation not within the definition of Commercial Plan above. Aetna represents and warrants that it has the authority to bind all entities whose cooperation is necessary to effectuate the terms of the Settlement and that all such entities will be bound by the Settlement.

21. “Counsel for Defendants” or “Defendant’s Counsel” means Baker Botts L.L.P. and Maynard Nexsen.

22. “Court” means the United States District Court for the Northern District of California.

23. “CPB No. 327” means Aetna’s Clinical Policy Bulletin Number 0327 regarding “Infertility” in all of its iterations, including all operative versions, past and present, in effect during the Class Period, unless otherwise specified.

24. “Default Payment” means the \$10,000.00 to be paid to each individual who satisfies the qualifications to participate as a California Damages Class Member in the event the total number of California Damages Class Members is 175 or less.

25. “Default Dollars for Benefits Amount” means the amount to be paid to a California Damages Class Member who has not had their ICI/IUI claims reimbursed by Aetna or another coverage provider for dates of service during the Class Period, which shall be equal to \$1,408, an amount calculated as follows: 125% of the average CMS rates for CPT Code 58322 in the zip codes represented by Category A Class Members, plus Aetna’s negotiated rate for CPT Code S4035. The codes were then weighted to account for frequency of their use in California, with 58322 accounting for approximately 90% of claims and S4035 accounting for approximately

10% of claims. The resulting number was then multiplied by 4.5 cycles, which was estimated to be the average number of cycles Class Members underwent. The resulting number was \$1,408.

26. “Definition of Infertility” means the definition of infertility in Aetna’s CPB No. 327 or in mirroring self-funded plan definitions in effect when the Complaint was filed, which required individuals without a sperm-producing partner to undergo 6 or 12 cycles of IUI, depending on the individual’s age, in order to establish unexplained infertility and qualify for healthcare coverage of certain infertility services.

27. “Dollars for Benefits Payment” means the Default Dollars for Benefits Amount or other amount as determined by Aetna and/or the Special Master based upon a California Damages Class Member’s Claim.

28. “Effective Date” means the day on which the Final Approval Order becomes final. The Final Approval Order will become final (a) if no objector has lodged a timely objection, on the date of entry of the Final Approval Order, or (b) if an objector has lodged a timely objection, when the time for that objector to appeal has expired or, if the objector has appealed from the Final Approval Order or any portion thereof, on the date when the appeal results in the affirmance of the Court’s Final Approval Order of this Agreement.

29. “Eligible LGBTQ+ Relationship” means a personal relationship (but not including a surrogacy relationship) involving two individuals who, at the time of seeking services, self-identify as “LGBTQ+,” meaning lesbian, gay, bisexual, transgender, queer, intersex, and/or nonbinary, consisting of one individual with a uterus and another individual incapable of producing viable sperm due to being assigned the female sex at birth, being intersex, or having been assigned the male sex at birth and having transitioned or being in the process of transitioning to the female gender. “Incapable of producing viable sperm” is intended to include circumstances

in which, due to gender dysphoria, sperm production and/or intercourse resulting in egg-sperm contact are clinically inadvisable. Where any question is raised by the Administrator or either Party regarding whether a potential class member meets the criteria for an Eligible LGBTQ+ Relationship, the Parties agree to meet and confer and attempt to reach consensus as to the eligibility of that individual to participate in the Settlement. If the Parties are unable to reach consensus, the Parties agree to submit the dispute to the Special Master, whose decision shall be binding.

30. “Execution Date” shall mean the date this Agreement is executed by Class Counsel and Counsel for Defendants.

31. “Final Approval Order” means an Order by the Court, after a Fairness Hearing, granting Final Approval to this Agreement (which means the Court has found the settlement to be fair, reasonable, and adequate and approves this Agreement), approving the Administrative Costs, approving attorneys’ fees and costs and a Service Award Payment, and entering judgment.

32. “Final Approval Hearing” or “Fairness Hearing” means the hearing to be scheduled by the Court to determine, among other things, whether the Court should approve the proposed Agreement as fair, reasonable, and adequate.

33. “Goidel Settlement” means the Settlement Agreement in *Goidel v. Aetna, Inc. et al.*, Case No. 1:21-cv-07619-VSB-VF (S.D.N.Y.).

34. “ICI” means intra-cervical insemination, a medical procedure that can lead to a pregnancy. The procedures encompassed by this definition for the purposes of this Agreement shall be interchangeable with those covered by CPT Codes S4035, 58321, and 58322 for purposes of this Agreement.

35. “IUI” means intrauterine insemination, a medical procedure that can lead to a pregnancy. The procedures encompassed by this definition for the purposes of this Agreement are those covered by CPT Codes S4035, 58321, and 58322.

36. “IVF” means conventional in-vitro fertilization, a medical procedure that can lead to a pregnancy and that is more costly and more invasive than IUI.

37. “National Injunctive Relief Class” means individuals with uterus in an Eligible LGBTQ+ Relationship who are currently or will be covered during the Class Period for the National Injunctive Relief Class by a commercial health plan provided or administered by Aetna Life Insurance Company in the United States that includes fertility benefits and (1) who meet the clinical criteria for fertility services under the currently operative or any subsequent version of CPB No. 327 other than the criteria challenged in this Civil Action and (2) who currently or will in the future want to obtain coverage for intrauterine (“IUI”) or intracervical (“IC”) insemination, or request a form of IVF consistent with Advanced Reproductive Technology (“ART”) coverage pursuant to Aetna’s clinical policy requiring trials of less invasive therapeutic approaches as defined in CPB No. 327.

38. “National Injunctive Relief Class Period” means April 17, 2019, through four years after the date of judgment.

39. “Notice” means the documents to be disseminated to Category A Class Members and Potential California Damages Class Members informing them of the Settlement and its terms and of the Response Deadline, to be agreed upon between the Parties prior to the submission of the Motion for Preliminary Approval and approved by the Court. Claim Forms shall be disseminated along with Notice.

40. “Opt-Out” is any Category A California Damages Class Member who files a timely written request to be excluded from the Class, in accordance with the requirements set forth in paragraph 116 of this Agreement.

41. “Parties” means Plaintiff Mara Berton and Defendants Aetna Life Insurance Company LLC and Aetna, Inc.

42. “PHI” means Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), encompassing any information within an individual’s medical record that can personally identify them and was generated, utilized, or shared during diagnosis or treatment.

43. “PII” means personally identifiable information encompassing information that, when used alone or with other relevant data, can identify an individual, such as an individual’s full name, Social Security Number, date of birth, and address.

44. “Potential California Damages Class Members” means those persons who are potential Category B, C, D-A, or D-B members.

45. “Preliminary Approval Date” means the date of entry of the Preliminary Approval Order.

46. “Preliminary Approval Order” means the Order entered by the Court preliminarily approving this Agreement, certifying the Class subject to Final Approval, scheduling a Fairness Hearing, approving a plan of notice to the Class, and appointing the Administrator and Special Master.

47. “Primary Fund” means the amount to be deposited in the Settlement Fund equal to the total number of California Damages Class Members multiplied by \$10,000.00 if there

are 175 or fewer California Damages Class Members, or \$1,750,000.00 if there are more than 175 California Damages Class Members.

48. “Pro-Rata Payment” means the amount to be paid to California Damages Class Members in the event the total number of California Damages Class Members is more than 175, which shall be equal to \$1,750,000.00 divided by the total number of California Damages Class Members.

49. “Publication Notice Plan” means the Plan for Publication Notice prepared by the Administrator and included in the Administrative Proposal attached as Appendix A, subject to the terms of paragraph 84 of this Agreement.

50. “Redistribution Payment” means the amount to be paid to California Damages Class Members in excess of the Default Payment from any money remaining in the Special Harms Common Fund after all Special Harms Allocation Determinations are made, equal to the remaining amount in the Special Harms Common Fund divided by the total number of California Damages Class Members.

51. “Released Parties” means Aetna and all of its predecessors, successors, assigns, past, present or future, direct or indirect parents, subsidiaries, affiliated entities that rely on and utilize Aetna’s CPB No. 327 and Aetna Life Insurance Company’s claims processing systems and procedures, and their respective plan administrators, shareholders, directors, officers, employees, trustees, accountants, representatives, administrators, insurers, agents and attorneys with respect to any Commercial Plan covered by this Agreement.

52. “Response Deadline” is the deadline for California Damages Class Members to (a) submit online or by mail Claims to qualify as California Damages Class Members and/or to be eligible for payments as set forth in paragraphs 71–74 below, (b) file an objection to

the Settlement, or (c) submit Request for Exclusion. The Response Deadline shall be 180 days after the date of mailing of Class Notice.

53. “Request for Exclusion” means a written request to be excluded from the Settlement.

54. “Settlement Award” means the total amount to be paid to a California Damages Class Member from the Settlement Fund under the terms of this Agreement.

55. “Settlement Fund” means a Qualified Settlement Fund (“QSF”) bank account to be established by the Administrator for the benefit of the California Damages Settlement Class containing the Primary Fund and the Special Harms Common Fund. The QSF shall be interest bearing if the costs associated with making it interest bearing (such as tax preparation and bank fees) are less than the likely interest earned.

56. “Special Harms Common Fund” means \$250,000.00 to be deposited into the Settlement Fund.

57. “Special Harm Payment” means a payment to a California Damages Class Member from the Special Harms Common Fund in the amount allocated by the Special Master based on a Class Member Special Harm Submission and in accordance with the Allocation Plan.

58. “Special Harm Submission” means a section of the Claim Form, which the Parties will agree upon prior to submission of the preliminary approval motion, and supporting documentation, evidencing potentially recoverable damages incurred during the California Damages Class Period, which may be submitted by Potential California Damages Class Members and Category A Class Members.

59. “Special Master” means the individual appointed by the Court to administer the Special Harms Common Fund and mediate and resolve any disputes between the Parties as to

a potential Class Member's qualifications. The Parties agree that Hon. Steven M. Gold (Ret.), of JAMS ADR, will serve as the Special Master and will act pursuant to the terms of this Agreement, the terms of the Preliminary Approval Order, and the terms of the Final Approval Order.

CLASS CERTIFICATION AND PRELIMINARY APPROVAL

60. Class Counsel will move for Preliminary Approval of this Agreement, and its motion will include proposed notices and a proposed Preliminary Approval Order. The proposed Preliminary Approval Order will request certification of the National Injunctive Relief Class and the California Damages Class for settlement purposes and will include the findings required by Federal Rule of Civil Procedure subsections 23(a), 23(b)(2), and 23(b)(3). The preliminary approval motion will also request that the Court set a Fairness Hearing for Final Approval of the settlement. Defendant will not oppose Named Plaintiff's motion so long as it substantially conforms to the terms of this Settlement Agreement.

INJUNCTIVE RELIEF

61. ***Diagnostic IUI.*** On June 1, 2024, Aetna began rolling out implementation of a new policy making IUI and ICI diagnostic and standard medical benefits ("New IUI Policy"), pursuant to the terms of the *Goidel* Settlement. Pursuant to this Agreement, Aetna agrees to implement and maintain nationwide the New IUI Policy agreed to in the *Goidel* Settlement.

62. ***IVF.*** Aetna agrees that individuals with uteruses who are in Eligible LGBTQ+ Relationships at the time of seeking services are no longer required to undergo any greater number of ovulation cycles to qualify for IVF than individuals with uteruses who are in heterosexual relationships. The Parties understand and acknowledge that many plans do not cover IVF for any reason, or only for specific indications that do not apply here. Nothing in this section

will be construed to require IVF coverage benefits to be made available to individuals on plans that do not cover IVF for them in the first instance.

63. ***Infertility CPB.*** In addition to the changes made to CPB No. 327 pursuant to the *Goidel* Settlement, Aetna will further revise CPB No. 327 to ensure that the limited availability of the member's chosen sperm may be taken into consideration by Aetna medical directors alongside other relevant clinical criteria, on a case by case basis, for purposes of qualifying for IVF coverage. Aetna will further revise CPB No. 327 and apply and administer its clinical policies such that individuals who have previously met the criteria set forth in CPB No. 327 for Advanced Reproductive Technology coverage will not be required to undergo additional cycles of artificial insemination before qualifying for Advanced Reproductive Technology coverage for subsequent attempts at pregnancy.

64. ***New or Renewing Commercial Self-Funded Plan Sponsors.*** To the extent a new or renewing commercial self-funded plan sponsor that otherwise provides coverage for infertility services requests to deviate from the New IUI Policy or whose plan does not conform to the changes to CPB No. 327 outlined above ("Infertility Deviation"), Aetna agrees to use best efforts, at the next renewal or when first approached by a new commercial self-funded customer, to request to include a clause in its contract with that self-funded plan sponsor that requires the self-funded plan sponsor to indemnify Aetna for any costs incurred to defend against any claims brought in connection with that self-funded plan sponsor requiring individuals with uteruses who are in Eligible LGBTQ+ Relationships to pay more or to wait longer for infertility services than individuals with a uterus with a sperm-producing partner, and for any judgment or settlement of such claims. The term "best efforts" in this context shall mean that Aetna will make this request of all self-funded plan sponsors that seek an Infertility Deviation, unless a sponsor uses a

contracting process that will make it impracticable for Aetna to make such a request. The Parties understand and agree, however, that nothing in this agreement shall require Aetna to refuse to renew or administer a self-funded plan for a sponsor who requests an Infertility Deviation and who declines Aetna's request to include such an indemnification clause in its contract or for which it is impracticable for Aetna to make such a request.

65. To effectuate these changes in all of Aetna's coverage products, including both the fully insured plans it underwrites and the self-funded plans providing coverage for infertility services that it administers, Aetna will ensure that relevant offerings, promotional materials, website content, and other publications will conform to the New IUI Policy and all changes to CPB No. 327 outlined in paragraph 63 of this Agreement. Aetna's training, policies, and procedures shall also make clear that individuals with uteruses who are in Eligible LGBTQ+ Relationships at the time of seeking services are no longer required to undergo any greater number of ovulation cycles to qualify for IVF than individuals with uteruses who are in heterosexual relationships.

66. As soon as practicable and in no event later than the Final Approval Order, Aetna will implement all necessary programming changes and provide public and internal education and training to implement the New IUI Policy, to the extent it has not already done so nationwide, to make clear that individuals with uteruses who are in Eligible LGBTQ+ Relationships at the time of seeking services are no longer required to undergo any greater number of ovulation cycles to qualify for IVF than individuals with uteruses who are in heterosexual relationships, and to implement the changes to CPB No. 327 outlined in paragraph 63 of this Agreement. At minimum, this will include: (1) training sessions regarding these policy changes for all Aetna employees who make precertification and post-service coverage determinations and

for the Aetna employees who answer Aetna member inquiries and complaints related to infertility; (2) an internal review of all public facing documents that mention Aetna's prior policy to change each document to reflect the policy changes; and (3) public communications advertising these policy changes.

67. Aetna will provide these new policy, education, and training materials referred to in the preceding paragraph to Class Counsel for review and input as soon as practicable and on a rolling basis, with the first drafts to be provided as soon as practicable but in no event less than 30 days before the Final Approval Hearing, and will submit any policies subject to review and approval by regulators to any such regulator.

68. Aetna will finalize and publish the revision to its CPB No. 327 – Infertility, in accordance with paragraph 63 of this Agreement, prior to the entry of the Final Approval Order. The Court, and any appellate court from which appeals of the Court's decisions may properly be brought, shall retain jurisdiction for the implementation and enforcement of the injunctive relief described in this section for a period of four years from the date of the entry of judgment.

CLAIMS AWARDS TO CALIFORNIA DAMAGES CLASS MEMBERS AND CLAIMS PROCESS

69. Subject to the terms and conditions of this Agreement, Aetna agrees to pay Dollars for Benefits Payments, Settlement Awards, Administrative Costs, a Class Representative Service Award, and Attorneys' Fees and Costs as determined by the Court.

70. ***Class Categories.*** The Parties agree that the settlement is intended to cover the California Commercial Plan members who meet the criteria set forth herein for Categories A, B, C, or D. For the avoidance of doubt, the Parties agree that the categories below apply only to members who meet the following criteria: (1) they were covered during the California Damages Class Period and at the time of service by a plan that offered coverage for infertility treatments,

and (2) there is not a reason, other than the Definition of Infertility, why the individual did not qualify for coverage for infertility treatments obtained under the individual's healthcare plan. Using Aetna's member files, the Parties have jointly identified certain individuals who meet the qualifications to participate in the class and other individuals who may so qualify upon the submission of additional information, as follows:

a. Category A: Category A class members consist of California residents whose Aetna member files contain a denial of a precertification or claim request for one of an agreed-upon set of IUI/ICI codes and whose member files contain information to suggest they were a person with a uterus in an Eligible LGBTQ+ Relationship at the time they sought coverage for IUI/ICI. Category A members will receive notice of the settlement and the opportunity to opt out or provide additional information at their last known mailing address derived from Aetna's eligibility systems, which will be verified through the National Change of Address ("NCOA") database, if the NCOA database either confirms the address on file or provides an updated address, or advanced tracing identifies a useable address. If the Category A member does not timely opt out, then they will receive checks for the default Dollars for Benefits payment and for the Default Payment or Pro Rata Payment without needing to submit a claim form or take any other action beyond providing minimally necessary information for tax reporting purposes.

b. Category B: Potential Category B California Damages Class Members consist of California residents whose Aetna member files contain a denial of a precertification or claim request for one of an agreed-upon set of IUI/ICI codes and whose Aetna member files do not indicate they were in a heterosexual relationship at the time they sought coverage. These individuals will receive notice and an opportunity to submit an Attestation certifying they were

individuals with uteruses in an Eligible LGBTQ+ Relationship at the time they sought IUI/ICI coverage. The people who submit an Attestation and meet the other eligibility criteria in this Agreement will be Category B California Damages Class Members and will be entitled to receive checks for the default Dollars for Benefits payment and for the Default Payment or Pro Rata Payment without further submission beyond providing minimally necessary information for tax purposes.

c. Category C: Potential Category C Class Members who will receive direct notice are Aetna members who were either denied or approved for an agreed-upon set of IVF codes during the Class Period. In addition to direct notice to these Potential Category C Class Members, the Parties will issue publication notice via an agreed-upon set of publications and/or social media sites. The people who respond with (1) an Attestation certifying they were individuals with uteruses in an Eligible LGBTQ+ Relationship at the time of seeking services during the Class Period, and (2) a Claim Form setting forth evidence satisfactory to the Parties of out-of-pocket costs incurred for IUI/ICI during the Class Period, will be Category C California Damages Class Members entitled to receive checks for the default Dollars for Benefits payment and for the Default Payment or Pro Rata Payment without further submission.

d. Category D: Potential Category D Class Members consist of California residents whose Aetna member files contain a denial of a precertification or claim request for one of an agreed-upon set of IUI/ICI codes and whose Aetna member files establish that the individual had a denial that was followed by an approval within 90 days, or was otherwise paid by Aetna. There are two subcategories of potential California Damages Class Members within Category D:

- i. Category D-A is made up of individuals with uteruses whose Aetna member files contain information to suggest they were in an Eligible LGBTQ+ Relationship at the time they sought coverage;
- ii. Category D-B is made up of individuals with uteruses whose Aetna member files do not indicate they were in a heterosexual relationship at the time they sought coverage.

Potential Category D California Damages Class Members will receive notice and an opportunity to submit a Claim Form setting forth satisfactory evidence of out-of-pocket costs incurred for IUI/ICI during the Class Period, and for potential members of D-B an Attestation confirming they were individuals with uteruses in an Eligible LGBTQ+ Relationship at the time of seeking services during the Class Period. Individuals who demonstrate eligibility after submitting properly completed forms are Category D California Damages Class Members entitled to receive checks for the Default Payment or Pro Rata Payment and, if, eligible, for the default Dollars for Benefits payment, without further submission.

71. ***Dollars for Benefits.*** California Damages Class Members shall be entitled to receive a Dollars for Benefits Payment as compensation for IUI/ICI benefits their individual plans would have paid had Aetna approved their request for coverage, as follows:

- i. Default Dollars for Benefits Amount. Each California Damages Class Member who has not already been reimbursed by Aetna or a secondary coverage provider shall be entitled to receive the Default Dollars for Benefits Amount, \$1,408.00.

- ii. Requests for Higher Dollars for Benefits Payments. Each California Damages Class Member who submits sufficient evidence by the Response Deadline that they underwent ICI/IUI during the Class Period that would have been covered under their Aetna plan but for the

Definition of Infertility, and that coverage would have resulted in reimbursement exceeding either (1) the amount the California Damages Class Member's claim was previously reimbursed by their Aetna healthcare plan during the Class Period, or (2) the Default Dollars for Benefits Amount, shall receive additional compensation equal to the amount their Aetna healthcare plan would have reimbursed, as determined by Aetna or, if Class Counsel contests Aetna's determination, through mediation with the Special Master, as their Dollars for Benefits Payment. In the event a California Damages Class Member's request for a higher Dollars for Benefits Payment is denied and the California Damages Class Member's submission indicates the California Damages Class Member expended over the amount of the Default Payment or the Pro Rata Payment, whichever applies, out-of-pocket, the request for a higher Dollars for Benefits Payment shall be deemed a Special Harm Submission for the amount in excess of the Default Payment or the Pro Rata Payment, whichever applies, and transmitted to the Special Master by the Administrator. The California Damages Class Member shall be notified by phone or electronically, or direct mail if phone or electronic notice is not feasible, by the Administrator of the denial and the transmittal of the submission to the Special Master for consideration as a Special Harm Submission for the amount in excess of the Default Payment or the Pro Rata Payment. The Special Master may consider Aetna's reasons for denial of the higher Dollars for Benefits Payment requested in making their determination as to the Special Harm Submission.

iii. Timing of Dollars for Benefits Payments. Claims will be processed on a rolling basis between the date of Preliminary Court Approval and 80 days after the Response Deadline. As claims are processed, Aetna will communicate to the Administrator and Class Counsel: (1) whether each California Damages Class Member is entitled to the Default Dollars for Benefits Amount or more; and (2) for members deemed not eligible for a Default Dollars for Benefits

Payment or whose request for a higher Dollars for Benefits Payment is denied, in whole or in part, the information and documents relied upon by Aetna in making that determination. Class Counsel will have the opportunity to contest such determinations, which shall ultimately be addressed and resolved through mediation with the Special Master if the Parties cannot reach agreement after meeting and conferring.

- i. Category A California Damages Class Members who do not opt-out pursuant to paragraph 116 of this Agreement will be entitled to the Default Dollars for Benefits Amount, unless their claim has already been reimbursed. Category A Class Members may submit a Claim requesting a higher Dollars for Benefits Payment, but do not need to submit anything to receive a check for the Default Dollars for Benefit Amount. No later than 60 days after the Effective Date, Aetna shall send checks to these members for their Dollars for Benefits Payments.
- ii. Category B California Damages Class Members will be entitled to the Default Dollars for Benefits Amount upon timely submission of the Attestation and verification of their address by the Parties, unless their claim has already been reimbursed. Category B Class Members may request a higher Dollars for Benefits Payment in their Claim. No later than 60 days after the Effective Date, Aetna shall send checks to these members for their Dollars for Benefits Payments.
- iii. Category C California Damages Class Members will be entitled to the Default Dollars for Benefits Amount, upon timely submission of a Claim and verification of their address by the Parties, unless their claim has already

been reimbursed. Category C Class Members may submit a request for a higher Dollars for Benefits Payment as part of their Claim. No later than 60 days after the Effective Date, Aetna shall send checks to these members for their Dollars for Benefits Payments.

- iv. Category D California Damages Class Members will be entitled to the Default Dollars for Benefits Amount, upon timely submission of a Claim and verification of their address by the Parties, unless their claim has already been reimbursed. Category D Class Members may request a higher Dollars for Benefits Payment as part of their Claim. No later than 60 days after the Effective Date, Aetna shall send checks to these members for their Dollars for Benefits Payments.
- v. For the avoidance of doubt, the Parties agree that no Class Member shall be entitled to receive a Dollars for Benefits Payment for services for which Aetna or a secondary coverage provider has already supplied reimbursement. The Parties further agree that in certain circumstances, Aetna may be required to issue all or part of any additional Dollars for Benefits Payments to the member's healthcare provider (for example, where the member has a bill from an Aetna network provider for the service in question).
- vi. By 80 days after the Response Deadline, Aetna will inform the Administrator of the Dollars for Benefit Payment applicable to each California Damages Class Member.

72. ***Default or Pro-Rata Payments.*** In addition to Dollars for Benefits Payments, California Damages Class Members shall be entitled to receive a Default Payment if the total number of California Damages Class Members is 175 or less, or a Pro-Rata Payment if the total number of California Damages Class Members exceeds 175.

73. ***Special Harm Payments.*** California Damages Class Members who seek Special Harm Payments shall receive such Special Harm Payments as are allocated to them by the Special Master from the Special Harms Common Fund. Special Harm Submissions may be made as part of a Claim. All Special Harm Submissions received by the Response Deadline, including requests for higher Dollars for Benefits Payments deemed Special Harm Submissions, shall be transmitted to the Special Master no later than 15 days after the Response Deadline. The Special Master shall evaluate all Special Harm Submissions and preliminarily allocate amounts from the Special Harms Common Fund to the California Damages Class Members who made such submissions, in the Special Master's sole discretion and pursuant to the Allocation Plan. The Special Master shall complete all preliminary Special Harms allocation determinations no later 75 days after the Response Deadline and shall promptly communicate their determinations to Class Counsel, Defendant's Counsel, and the Administrator. Class Counsel shall have the opportunity to comment on the proposed allocations. The Special Master shall finalize all Special Harms allocation determinations by 95 days after the Response Deadline.

74. ***Redistribution Payments.*** After all payments pursuant to paragraphs 71–73 of this Agreement are made, any remaining funds in the Special Harms Common Fund shall be divided equally among all California Damages Class Members.

75. ***Claim Review Procedures***

a. Preliminary Claim Review. For each Category A Class Member or Potential California Damages Class Member who submits a Claim, the Administrator will review the Claim to identify any missing information or other deficiencies that must be corrected for payment to issue and will promptly inform the claimant of the missing information or deficiency. All Category C, D-A, and D-B Claims and Category A or B Claims seeking higher Dollars for Benefits Payments shall be transmitted to Aetna for the purposes of determining: (a) for Categories C, D-A, and D-B, whether the Potential California Damages Class Member was an Aetna plan member on an eligible plan that covered infertility services at the time they received infertility services during the Class Period and whether the services received are associated with an agreed-upon set of IUI/ICI codes, such that they should be determined to be a Class Member, and (b) the Dollars for Benefits Payment the Class Member is entitled to. To the extent that based on the information provided in the Claim, Aetna cannot confirm eligibility to be a Class Member, the Dollars for Benefits Payment the Class Member is entitled to, or both, Aetna shall, within 30 days of receiving the Claim, set forth in writing to the Administrator what additional documents or information are needed. Upon receipt of such communication, the Administrator, within three business days, shall inform the Category A Class Member or Potential California Damages Class Member in writing what additional documents or information are needed. This writing must inform the Category A Class Member or Potential California Damages Class Member that all corrected or supplementary submissions must be submitted to the Administrator by the Claim Deficiencies Deadline, specified below in Paragraph 77.

b. Class Counsel Review – Class Membership. To the extent the Administrator determines a Category B Class Member has submitted a completed Attestation, or

Aetna determines a potential Category C, D-A, or D-B California Damages Class Member who has submitted a Claim should be deemed a California Damages Class Member, they shall be deemed a California Damages Class Member. Should Aetna conclude that any individual who has submitted a Claim should not be deemed a Class Member, Aetna shall inform the Administrator and Class Counsel and shall provide to Class Counsel the information and documents relied upon and an explanation of the reasons for its conclusion. Class Counsel shall meet and confer with Aetna, and in the event no resolution is agreed upon, the eligibility dispute shall be submitted to mediation for resolution with the Special Master. For the avoidance of doubt, the Parties understand and agree that no Potential California Damages Class Member shall be deemed a California Damages Class Member if the Potential Member would not have qualified for coverage for ICI/IUI under their healthcare plan for reasons other than the Definition of Infertility.

c. Class Counsel Review – Dollars for Benefits Payments. Should Aetna determine that a California Damages Class Member is not eligible for the Default Dollars for Benefits Payment or for a requested higher Dollars for Benefits Payment, Aetna shall promptly inform the Administrator and Class Counsel and shall provide to Class Counsel the information and documents relied upon and an explanation for its conclusion. Class Counsel shall meet and confer with Aetna, and if no resolution can be reached, the dispute shall be submitted to mediation for resolution with the Special Master. For the avoidance of doubt, the Parties understand and agree that no California Damages Class Member shall receive a Dollars for Benefits Payment hereunder for a claim for ICI/IUI that has already been reimbursed by Aetna or a secondary coverage provider.

76. ***Settlement Award Payments.*** The total number of California Damages Class Members shall be determined by the Administrator, Class Counsel, Defendants' Counsel,

and, if necessary, the Special Master, within 80 days of the Response Deadline. California Damages Class Members' Settlement Award Payments shall be calculated as follows:

- i. If there are 175 or fewer California Damages Class Members, each California Damages Class Member shall receive the sum of the Default Payment and, if applicable, a Special Harm Payment and a Redistribution Payment.
- ii. If there are more than 175 California Damages Class Members, each California Damages Class Member shall receive the sum of the Pro Rata Payment, and, if applicable, a Special Harm Payment and a Redistribution Payment.

77. ***Claim Deficiencies Deadline.*** All corrected or supplementary submissions must be made no later than 60 days after the Response Deadline.

78. The Administrator is permitted for good cause shown (including proper documentation) to issue a California Damages Class Member's check in a name other than the name in Aetna's database associated with the California Damages Class Member subject to IRS reporting requirements.

79. Settlement Award checks for California Damages Class Members who submit timely claims, and for Category A California Damages Class Members who elect not to opt-out, shall be valid for no less than 180 days after initial issuance; checks that need to be reissued shall be valid for no less than 90 days. If a check is returned as undeliverable to the Administrator ("Returned Award Checks"), the Administrator will run advanced tracing through IDI and remail to the identified address or to any updated address otherwise determined by the Administrator within 14 days of receiving the returned check.

80. Checks not cashed while valid shall escheat to the California State Controller's Unclaimed Property Division in the name of the California Damages Class Member,

such that California Damages Class Members may claim their awards from the Unclaimed Property Division at a later date.

PRESS RELEASE AND PUBLIC STATEMENTS

81. The Parties agree that they will not publish or communicate to any person or entity, any Disparaging (as defined below) remarks, comments or statements concerning the other Party to a third party. “Disparaging” remarks, comments or statements as commonly defined would include, but are not limited to, those that impugn the character, honesty, integrity, motivation, morality or business acumen or abilities of the individual or entity being disparaged. However, this paragraph does not limit Named Plaintiff’s court filings or the Named Plaintiff’s abilities to publicize this Settlement, or to communicate remarks, comments, or statements concerning Aetna while seeking medical care, at a doctor’s office or similar place, or in private, nor does this paragraph limit Class Counsel from communicating publicly available information concerning this Civil Action, the claims alleged therein, and the Settlement, including but not limited to through Class Counsel’s websites, social media accounts, or newsletters.

82. Class Counsel acknowledges that any press releases issued by Class Counsel regarding this Civil Action must comply with the terms in paragraph 81 of this Agreement. Class Counsel will make good faith efforts, where time allows, to provide Aetna with a pre-publication courtesy copy for review and comment of any press releases regarding the settlement of this Civil Action.

NOTICE PLAN

83. ***Direct Notice.*** Notice of this Civil Action and the Claim Form shall be provided to Category A California Damages Class Members and Potential California Damages Class Members via direct mailing. The parties have jointly identified Category A individuals and

individuals who may qualify for Categories B, C, or D, and who will receive notice of the settlement via direct mailing. Information shall be included with the Notice and Claim Form in languages widely spoken in California regarding how to obtain a translation of the Notice and Claim Form. For all Category A Class Members and Potential California Damages Class Members for whom Aetna has consent on file to send electronic communications via its secure portal, notice shall also be distributed electronically to Category A Class Members and Potential California Damages Class Members' secure portals, with notifications of such messages delivered electronically or through Aetna's applications. Notice shall be sent no later than 14 days after the Preliminary Approval Order.

84. ***Published Notice.*** The settlement also calls for published notice, allowing individuals who were not previously identified by the Parties an opportunity to submit a Category C Claim Form. The Parties agree that published notice may be distributed both by traditional forms of publication (e.g., newspapers) and through advertising on social media platforms. Published notice shall run for approximately 120 days.

85. The Parties agree that the Administrator will send one set of direct notices with the intention of using best efforts to identify all Category A Class Members and Potential California Damages Class Members, as well as two short reminder notices by mail and additional reminder notices by email and text message, if applicable.

86. The forms of notice to Category A Class Members and Potential California Damages Class Members shall differ and will all be filed along with the motion for Preliminary Approval.

87. ***Addresses for California Damages Class Members.*** The Administrator will run all Category A Class Members and Potential California Damages Class Members' current

or last known address on file with Aetna through the National Change Of Address (“NCOA”) database and mail the initial mailing to the addresses confirmed through that process. Where the NCOA database confirms that a member has (1) an address that is undeliverable or (2) moved with no forwarding address, the Administrator will conduct advanced tracing through IDI to look for an updated, usable address. If any notices are returned as undeliverable, the Administrator will conduct advanced tracing through IDI to identify a better address match for re-mailing the notice.

88. On or about 90 days before the Response Deadline the Administrator shall send Category A Class Members and Potential California Damages Class Members a reminder notice.

89. On or about 45 days before the Response Deadline, the Administrator shall send Potential California Damages Class Members a second reminder notice.

90. Aetna will publish a summary version of Notice on its website in a location agreed upon by the Parties.

91. Class Counsel and the Administrator will publish information about the Settlement in various media outlets and social media forums, as listed in the Publication Notice Plan, in an effort to give notice to as many Potential California Damages Class Members as is reasonably practicable.

92. Upon receiving a Claim through the settlement administration website, the Administrator shall provide an immediate confirmation on the website, as well as a confirmation by email for those who provided email addresses, that the Administrator has received the information submitted. After receiving a completed Claim, the Administrator shall send the potential California Damages Class Member a confirmation letter confirming receipt of a

completed Claim, as applicable, or a confirmation by email confirming receipt of the same if the California Damages Class Member has provided an email address.

93. Along with the motion for Final Approval, pursuant to a schedule to be set by the Court, Class Counsel shall file or cause to be filed with the Court a declaration from the Administrator confirming that notice was provided consistent with this Settlement Agreement and all Orders concerning Notice entered by the Court.

ADMINISTRATOR

94. The Administrator's duties shall include administering this class action settlement, including but not limited to the following matters: (1) issuing Notice, including information about the right to object or request to be excluded from the settlement; (2) distributing Claim Forms to and receiving Claims from California Damages Class Members, as applicable; (3) establishing and administering the Settlement Fund and, upon conclusion of the process, closing the Settlement Fund; (4) preliminarily determining eligibility for Default Payment or Pro Rata Payment awards on the basis of information provided by counsel for the Parties and by the California Damages Class Members, validating the claims, and providing Class Counsel and Defendant's Counsel a list of those persons found preliminarily eligible every 30 days; (5) conveying Special Harm Submissions to the Special Master according to the terms of this Agreement; (6) issuing and mailing payments to eligible California Damages Class Members, and issuing and filing all required tax forms and statements; (7) responding to inquiries from Category A Class Members and Potential California Damages Class Members about this Agreement and the procedures contained herein, including by the use of a toll-free number and a website (8) creating a database of California Damages Class Members who have filed timely and valid forms, as applicable pursuant to paragraph 71; (9) maintaining original Requests for Exclusion; (10)

coordinating and advancing payment for publication notice per paragraph 84; (11) providing the Parties with regular bills and a final accounting; (12) providing the Parties with declarations to be submitted to the Court in accordance with the Court's orders; and (13) to the extent not listed here, the tasks enumerated in the Administrative Proposal attached as Appendix A.

95. Aetna will pay the costs incurred by the Administrator separate and apart from the money used to fund the Settlement Fund.

SPECIAL MASTER

96. The Special Master's duties shall include, but may not be limited to: (1) mediating and resolving disputes about whether individuals should be deemed California Damages Class Members; (2) mediating and resolving disputes about Dollars for Benefits Payments; and (3) evaluating all Special Harm Submissions and allocating amounts from the Special Harms Common Fund to the California Damages Class Members who made such submissions.

97. Aetna will pay the costs incurred by the Special Master separate and apart from the money used to fund the Settlement Fund. The terms of payment, the rate of pay, and the cancellation policy are attached hereto as Appendix C and incorporated by reference.

98. If the parties agree that it would be beneficial for the Special Master to consult with an agreed upon medical expert to assist in interpreting medical records submitted by class members as part of Special Harm submissions, Aetna will also pay the costs associated with a mutually agreed upon medical expert separate and apart from the money used to fund the Settlement Fund.

DATA

99. Aetna agrees to facilitate the work of the Administrator by, among other things, obtaining and providing to the Administrator information, data, documents, and records in

Aetna's possession that are relevant and appropriate to facilitate the administration of this Agreement.

100. Within five days of the Preliminary Approval Order, Aetna will provide the Administrator with an agreed-upon list of Category A and potential Category B, C, and D California Damages Class Members (for the first direct notice) and, where available, the full names of all such individuals, date of birth, last known address, and whether the Member is a current or former Aetna member. Aetna will provide members' Social Security Numbers when necessary to execute advanced address tracing described in Paragraph 87.

CONFIDENTIALITY

101. PHI and PII belonging to potential California Damages Class Members, including any aggregated data collected by the Administrator for the purposes of providing notice, and any updates to such data through aggregation or address research, shall be treated as private and confidential ("Confidential Information"), and shall not be disclosed to anyone except Class Counsel, Defendant's Counsel, the Administrator, the Special Master, or the Court under seal. No Party or the Administrator shall use Confidential Information for any other purpose other than in this litigation and for the administration of this Agreement. All Parties and the Administrator shall take all possible steps to ensure that the Confidential Information concerning all Category A Class Members and Potential California Damages Class Members remains private and confidential, including but not limited to maintaining appropriate data security measures which comply with NIST standards or similar standards.

102. Nothing herein shall limit Class Counsel or the Administrator's ability to disclose data about a California Damages Class Member to that California Damages Class Member or their counsel. Nothing herein shall limit Aetna's ability to retain or use data and information

about California Damages Class Members it possesses separate from the administration of this settlement, and nothing herein shall require Aetna to destroy such data/information.

103. In the event that any of the Parties or the Administrator is served with a court order or subpoena providing for or requiring disclosure of Confidential Information, they shall inform all other Parties no later than five business days after receiving such service, and in any event before disclosing any such information. Before any such information is disclosed, any Party shall have standing to challenge the disclosure of such information before a court of competent jurisdiction.

SETTLEMENT FUND

104. The Administrator will apply for a tax ID number, if necessary, and take all necessary steps for the timely creation of the Common Fund, to be held in a QSF bank account.

105. The Administrator shall provide Aetna the Employer Identification Number, a completed W-9 Form, and bank routing information for the Settlement Fund.

106. The Administrator will provide to Class Counsel and Defendant's Counsel a monthly statement of expenses paid. Neither Aetna nor Class Counsel nor the Class Representative will be responsible for taxes, penalties, or interest incurred on the Settlement Fund. The Administrator shall issue all required IRS forms.

107. Neither Aetna, nor Defendant's Counsel nor Class Counsel have or will provide any advice or representations regarding any possible tax consequences of any payments or amounts received pursuant to this Agreement.

ATTORNEYS' FEES AND COSTS

108. As additional relief beyond the monetary amounts described herein payable to California Damages Class Members and the Administrator, pursuant to Section 1557 of the

ACA, Aetna agrees to pay Plaintiff's attorneys' fees in the amount of \$1,600,000.00 and to reimburse Class Counsel for costs up to \$25,000.00 as approved by the Court.

FUNDING OF THE SETTLEMENT

109. Aetna shall pay all Administrative Costs to administer the Settlement and provide notice to California Damages Class Members. The Administrator will carry out the tasks listed in the Administrative Proposal, attached as Appendix A.

110. Within 30 days after the Effective Date, Aetna shall deposit the following amounts into the Settlement Fund:

- i. The Special Harms Common Fund of \$250,000.00; and
- ii. If the total number of California Damages Class Members is 175 or less, \$10,000.00 times the total number of California Damages Class Members; or if the total number of California Damages Class Members is 175 or more, \$1,750,000.00.

111. The Administrator has worked, and will continue to work, with Aetna on a process for invoicing and payment. Aetna will pay all invoices received from the Administrator in a timely manner consistent with its internal policies.

112. If the Agreement is not ultimately approved by the Court, Aetna will be responsible for all Administrative Costs incurred prior to such point, though to the extent the Administrator possesses any unspent Administrative Costs, they shall be returned to Aetna.

113. A copy of the Administrator's final accounting shall also be provided to Aetna and Class Counsel.

114. All Court-approved attorneys' fees and costs shall be paid to Class Counsel by Aetna within ten business days of the Funding Date in the form of a check or wire to Katz

Banks Kumin LLP, provided Class Counsel and the Class Representative have provided to Aetna all tax forms and other information necessary for payment to be made. If Aetna has not received W-9 forms by the Effective Date, it will pay all Court-approved attorney's fees and costs within ten business days of receipt of such forms.

CLASS REPRESENTATIVE SERVICE AWARD PAYMENTS

115. Subject to the Court's approval, Aetna agrees to pay Class Representative Mara Berton \$15,000.00 as an award for the services she provided to the Class. This service award payment is in addition to any amounts otherwise due to the Class Representative with respect to her individual claim as a California Damages Class Member. The Service Award Payment shall be delivered to Katz Banks Kumin LLP as a check payable to the Class Representative within ten business days of the Funding Date, provided that the Class Representative has provided Aetna all tax forms and other information necessary for payment to be made. If Aetna has not received a W-9 form by the Effective Date, it will pay the Service Award Payment within ten business days of receipt of such form. Aetna will pay the Service Award Payment separate and apart from the Primary Fund and the Special Harms Common Fund.

EXCLUSION FROM THE SETTLEMENT CLASS

116. Any Category A California Damages Class Member who wishes to be excluded from the California Damages Class must mail a Request for Exclusion from the California Damages Class to the Administrator postmarked by the Response Deadline. Any Request for Exclusion must be in writing and state the name and date of the person requesting exclusion and contain a clear statement communicating that such person elects to be excluded from the California Damages Class. Originals of all Requests for Exclusion shall be retained by the Administrator. Named Plaintiff will not request exclusion pursuant to this paragraph. A list of all

exclusions, as well as a copy of the written Requests for Exclusions sent to the Administrator, shall be provided to Class Counsel and Defendant's Counsel within five business days from the Response Deadline. Because Potential B, C, and D Class Members will not be deemed members of the California Damages Class unless they submit an Attestation and, for Categories C and D-B, a Claim Form, and they are deemed eligible to participate in the Settlement, Potential Category B, C, and D Class Members will not be Class Members and will not be bound by the Release if they choose not to make a submission.

117. Any Category A California Damages Class Member who does not timely file a Request for Exclusion shall conclusively be deemed to be a California Damages Class Member and to be bound by this Agreement and by all subsequent proceedings, orders, and judgments herein upon the Court's entry of the Final Approval Order.

OBJECTIONS

118. Any California Damages Class Member who wishes to object to the fairness, reasonableness, or adequacy of the proposed Settlement, including Class Counsel's Attorneys' Fees and Expenses Application, may do so by filing an objection as set out in the Notice to be filed along with the motion for Preliminary Approval and described below. However, a Category A California Damages Class Member who requests exclusion from the California Damages Class may not file an objection regarding the terms of the Settlement Agreement. Potential Category B, C, and D Class Members who do not submit an Attestation and, for Categories C and D, an otherwise completed Claim Form, are not Class Members and may not file an objection. Objections may be filed by Category B, C, and D Class Members before a determination is made regarding their eligibility to participate in the Settlement as Class Members,

but any objection made by an objector deemed ineligible to be a Class Member prior to the Fairness Hearing will not be considered by the Court.

119. A California Damages Class Member or potential Class Member who wishes to object must submit their objection in writing to the court. Written objections must state whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and also state with specificity the grounds for the objection. Written objections and supporting papers must (a) clearly identify the case name and number (*Berton v. Aetna Inc. et al.*, Case No. 4:23-cv-01849 (HSG)), (b) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Northern District of California or by mailing them to the Clerk of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland CA 94612, and (c) be filed or postmarked on or before the Response Deadline. The Notice shall make clear that the court can only approve or deny the settlement and cannot change the terms of the settlement and shall clearly advise California Damages Class Members of the deadline for submission of any objections.

120. A California Damages Class Member or potential Class Member may object on their own, or through counsel hired at their own expense.

121. Any attorney hired by a California Damages Class Member or potential Class Member for the purpose of objecting to the proposed Settlement must serve a notice of appearance on Class Counsel and Counsel for Defendant and e-file the notice of appearance using the Court's CM/ECF system. The notice of appearance must be received by Counsel and filed with the Court on or before the Response Deadline.

122. Any California Damages Class Member or potential Class Member who does not make an objection in the time and manner provided in this Agreement shall be deemed to

have waived and forfeited any and all rights they may have to object and shall be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement unless otherwise allowed by the Court.

APPEARANCE AT THE FAIRNESS HEARING

123. California Damages Class Member attendance at the Fairness Hearing is not necessary. However, any California Damages Class Member who submits a timely written objection to the Administrator in accordance with the requirements set out in this Agreement may appear at the Fairness Hearing either in person or through counsel retained at the California Damages Class Member's own expense.

124. Any California Damages Class Member who submits an objection to the proposed Settlement shall be deemed to consent to the exclusive jurisdiction of the Court with respect to such objection and all issues that arise or relate to such objection, including any order issued or findings made by the Court regarding the objection.

125. Counsel for the Parties shall promptly inform each other of any objection served on them (or that otherwise comes into their possession).

RELEASES

126. Upon the Effective Date, in consideration for the agreements between the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all California Damages Class Members, on behalf of themselves, their heirs, executors, administrators, predecessors, successors, and assigns shall hereby release, remise, and forever discharge Aetna, its predecessors, successors, and assigns, together with all past and present representatives, officers, directors, attorneys, agents, employees, privities, and insurers, from each and every Released Claim, as defined in the following paragraph, and shall forever be

barred and enjoined from initiating, continuing, filing, or otherwise prosecuting any Released Claim against any of the Released Parties. This Release shall apply to all California Damages Class Members except Category A California Damages Class Members who submit a timely Request for Exclusion. A proposed judgment will be filed along with the motion for Final Approval, which will provide for the retention of exclusive jurisdiction by the Court, and any appellate court from which appeals of the Court's decisions may properly be brought, for a period of four years from the date of entry of the Final Approval Order for the implementation and enforcement of the terms of this Agreement.

127. Other than those claims specified in paragraph 129, below, every California Damages Class Member, except for those who file timely Requests for Exclusion, shall be deemed to and shall have knowingly and voluntarily waived, released, discharged, and dismissed all claims or causes of action that were or could have been raised by the Class Representative and/or the Class or any California Damages Class Member based on the factual allegations in the Complaint, including but not limited to alleging that Aetna or any of the Released Parties is liable under 42 U.S.C. § 18116(a) or any state law for discrimination on the basis of sex, sexual orientation, and gender identity during the California Damages Class Period ("Released Claims"). The Released Claims include any and all claims or causes of action that were or could have been raised by the Class Representative and/or the Class or any California Damages Class Member based on the factual allegations in the Complaint arising from or relating to any Commercial Plans covered by this settlement for (1) any and all pecuniary injury, loss or damage, including but not limited to plan benefits and out-of-pocket costs or expenses; (2) any and all non-pecuniary injury, loss or damage, including but not limited to emotional distress, mental anguish and other intangible non-pecuniary harm or injury; (3) any and all civil penalties or fines and exemplary or punitive

damages; (4) any and all administrative claims for benefits under ERISA or for relief under any civil rights or discrimination law or regulation; and (5) any and all manner of retrospective and prospective regulatory, administrative, injunctive or declaratory relief. For the avoidance of doubt, “Released Claims” include only those claims alleging that the policies, plan terms, and/or practices described in the Complaint are unlawful.

128. The Parties and California Damages Class Members acknowledge that the covenants and promises made by Aetna herein constitute adequate consideration in exchange for the releases in paragraphs 126-127.

129. Nothing in this Agreement shall be construed to bar any claims of the Class Representative or California Damages Class Members based on or arising out of events occurring outside of the California Damages Class Period.

MUTUAL FULL COOPERATION

130. The Parties agree that they will fully cooperate with each other to effectuate and implement all terms and conditions of this Agreement and exercise good faith efforts to accomplish the terms and conditions of this Agreement.

131. The Parties hereby agree not to appeal or challenge any aspect of this Agreement, or to otherwise collaterally attack or challenge this Agreement.

132. The Parties will take all necessary and appropriate steps to obtain approval of the Agreement and dismissal of the action with prejudice. If the Court denies a motion for preliminary approval, the Parties shall negotiate in good faith to attempt to revise the Agreement to address the Court’s concerns. If the Court approves this Agreement, and if there is an appeal from such decision by a non-party, Defendants will join Class Counsel in defense of this Agreement on any such appeal or subsequent proceeding. If the judgment is vacated and the matter

is remanded by the Ninth Circuit Court of Appeals or Supreme Court on grounds other than a determination that the Agreement is not fair, reasonable, or adequate, for the avoidance of doubt, the Agreement shall remain binding and the Parties' obligation to take all necessary and appropriate steps to obtain approval of the Agreement, including but not limited to attempting to negotiate revisions to the Agreement, remains in effect.

133. Named Plaintiff will move for Preliminary Approval and Final Approval.

134. The Parties shall propose to the Court for approval the following settlement schedule:

Defendant to provide necessary data to Administrator for Class Notice	5 days after Preliminary Approval Order
Class Notice to be mailed	14 days after Preliminary Approval Order
Response Deadline	180 days after Class Notice is mailed
Special Harm Submissions Sent to Special Master Where Eligibility to Participate is Determined	15 days after Response Deadline
Deadline to Notify Class Members/Potential Class Members of Deficiencies;	30 days after Response Deadline
Last Day for Corrections to deficient submissions	60 days after Response Deadline
Last Day for Special Master to Determine Disputes re: Class Membership; Preliminary	75 days from Response Deadline

Special Harms Allocations to Parties/Administrator	
Class Size Determination, Deadline for Aetna to determine Dollars for Benefits Payments	80 days from Response Deadline
Deadline for Final Special Harms Allocation Determinations, Determinations of Contested Dollars for Benefits Payments, Redistribution Payments to be determined	95 days after Response Deadline
Final Approval Motion Due	105 days after Response Deadline
Fairness Hearing	135 days after Response Deadline
Funding date	30 days after Effective Date
Payment Date for Settlement Awards, Dollars for Benefits Payments, Service Award, Attorneys' Fees and Costs	10 business days after Funding Date
Payment Date for Dollars for Benefits Payments	60 days after the Effective Date
Check-cashing deadline	180 days after initial issuance, at least 90 days for re-issued checks

The Parties may adjust the above deadlines if mutually agreed other than the Response Deadline, Fairness Hearing date, and Payment Date.

**EFFECT OF THE AGREEMENT ON THE PENDING CIVIL ACTION AND
CONTINUING JURISDICTION**

135. The Court, and any appellate court from which appeals of the Court's decisions may properly be brought, shall retain jurisdiction for the implementation and enforcement of the terms of this Agreement for a period of four years from the date of entry of the Final Approval Order, and all Parties hereto and their counsel shall submit to the exclusive jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

MODIFICATION OF THE AGREEMENT

136. This Agreement represents the entire agreement among the Parties, and no oral agreement entered into at any time, nor any written agreement entered into prior to the execution of this Agreement shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and conditions contained herein, or to determine the meaning of any provisions herein. This Agreement can be modified only on the written consent of all the Parties.

COUNTERPARTS

137. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument, and it will be binding when it has been executed and delivered by the last signatory. A facsimile or scanned signature is an original signature for purposes of this Agreement.

GOVERNING LAW

138. This Agreement shall be governed by and construed and interpreted according to the laws of the State of California without reference to conflicts of law principles.

MUTUAL INTERPRETATION

139. The Parties stipulate that this Agreement was negotiated on an “arm’s length” basis between parties of equal bargaining power to resolve a bona fide dispute between the Parties concerning liability and the availability of damages. Also, Class Counsel and Counsel for Defendant jointly drafted this Agreement. Accordingly, this Agreement shall not be construed in favor of or against any of the Parties. Neither Party shall be considered the drafter of this Agreement for purposes of interpreting the Agreement, or the application of any rule of construction.

BINDING UPON SUCCESSORS

140. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective personal representatives, administrators, heirs, successors, and assigns.

NULLIFICATION

141. This Agreement is null and void in the event that any of the following do not occur:

- i. Preliminary Approval of this Agreement by the Court after the Parties negotiate in good faith to attempt to revise the Agreement to address the Court’s concerns; or
- ii. Final Approval by the Court.

For the avoidance of doubt, in the event that the Court grants Final Approval and the Ninth Circuit Court of Appeals or Supreme Court vacates that order or judgment on grounds other than that the settlement is not fair, reasonable, or adequate, the Agreement is not nullified unless the Court denies Final Approval on remand.

Dated: September 28, 2025



Mara Berton

Dated:

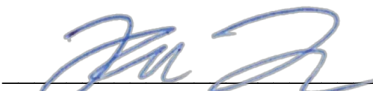
Aetna, Inc.

Aetna Life Insurance Company

Approved as to form:

For Plaintiff and the Settlement Class:

Dated: September 26, 2025



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