

PROVIDERALERT



To: AmeriHealth Caritas Louisiana Providers

Date: March 6, 2024

Subject: Pending Lawsuit: *A.A. et al. v. Abraham et al.*

Summary: Attached are details of a class action lawsuit pending against the Louisiana Department of Health (LDH) in federal court.

As of **November 30, 2023**, there is a class action lawsuit pending against LDH in federal court at the Middle District of Louisiana bearing the caption *A.A. et al. v. Abraham et al.*, 3:19-cv-00770-BAJ-SDJ. On **December 22, 2023**, the district court approved Plaintiffs' Class Action Notice Plan and ordered all LA Medicaid Managed Care Organizations to distribute the Class Action Notice to their network providers via a provider bulletin or similar alert mechanism. On **February 19, 2024**, LDH issued a notice to AmeriHealth Caritas Louisiana advising it of its obligations under the district court's order (LDH Notice).

A copy of the LDH Notice is attached hereto as Attachment 1. In accordance with the LDH Notice, please find the Plaintiffs' Notice Form attached hereto as Attachment 2.

Please note that the Plaintiffs' Notice Form does not require any action on your part at this time.

Questions: Thank you for your continued support and commitment to the care of our members. If you have questions about this communication, please contact AmeriHealth Caritas Louisiana Provider Services at 1-888-922-0007 or your [Provider Network Management Account Executive](#).

Missed an alert?

You can find a complete listing of provider alerts on the [Provider Newsletters and Updates](#) page of our website.

Need to update your provider information? Send full details to network@amerihealthcaritasla.com



State of Louisiana

Louisiana Department of Health

Bureau of Legal Services

February 19, 2024

VIA E-MAIL ONLY

Kyle Viator, CEO
AmeriHealth Caritas Louisiana
10000 Perkins Rowe, Block G, Suite 400
Baton Rouge, LA. 70810
kviator@amerihealthcaritasla.com

RE: ACLA's Compliance with Class Action Notice Plan in *A.A. et al. v. Abraham et al.*, 3:19-cv-00770-BAJ-SDJ, United States District Court, Middle District of Louisiana.

Dear Kyle Viator:

As of November 30, 2023, there is a class action lawsuit pending against the Louisiana Department of Health (LDH) in federal court at the Middle District of Louisiana. Pursuant to court order in the above-captioned matter (R. Doc. 193), all Louisiana Medicaid managed care organizations (MCOs) must promulgate Plaintiffs' Class Action Notice to their network providers via a provider bulletin or similar alert mechanism by March 21, 2024, as explained below. A copy of the Plaintiffs' Class Action Notice is attached to this letter.

I. Summary of Class Action Lawsuit

This case deals with LDH's alleged failure to provide certain behavioral health services required by federal law to Medicaid beneficiaries under the age of twenty-one (21). LDH disputes the allegations. The Named Plaintiffs are four (4) minor children residing in Louisiana, who are all Medicaid beneficiaries with diagnosed mental illnesses or conditions. Through this lawsuit, Plaintiffs seek prospective injunctive relief that orders LDH to provide certain behavioral health services to correct or ameliorate the Plaintiffs' mental health conditions and prevent their institutionalizations. On November 30, 2023 the district court entered its order certifying a class (R. Doc. 187).¹ On December 14, 2023,

¹ The class has been defined as: "All Medicaid-eligible youth under the age of 21 in the State of Louisiana who have a mental health or behavioral disorder, and for whom a licensed practitioner of the healing arts recommends Intensive Care Coordination, Crisis Services, and Intensive Behavioral Services to correct or ameliorate their disorders." Previously, LDH appealed the district court's original class certification entered on May 25, 2021 (R. Doc. 78) to the United States Court of Appeals for the Fifth Circuit ("Fifth Circuit"). On January 20, 2023, the Fifth Circuit granted LDH's appeal and thereafter, vacated and remanded the

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LDH requested permission to appeal the class certification order to the United States Court of Appeals for the Fifth Circuit.² The class action lawsuit will continue in district court while LDH's appeal request is pending.

II. All MCOs must promulgate Plaintiffs' Class Action Notice to their network providers via a provider bulletin or similar alert mechanism by March 21, 2024.

On December 22, 2023, the district court approved Plaintiffs' Class Action Notice Plan (R. Doc. 193). Pursuant to court order (R. Doc. 193), all MCOs must promulgate Plaintiffs' Class Action Notice to its network providers via a provider bulletin or similar alert mechanism by March 21, 2024.

Additionally, on or before March 21, 2024, ACLA shall notify LDH's counsel at Ryan.Nolan2@la.gov in writing via electronic mail once ACLA has promulgated Plaintiffs' Class Action Notice to its network providers. The written notification from ACLA shall additionally describe the method of dissemination. Should you have any questions or concerns, please contact me at Ryan.Nolan2@la.gov.

Sincerely,

*Ryan M.
Nolan*

Ryan Nolan
Attorney
Louisiana Department of Health

cc:

Kimberly Sullivan, J.D., Medicaid Executive Director, LDH
Karen Stubbs Church, J.D., Assistant Secretary, Office of Behavioral Health,
LDH Vivian Haley Williams, Deputy General Counsel, LDH
Kimberly Ulasiewicz Boudreaux,
Attorney, LDH Elizabeth Ballard
Desselle, Attorney, LDH Stephen
Litchfield, Attorney, LDH

original class certification order (R. Doc. 149). However, on remand, the district court recertified this matter as a class action, effective November 30, 2023 (R. Doc. 187).

² LDH's *Petition for Permission to Appeal under Federal Rule of Civil Procedure 23(f)* is docketed by the Fifth Circuit as No. 23-90042 and captioned, "B. v. Russo."

The litigation may affect your rights. Please read carefully.

PURPOSE OF THIS NOTICE

This notice informs you about a class action lawsuit against the SECRETARY of the Louisiana Department of Health and the LOUISIANA DEPARTMENT OF HEALTH. You may be either a member of the class or a person who may be concerned with the interests of potential class members. Please read this entire notice.

BRIEF DESCRIPTION OF THE LAWSUIT

This class action suit seeks to improve the mental health services that are available and provided to children and youth under age 21 who are on Medicaid. The lawsuit, *A.A. et al. v. Abraham et al.*, was filed in federal district court in the Middle District of Louisiana on November 7, 2019 (case number: 19-00770-BAJ-SDJ). The lawsuit alleges that the Louisiana Department of Health is violating the Medicaid Act by failing to make intensive care coordination, intensive behavioral services, and crisis services available to Medicaid recipients under age 21 with mental health conditions or disabilities. The lawsuit also alleges that the Louisiana Department of Health has violated the Americans with Disabilities Act and the Rehabilitation Act because the state has failed to provide intensive care coordination, intensive behavioral services, and crisis services to Medicaid recipients under age 21 with mental health disabilities and that failure puts those recipients at risk of unnecessary institutionalization in hospitals and psychiatric facilities.

On November 30, 2023, Judge Brian A. Jackson certified this case as a class action lawsuit on behalf of

All Medicaid-eligible youth under the age of 21 in the State of Louisiana who have a mental health or behavioral disorder, and for whom a licensed practitioner of the healing arts recommends Intensive Care Coordination, Crisis Services, and Intensive Behavioral Services to correct or ameliorate their disorders.

Judge Jackson appointed the Southern Poverty Law Center, National Health Law Program, National Center for Law and Economic Justice, and Disability Rights Louisiana's legal counsel for the class.

The class counsel would like to hear from you if you believe you are a class member or if you are impacted by this lawsuit.

If you or a child in your care is a Medicaid recipient under age 21 who has been unable to get Medicaid home or community-based mental health or behavioral health services, please contact the Southern Poverty Law Center at:
https://www.splcenter.org/la_mental_health_lawsuit_contact_us or 1-800-358-2337.