

## **CLASS SETTLEMENT AGREEMENT AND RELEASE**

This Class Settlement Agreement and Release (“Agreement”) is made, entered into and effective as of the 23th day of May 2011, by and between defendants BLUE CROSS OF CALIFORNIA dba ANTHEM BLUE CROSS (“Anthem Blue Cross” or “Defendant”) and the Settlement Class (as defined below), acting by and through plaintiffs MARY FELLER and RANDY FREED (collectively, “Plaintiffs”), Whatley Drake & Kallas LLC, and the additional counsel listed on the signature pages below (collectively “Plaintiffs’ Counsel”).

### **BACKGROUND AND RECITATIONS**

WHEREAS, on or about March 1, 2010, the Plaintiffs, individually and on behalf of a putative class, filed a Complaint captioned *Feller et al. v. Anthem Blue Cross of California et al.*, Ventura County Superior Court Case No.: 56-2010-00368587-CU-BT-VTA, alleging, *inter alia*, that Anthem Blue Cross had closed certain health insurance plans, identified herein as the Closed Block Plans, without providing enrollees the options or notices required by California law, specifically Cal. Health & Safety Code Section 1367.15 (the “Lawsuit”). In the Lawsuit, Plaintiffs allege claims against Defendants for (a) commission of unlawful, unfair and fraudulent business acts and practices in violation of Cal. Bus. & Prof. Code § 17200, *et seq.*; and (b) common counts/unjust enrichment and common law restitution;

WHEREAS, Anthem Blue Cross denies any wrongdoing of any kind whatsoever for any of the claims asserted in the Lawsuit, but, without admitting liability, nevertheless has agreed to enter into this Agreement as to the Released Claims to avoid further expense, as well as the burdens and risks of litigation;

WHEREAS, under the “guaranteed issue” provisions of the federal Patient Protection and Affordable Care Act (“PPACA”), U.S. Public Law 111-148, and accompanying regulations promulgated thereunder, beginning in 2014 a person’s health condition or health history cannot

be used as a basis for denying health coverage. As a result, any consumer enrolled in a policy that is subsequently closed will be able to transfer to any open policy. Furthermore, under PPACA, as of March 23, 2010, individual enrollees who fall within the definition of the Settlement Class who moved out of the Closed Block Plans are unable to move back into those plans;

WHEREAS, Anthem Blue Cross has represented that there were approximately 157,000 individuals in the Closed Block Plans (as defined herein) and approximately 107,000 of those individuals remain in the Closed Block Plans. Anthem Blue Cross also has represented that of the approximately 50,000 individuals who moved from the Closed Block Plans, approximately 15,000 continue to receive individual health coverage through Anthem Blue Cross and approximately 35,000 do not have individual health coverage through Anthem Blue Cross or have left the company altogether. The Settlement Class excludes those approximately 35,000 people who received the closure notice and do not have individual health coverage through Anthem Blue Cross or have left the company altogether (not necessarily in response to the block closure). Thus, according to Anthem Blue Cross the Settlement Class includes approximately 122,000 people;

WHEREAS, Anthem Blue Cross has represented that all such members of the Settlement Class were sent notices of closure on or about September 2009;

WHEREAS, Plaintiffs have agreed to serve as representatives of the Settlement Class, have been informed by Plaintiffs' Counsel of the duties and obligations of a class representative, are familiar with the pleadings in the Lawsuit, and the results of the factual investigation undertaken by their counsel, and have been fully advised by such counsel as to the terms and effects of this Agreement, including the nature of the claims released, the potential for success if

the Lawsuit was to be litigated to its conclusion, and the relief obtained by the settlement, and support its submission to the Court for both preliminary and final settlement approval;

WHEREAS, in evaluating the settlement set forth in this Agreement, Plaintiffs and Plaintiffs' Counsel have concluded that the benefits provided to the Settlement Class under this Agreement make a settlement with Defendants and the other Released Parties under such terms and conditions in the best interests of the Settlement Class in light of, among other considerations, the benefits afforded to the Settlement Class, the uncertainties and difficulties associated with obtaining class certification for merits purposes, the expense and length of time necessary to prosecute this action through trial, the uncertainties of the outcome of the Lawsuit, and the fact that resolution of the class claims, whenever and however determined, will likely be submitted for appellate review;

WHEREAS, the Parties desire to compromise and settle all issues and claims relating to the allegations made in the Lawsuit based on the facts alleged in the Lawsuit, by or on behalf of all persons included in the Settlement Class;

WHEREAS, the Parties, through their respective counsel, have engaged in extensive arm's length negotiations in reaching this Agreement, including several private mediation sessions among the Parties to the Lawsuit overseen by Mr. Martin Quinn of Judicial Arbitration and Mediation Services, extensive negotiations between counsel for all Parties in the Lawsuit, and the exchange of detailed information about Anthem Blue Cross's open and closed block programs;

WHEREAS, the Parties, and their respective counsel, believe that the terms of the settlement set forth in this Agreement are fair, reasonable and adequate; and

WHEREAS, the Parties desire and intend to seek prompt Court approval of the settlement as set forth in this Agreement;

NOW, THEREFORE, it is agreed that, in consideration of the promises and mutual covenants set forth in this Agreement and the entry by the Court of a Final Order and Judgment finally certifying a class for settlement purposes, dismissing with prejudice the claims asserted in the Lawsuit against Defendants and approving the terms and conditions of the settlement as set forth in this Agreement under California Code of Civil Procedure Section 382 and California Rules of Court, Chapter 6, Rules 3.769 *et seq.*, as applicable, the Lawsuit shall be settled and compromised on the terms and conditions set forth below as between Defendants and the Settlement Class.

The recitals stated above are hereby made a part of this Agreement.

#### **DEFINITIONS**

In addition to any definitions set forth above or elsewhere in this Agreement, the following terms, as used in the Agreement, shall have the meanings set forth below:

A. The term “Agreement” means this Settlement Agreement and Release, including its recitals and Exhibits.

B. The phrase “Best Efforts” means the efforts that a reasonable person in the position of the Party would use so as to fulfill an obligation as diligently and expeditiously as possible.

C. The term “Final Order and Judgment” means a final judgment and order of dismissal entered by the Court in the Lawsuit substantially in the form attached as Exhibit B hereto granting final approval of this Agreement, including Plaintiffs’ Counsel’s request for

attorneys' fees costs and other expenses, and incentive awards for the Plaintiffs as set forth herein, and entering a judgment according to the terms set forth in this Agreement.

D. The term "CDI" means the California Department of Insurance.

E. The phrase "Closed Block Plan" means the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 individual Anthem Blue Cross Health Plans offered by Anthem Blue Cross as of September 2009.

F. The term "Complaint" means the operative Complaint filed in the Lawsuit.

G. The term "Court" means the Superior Court for the State of California for the County of Ventura, the Hon. Frederick H. Bysshe, Jr. presiding.

H. The phrase "DMHC" means the California Department of Managed Health Care.

I. The phrase "Grandfathered Plans" means such plans described in Section 1251 of PPACA, as modified by section 10103 of the PPACA and section 2301 of the Health Care Education Reconciliation Act, Public Law 111-152.

J. The phrase "Open Plan" means all individual Anthem Blue Cross Health Plans available and open for enrollment in the State of California by Settlement Class Members as of September 24, 2010, and that remain open as of the date of this Agreement, and plans that do not now exist, but that come to exist and are open before December 31, 2013.

K. The terms "Party" and "Parties" means Plaintiffs and Defendants.

L. The term "Persons" means persons and entities, including, without limitation, any individuals, sole proprietorships, associations, companies, partnerships, joint ventures, corporations, trusts, estates, or any other persons or entities.

M. The phrase "Released Claims" means any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether sounding

in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney's fees, that were or could have been brought, arising from the claims asserted in the Complaint regarding Anthem Blue Cross's alleged failure to comply with the requirements of Cal. Health & Safety Code Section 1367.15 concerning the closure of the PPO Share 500, PPO Share 1000, PPO Share 1500 or PPO Share 2500 individual Anthem Blue Cross plans. All claims under California Civil Code Section 1542 are waived with regard to the Released Claims. This definition specifically excludes any potential claims arising out of any denials of claims by Anthem Blue Cross submitted or that may be submitted by Settlement Class Members, including but not limited to any claims for wrongful or bad faith denial of coverage, under any Closed Block Plan. This Release also does not cover claims arising from the "closure" of any block other than the PPO Share 500, PPO Share 1000, PPO Share 1500 or PPO Share 2500 individual Anthem Blue Cross plans.

N. The phrase "Released Parties" shall refer to Anthem Blue Cross and its predecessor and successor firms, current and former parents and subsidiaries (and their parents and subsidiaries), and all of their respective shareholders, directors, officers, employees, agents, attorneys, insurers, and assigns.

O. The phrase "Settlement Class" means all current California residents who were enrolled in the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 individual Anthem Blue Cross Health Plans and were sent notices of closure in or about September 2009, and who continue to maintain their health insurance coverage through Anthem Blue Cross whether in a Closed Block Plan or in another individual health plan offered by Anthem Blue Cross as of the date of this Agreement. Anthem Blue Cross represents that it sent

notices of closure to all enrollees of the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 plans. All Released Parties, the Court and members of their families within the first degree of consanguinity, are excluded from the Settlement Class. The Settlement Class definition also excludes those Anthem Blue Cross enrollees who received a closure notice from Anthem Blue Cross in or about September 2009 and do not have individual coverage through Anthem Blue Cross or have left the Company altogether.

P. The phrase "Settlement Class Member" means any Person included within the Settlement Class who does not timely exercise his or her right to opt out of the Settlement Class under Section 10 below.

Q. The phrase "Settlement Effective Date" shall mean the later of the date upon which all appeals, if any, from the Final Order and Judgment have been finally concluded and exhausted, or the date upon which the time to seek any appellate remedy from the Final Order and Judgment has expired.

#### **TERMS OF AGREEMENT**

1. **Non-Admission of Liability.** This Agreement is for settlement purposes only, and neither the fact of, nor any specific provision contained in, this Agreement nor any action taken hereunder shall constitute, or be construed as, any admission of the validity or lack of merit of any claim or any fact alleged by Plaintiffs or by any other Person included within the Settlement Class of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Released Parties. This Agreement constitutes a compromise under Cal. Evid. Code Section 1152 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable. It shall not be offered or be admissible, either in whole or in part, as evidence against the Released Parties, except in any action or proceeding to enforce the terms of this Settlement.

2. **Certification of Settlement Class.** For purposes of settlement only, and not for purposes of liability, and subject to Court approval, the claims against Anthem Blue Cross in the Lawsuit will be certified to proceed as a class action, under California Code of Civil Procedure Section 382 and California Rules of Court, Chapter 6, Rules 3.767 *et seq.*, as applicable, with its members to comprise only those Persons defined above as being within the Settlement Class. Subject to the terms and conditions of this Agreement, the Parties agree not to oppose any efforts to certify such a class. Any certification under this Section shall not constitute, in this or any other proceeding, an admission, finding or evidence that any requirement for class certification is otherwise satisfied, except for the expressly enumerated purposes in this Agreement.

3. **Preliminary Approval.** No later than 15 days from the date of full execution of this Agreement (unless such time is extended or modified by mutual agreement of the Parties), the Parties, through counsel, shall present this Agreement to the Court by way of motion or application seeking certification of the Settlement Class and preliminary approval of this Agreement (the "Submission for Preliminary Approval"). In connection with the Submission for Preliminary Approval, the Parties, through counsel, shall apply for entry by the Court of an order substantially in the form of Exhibit A to this Agreement ("Order of Preliminary Approval"). The Submission for Preliminary Approval shall request entry of the Order of Preliminary Approval providing for:

- a. Preliminary approval of the Agreement;
- b. Certification for settlement purposes of the Settlement Class under California Code of Civil Procedure Section 382 and California Rules of Court, Chapter 6, Rules 3.769 *et seq.*, as applicable;
- c. Appointment of Plaintiffs' Counsel as counsel for the Settlement Class;



- d. Appointment of Plaintiffs as class representatives for the Settlement Class;
- e. Approval of the proposed notices in forms substantially similar to those attached hereto as Exhibits C and D and the settlement notice program; and
- f. Establishment of a schedule for submitting papers in support of the Parties' joint motion for entry of the Final Order and Judgment, for Settlement Class Members to object or request exclusion from the Settlement, and for the Court to hear the joint motion for Entry of the Final Order and Judgment ("Fairness Hearing").

4. **Notice to Settlement Class.** No later than dates set forth below and consistent with the dates set forth in the Order of Preliminary Approval (unless otherwise specifically modified by the parties or ordered by the Court), at their expense, Anthem Blue Cross shall cause notice in a form substantially similar to that attached as Exhibits C and D to this Agreement (the "Settlement Notice") to be disseminated as directed in the Order of Preliminary Approval, as follows:

- a. No later than 10 days from the date of the entry of the Order of Preliminary Approval, Anthem Blue Cross, either directly or through a third-party settlement administrator agreed to by the Parties and appointed by the Court, shall send the Settlement Notice in a form substantially similar to that attached as Exhibit C to this Agreement (the "Summary Mailed Notice") by regular mail to each of the Settlement Class Member's last known address, referring Settlement Class Members to the Anthem Blue Cross Settlement Web site for purposes of obtaining detailed information relating to the terms of the settlement, and

including any relevant deadlines for the Fairness Hearing, and giving Settlement Class Members at least 30 days from the date of such mailing to request exclusion from or object to the terms of the Settlement. The Parties agree that Plaintiffs' Counsel shall have an opportunity to review the content placed on the Anthem Blue Cross Settlement Web site and make suggested edits before the content is posted to the Web site. Anthem Blue Cross shall provide Plaintiffs' Counsel with any proposed content 10 days before its addition to the Anthem Blue Cross Settlement Web site. Plaintiffs' Counsel shall notify Anthem Blue Cross in writing within 3 days of their receipt of such content if they have any suggested edits to any aspect of such content. Plaintiffs' Counsel will be deemed to have consented to the proposed content if Plaintiffs' Counsel fails to notify Anthem Blue Cross of any suggested edits within this period. The Parties will resolve any disputes regarding such content in accordance with the process described in Section 17 of this Agreement before such content is disseminated.

b. No later than 10 days after entry of the Preliminary Approval Order, the Parties agree that a copy of Exhibit C and Exhibit D (the "Full Settlement Notice") to this Agreement will be made available to the public through a settlement web site created by Anthem Blue Cross or a third party settlement administrator agreed to by the Parties and appointed by the Court (at Anthem Blue Cross' option). For those Settlement Class Members who cannot access the Full Settlement Notice in such a manner, Anthem Blue Cross or a third-party settlement administrator agreed to by the Parties and appointed by the Court will establish a toll-free number that Settlement Class Members can call to request a mailed copy of Exhibit D. Settlement Class Members will also be able to call this toll-free number for general information about the Settlement Agreement. This toll-free number will be available no later than three days after the entry of the Order of Preliminary Approval through the entry of the Final Order and

Judgment. The Parties agree that Plaintiffs' Counsel shall have an opportunity to review the content of any proposed voice prompt recordings or scripts used by operators responding to calls to make suggested edits to the content of such recordings or scripts before they are used. Anthem Blue Cross shall provide Plaintiffs' Counsel with any proposed voice prompt recordings or scripts 10 days before their implementation. Plaintiffs' Counsel shall notify Anthem Blue Cross in writing within 3 days of their receipt of such voice prompt recordings or scripts if they have any suggested edits to any aspect of the content of the voice prompt recordings or scripts. Plaintiffs' Counsel will be deemed to have consented to the proposed content if Plaintiffs' Counsel fails to notify Anthem Blue Cross of any suggested edits within this period. The Parties will resolve any disputes regarding such content in accordance with the process described in Section 17 of this Agreement before such content is disseminated.

c. The Parties agree that all communications with Settlement Class Members shall include a sentence in Spanish stating that, if the Settlement Class Member cannot understand the communication, then the Settlement Class Member should call the toll-free number described in Section 4(b) for assistance in Spanish.

d. The Parties agree that the methods of notice set forth in this Section constitute the best form of notice to the Settlement Class that is practicable under the circumstances. Anthem Blue Cross shall pay all costs associated with disseminating, publishing and posting the Settlement Notice and all associated expenses. All costs and expenses of administration of this Settlement shall also be paid or borne by Anthem Blue Cross.

**5. Final Approval**

a. All papers in support of the Parties' request for final approval of the terms of this settlement shall be filed no later than 28 days before the Fairness Hearing. The Parties shall request that the Court hold the Fairness Hearing no later than 50 days from entry of the Order of Preliminary Approval. At the Fairness Hearing, the Parties shall jointly request that the Court enter an order and judgment under California Code of Civil Procedure Section 382 and California Rules of Court, Chapter 6, Rules 3.769 *et seq.*, as applicable, in the form of Exhibit B to this Agreement (the "Final Order and Judgment"). The Final Order and Judgment shall (1) finally approve the terms of this Agreement, including the provision for the payment of attorneys' fees, reimbursement of expenses and payments to the Plaintiffs, as fair, reasonable and adequate, (2) dismiss the entire Lawsuit with prejudice and without costs except as provided for under this Agreement, (3) discharge the Released Parties of and from all further liability to the Plaintiffs and Settlement Class Members with respect to the Released Claims (but not as to any obligations created or owed under this Agreement), and (4) permanently bar and enjoin Plaintiffs and Settlement Class Members from bringing, filing, commencing, prosecuting, further prosecuting, maintaining, intervening in, participating in, assisting in any way, formally or informally, except as required by law, or receiving any benefits from, any other lawsuit, arbitration, or administrative, regulatory or other proceeding or cause of action in law or equity that asserts the Released Claims. The actual form of Final Judgment and Order entered by the Court may include additional provisions to which the Parties may later agree, or which the Court may direct, that are not inconsistent with any of the express terms or conditions of this Agreement.

b. Following entry by the Court of the Final Order and Judgment, no default by any Person in the performance of any covenant or any obligation arising under this Agreement, or any order of judgment entered in connection therewith, shall affect the dismissal of the Lawsuit, the discharge and release of the Released Parties, or any other provision of this Agreement. The above notwithstanding, nothing in this sub-section shall prevent a Party from seeking enforcement of or compliance with the terms of this Agreement, or the intervention of the Court to compel any such default to be cured.

**6. Settlement Consideration.**

a. In consideration for the dismissal of the Lawsuit with prejudice under the terms of this Agreement, unless otherwise specifically modified below, Anthem Blue Cross shall, no later than 30 business days after the date of the Order of Preliminary Approval, implement procedures to provide the following relief. Other than the Settlement Class Members' release of Anthem Blue Cross, this settlement consideration operates only until and including December 31, 2013, after which the "guaranteed issue" provisions of PPACA are expected to be fully implemented. If the guaranteed issue provisions of PPACA, for whatever reason, are modified in any way or are no longer law (in whole or part), then this settlement (other than the release) still only operates until December 31, 2013, except as indicated herein.

b. Settlement Class Members who stayed in one of the four closed blocks may stay with their current health coverage, which is "grandfathered" under PPACA, or they may either: (1) move without medical underwriting to another of the four closed blocks at issue provided the movement is to a closed block with a higher deductible; (2) move to any Open Plan regulated by the DMHC (including open DMHC plans that do not now exist, but that come to exist and are

open during the time of movement); or (3) move to any open CDI policy listed in Exhibit E to this Agreement;

- i. If a Settlement Class Member stayed in one of the four closed blocks and there is a rate increase put into effect after the Court issues the Final Order and Judgment during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), then the Settlement Class Member's rate increase in the year at issue will be capped at the lower of either:
  1. The indicated rate increase based on the experience of only that Settlement Class Member's individual closed block (including aging) minus 2%; or
  2. The average rate increase (including aging) of all other "grandfathered" blocks of individual plans or policies, whether regulated by the DMHC or the CDI, minus 2%.
- ii. If a "grandfathered" block loses its "grandfathered" status, then the experience from that block will nevertheless continue to be included in the analysis set forth in paragraph 6(b)(i) above.
- iii. If there is no rate increase put into effect after the Court issues the Final Order and Judgment and during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), then the rate increase cap described above will not be triggered and will not apply during the calendar year when there is no rate increase.

c. Settlement Class Members who left the four closed blocks of business before this settlement may stay in their current policy or they may move without medical underwriting to any Open Plan regulated by the DMHC (including open DMHC plans that do not now exist, but that come to exist and are open during the time of movement) or any open CDI policy listed in Exhibit E.

d. Anthem Blue Cross reserves its right to modify, withdraw or close some or all of the policies listed in Exhibit E. If a policy listed on Exhibit E is withdrawn or closed, then Settlement Class Members will have the option to move to any additional CDI policies that also are made available to insureds of that withdrawn or closed CDI policy listed on Exhibit E.

e. As stated in paragraph 6(b) and 6(c), Settlement Class Members will be provided the option to move without medical underwriting one time per calendar year at the following times: (1) within an agreed upon time after Final Approval in calendar year 2011; and (2) one time each calendar year thereafter, until 2014, with no option to move under this settlement in 2014. However, in the event that at some time after the 2013 notice of the right to move it is determined that the “guaranteed issue” component of PPACA will not become effective (as is now contemplated) on January 1, 2014, then Settlement Class Members will be offered one additional and final option to move in 2014 to the plans and/or policies as described in paragraphs 6 (b) and 6 (c). This final option to move does not include the rate increase cap described in paragraphs 6(b)(i) – 6(b)(iii). The notice of this final option to move will indicate that it is the final option to move under the terms of this Settlement.

f. Once a Settlement Class Member exercises any option to move to a new plan or policy under paragraph 6(b) or 6(c), that Settlement Class Member will have no further option to move to a new plan or policy under the terms of this Settlement. However, the Agreement does

not generally limit a Settlement Class Member's ability to move to a new plan or policy pursuant to another right or legal authority.

g. Settlement Class Members will be mailed notice of their rate increase (if any) at or about the same time as non-Settlement Class Members are mailed notice of a rate increase (if any). The notice of rate increase to the Settlement Class Members will include notice of their option to move to a different plan or policy as described above. Settlement Class Members will have at least 45 days from mailing of the notice to switch to a different plan or policy.

h. If there is no rate increase put into effect after the Court issues the Final Order and Judgment and during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), Settlement Class Members will still have the option to move to a different plan or policy as described in paragraph 6(b) and 6(c). Notwithstanding the option to move, however, the rate increase cap described above in paragraph 6(b)(i) will not be triggered and will not apply during the calendar year when there is no rate increase. If by October 1 of the years 2012 or 2013 no rate increase has been put into effect in the given calendar year (that is, no Settlement Class Member's premium actually was increased and was payable in the given year as a result of a rate action), then notice of the right to move will be sent later in October of the given year. Settlement Class Members will have at least 45 days from mailing of the notice to switch to a different plan or policy. If the Parties agree that this notice-in-the-absence-of-a-rate-increase is not necessary to fully effectuate the terms of the Settlement (for example, if it appears likely that a rate increase will be put into effect early in the next calendar year), then Anthem Blue Cross will not be required to provide this notice.

i. Notices of rate changes and/or the right to move to a new plan or policy shall generally describe the rights of the Settlement Class Members under this Settlement and either:



- i. include disclosure of the amount of the premium that an individual would pay when exercising his or her election to move to a new plan or policy and a description of the terms and benefits of available plans and policies;  
or
- ii. include a reference to an internet or other source for the information described in paragraph 6(i)i.

j. The Parties will work together in good faith and use their Best Efforts to agree on specimen notice letters. The Parties agree that these specimen letters need not be included as part of the settlement documentation presented to the Court for preliminary approval or to the Settlement Class as part of notice of the settlement. If there is disagreement about the substance or format of the specimen notice letters, the Parties will resolve in accordance with the process described in Section 17 of this Agreement.

7. **Best Efforts of Parties.** The Parties agree to undertake their Best Efforts to effectuate the settlement described in this Agreement. The Parties shall jointly request the Court to both preliminarily and finally approve the Agreement as expeditiously as practicable, and shall not encourage Persons included within the Settlement Class or attorneys representing such Persons to object to the Court's approval of the Agreement. The Parties further represent, agree and acknowledge that the settlement is a fair resolution of these claims for the Parties and the Settlement Class Members. Neither the Parties nor their respective counsel shall make any statements suggesting the contrary, either before or after the Court's approval of the settlement and this Agreement.

**8. Objections to Settlement.**

Any Settlement Class Member may object to the fairness, reasonableness or adequacy of the proposed settlement. Each Settlement Class Member who wishes to object to any term of this Agreement must do so in writing by timely mailing a written objection to the settlement administrator to be selected by Anthem Blue Cross and approved by the Court. Any such objection must be postmarked no later than 10 days before the initial date for the Fairness Hearing. Any such objection must (a) identify the person as a Settlement Class Member and identify any Closed Block Plan that the objector is or was enrolled in, (b) attach copies of any materials that will be submitted to the Court or presented at the Fairness Hearing, (c) be signed by the Settlement Class Member, and (d) clearly state in detail (i) the legal and factual ground(s) for the objection, (ii) the Settlement Class Member's, name, address and, if available, telephone number, and (iii) if represented by counsel, such counsel's name, address and telephone number. Any objection that fails to satisfy the requirements of this Section, or that is not properly and timely submitted, shall be deemed ineffective, may be disregarded by the Court, and be deemed to have been waived, and the Settlement Class Member asserting such objection shall be bound by the final determination of the Court.

**9. Requests to Appear at Fairness Hearing.**

Settlement Class Members or their counsel who wish to appear at the Fairness Hearing must make such request by notifying in writing the settlement administrator to be selected by Anthem Blue Cross and approved by the Court. Any such request must be postmarked no later than 10 days before the initial date of the Fairness Hearing, and must state the name, address, and, if available, telephone number of the Settlement Class Member and the Closed Block Plan in which they are or were enrolled, as well as the name, address, and telephone number of the

person who will appear on his or her behalf. Any such request must further include a detailed statement of the ground(s) for comment or issues that the Settlement Class Member intends to raise at the Fairness Hearing. Any request for appearance that fails to satisfy the requirements of this Section, or that has not been properly or timely submitted, shall be deemed ineffective, may not be considered by the Court, and constitute a waiver of such Settlement Class Member's rights to appear and to comment on the settlement at the Fairness Hearing.

**10. Requests for Exclusion ("Opt-Out") from Settlement Class.**

Any Person included within the Settlement Class who wishes to be excluded from the Settlement Class must do so in writing by mailing a written request for exclusion from the Settlement to the settlement administrator to be selected by Anthem Blue Cross and approved by the Court. Such request must be postmarked no later than 10 days before the initial date for the Fairness Hearing. The request must (a) be signed by the Settlement Class Member, (b) identify any applicable Anthem Closed Block Plan that the individual or a family member is or was enrolled in, (c) clearly express the Person's desire to be excluded (or to "opt out") from the Settlement Class, and (d) include the Settlement Class Member's name, address and, if available, telephone number and, if represented by counsel, counsel's name, address and telephone number. Any Person within the Settlement Class who wishes to be excluded from the Settlement Class can only opt out for himself or herself and cannot opt out for any other Person, nor can any Person within the Settlement Class authorize any other Person to opt out on his or her behalf. Any request for exclusion that fails to satisfy the requirements of this Section, or that has not been timely postmarked by the deadline set forth in the Preliminary Approval Order, shall be deemed ineffective, and any Person included within the Settlement Class who does not properly

and timely submit a request for exclusion shall be deemed to have waived all rights to opt out and shall be deemed a Settlement Class Member for all purposes under this Agreement.

**11. Failure of Court to Approve this Agreement.**

If (i) preliminary or final approval of this Agreement and the Settlement is not obtained from the Court; or (ii) the Final Order and Judgment substantially in the form attached as Exhibit B to this Agreement is materially modified by the Court, and any of the Parties objects to such modification; or (iii) the number of timely and valid requests for exclusion exceed a number that has been agreed to by the Parties and, within five business days after the deadline for valid requests for exclusion to be submitted, Anthem Blue Cross provides written notice to Plaintiffs that Anthem Blue Cross elects not to pursue the settlement based on the number of valid and timely requests for exclusion that are received; or (iv) any objector appeals from the Court's entry of the Final Order and Judgment and such order is reversed in whole or in material part by a final decision of an appellate court (in the event of a partial reversal, the Parties shall have the right to elect to be bound by this Agreement as modified or partially reversed by the appellate court), then this Agreement shall be null and void, shall have no further force and effect with respect to any Party, and shall not be offered in evidence or used in the Lawsuit (or in any other matter to the extent permitted by law) for any purpose, including that relating to the existence, certification or maintenance of any purported class of plaintiffs. In such event, this Agreement and all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Released Parties, Plaintiffs or the Settlement Class Members, shall not be deemed or construed to be an admission or confession by any Party of any fact, matter or proposition of law, and shall not be used in any matter for any purpose, and all Parties shall stand in the same position as if this Agreement had not been negotiated, made, or

filed with the Court. In such event, if any order entered by the Court under the terms of this Agreement is not vacated by its own terms, any Party may move the Court to vacate any and all orders entered by the Court under the provisions of this Agreement, and no Party shall object thereto. To the extent feasible, the Parties shall be returned to their respective positions in the Lawsuit as the date of this Agreement. The Lawsuit shall then proceed in all material respects as if this Agreement and any related orders had never been executed.

**12. Attorneys' Fees and Reimbursement of Expenses.**

a. As an integrated term of this settlement, Anthem Blue Cross agrees to pay, as approved by the Court, reasonable attorneys' fees, including reimbursement of expenses through the entry of the Final Order and Judgment, to Plaintiffs' Counsel not to exceed \$2,000,000.00. Plaintiffs' Counsel agree that they will not seek attorneys' fees, expenses, or any other form of compensation from the Released Parties that exceed this amount. Such amounts shall be paid to Plaintiffs' Counsel within 10 business days after entry of the Final Order and Judgment. The Parties represent that their negotiation of and agreement to the foregoing attorney's fees and costs did not occur until after the substantive terms of the Agreement had been negotiated and agreed to in principle.

b. All requests for approval of payment of attorneys' fees, reimbursement of expenses and incentive awards shall be filed no later than 28 days before the Fairness Hearing. Such requests will be heard at the time of the Fairness Hearing by the Court. All fees and expenses shall be paid to Plaintiffs' Counsel as approved by the Court within ten days after the Final Order and Judgment is signed by the Court.

c. If this Agreement is voided in accordance with Section 11(i) through (iv), then Plaintiffs' Counsel shall within ten business days return to Anthem Blue Cross the amount of attorneys' fees and expenses paid by Anthem Blue Cross.

d. If the award of attorneys' fees and expenses is reduced after entry of the Final Order and Judgment, then Plaintiffs' Counsel shall within ten business days return to Anthem Blue Cross the amount by which the attorneys' fees and expenses have been reduced.

e. Any return of attorneys' fees and expenses under this Section shall be increased by interest accrued as described in the promissory note from the date of payment of the attorneys' fees and expenses to Plaintiffs' Counsel.

f. The obligation of Plaintiffs' Counsel to return any of the attorneys' fees and expenses, as described herein, shall be evidenced by a promissory note, which shall be executed by the law firm of Whatley Drake & Kallas, LLC. Upon the occurrence of the Settlement Effective Date, such obligations to return any portions of the attorney's fees and expenses shall be extinguished, and the promissory note returned to Plaintiffs' Counsel.

g. Whatley Drake & Kallas, LLC, in their sole discretion, shall allocate and distribute this award of attorneys' fees and expenses among Plaintiffs' Counsel.

h. On the Settlement Effective Date and after receipt by Plaintiffs' Counsel of payment by Anthem Blue Cross of attorneys' fees and expenses as awarded by the Court, Plaintiffs' Counsel shall treat all copies of any confidential materials in accordance with the terms of the Stipulated Confidentiality Agreement and Protective Order entered by the Court in the Lawsuit on April 27, 2010.

i. Other than as set forth in this Agreement, the Released Parties shall have no responsibility or liability whatsoever regarding the payment of attorneys' fees, costs, expenses

or incentive awards or compensation of any other kind to Plaintiffs, Plaintiffs' Counsel or other attorneys representing Plaintiffs or Settlement Class Members as to the Released Claims.

j. Any challenges to or appeals from the request for approval of payment of attorneys' fees, expenses or incentive awards shall not terminate or delay implementation of the Settlement.

**13. Incentive Awards to Plaintiffs.** Anthem Blue Cross agrees not to oppose Plaintiffs' Counsel's request that the Court approve an additional payment to Plaintiffs as incentive awards in the amount of \$10,000.00 (ten thousand dollars) each, subject to Court approval. All incentive award payments shall be paid to Plaintiffs no later than 10 business days after the Settlement Effective Date. The Parties represent that their negotiation of and agreement to the incentive awards did not occur until after the substantive terms of the Agreement had been negotiated and agreed to in principle.

**14. Releases, Waiver and Covenant Not to Sue.**

a. Effective as of the Settlement Effective Date, and in consideration of this Agreement and the benefits extended to the Settlement Class, Plaintiffs, on behalf of themselves and the Settlement Class Members, and each Settlement Class Member, on behalf of himself or herself and his or her respective successors, assigns, past, present, and future parents, subsidiaries, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, dependents, and heirs, do or by operation of the Final Order and Judgment are deemed to have fully released and forever discharged the Released Parties from the Released Claims.

b. Plaintiffs, on behalf of themselves and the Settlement Class Members, and Defendants, on behalf of themselves and the Released Parties, fully understand that if any fact relating to any matter covered by this Agreement is later found to be other than or different from the facts now believed by them to be true, they expressly accept and assume the risk of such possible differences in fact and agree and acknowledge that this Agreement shall nevertheless remain fully binding and effective, notwithstanding any such difference.

c. All Parties hereto expressly understand and acknowledge that certain state statutes and principles of common law provide that a “general” release does not extend to claims that a creditor does not know or suspect to exist in his, her, or its favor. For example, Cal. Civ. Code Section 1542 provides:

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

Plaintiffs, Defendants, the Settlement Class Members and Released Parties agree, or shall be deemed by operation of the Final Order and Judgment to agree, that any such statutes, principles of common law or other sources of legal authority of any and all jurisdictions that may be applicable to the Released Claims are hereby knowingly and voluntarily waived and relinquished, and further agree and acknowledge that this is an essential term of this Agreement. Plaintiffs, Defendants, Settlement Class Members and Released Parties do or by operation of the Final Order and Judgment are deemed to understand the statutory language of Section 1542 of the California Civil Code and nevertheless elect to release the claims described above as applicable to them. The Parties declare that before and in connection with the execution of this



Agreement, they have been apprised of sufficient relevant data from sources selected by them so as to exercise their judgment intelligently in deciding whether to execute this document and further declare that their decision is not predicated on or influenced by any declarations or representations of any other party. The Parties state that this Agreement is executed voluntarily by them with full knowledge of its significance and legal effect.

d. Upon the Settlement Effective Date, Plaintiffs and Defendants shall have, and each and every Settlement Class Member and Released Party shall be deemed to have, on behalf of their respective successors, assigns, past, present, and future parents, subsidiaries, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, dependents, and heirs, covenanted and agreed to forever refrain from instituting, maintaining, or proceeding in any action against the Plaintiffs, Plaintiffs' Counsel or the Released Parties, with respect to any of the Released Claims.

e. This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for a temporary restraining order or preliminary or permanent injunction against, any action, suit or other proceeding, which has been or may be instituted, prosecuted, continued to be prosecuted, or attempted, asserting any claim released by this Agreement with respect to any of the claims set forth in this Section.

**15. Entire Agreement.**

This Agreement shall constitute the entire agreement between the Parties, on behalf of themselves and the Settlement Class, and supersedes and replaces any previous agreements and understandings, whether oral or written, between and among them, with respect to such matters.

This Agreement shall not be subject to any change, modification, amendment, or addition, without the express written consent of the Parties, and may be amended or modified only by a written instrument signed by or on behalf of a Party or their representative or their respective successors-in-interest.

**16. Binding Agreement.**

This Agreement shall benefit and bind the Parties, as well as their representatives, heirs and successors. If for any reason any provision of this Agreement other than Sections 6 or 14 shall be determined to be invalid or inoperative, the validity and effect of the other provisions shall not be affected thereby.

**17. Continuing Jurisdiction.**

The Court shall retain continuing and exclusive jurisdiction over the Parties, including all Settlement Class Members and Released Parties, over the administration and enforcement of the Settlement and this Agreement, and over the provision of benefits to the Settlement Class. The Court also shall retain continuing and exclusive jurisdiction in connection with the injunction provisions set forth in Section 6 of this Agreement, under California Code of Civil Procedure Section 664.6. The Parties agree they will seek assistance from Mr. Quinn, or another mediator agreed to by the Parties, before seeking assistance from the Court in the event of a dispute regarding the terms of the settlement.

**18. No Assignment.** The Parties each represent and warrant that they have not assigned, transferred or purported to assign or transfer, in whole or in part, any interest in any of the rights and claims that are the subject of this Agreement.

**19. Choice of Law.**

The validity, construction, interpretation, performance, and enforcement of this Agreement shall be governed by the internal, substantive laws of the State of California without giving effect to applicable choice of law principles.

**20. Counterparts.**

This Agreement may be executed in one or more counterparts, either manually or by telecopy. All executed counterparts, and each of them, shall be deemed to be one and the same original instrument. This Agreement shall be deemed executed as of the date set forth on the first page of this Agreement. The Parties shall exchange among themselves original, signed counterparts, and a complete set of such counterparts shall be filed with the Court as an Exhibit to the joint motion or application for entry of the Order of Preliminary Approval.

**21. Advice of Counsel and Construction of Agreement.**

Each of the Parties has had the benefit of the advice of counsel in the negotiation, drafting and execution of this Agreement, and the language in all parts of this Agreement is the product of the joint efforts of such counsel. This Agreement shall be construed as a whole, according to its plain meaning.

**22. Authority.**

The Parties each represent and warrant that they have authority to enter into this Agreement, subject to certification of the Settlement Class and approval of this Agreement by the Court.

**23. No Party is Drafter.**

None of the Parties to this Agreement shall be considered to be the primary drafter of this Agreement or any provision hereof for the purpose of any rule of interpretation or construction

that might cause any provision to be construed against the drafter. Neither this entire Agreement, nor any specific provision within the Agreement, shall be deemed to have been proposed or drafted by any Party or construed against any Party on that alleged basis.

**24. Notification.**

Except as otherwise described in the Settlement Notices attached as Exhibits C and D to this Agreement, all notices and other communications referenced in this Agreement shall be in writing and shall be served by facsimile, electronic or overnight mail, addressed to the Parties' counsel at their respective addresses as set forth below:

Notices to Plaintiffs or the Settlement Class Members

Edith M. Kallas  
Adam P. Plant  
**WHATLEY DRAKE & KALLAS, LLC**  
1540 Broadway, 37<sup>th</sup> Floor  
New York, NY 10036  
Tel: (212) 447-7070  
Fax: (212) 447-7077

Notices to Anthem Blue Cross

Kurt C. Peterson  
Kenneth N. Smersfelt  
**REED SMITH LLP**  
355 South Grand Avenue, Suite 2900  
Los Angeles, CA 90071-1514  
Telephone: (213) 457- 8000  
Facsimile: (213) 457- 8080

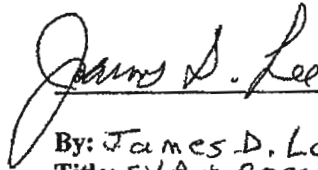
**25. Time for Compliance.**

If the date for performance of any act required by or under this Agreement to be performed on a particular day or within a specified period of time falls on a Saturday, Sunday or legal or Court holiday, such act may be performed upon the next business day, with the same effect as if it had been performed on the day or within the period of time specified by or under

this Agreement. If an act is to be performed on a particular day, it must be completed no later than 5:00 p.m. Pacific Time on that day.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement and Release to be executed effective as of the date set forth above.

**ANTHEM BLUE CROSS**

  
\_\_\_\_\_

By: James D. Lee  
Title: SVP & President, Individual  
Date: May 25, 2011

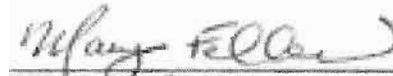
**DEFENDANTS' COUNSEL:**

Kurt C. Peterson  
Kenneth N. Smersfelt  
Amir Shlesinger  
**REED SMITH LLP**

By:   
\_\_\_\_\_

Date: May 25, 2011

**MARY FELLER**  
**Plaintiff and Class Representative**



Date: May 24, 2011

**RANDY FREED**  
**Plaintiff and Class Representative**

Date: May \_\_, 2011

**PLAINTIFFS' COUNSEL:**

Edith M. Kallas  
Adam P. Plant  
**WHATLEY DRAKE & KALLAS, LLC**

By: Edith M. Kallas  
Date: May \_\_, 2011

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
**CONSUMER WATCHDOG**

By: Harvey Rosenfield  
Date: May \_\_, 2011

Tony Stuart  
**THE STUART LAW FIRM**

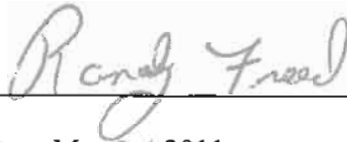
By: Tony Stuart  
Date: May \_\_, 2011

**MARY FELLER**  
**Plaintiff and Class Representative**

---

Date: May \_\_, 2011

**RANDY FREED**  
**Plaintiff and Class Representative**



---

Date: May 24, 2011

**PLAINTIFFS' COUNSEL:**

Edith M. Kallas  
Adam P. Plant  
**WHATLEY DRAKE & KALLAS, LLC**

---

By: Edith M. Kallas  
Date: May \_\_, 2011

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
**CONSUMER WATCHDOG**

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By: Harvey Rosenfield  
Date: May \_\_, 2011

Tony Stuart  
**THE STUART LAW FIRM**

---

By: Tony Stuart  
Date: May \_\_, 2011

**MARY FELLER**  
**Plaintiff and Class Representative**

---

Date: May \_\_, 2011

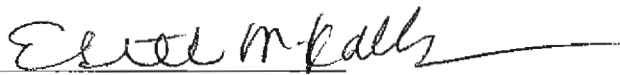
**RANDY FREED**  
**Plaintiff and Class Representative**

---

Date: May \_\_, 2011

**PLAINTIFFS' COUNSEL:**

Edith M. Kallas  
Adam P. Plant  
**WHATLEY DRAKE & KALLAS, LLC**

  
By: Edith M. Kallas  
Date: May 26, 2011

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
**CONSUMER WATCHDOG**

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By: Harvey Rosenfield  
Date: May \_\_, 2011

Antony Stuart  
**STUART LAW FIRM**

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By: Antony Stuart  
Date: May \_\_, 2011



MARY FELLER  
Plaintiff and Class Representative

\_\_\_\_\_  
Date: May \_\_, 2011

RANDY FREED  
Plaintiff and Class Representative

\_\_\_\_\_  
Date: May \_\_, 2011

**PLAINTIFFS' COUNSEL:**

Edith M. Kallas  
Adam P. Plant  
WHATLEY DRAKE & KALLAS, LLC

\_\_\_\_\_  
By: Edith M. Kallas  
Date: May \_\_, 2011

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
**CONSUMER WATCHDOG**

\_\_\_\_\_  
By: Harvey Rosenfield  
Date: May 24, 2011

Tony Stuart  
THE STUART LAW FIRM

\_\_\_\_\_  
By: Tony Stuart  
Date: May \_\_, 2011

**MARY FELLER**  
Plaintiff and Class Representative

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Date: May \_\_, 2011

**RANDY FREED**  
Plaintiff and Class Representative

---

Date: May \_\_, 2011

**PLAINTIFFS' COUNSEL:**

Edith M. Kallas  
Adam P. Plant  
**WHATLEY DRAKE & KALLAS, LLC**

---

By: Edith M. Kallas  
Date: May \_\_, 2011

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
**CONSUMER WATCHDOG**

---

By: Harvey Rosenfield  
Date: May \_\_, 2011

Antony Stuart  
**STUART LAW FIRM**



---

By: Antony Stuart  
Date: May 25, 2011

Alan M. Mansfield  
**THE CONSUMER LAW GROUP**

A handwritten signature in cursive script, appearing to read "Alan M. Mansfield".

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By: Alan M. Mansfield  
Date: May 26, 2011

# EXHIBIT A

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF VENTURA**

MARY FELLER and RANDY FREED

Plaintiffs,

vs.

BLUE CROSS OF CALIFORNIA d/b/a  
ANTHEM BLUE CROSS,

Defendant.

Case No. 56-2010-00368587-CU-BT-VTA

**CLASS ACTION**

**ORDER GRANTING MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT AND DIRECTING  
DISSEMINATION OF CLASS NOTICE**

Compl. Filed: March 1, 2010  
Honorable Frederick H. Bysshe, Jr.  
Dept. 41

THIS MATTER having been brought before the Court on Motion jointly by Plaintiffs MARY FELLER and RANDY FREED and by Defendant ANTHEM BLUE CROSS OF CALIFORNIA, d/b/a ANTHEM BLUE CROSS ("Blue Cross" or "Anthem Blue Cross"), through their respective attorneys, under Cal. R. of Ct. 3.769, for an Order granting preliminary approval of a class action settlement and directing the dissemination of class notice (the "Motion"); and the Court having reviewed the submissions of the parties, having held a hearing on June 8, 2011, and having found that the parties are entitled to the relief they seek; and for good cause shown;

IT IS ORDERED that the Motion is GRANTED, and it is further ORDERED as follows:

///

1           1.       The proposed Class Settlement Agreement and Release dated May 23, 2011 (the  
2       “Settlement Agreement”), submitted with the Motion and filed with the Court, is preliminarily  
3       approved as being within the range of potential final approval.<sup>1</sup>

4           2.       Based upon the submissions of the parties and the evidence submitted therein, the  
5       Court conditionally makes the following findings for settlement purposes only, subject to final  
6       affirmation at the Fairness Hearing: (a) the members of the Settlement Class (“Settlement Class  
7       Members”) are so numerous as to make joinder impracticable; (b) there are questions of law  
8       and fact common to the Settlement Class, and such questions predominate over any questions  
9       affecting only individual Settlement Class Members; (c) plaintiffs’ claims and the defenses  
10      thereto are typical of the claims of Settlement Class Members and the defenses thereto;  
11      (d) plaintiffs and their counsel can and have fairly and adequately protected the interests of the  
12      Settlement Class Members in this action; and (e) a class action is superior to all other available  
13      methods for fairly and efficiently resolving this action and provides substantial benefits to the  
14      Parties, the Settlement Class Members and the Court.

15           Accordingly, for purposes of this settlement only, the Court preliminarily approves  
16      Plaintiffs MARY FELLER and RANDY FREED (collectively “Class Representatives”) as  
17      representatives of the Settlement Class, represented by the Settlement Class Counsel set forth  
18      below, and conditionally certifies a Settlement Class defined as follows: “all current California  
19      residents who were enrolled in the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO  
20      Share 2500 individual Anthem Blue Cross Health Plans and were sent notices of closure in or  
21      about September 2009, and who continue to maintain their health insurance coverage through  
22      Anthem Blue Cross whether in a Closed Block Plan or in another individual health plan offered  
23      by Anthem Blue Cross as of the date of the Agreement. All Released Parties, the Court and  
24      members of their families within the first degree of consanguinity, are excluded from the  
25      Settlement Class, as are those Anthem Blue Cross enrollees who received a closure notice from

26      <sup>1</sup>       Unless otherwise specified, all defined terms in this Order have the same meaning as the  
27      meaning described in the Settlement Agreement, and those terms are incorporated here by this  
28      reference. To the extent there is any conflict between the definitions of those terms, the  
    definitions in the Settlement Agreement will control.

1 Anthem Blue Cross in or about September 2009 and do not have individual coverage through  
2 Anthem Blue Cross or have left the Company altogether.”

3 3. This matter is conditionally certified as a class action for settlement purposes only,  
4 under California Code of Civil Procedure Section 382, California Civil Code Section 1781, and  
5 California Rules of Court, Chapter 6, Rules 3.767 *et seq.*, as applicable. If the settlement does not  
6 receive final approval, Defendant Anthem Blue Cross retains the right to assert that this action may  
7 not be certified as a class action for liability purposes.

8 4. Whatley Drake & Kallas LLC, Consumer Watchdog, the Stuart Law Firm and the  
9 Consumer Law Group of California are appointed as Settlement Class Counsel.

10 5. The Court finds that the Settlement Agreement falls within the range of possible  
11 approval such that it warrants notice thereof to be disseminated to the Settlement Class Members  
12 in the manner set forth herein. Accordingly, the terms of the Settlement Agreement are  
13 preliminarily approved, subject to a further final determination to be made after a Fairness  
14 Hearing, as defined below.

15 6. A final hearing (the “Fairness Hearing”) shall be held before this Court on July 28,  
16 2011 at 9:00 a.m., to determine whether: (a) for final affirmation, this action meets each of the  
17 prerequisites for class certification and may properly be maintained as a class action on behalf of  
18 the Settlement Class for settlement purposes; (b) the Court should finally approve the Settlement  
19 Agreement and all terms contained therein as fair, reasonable, adequate, and in the best interests  
20 of the Settlement Class; (c) the Court should enter final judgment and dismiss the Complaint in  
21 the above-captioned action with prejudice in accordance and consistent with the terms of the  
22 Settlement Agreement, by entering an Order substantially in the form of Exhibit B to the  
23 Settlement Agreement (“Final Order and Judgment”); and (d) to approve the provision in the  
24 Settlement Agreement for the payment of attorneys’ fees and reimbursement of litigation  
25 expenses to Settlement Class Counsel, and payments to the Class Representatives, as set forth in  
26 the Settlement Agreement. The Fairness Hearing may be postponed, adjourned or continued by  
27 further order of this Court, without further notice to the Settlement Class.

28 ///

1           7.     At the Fairness Hearing, the Court will consider and determine whether the  
2 Settlement Agreement should be finally approved as fair, adequate and reasonable in light of any  
3 timely and valid objections presented by Settlement Class Members and the parties' responses to  
4 any such objections that have been submitted to the Court in accordance with the provisions set  
5 forth below.

6           8.     Any Settlement Class Member may object to the fairness, reasonableness or  
7 adequacy of the proposed settlement. Each Settlement Class Member who wishes to object to any  
8 term of this settlement must do so in writing by timely mailing a written objection to Rust  
9 Consulting, Inc., the settlement administrator. Any such objection must be postmarked no later  
10 than ten days prior to the date initially set for the Fairness Hearing. Any such objection must (a)  
11 identify the person as a Settlement Class Member and identify any applicable Closed Block Plans  
12 in which they were enrolled, (b) attach copies of any materials that will be submitted to the Court  
13 or presented at the Fairness Hearing, (c) be signed by the Settlement Class Member, and (d)  
14 clearly state in detail (i) the legal and factual ground(s) for the objection, (ii) the Settlement Class  
15 Member's, name, address and telephone number so that they may be contacted by the Parties'  
16 counsel, the Court or the settlement administrator if necessary, and (iii) if represented by counsel,  
17 such counsel's name, address and telephone number. Any objection that fails to satisfy the above  
18 requirements, or that is not properly and timely submitted, shall be deemed ineffective, will be  
19 disregarded by the Court (absent further order), and deemed to have been waived, and the  
20 Settlement Class Member asserting such objection shall be bound by the final determination of  
21 the Court.

22           9.     Additionally, any Settlement Class Members or their counsel who wish to appear  
23 at the Fairness Hearing to comment on any term of the settlement must make such a request in  
24 writing by notifying Rust Consulting, Inc. Any such request must be postmarked no later than ten  
25 days before the date of the Fairness Hearing, and must state the name, address, and telephone  
26 number of the Settlement Class Member and the Closed Block in which they were enrolled, as  
27 well as the name, address, and telephone number of the person who will appear on his or her  
28 behalf so that they may be contacted by the Parties' counsel, the Court or the settlement



1 administrator if necessary. Any such request must further include a detailed statement of the  
2 comments or issues that the Settlement Class Member intends to raise at the Fairness Hearing.  
3 Any request for appearance that fails to satisfy the requirements of this Section, or that has not  
4 been properly or timely submitted, shall be deemed ineffective, will not be considered by the  
5 Court (absent further order), and a waiver of such Settlement Class Member's rights to appear  
6 and to comment on the settlement at the Fairness Hearing.

7 10. Any Person included within the definition of the Settlement Class who wishes to  
8 be excluded from the Settlement Class must do so in writing by mailing a written request for  
9 exclusion from the Settlement to Rust Consulting, Inc. at the address(es) set forth in the  
10 settlement notices. Such requests must be postmarked no later than ten days before the date for  
11 the Fairness Hearing. The request must (a) be signed by the Settlement Class Member, (b)  
12 include a list of all applicable Anthem Blue Cross Closed Block Plans in which that individual or  
13 a family member are or were enrolled, (c) clearly express the individual's desire to be excluded  
14 (or to "opt out") from the Settlement Class, and (d) include the Settlement Class Member's name,  
15 address and, if available, telephone number and, if represented by counsel, counsel's name,  
16 address and telephone number so that they may be contacted by counsel for the Parties, the Court,  
17 or the settlement administrator, if necessary. Any Person within the Settlement Class who wishes  
18 to be excluded from the Settlement Class can only opt out for himself or herself. No Person may  
19 opt out for any other Person or group of persons, nor can any Person within the Settlement Class  
20 authorize any other Person to opt out on his or her behalf. Any request for exclusion that fails to  
21 satisfy the above requirements, or that has not been timely sent, will be deemed ineffective, and  
22 any Person included within the Settlement Class who does not properly and timely submit a  
23 request for exclusion shall be deemed to have waived all rights to opt out and shall be deemed a  
24 Settlement Class Member for all purposes.

25 11. The Court finds that the manner of dissemination and content of the settlement  
26 notices as specified in detail in the Settlement Agreement will provide the best notice practicable  
27 to the Settlement Class under the circumstances. All costs incurred in connection with the  
28 preparation and dissemination of any settlement notices to the Settlement Class shall be promptly

1 paid by Defendant Anthem Blue Cross. The Court hereby also approves the appointment of Rust  
2 Consulting, Inc. as the settlement administrator for the purpose of disseminating the Class Notices  
3 (Exhibits C and D of the Settlement Agreement), the forms of which are hereby approved. If  
4 there is disagreement about the substance or format of the specimen notice letters, the Parties will  
5 attempt to first resolve the disagreement with Mr. Martin Quinn, or another mediator agreed to by  
6 the Parties, before seeking assistance from the Court.

7 12. If the Settlement Agreement is finally approved, the Court shall enter a Final  
8 Order and Judgment, substantially in the form of Exhibit B to the Settlement Agreement, that will  
9 be consistent and in accordance with the terms of the Settlement Agreement and will: (a) finally  
10 approve the terms of the Settlement Agreement, including the provision for the payment of  
11 attorneys' fees and payments to the Plaintiffs, as fair, reasonable and adequate; (2) dismiss this  
12 action with prejudice and without costs except as provided for under the terms of the Settlement  
13 Agreement; (3) release the Released Parties of and from all further liability to the Plaintiffs and  
14 Settlement Class Members with respect to the Released Claims as set forth in the Settlement  
15 Agreement; and (4) permanently bar and enjoin Plaintiffs and Settlement Class Members from  
16 bringing, filing, commencing, prosecuting (or further prosecuting), maintaining, intervening in,  
17 participating in, assisting in any way, formally or informally, except as required by law, or  
18 receiving any benefits from, any other lawsuit, arbitration, or administrative, regulatory or other  
19 proceeding or cause of action in law or equity that asserts the Released Claims, all consistent and  
20 in accordance with the terms of the Settlement Agreement. Such Final Order and Judgment shall  
21 be fully binding with respect to all members of the Settlement Class who have not timely and  
22 validly requested exclusion and the Released Parties.

23 13. In the event that the proposed settlement provided for in the Settlement  
24 Agreement is not approved by this Court, or entry of the Final Order and Judgment does not  
25 occur for any reason, or any approval is successfully appealed, then the Settlement Agreement, all  
26 drafts, negotiations, discussions, and documentation relating thereto, and all orders entered by this  
27 Court in connection therewith shall become null and void. In such event, the Settlement  
28 Agreement and all negotiations and proceedings relating thereto shall be withdrawn and of no

1 further force and effect without prejudice to the rights of the Parties, who shall be restored to  
2 their respective positions as of the date of the execution of the Settlement Agreement.

3 14. The dates of performance are as follows:

4 a. The long form Settlement Notice substantially in the form attached to  
5 the Settlement Agreement as Exhibit D shall be posted on  
6 *www.fellerbluecrosssettlement.com*, or such other domain that has  
7 been agreed to by the parties, within ten days of entry of this Order. A  
8 copy of the Settlement Agreement shall be made available to the  
9 public through the Anthem Blue Cross Settlement Web site, or by  
10 calling a toll free number to be established by Anthem Blue Cross or  
11 the settlement administrator. If it is not already operational by the  
12 time this Order is entered, the Anthem Blue Cross Settlement Web site  
13 shall be operational no later than three days after entry of this Order  
14 and shall remain in operation until January 1, 2014. In addition,  
15 Anthem Blue Cross or the settlement administrator will promptly  
16 establish and staff a dedicated, toll-free automated telephone number  
17 that Settlement Class Members can call to hear information regarding  
18 the settlement. If it is not already operational by the time this Order is  
19 entered, this toll-free number will be operational no later than three  
20 days after the entry of this Order and shall be operational until Final  
21 Approval of the Settlement Agreement.

22 b. Within ten days of entry of this Order, the short form Summary Notice  
23 substantially in the form of Exhibit C attached to the Settlement  
24 Agreement shall be disseminated to the last known address of each  
25 Settlement Class Members, and shall refer Settlement Class Members  
26 to the Anthem Blue Cross Settlement Web site for purposes of  
27 obtaining detailed information or answers to questions relating to the  
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1 terms of the settlement, and including any relevant deadlines for the  
2 Fairness Hearing.

3 c. The Parties shall file and serve papers in support of final approval of  
4 the settlement, including the provision for payment of attorneys' fees  
5 and reimbursement of litigation expenses to Settlement Class Counsel  
6 and payment to the Class Representatives, by June 27, 2011. Any  
7 responses by the Parties to any objections that may be timely and  
8 validly filed by July 22, 2011.

9 d. The deadlines for filing or submitting objections and requests for  
10 exclusion by Settlement Class Members shall be July 18, 2011.

11 e. The Fairness Hearing shall be held before this Court on July 28, 2011  
12 at 9:00 a.m.

13 15. This Court hereby enters a preliminary injunction barring and enjoining the Class  
14 Representatives and all Settlement Class Members or the Released Parties from bringing, filing,  
15 commencing, prosecuting, continuing to prosecute, maintaining, intervening in, participating in,  
16 assisting in any way, formally or informally, except as required by law, or receiving any benefits  
17 from any other lawsuit, arbitration, or administrative, regulatory, or other proceeding in law or  
18 equity that asserts, arises from, concerns, or is in any way related to the Released Claims or the  
19 claims set forth in the Settlement Agreement, as applicable to each, until such time as this Court has  
20 ruled on the fairness of the settlement terms following the Fairness Hearing. This injunction shall  
21 be deemed automatically vacated if the settlement is not finally approved or is reversed on appeal.  
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23 DATED: June 8, 2011

24 \_\_\_\_\_  
The Hon. Frederick H. Bysshe, Jr  
Ventura County Superior Court Judge

# EXHIBIT B

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF VENTURA**

**MARY FELLER and RANDY FREED**

**Plaintiffs,**

**vs.**

**BLUE CROSS OF CALIFORNIA d/b/a  
ANTHEM BLUE CROSS,**

**Defendant.**

Case No. 56-2010-00368587-CU-BT-VTA

Compl. Filed: March 1, 2010  
Honorable Frederick H. Bysshe, Jr. Dept. 41

**CLASS ACTION**

**ORDER GRANTING FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT, FINAL  
JUDGMENT AND ORDER OF DISMISSAL  
WITH PREJUDICE**

THIS MATTER having been brought before the Court jointly by Plaintiffs MARY FELLER and RANDY FREED ("Plaintiffs" or "Class Representatives") and by Defendant BLUE CROSS OF CALIFORNIA, d/b/a ANTHEM BLUE CROSS ("Blue Cross" or "Anthem Blue Cross"), through their respective attorneys, under Cal. R. of Ct. 3.769 *et seq.*, for an Order granting final approval of a class action settlement (the "Motion"); and the Court having reviewed and considered the submissions of the Parties both in connection with preliminary approval of settlement and this hearing, all properly and timely filed objections and comments to the proposed class action settlement, and the Parties' responses to such objections and comments, and having held a hearing on July 28, 2011, at which time the Court heard and considered the arguments, comments and evidence submitted by the Parties and any Settlement Class members, and having found that the Parties are entitled to the relief they seek; and for good cause shown;

-1-

ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT, FINAL JUDGMENT  
& ORDER OF DISMISSAL

1 The Court makes the following findings of fact and conclusions of law:

2 1. With respect to the Settlement Class,<sup>1</sup> the Court finally finds and concludes, for  
3 settlement purposes only, that: (a) the Settlement Class Members are so numerous as to make  
4 joinder of them impracticable; (b) there are questions of law and fact common to the Settlement  
5 Class, and such questions predominate over any questions affecting only individual Settlement  
6 Class Members; (c) the Class Representatives' claims and the defenses asserted thereto are typical  
7 of the claims of Settlement Class Members and the defenses asserted thereto; (d) Class  
8 Representatives and Settlement Class Counsel have fairly and adequately protected the interests  
9 of Settlement Class Members throughout this action; and (e) a class action is superior to all other  
10 available methods for fairly and efficiently resolving this action and provides substantial benefits  
11 to both the litigants, the Settlement Class Members and the Court. The Court therefore  
12 determines that this action satisfies the prerequisites for class certification for settlement purposes  
13 under California Code of Civil Procedure Section 382, California Civil Code Section 1781, and  
14 California Rules of Court, Chapter 6, Rules 3.769 *et seq.*, as applicable, and finally certifies the  
15 Settlement Class for settlement purposes.

16 2. Notice to the Settlement Class of the terms of this settlement and of their options  
17 has been provided to members of the Settlement Class in accordance with the terms of the  
18 Preliminary Approval Order. Such settlement notice has been provided in an adequate and  
19 sufficient manner, constitutes the best notice practicable under the circumstances and satisfies the  
20 requirements of due process. The settlement notice program approved by the Court adequately  
21 apprised the members of the Settlement Class of the pendency of the litigation, of all material  
22 elements of the proposed settlement, of the effect of final approval of the settlement on the  
23 members of the Settlement Class, and of their opportunity to opt out of the settlement, to  
24 comment on and object to the settlement, and to appear at the Fairness Hearing. Full opportunity

25 <sup>1</sup> Unless otherwise specified, all defined terms in this Order have the same meaning as the  
26 meaning described in the Settlement Agreement and the Order Granting Motion for Preliminary  
27 Approval of Class Action Settlement and Directing Dissemination of Class Notice entered on  
28 June 8, 2011 ("Preliminary Approval Order"), and those terms are incorporated here by this  
reference. To the extent there is any conflict between the definitions of those terms, the  
definitions in the Settlement Agreement will control.

1 has been afforded to the members of the Settlement Class to participate in this Fairness Hearing.  
2 Accordingly, the Court determines that all members of the Settlement Class who have not opted  
3 out are bound by this Order and by the final judgment to be entered pursuant thereto.

4 3. The Settlement Agreement and Release dated May 23, 2011 (the "Settlement  
5 Agreement") was arrived at after extensive arm's-length negotiations conducted in good faith by  
6 counsel for all parties in this action, several private mediations among the parties, and is  
7 supported by the majority of the members of the Settlement Class. As of the last date by which  
8 requests for exclusion were to be postmarked in accordance with the terms of the Preliminary  
9 Approval Order, the Settlement Class Members who have opted out of the Settlement Class and  
10 listed on Exhibit "1" hereto are few when compared to the total number of members of the  
11 Settlement Class. The terms of this Order and the Settlement Agreement do not apply to the  
12 Persons listed on Exhibit "1", or to any other Persons the Parties agree in writing submitted  
13 timely and valid requests for exclusion and should also be listed on this Exhibit.

14 4. The settlement set forth in the Settlement Agreement is fair, reasonable and  
15 adequate in light of the complexity, expense and duration of this litigation, and the risks inherent  
16 and involved in establishing liability and damages, and in maintaining the class action through  
17 trial and appeal. This litigation presents difficult and complex issues as to liability and the relief  
18 to be afforded members of the Settlement Class, as to which there are substantial grounds for  
19 difference of opinion. It is also fair, reasonable and adequate when weighing the benefits afforded  
20 to the Settlement Class against the uncertainties and difficulties associated with obtaining class  
21 certification for merits purposes, the expense and length of time necessary to prosecute this action  
22 through trial, the uncertainties of the outcome of this action, and the fact that resolution of the  
23 class claims, whenever and however determined, will likely be submitted for appellate review. In  
24 addition, there have been extensive arms' length negotiations between counsel for all Parties in  
25 this action overseen by Mr. Martin Quinn of Judicial Arbitration and Mediation Services  
26 ("JAMS"), and the exchange of detailed information about Anthem Blue Cross's Open Plans and  
27 Closed Block Plans. The promises and commitments of the Parties under the terms of the  
28 Settlement Agreement, including the injunctive relief provisions contained therein, thus constitute



1 fair value given in exchange for the releases of the Released Claims against the Released Parties  
2 in the light of such factors and the information in the Parties' possession at the time the settlement  
3 was negotiated and agreed to by the Parties.

4 5. The Parties and each Settlement Class Member have submitted to the jurisdiction  
5 of this Court for any suit, action, proceeding, or dispute arising out of the Settlement Agreement,  
6 permitting the Court to retain continuing jurisdiction over this action under Cal. Code Civ. Proc.  
7 Section 664.6 to ensure the terms of this settlement are fully effectuated. It is in the best interests  
8 of the Parties and the Settlement Class Members, and consistent with principles of judicial  
9 economy, that any dispute between any Settlement Class Member (including any dispute as to  
10 whether any person is a Settlement Class Member) and any of the Released Parties that in any  
11 way relates to the applicability or scope of the Settlement Agreement, including the injunctive  
12 relief provisions contained therein, or of this Order, should be presented exclusively to this Court  
13 for resolution by this Court.

14 Based upon the foregoing findings of fact and conclusions of law, which are based upon  
15 and supported by the substantial evidence presented by both the parties hereto and members of  
16 the Settlement Class, all of which the Court has considered and is in the record before the Court,

17 IT IS ORDERED as follows:

18 1. The Parties' Motion for final approval of all the terms set forth in the Settlement  
19 Agreement is GRANTED.

20 2. Because the Court determines that this action satisfies the prerequisites for class  
21 certification for settlement purposes under California Code of Civil Procedure Section 382,  
22 California Civil Code Section 1781, and California Rules of Court, Chapter 6, Rules 3.769 *et seq.*,  
23 as applicable, the Court reaffirms its ruling in the Preliminary Approval Order as to the propriety  
24 of class certification for settlement purposes and finally certifies the Settlement Class for  
25 settlement purposes.

26 3. The Settlement Agreement submitted by the parties is finally approved as fair,  
27 reasonable, adequate, just, and in the best interests of the Settlement Class, particularly in light of

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1 the factors set forth above and in the submissions of the parties in connection with both  
2 preliminary and final approval of this settlement.

3 4. The proposed method for providing relief to Settlement Class Members, as set  
4 forth in the Settlement Agreement, is finally approved as fair, reasonable, adequate, just, and in  
5 the best interests of the Settlement Class, and the Parties are hereby ordered to provide and  
6 comply with the relief described in the Settlement Agreement in accordance with the terms of the  
7 Settlement Agreement.

8 5. All communications with Settlement Class Members concerning their rights under  
9 this settlement including, but not limited to, information about the Open Plan or Closed Block  
10 Plan in which they are currently enrolled, Open Plans to which they are allowed to move, the  
11 substance of the notice and notification of the right to move and a summary of the terms and  
12 benefits of the available plans, shall be made substantially in the form and substance that has been  
13 agreed to by the Parties consistent and in accordance with the terms of the Settlement Agreement,  
14 subject if necessary to review and approval by this Court.

15 6. The payment of attorneys' fee and reimbursement of expenses to Settlement Class  
16 Counsel and the payment to the Class Representatives, as set forth in the Settlement Agreement,  
17 are both approved. These amounts shall be paid and distributed in accordance with the provisions  
18 of the Settlement Agreement.

19 7. By operation of this Order and the Judgment entered under it, effective as of the  
20 Settlement Effective Date, and in consideration of the Settlement Agreement and the benefits  
21 extended to the Settlement Class, the Class Representatives, on behalf of themselves and the  
22 Settlement Class Members, and each Settlement Class Member, on behalf of himself or herself  
23 and his or her respective successors, assigns, past, present, and future parents, subsidiaries, joint  
24 venturers, partnerships, related companies, affiliates, unincorporated entities, divisions, groups,  
25 directors, officers, shareholders, employees, agents, representatives, servants, partners, executors,  
26 administrators, assigns, predecessors, successors, descendants, dependents, and heirs, do or by  
27 operation of this Final Order and Judgment are deemed to have fully released and forever  
28 discharged the Released Parties from the Released Claims in accordance and consistent with the

1 terms of the Settlement Agreement, but not as to any obligations created or owed under the terms  
2 of the Settlement Agreement. In addition, by operation and entry of this Final Order and  
3 Judgment, Plaintiffs and Defendants shall have, and each and every Settlement Class Member and  
4 Released Party shall be deemed to have, on behalf of their respective successors, assigns, past,  
5 present, and future parents, subsidiaries, joint venturers, partnerships, related companies,  
6 affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees,  
7 agents, representatives, servants, partners, executors, administrators, assigns, predecessors,  
8 successors, descendants, dependents, and heirs, covenanted and agreed to forever refrain from  
9 instituting, maintaining, or proceeding in any action against the Plaintiffs, Plaintiffs' Counsel or  
10 the Released Parties, with respect to any of the Released Claims as applicable, but not as to any  
11 obligations created or owed under the terms of the Settlement Agreement.

12 8. Effective as of the Settlement Effective Date, the Court orders and enters a  
13 permanent injunction barring and enjoining the Settlement Class Members from bringing, filing,  
14 commencing, prosecuting, continuing to prosecute, maintaining, intervening in, participating in,  
15 assisting in any way, formally or informally, except as required by law, or receiving any benefits  
16 from any lawsuit, arbitration, or administrative, regulatory, or other proceeding in law or equity  
17 that asserts, arises from, concerns, or is related to the claims as set forth in this Final Order and  
18 Judgment and as described in the Settlement Agreement, except as to any obligations created or  
19 owed under the terms of the Settlement Agreement. The terms of this Release shall not apply to  
20 the persons listed on Exhibit 1 hereto, who timely excluded themselves from the terms of this  
21 settlement, or to any other Persons the Parties agree in writing submitted timely and valid  
22 requests for exclusion and should be listed on this Exhibit.

23 9. Without affecting the finality of the judgment entered under this Final Order and  
24 Judgment, this Court retains continuing jurisdiction over this settlement, including the  
25 administration, consummation, and enforcement of the Settlement Agreement, the injunctive  
26 provisions set forth in the Settlement Agreement and the provision of benefits to the Settlement  
27 Class members, under California Code of Civil Procedure Section 664.6. Without affecting the  
28 finality of the judgment entered under this Order, this Court also retains jurisdiction over the

1 Parties, the Released Parties, and each member of the Settlement Class, who are deemed to have  
2 submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding or dispute  
3 arising out of or relating to this Order and the terms of the Settlement Agreement.

4 10. The Court retains jurisdiction over this action to enforce the provisions of the  
5 Settlement Agreement under C.C.P. 664.6. In all other respects this Action is DISMISSED with  
6 prejudice.

7 11. The Court finds that there is no reason for delay and directs the Clerk to enter  
8 judgment in accordance with the terms of this Order as of the date of this Order.

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10 DATED: July 28, 2011

11 The Hon. Frederick H. Bysshe, Jr  
12 Ventura County Superior Court Judge  
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# EXHIBIT C

**This Notice advised you of a proposed class action settlement with Anthem Blue Cross of California, d/b/a Anthem Blue Cross. This notice may affect your legal rights—please read it carefully.**

This summary notice informs you about the settlement of a lawsuit called *Feller et al. v. Anthem Blue Cross of California et al.*, filed in Ventura County Superior Court (Case No.: 56-2010-00368587-CU-BT-VTA). This case challenges Anthem Blue Cross's closure of certain health insurance plans in September 2009. Plaintiffs represent a "Settlement Class" consisting of the following Anthem Blue Cross enrollees: "All current California residents who were enrolled in the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 individual Anthem Blue Cross Health Plans and were sent notices of closure in or about September 2009, and who continue to maintain their health insurance coverage through Anthem Blue Cross whether in a Closed Block Plan or in another individual health plan offered by Anthem Blue Cross as of the date of the Agreement." The Settlement Class definition also excludes those Anthem Blue Cross enrollees who received a closure notice from Anthem Blue Cross in or about September 2009 and do not have individual coverage through Anthem Blue Cross or have left the Company altogether.

In summary, the terms of the settlement, if finally approved by the Court, will provide Settlement Class Members with a cap on their health plan insurance

rates, offer them additional Anthem Blue Cross health insurance coverage options, and give members the right to change Anthem Blue Cross health insurance plans without the need to obtain additional medical underwriting, at certain defined times between the settlement approval date and December 31, 2013.

The court has preliminarily approved this settlement and has set a final approval hearing to consider the views of the Settlement Class members. That hearing is set for July 28, 2011, at 9:00 a.m. in Department 41 of the Ventura County Superior Court, located at 800 S. Victoria Avenue, Ventura, California 93009. Any Settlement Class member who does not request exclusion may, if they desire, enter an appearance through counsel.

The deadline to request to be excluded from this settlement or to submit any objection to the settlement is July 18, 2011. If you timely submit a request for exclusion, the Court will exclude you from the Settlement Class, but you will not be able to participate in any of the settlement benefits. If the settlement is approved, the judgment approving the settlement will bind all Settlement Class Members who do not request exclusion, even if they file an objection.

This is only a summary of the settlement. To exclude yourself from the settlement, to object to the settlement or to make arrangements to appear at the final settlement hearing, you must follow the instructions contained in the full Notice of Pendency of Class Action and Proposed Settlement ("Notice"), which is

available at *[www.fellerbluecrosssettlement.com](http://www.fellerbluecrosssettlement.com)*. For additional information regarding this settlement, you can access this web site and read the full Notice along with additional information and background about this lawsuit. You can also obtain a copy of the Notice from the settlement administrator by writing to Feller v. Anthem Blue Cross Settlement Administration, as follows:

Anthem Blue Cross Settlement  
P.O. Box 2494  
Faribault MN 55021-9194

You may also call 1-(800)-274-0196 if you have any questions that cannot be answered through these materials.

**SI NECESITA ASISTENCIA EN ESPAÑOL, POR FAVOR LLAME AL**

**1 - (800) 274-0196**



# EXHIBIT D

**If you are a subscriber of an individual health plan issued by Anthem Blue Cross and have been since September 2009, you may be entitled to rights under a class action settlement.**

*A California Court authorized this notice. This is not a solicitation from a lawyer.*

This notice advises you of a proposed class action settlement with Anthem Blue Cross of California d/b/a Anthem Blue Cross. This notice may affect your legal rights—please read it carefully.

Your options – **and the deadlines to exercise them** – are explained in this Notice. You may:

**OBJECT** -- Write to the Court about why you don't like the settlement.

**OPT OUT** -- You will not be impacted by the settlement but will not be able to participate in settlement benefits.

**DO NOTHING**-- You will be a member of the class and will receive the rights under the settlement described in this Notice.

**Key Dates for Settlement Class Members**

Last Day to Opt Out of Settlement	July 18, 2011
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Last Day to Object to Settlement	July 18, 2011
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Final Settlement Fairness Hearing	July 28, 2011
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## **FREQUENTLY ASKED QUESTIONS**

**Q: Why Am I Getting This Notice And Who Is Entitled to the Benefits of the Settlement?**

A: Plaintiffs Mary Feller and Randy Freed have reached a settlement of their lawsuit against Anthem Blue Cross both for themselves and on behalf of you and other Anthem Blue Cross customers. The following people—known as “Settlement Class Members”—are entitled to benefit from this settlement: “all current California residents who were enrolled in the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 individual Anthem Blue Cross Health Plans [the “Closed Block Plans”] and were sent notices of closure in or about September 2009, and who continue to maintain their health insurance coverage through Anthem Blue Cross whether in a Closed Block Plan or in another individual health plan offered by Anthem Blue Cross as of the date of the Agreement.” The Settlement Class definition also excludes those Anthem Blue Cross enrollees who received a closure notice from Anthem Blue Cross in or about September 2009 and do not have individual coverage through Anthem Blue Cross or have left the Company altogether.

You have been identified as a Settlement Class Member for purposes of this Settlement. This Notice (1) informs you of the terms of a proposed settlement and

the benefits available to you under the settlement as a Settlement Class Member, (2) informs you how this lawsuit and the settlement may affect your legal rights, and (3) advises you of the steps you must take if you want to object to the settlement or exclude yourself from the Settlement Class.

**Q: What is the Lawsuit About?**

A: On March 1, 2010, the Plaintiffs, individually and on behalf of a class, sued Anthem Blue Cross in Ventura County Superior Court. The Plaintiffs alleged that Anthem Blue Cross closed the PPO Share 500, PPO Share 1000, PPO Share 1500, and PPO Share 2500 individual Anthem Blue Cross health plans without providing policyholders the options or notices required by California law, specifically Cal. Health & Safety Code Section 1367.15. The case is *Feller et al. v. Anthem Blue Cross of California etc. et al.*, Ventura County Superior Court Case No.: 56-2010-00368587-CU-BT-VTA.

The Plaintiffs sued Anthem Blue Cross for (a) unlawful, unfair and fraudulent business acts and practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* and 17500, *et seq.*; and (b) common counts/unjust enrichment and common law restitution. The lawsuit seeks an order enjoining Anthem Blue Cross from engaging in any conduct that violates such laws and providing consumers

appropriate relief placing them where they were before these blocks were closed, as well as attorneys' fees and reimbursement of legal expenses.

Anthem Blue Cross denies all wrongdoing of any kind whatsoever with regard to the claims asserted in the lawsuit, but—without admitting any liability—agreed to settle this case to avoid further expense, and the burdens and risks of litigation.

The Court has made no determination about the correctness or validity of any of the Plaintiffs' contentions or any of Anthem Blue Cross's defenses in the Lawsuit. Instead, the parties have entered into a Settlement Agreement and Release to end the time, expense, and uncertainty of this litigation and provide Settlement Class Members immediate relief, rather than wait for possible relief years from now.

**Q: What Is This Settlement About and What Are Its Benefits?**

A: The Court has preliminarily approved a settlement with the following terms for the benefit of each Settlement Class Member who participates in the settlement. Anthem Blue Cross shall, no later than 30 business days after the entry of the Order of Preliminary Approval, implement procedures to provide the relief described below.

(a) Settlement Class Members who have stayed in any one of the Anthem Blue Cross health plans closed by Anthem Blue Cross in September 2009 and listed in the Settlement Class definition may stay with their current health coverage. They also may choose one of the following options: (1) move without medical underwriting to another of the four closed plans, provided the movement is to a closed plan with a higher deductible; (2) move to any open plan regulated by the California Department of Managed Health Care (“DMHC”) (including open DMHC plans that do not exist now, but that exist and are open at the time the policyholder wants to move); or (3) move to any of the policies listed in Exhibit E to the Settlement Agreement which is a list of certain policies regulated by the California Department of Insurance (“CDI”).

(b) If a Settlement Class Member stayed in one of the four closed plans and there is a rate increase put into effect after the Court issues a final order approving the Settlement and during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), then the Settlement Class Member’s rate increase in that year will be capped at the lower of either:

(1) The indicated rate increase based on the experience of only that Settlement Class Member’s individual closed block (including aging) minus 2%; or

(2) The average rate increase (including aging) of all other “grandfathered” blocks of individual plans or policies, whether regulated by the DMHC or the CDI, minus 2%.

If there is no rate increase put into effect after the Court issues a final order approving the Settlement and during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), then the rate increase cap described above will not be triggered and will not apply during the calendar year when there is no rate increase.

(c) Settlement Class Members who left the four closed plans before this settlement was executed but currently maintain their health insurance coverage through an Anthem Blue Cross individual health plan may stay in their current policy or they may move without medical underwriting to any open plan regulated by the DMHC (including open DMHC plans that do not now exist, but that come to exist and are open during the time of movement) or any open CDI policy listed in Exhibit E to the Settlement Agreement.

(d) If a policy listed on Exhibit E to the Settlement Agreement is withdrawn or closed, then Settlement Class Members will have the option to move to any additional CDI policies that also are made available to insureds of that withdrawn or closed CDI policies listed on Exhibit E to the Settlement Agreement.



(e) Settlement Class Members will be provided the option to move without medical underwriting to another plan one time per calendar year, at the following times: (1) at a time in calendar year 2011 to be determined; and (2) one time each calendar year thereafter, until 2014. There is no option to move under this settlement in 2014. However, in the event that at some time after the 2013 notice of the right to move it is determined that the “guaranteed issue” component of PPACA will not become effective, as is now contemplated, on January 1, 2014, then Settlement Class Members will be offered one additional and final option to move in 2014 to the plans and/or policies as described above. This final option to move does not include the rate increase cap described in paragraphs (b)(1) and (2) above. The notice regarding this offer to move will indicate that it is the final option to move under the terms of this Settlement.

(f) Once a Settlement Class Member exercises any option to move to a new plan or policy under these provisions, that Settlement Class Member will have no further option to move to a new plan or policy under the terms of this Settlement. However, the terms of the Settlement Agreement do not generally limit a Settlement Class Member’s ability to move to a new plan or policy pursuant to another right or legal authority.

(g) Anthem Blue Cross will mail Settlement Class Members notice of a rate increase (if any) at or about the same time as non-Settlement Class Members. The notice of rate increase to the Settlement Class Members will include notice of their option to move to a different plan or policy as described above. Settlement Class Members will have at least 45 days from mailing of the notice to switch to a different plan or policy.

(h) If there is no rate increase put into effect after the Court issues a final order approving the Settlement and during one or more of the calendar years covered by this Settlement (specifically, 2011, 2012 and 2013), Settlement Class Members will still have the option to move to a different plan offered by Anthem Blue Cross. Notwithstanding the option to move, however, the rate increase cap described above will not be triggered and will not apply during the calendar year when there is no rate increase. If by October 1 of the years 2012 or 2013 no rate increase has been put into effect in for that calendar year (that is, no Settlement Class Member's premium actually was increased and was payable in that year as a result of a rate action), then Anthem Blue Cross will mail the notice of the right to move later in October of that year. Settlement Class Members will have at least 45 days from mailing of the notice to switch to a different plan or policy. If the parties agree that this notice-in-the-absence-of-a-rate-increase is not necessary to

fully effectuate the terms of the Settlement (for example, if it appears likely that a rate increase will be put into effect early in the next calendar year), then Anthem Blue Cross will not be required to provide this notice.

(i) Notices of rate changes and/or the right to move to a new plan or policy will generally describe the rights of the Settlement Class Members under this settlement, and either:

i) include disclosure of the amount of the premium that an individual would pay when exercising his or her option to move to a new plan and a description of the terms and benefits of available plans; or

ii) include a reference to an internet or other source for the information described above.

**Q: How long will these benefits be available?**

A: These benefits will be in place through December 31, 2013, after which the “guaranteed issue” provisions of the federal Patient Protection and Affordable Care Act (“federal health care reform law”) are expected to be fully implemented. Under those provisions, beginning in 2014 a person’s health condition or health history cannot be used as a basis for denying health coverage. As a result, any consumer enrolled in a policy that is subsequently closed will be able to transfer to any open policy. If the guaranteed issue provisions are modified in any way or are

no longer law (in whole or part), then the terms of this settlement will still operate until December 31, 2013. The Settlement requires Settlement Class Members to “release” Anthem Blue Cross from any further claims concerning the subject of this suit (this is explained in more detail below). This release will be permanent.

**Q: What Is The Effect of the Judgment In This Class Action If The Settlement Is Approved?**

A: If you do not opt out of the settlement, you will have fully and finally waived and released the following claims: all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether sounding in contract, tort, equity, or any violation of law or regulation, including, without limitation, claims for injunctive or other equitable relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney’s fees, that were or could have been brought, arising from the claims asserted in the Complaint regarding Anthem Blue Cross’s alleged failure to comply with the requirements of Cal. Health & Safety Code Section 1367.15 concerning the closure of the PPO Share 500, PPO Share 1000, PPO Share 1500 or PPO Share 2500 individual Anthem Blue Cross plans. All claims under California Civil Code Section 1542 are waived with regard to these Released Claims. This waiver and release *specifically excludes* any potential claims arising out of any denials of

claims by Anthem Blue Cross submitted or that may be submitted by Settlement Class Members, including but not limited to any claims for wrongful or bad faith denial of coverage, under any closed plan.

The release also does not cover claims arising from the “closure” of any plan other than the PPO Share 500, PPO Share 1000, PPO Share 1500 or PPO Share 2500 individual Anthem Blue Cross plans.

**Q. Do I Have To Do Anything Or Pay Any Money To Participate In This Settlement?**

A: No. Other than continuing to pay your existing premiums, you will not have to pay additional money to Anthem Blue Cross to participate in this settlement. You will also not be required to pay any attorneys’ fees or costs if you remain in this lawsuit. You only need to read and respond to the notices you will receive about the right to change health care plans and relevant pricing information.

**Q. Who Pays the Lawyers, Then?**

A: As a term of the settlement, Anthem Blue Cross has agreed to pay an award of attorneys’ fees and costs that must be approved by the Court, in an amount not to exceed \$2,000,000. Counsel are also requesting that the Plaintiffs receive an additional amount for the two people who acted as class representatives of up to \$10,000, which is also subject to Court approval. These amounts will not reduce

the relief being provided to you and were only finally agreed to after the other material substantive settlement terms were agreed to in principle between the parties. Anthem Blue Cross will pay its own lawyers.

**Q: What Has Occurred in the Lawsuit?**

A: This lawsuit was filed on March 1, 2010 and has been the subject of extensive discovery. The parties, through their counsel, have engaged in extensive arm's length negotiations in reaching this settlement, including several mediation sessions.

**Q: Who Represents My Interests In This Settlement?**

A: The attorneys who represent the Plaintiffs and Settlement Class Members are:

Edith M. Kallas  
Adam P. Plant  
Whatley Drake & Kallas LLC  
1540 Broadway, 37<sup>th</sup> Floor  
New York, New York 10036

Harvey Rosenfield  
Pamela Pressley  
Jerry Flanagan  
CONSUMER WATCHDOG  
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**Q: Where Can I Review The Settlement Agreement Or Other Documents?**

A: If you would like to obtain a complete copy of the Settlement Agreement and Release, the exhibits, the current version of the original lawsuit, and the papers in support of the settlement that have been filed with the Court, you may review and download them at *www.fellerbluecrosssettlement.com*.

**Q: When And Where Will the Court Decide Whether To Grant Final Approval of this Settlement?**

A: A “Final Fairness Hearing” will be held on July 28, 2011, at 9:00 a.m. in front of The Hon. Frederick H. Bysshe, Jr., Department 41 of the Ventura County Superior Court. The courtroom where at the hearing will be held is following address: 800 S. Victoria Avenue, Ventura, California 93009. If you do not request exclusion you may, if you desire, enter an appearance through counsel at your own cost and appear at this hearing. You do not need to do so to opt out.

This settlement will not be final or take effect until:

(A) it is finally approved by the Court after the Final Fairness Hearing and a Final Order and Judgment have been entered by the Court, and (1) the applicable period for the appeal of the Final Order and Judgment has expired without any appeals having been filed, or (2) all such appeals have been dismissed; or

(B) the Court of Appeal has entered a final judgment affirming the Final Order and Judgment, at which time it will no longer be subject to any further appellate challenge.

The attorneys do not yet know whether any objections or appeals will be filed. Check [www.fellerbluecrosssettlement.com](http://www.fellerbluecrosssettlement.com) periodically for an update on the status of these proceedings.

**Q: If the Court Finally Approves the Settlement, What Will Happen to Any Claims I May Have?**

A: If the settlement receives final judicial approval, it will result in a release by Plaintiffs and all Settlement Class Members of all Released Claims described above. If you do not exclude yourself, you will not be able to sue, or join another lawsuit against Anthem Blue Cross for the claims described in above. However, you will be entitled automatically to participate in the benefits provided under this settlement.



**Q: Why Is Counsel Recommending the Class Settlement?**

A: The Plaintiffs and their attorneys are supporting this settlement because it provides substantial benefits to Settlement Class Members. Members of the Class will have their health insurance rates capped at a level lower than the average for other Anthem Blue Cross customers. They also will have the ability to change their health plans without medical underwriting. Considering the inherent uncertainty presented by a trial, appeal, or other continued litigation—and the delays associated with drawn-out litigation—the Plaintiffs and their attorneys believe that this Settlement is far more advantageous than the possibility of the Settlement Class not receiving any benefits at all even if Plaintiffs prevailed at trial.

The Plaintiffs and their attorneys decided to settle this case after they weighed the benefits of this settlement to the Settlement Class as compared to the risks involved in continuing the litigation. The factors that counsel considered included the uncertainty associated with continued litigation, including class certification and other legal issues that have not yet been determined by the Court. Counsel balanced these and other risks in determining that the settlement is fair, reasonable and adequate in light of all the circumstances, and is in the best interests

of the Settlement Class considering the substantial benefits provided to Settlement Class Members under this settlement.

**Q: Can I Request Exclusion (“Opt Out”) If I Do Not Want to Participate in the Settlement?**

**A:** Yes. The Court will exclude you from the Settlement Class if you timely submit a valid request to do so postmarked by July 18, 2011. Unless you submit a valid and timely request for exclusion (an “opt-out request”) from the Settlement Class, you will be bound by the Judgment entered in the Lawsuit. If you wish to be excluded from the Settlement Class you must send an opt-out request by mail.

***The opt-out request must be postmarked no later than July 18, 2010 and mailed to the following address:***

Anthem Blue Cross Settlement  
P.O. Box 2494  
Faribault MN 55021-9194

**Q: What Does It Take For An Exclusion (“Opt Out”) To Be Considered Valid?**

**A:** The opt out request must (a) be signed by you, (b) include a list of all applicable Anthem Blue Cross Closed Block Plans in which you or a family member are or were enrolled, (c) clearly express your desire to “opt out” from the Settlement Class, and (d) include your name, address and, if available, telephone

number. If you are represented by a lawyer *for this case*, your opt out request also must include your lawyer's name, address and telephone number so that they may be contacted by the counsel for the Parties, the Court, or the settlement administrator if necessary.

You can only opt out yourself or your immediate family members. You cannot opt out for any other person or group of persons. You cannot authorize any other person to opt out on your behalf, other than an immediate family member. Any request for exclusion that fails to satisfy these requirements, or that has not been timely postmarked, will not be considered valid by the Court, and any person who does not properly and timely submit a request for exclusion shall be deemed to have waived all rights to opt out and shall be deemed a Settlement Class Member for all purposes. Thus if you want to opt out you may want to send your letter by certified mail with a return receipt requested. If you opt out, you will not be bound by the Court's Final Order and Judgment and you will not waive or release any of the Released Claims asserted in the Lawsuit, but you will not be entitled to receive any of the benefits under this settlement.

If you choose not to opt out, your interests will be represented by Plaintiffs through the attorneys listed above. If you do not opt out, you may, if you so desire, enter an appearance through counsel of your own choosing, but at your own cost.

**Q: What Happens If I Do Not File A Valid Exclusion Request (“Opt Out”)?**

A: Unless you mail a valid and timely request to be excluded from the Settlement, also known as a decision to “opt out” of the Settlement, you will automatically be a member of the Class for purposes of this Settlement. If you remain a member of the Settlement Class and do not opt out, you will be bound by the Court’s Order finally approving this settlement and the Judgment entered by the Court. If you participate in this class settlement and do not opt out, you will have released the claims described above.

**Q: If I Want To, Can I Object to Or Comment On this Settlement?**

A: Yes. If you do not opt out of the settlement, you have the right to object to or comment on the proposed settlement. You may, but do not need to, appear personally or through counsel of your own choosing and at your own expense at the Final Fairness Hearing to be held on July 28, 2011 in Ventura, California.

If you want to object to the Settlement, you must do the following things:

- (1) Mail your objection or comment in writing to: Anthem Blue Cross Settlement, P.O. Box 2494, Faribault MN 55021-9194;
- (2) Identify the case name and number;
- (3) Identify you as a Settlement Class Member;

(4) Identify any applicable Closed Block Plans in which you were enrolled;

(5) Clearly state in detail the following information:

a. the legal and factual ground(s) for your objection or comment,

b. your name, address and telephone number so that you may be contacted by the Parties' counsel, the Court or the settlement administrator if necessary, and

c. if represented by counsel, such counsel's name, address and telephone number

(6) Attach copies of any materials that you wish to submit to the Court or present at the Fairness Hearing;

(7) You must sign your objection or comment.

Any objection or comment that fails to satisfy the above requirements, or that is not properly and timely mailed, shall be deemed ineffective, will be disregarded by the Court, and deemed to have been waived, and you shall be bound by the final determination of the Court. Even if you object to the settlement, you may still be entitled to participate in the settlement.

**Q: By What Date Do I Have To File A Written Comment or Objection?**

A: To be heard or to have papers or briefs considered by the Court, your written objection must be postmarked by July 18, 2011. You can do so by sending objections or comments to the following address:

Anthem Blue Cross Settlement  
P.O. Box 2494  
Faribault MN 55021-9194.

If you timely mail an objection following the above procedures, it will be considered by the Court. You need not appear at the final fairness hearing to have your objection responded to by the Parties and considered and ruled upon by the Court.

**Q: Who Resolves Any Disputes Over the Settlement?**

A: Judge Frederick H. Bysshe, Jr.—the Ventura County Superior Court judge before whom this case is pending—will decide disputes regarding any aspect of your participation in the settlement, including whether or not you are a Settlement Class Member.

**Q: Where Can I Get More Information About this Lawsuit That Is Not on the Settlement Website?**

A: If you have already reviewed the Anthem Blue Cross Settlement Web site ([www.fellerbluecrosssettlement.com](http://www.fellerbluecrosssettlement.com)) and you still want more information about

the Lawsuit and this settlement, you can call the following toll free telephone number: 1-800-274-0196 for automated information about this Settlement.

**Do not call or write the Court, Anthem Blue Cross, or Anthem Blue Cross's lawyers directly about this lawsuit for information or advice.**

**SI NECESITA ASISTENCIA EN ESPAÑOL, POR FAVOR LLAME AL**

**1 - (800) 274-0196**

# EXHIBIT E



Memorandum of Understanding - Exhibit A

PPO Share Plan Option Matrix at Renewal TBD		Open Plans (Movement will Lose Grandfathered Status)	
Move From:		Move To: Level 1	
7891, 1871	PPO Share 2500	06BC	CoreGuard Plus 10,000
7889, 7890	PPO Share 1500	06BB	CoreGuard Plus 7500
1393, 1503, 7878, 2828	PPO Share 1000	06BA	CoreGuard Plus 5000
7895, 1501, 1575, 1920, 7888, 7904	PPO Share 500	06B9	CoreGuard Plus 3500
		06B6	CoreGuard Plus 750
		06B5	ClearProtection Plus 5000
		06BH	Premier Plus 5000
		06BJ	Premier Plus 6000
		06BM	PPO Share 5000
		06BL	PPO Share 1000
		01KE	SmartSense Plus 6000 Std Rx
		01KJ	SmartSense Plus 6000 Upgrade Rx

Privileged and Confidential Mediation Communications Subject to Cal. Evidence Code §§ 1113-28