

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**This Notice is about a proposed settlement of the class action lawsuit *Bryan C. v. Lambrew*.  
This Notice may affect you. Please read it carefully.  
The federal court in Maine has approved this Notice.**

### **1. Who is this Notice to?**

TO ALL CHILDREN WHO ARE IN MAINE FOSTER CARE AND ARE PRESCRIBED AT LEAST ONE PSYCHOTROPIC MEDICATION, which are prescription medications for mental and behavioral health, such as antidepressants, antipsychotics, and anti-anxiety medications.<sup>1</sup>

This Notice is also for these children's legal representatives or caregivers.

### **2. Why is this Notice important?**

On [date 2024], Judge Nancy Torresen of the U.S. District Court for the District of Maine will hear evidence and argument to decide if the proposed settlement agreed to by the parties is fair, reasonable, and adequate, and if the Court should approve it.

YOU ARE WELCOME TO COME TO THIS HEARING TO PRESENT TO THE COURT ANY POSITIVE OR NEGATIVE COMMENTS OR OBJECTIONS ABOUT THE SETTLEMENT AGREEMENT. YOU ARE NOT, HOWEVER, REQUIRED TO COME TO THE HEARING OR MAKE ANY COMMENTS.

**\*\*PLEASE DO NOT CALL JUDGE NANCY TORRESEN OR THE CLERK OF THE COURT ABOUT THE PROPOSED SETTLEMENT\*\***

Instead, you can get more information and ask questions by following the directions in Section 7 below.

### **3. What is this class action lawsuit about?**

This lawsuit is about improvements in how the state agencies involved in the Maine foster care system oversee the administration of Psychotropic Medications for children in Maine foster care. The lawsuit seeks changes in how Maine manages Psychotropic Medications prescribed to children in foster care. This lawsuit does not seek to recover any money damages.

This lawsuit was filed on January 6, 2021, by several children and their adult representatives on behalf of hundreds of children in Maine foster care who are, or will in the future, be prescribed one or more Psychotropic Medications. Together these children are called the "Plaintiffs" or the "Class," because this is a class action lawsuit. A class action lawsuit is when at least one person sues on behalf of a group of people who have similar claims. This Class

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<sup>1</sup> "Psychotropic Medication(s)" means pharmaceutical medications in any of these drug classes: antidepressants; antipsychotics or atypical antipsychotics; stimulants; alpha agonists (such as Clonidine and Guanfacine); anxiolytics (anti-anxiety) / hypnotics (such as benzodiazepines and non-benzodiazepines); and mood stabilizing medicines (such as lithium). Psychotropic Medications also include medications from the anticonvulsant and antihypertensive drug classes when the medication is prescribed for a behavioral health indication.

of children sued Defendants, who are the Maine Department of Health and Human Services (“DHHS”) and the Maine Office of Child and Family Services (“OCFS”).

Plaintiffs and Defendants have negotiated and agreed to a proposed settlement to resolve this lawsuit. The specific things they agreed to are written in a document called the “Settlement Agreement.” Plaintiffs and Defendants have asked Judge Torresen to approve the Settlement Agreement. You can read a general summary of the Settlement Agreement below in Section 4. If you would like, you may also:

- Review the Settlement Agreement in full by clicking on the link in the [INSERT location] at Defendants’ website <https://www.maine.gov/dhhs/ocfs/INSERT>, at Plaintiffs’ website <https://www.childrensrights.org/in-the-courts/me-bryan-c-v-lambrew> under “Case Files,” or by following the instructions in Section 7 below;
- Submit any written comments you may have about the Settlement Agreement before the Judge decides whether to approve it by following the steps in Section 5; and/or
- Attend the hearing at the date and time in Section 6, when you will have the option to offer your comments if you have followed the steps in Section 5.

#### **4. What does the Settlement Agreement do?**

The Settlement Agreement, if approved by the Court, will resolve this case now without the need for a trial. The Settlement Agreement requires the Defendant agencies to put in place updated policies and procedures about the oversight and administration of Psychotropic Medications to children in foster care in Maine. These policies and procedures will, for example, (1) improve medical and mental health record-keeping and sharing; (2) ensure that children ages 14 and over provide informed consent for a physician’s prescription for Psychotropic Medications; and (3) create a review process where a Clinical Review Team reviews certain Psychotropic Medications before and after they are prescribed. Defendants’ progress in implementing these processes will be monitored and reported on to the Court by a third-party Implementation Reviewer.

This lawsuit asked for changes to benefit the Class, and the Settlement Agreement obligates Defendants to update policies and procedures about the oversight and administration of Psychotropic Medications to children in foster care in Maine. The lawsuit did not seek money damages for the Class, so the Settlement Agreement does not pay any money to the Plaintiff children. The Class will not owe any money to anyone in connection with this lawsuit or the Settlement Agreement. Plaintiffs’ counsel did not and will not ask for Plaintiff children or their families, caregivers, or legal representatives to pay any money for Plaintiffs’ counsel’s costs, expenses, or the legal work Plaintiffs’ counsel performed to bring this lawsuit. The lawsuit instead requested that Defendants pay Plaintiffs’ counsel’s reasonable costs, expenses, and attorneys’ fees for their legal work on this case. After the Parties finished negotiating all the reforms in the Settlement Agreement, Defendants agreed to reimburse Plaintiffs in the amount of \$675,000 to cover part of Plaintiffs’ attorneys’ fees, expenses, and costs for their legal work. This agreement and the related brief will be posted on the Children’s Rights website at <https://www.childrensrights.org/in-the-courts/me-bryan-c-v-lambrew> under “Case Files.”

**5. How do I submit comments, objections, or support to the Court? How do I request to speak at the hearing?**

You have the right to submit written comments, objections, or support about the proposed Settlement Agreement by email OR by U.S. Mail to Class Counsel at either of the below email addresses or mailing addresses:

Bernstein, Shur, Sawyer & Nelson, P.A.  
Attn: John A. Woodcock III  
100 Middle Street  
PO Box 9729  
Portland, ME 04101  
[mainefostermeds@bernsteinshur.com](mailto:mainefostermeds@bernsteinshur.com)

Children's Rights  
Attn: Marissa C. Nardi  
88 Pine Street, Suite 800  
New York, NY 10005  
[mainefostermeds@childrensrights.org](mailto:mainefostermeds@childrensrights.org)

IN ORDER TO BE CONSIDERED BY THE COURT, YOUR EMAIL OR LETTER MUST BE **RECEIVED** BY CLASS COUNSEL NO LATER THAN THE OBJECTION DEADLINE OF [date].

You must sign your email or letter. Your email or letter must also include your name, address, telephone number, and (if you have one) email address.

If you would also like to speak at the hearing, please include this request in your email or letter and write what you want to speak about. Again, in order to be heard by the Court at the hearing on [date], your email or letter must be received by Class Counsel no later than [date].

Class Counsel will share your email or letter with Defendants' counsel within five business days of receiving it, and the parties will share any written submissions with the Court [two weeks] after the Objection Deadline.

UNLESS OTHERWISE ORDERED BY THE COURT, ANY CLASS MEMBER WHO DOES NOT MAKE OBJECTIONS IN THE MANNER PROVIDED HERE WILL HAVE WAIVED ALL OBJECTIONS, WHICH MEANS THAT THE COURT WILL NOT CONSIDER THEM.

**6. When and where will the hearing be held?**

THE HEARING WILL TAKE PLACE BEFORE UNITED STATES DISTRICT COURT JUDGE NANCY TORRESEN ON [DATE], AT \_\_\_\_\_ A.M./P.M., IN COURTROOM [ ], AT THE EDWARD T. GIGNOUX U.S. COURTHOUSE, 156 FEDERAL STREET, PORTLAND, ME 04101. If the date or time of the hearing changes, the new date and time will be immediately posted on Defendants' website at [https://www.maine.gov/dhhs/ocfs/\[INSERT\]](https://www.maine.gov/dhhs/ocfs/[INSERT]), but you will NOT be sent further notice of the change.

## 7. How can I receive more information or ask questions?

For a copy of the Settlement Agreement, click on the link in the [location] at Defendants' website, [https://www.maine.gov/dhhs/ocfs/\[INSERT\]](https://www.maine.gov/dhhs/ocfs/[INSERT]). If you do not have access to a computer, please call Class Counsel at (207) 774-1200 and ask for a copy of the "Maine Psychotropic Medications Federal Court Settlement." For any other questions, please contact Class Counsel by emailing [mainefostermeds@bernsteinshur.com](mailto:mainefostermeds@bernsteinshur.com) or [mainefostermeds@childrensrights.org](mailto:mainefostermeds@childrensrights.org), or by mailing them at one of their mailing address(es) listed above in Section 5.

**\*\*PLEASE DO NOT CALL JUDGE NANCY TORRESEN OR THE CLERK OF THE COURT.\*\*** They will NOT be able to answer your questions about the class action lawsuit or the Settlement Agreement. You may, however, review any public materials that have been filed with the Court in this case by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://pacer.uscourts.gov/file-case/court-cmecf-lookup/court/MEDC>. To review materials in the public record in this case, refer to Case No. 1:21-cv-00005-NT, *Bryan C. v. Lambrew*. You may also contact Class Counsel by emailing [mainefostermeds@bernsteinshur.com](mailto:mainefostermeds@bernsteinshur.com) or [mainefostermeds@childrensrights.org](mailto:mainefostermeds@childrensrights.org), or by mailing them at one of their mailing address(es) listed above in Section 5.

**NOTICE**  
**ADDENDUM**

**ADDENDUM TO NOTICE OF PROPOSED CLASS ACTION SETTLEMENT WITH  
INSTRUCTIONS FOR POSTING AND DISTRIBUTION**

- A. Defendants shall prominently post a copy of this Notice (pages 1-4) on the DHHS and OCFS website and maintain that posting on the website until [redacted], 2024.
- B. Defendants shall transmit a copy of this Notice, and may transmit one or more accompanying letters signed by an authorized representative of DHHS (which may request, where appropriate, that recipients share information with Class members in their care in their discretion depending on the age and/or development of the Class Member(s) or other circumstances) to the following persons and entities in the manner specified below:
- i. Case management staff of OCFS: Defendants will email to the case management staff of OCFS a copy of this Notice, along with a link to the Settlement Agreement.
  - ii. OCFS Central Office and all regional offices: Defendants will post this Notice in the OCFS Central Office and all OCFS regional offices.
  - iii. Maine Administrative Office of the Courts: Defendants will send via email (or U.S. Mail if only a mailing address is available) this Notice and any accompanying letter to the Maine Administrative Office of the Courts.
  - v. Class Members' Parent(s) (whose rights have not been terminated) and Relative/Kin Placements: Defendants will send via email (or U.S. Mail, if only a mailing address is available) this Notice and any accompanying letter to: the last known email (or mailing) address for the parent(s) of Class Members whose parental rights have not been terminated; and to the last known email (or mailing) address of any relative/kin placement of any Class member. For this purpose, the last known email address or mailing address refers to the address in the records of OCFS.
  - vi. Placement Providers of Class Members: Defendants will send via email (or U.S. Mail, if only a mailing address is available) this Notice and any accompanying letter to the current email (or mailing) address of record of all placement providers (including, at a minimum, all foster, pre-adoptive, and relative caregivers) for children in Defendants' custody.
  - vii. Independent Living Arrangements and Youth Transition Services Programs: Defendants will send via email (or U.S. Mail, if only a mailing address is available) this Notice and any accompanying letter to the current email (or mailing) address of record of all Class Members in an independent living arrangement or currently enrolled in a Youth Transition Services Program.
  - viii. GALs: Defendants will send via email (or U.S. Mail, if only a mailing address is available) this Notice and any accompanying letter to the current email (or mailing) address of every Guardian ad Litem registered on the GAL Roster, available at <https://www.courts.maine.gov/courts/family/gal-roster.html>.
- C. Defendants shall send this Notice to the following individuals and entities via email (or U.S. Mail, if only a mailing address is available) asking that this Notice be disseminated to staff and posted in locations most likely to be seen by Class Members and/or their legal representatives and asking that the information remain posted until [date]:
- i. The Clerk of each Maine District Court;
  - ii. Each congregate care placement, group home, residential counseling center, residential treatment center, and child placing agency utilized by Defendants;
  - iii. The office of Maine Court Appointed Special Advocates; and
  - iv. The Maine Bar Association.