

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE ONE, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CAREMARK, LLC, FISERV, INC., FISERV
SOLUTIONS, LLC, and DOES 1-10,

Defendants.

Case No. 2:18-cv-00238-EAS-CMV

Case No. 2:18-cv-00488-EAS-CMV

Chief Judge Edmund A. Sargus

Magistrate Judge Chelsey M. Vascura

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into by: Plaintiffs John Doe One, John Doe Two, John Doe Three, and John Doe Four¹ (collectively, “Plaintiffs”), individually and on behalf of the Settlement Class defined below; Caremark, L.L.C. (“Caremark”); and Fiserv, Inc. and Fiserv Solutions, LLC (collectively, “Fiserv”) (Caremark and Fiserv are referred to collectively as the “Defendants”).

RECITALS

A. On March 21, 2018, Plaintiffs John Does One through Three filed a complaint in the above-captioned matter, originally captioned *John Doe One, et al., v. CVS Healthcare Corporation., et al.*, Case No. 2:18-cv-00238-EAS-CMV (S.D. Ohio) (“*Doe I*”), represented by Whatley Kallas LLP, the Law Offices of Terry L. Kilgore, and Consumer Watchdog. *Doe I*’s complaint was subsequently amended on June 5, 2018.

B. On May 16, 2018, Plaintiff John Doe (referred to herein as “John Doe Four”) filed a complaint in the above-captioned matter, originally captioned *John Doe v. CVS Health Corporation, et al.*, Case No. 2:18-cv-00488-EAS-CMV (“*Doe II*”), represented by Meyer Wilson Co., LPA, Kaplan Fox & Kilsheimer LLP, and Lambert Law Firm, LLC. *Doe II*’s complaint was subsequently amended on June 22, 2018.

¹ All John Doe Plaintiffs were granted approval to proceed pseudonymously because of the risks of disclosure of their HIV status. See Case No. 2:18-cv-00238-EAS-CMV, ECF No. 26; Case No. 2:18-cv-00488-EAS-CMV, ECF No. 17.

C. Both the *Doe I* and *II* amended complaints generally alleged that Plaintiffs' and Settlement Class Members' Protected Health Information and/or Confidential HIV-related Information was disclosed in connection with mailings sent in August 2017 by Fiserv at Caremark's direction as part of Caremark's administration of the Ohio Department of Health's ("ODH") AIDS Drug Assistance Program ("OhDAP"). The mailings were sent to approximately 4,500 Ohio residents. The amended complaints further alleged that Caremark and Fiserv were responsible for all financial harm and non-financial harm caused by the alleged disclosure under various theories of liability asserted in the two amended complaints, including a "*Biddle*" claim under Ohio common law for the alleged unauthorized, unprivileged disclosure to a third-party of non-public medical information, and additional claims including negligence, negligence *per se*, breach of contract, invasion of privacy, intentional infliction of emotional distress, and/or unjust enrichment. Plaintiffs also asserted a number of statutory-based claims under Ohio's HIV-Disclosure Law, Ohio Rev. Code Ann., §§ 3701.243, *et seq.*, Ohio's Insurance Information and Privacy Protection Act, Ohio Rev. Code §§ 3904.01, *et seq.*, as well as a claim under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681, *et seq.* Plaintiffs also brought claims for Declaratory Relief, 28 U.S.C. § 2201.²

D. Additionally, the Parties appeared for pre-trial conferences with Magistrate Judge Chelsea M. Vascura on September 12, 2018. The Court set a deadline of August 21, 2019, by which Plaintiffs must file their motion for class certification and set a fact discovery cutoff of December 13, 2019. ECF No. 48 (Case No. 18-cv-488).

E. Plaintiffs thereafter issued initial discovery requests to Caremark and Fiserv. The Parties also negotiated a HIPAA qualified protective order, which was entered by the Court on February 25, 2019. Plaintiffs also prepared subpoenas directed at ODH, to which ODH provided substantive responses and documents. In addition, Co-Lead Class Counsel continued to conduct their own independent factual and legal investigation of the facts underlying *Doe I* and *Doe II*. As a result, both prior to and during the mediation process, Co-Lead Class Counsel received and reviewed significant information sufficient to ensure that any potential settlement would be informed by relevant discovery and based on an adequate factual record.

F. The participating Parties exchanged documents as well as informal discovery in advance of a mediation scheduled for October 24, 2018, with Judge James R. Melinson (Ret.) of JAMS in Philadelphia, Pennsylvania. After the matter was not resolved at the mediation, the Parties resumed formal discovery. Counsel for the Parties entered into substantial negotiations on the production of electronically-stored information ("ESI") and propounding and responding to additional discovery requests.

² Counsel for *Doe I* also initiated an action in the Ohio Court of Claims against ODH on June 26, 2018 (Case No. 2018-01004JD). The matter was voluntarily dismissed without prejudice on September 11, 2018, with the plaintiff in that action reserving the right to refile the case within one year of dismissal.

G. Defendants filed motions to dismiss both amended complaints, which were fully briefed by the Parties. On December 21, 2018, the Hon. Edmund Sargus issued an omnibus Order Granting in Part and Denying in Part Defendants' Motions to Dismiss Plaintiffs' amended complaints. ECF No. 59 (Case No. 2:18-00238) and ECF No. 42 (Case No. 2:18-00488). In sum, the Court dismissed all of Plaintiffs' non-*Biddle* common law claims, dismissed the FCRA claims, and denied Defendants' Motions to Dismiss Plaintiffs' *Biddle* claims, claims for declaratory relief, and Plaintiffs' statutory claims for violations of the Ohio HIV-Disclosure Law and the Ohio Insurance Information and Privacy Protection Act.

H. *Doe I* and *Doe II* were formally consolidated by Court Order on January 17, 2019. ECF 65 (Case No. 2:18-00238). Counsel for Plaintiffs in *Doe I* and *Doe II* worked cooperatively to prepare joint filings regarding case management, discovery, and a Consolidated Amended Class Action Complaint that was filed on February 27, 2019 ("Consolidated Complaint"). ECF No. 74 in Case No. 2:18-cv-00238 and ECF No. 53 in Case No. 2:18-00488.

I. Representatives of Plaintiffs and Caremark also began renewed settlement discussions, ultimately agreeing to a second mediation with Judge Morton Denlow (Ret.) of JAMS in Chicago, Illinois. Prior to the mediation the participating Parties continued to engage in formal and informal discovery and exchanged comprehensive mediation statements and other supporting documents. After a full day of mediation, the participating Parties reached an agreement in principle to the terms of a global resolution of the claims asserted in *Doe I* and *Doe II* as set forth more fully herein.

J. Following the mediation Counsel for Plaintiffs and Caremark continued to engage in arm's-length settlement negotiations regarding the terms and conditions of this Settlement Agreement.

K. In entering into this settlement, Defendants do not admit that they are liable to Plaintiffs and the Settlement Class Members for the claims, damages, financial harm, non-financial harm, causes of action, costs, expenses, and attorneys' fees alleged in the Consolidated Complaint and/or related in any way to the OhDAP Mailing. Defendants deny all allegations by Plaintiffs and further state that they would assert substantial legal and factual defenses against Plaintiffs' claims if they were litigated to conclusion. Nonetheless, Defendants concluded, in light of the costs, risks, and burden of litigation, that this Settlement Agreement is appropriate.

L. Plaintiffs, through their undersigned counsel, represent that they have made a thorough and independent investigation of the facts and law relating to the allegations in the Consolidated Complaint, which includes, without limitation: (1) interviews by Co-Lead Class Counsel of Plaintiffs and various Settlement Class Members; (2) the review and analysis by Co-Lead Class Counsel of the documents, data, and information produced by Defendants and ODH; and (3) extensive factual investigation and legal research by Co-Lead Class Counsel with respect to the asserted claims and defenses. After careful consideration, Plaintiffs and their undersigned counsel represent that they have concluded that it is in the best interests of the Settlement Class to settle the Released Claims against the Released Parties for the consideration set forth in this

Settlement Agreement, and this Settlement Agreement is the result of arm's-length negotiations, including the mediation process overseen by Judge Denlow. As a result of this process, Co-Lead Class Counsel and Class Counsel represent that they have considered, among other things: (1) the complexity, expense and likely duration of the litigation if it was litigated through trial and appeals; (2) the stage of the litigation and amount of fact gathering completed; (3) Defendants' factual and legal arguments and defenses and the potential for Defendants to prevail on the merits with respect to class certification, liability, and/or damages; and (4) the range of possible recovery, and each has determined that the proposed resolution of Plaintiffs' individual and class action claims as set forth in this Settlement Agreement is fair, reasonable and adequate, and in the best interests of Plaintiffs and the Settlement Class, and support its approval by the Court.

M. The Parties desire to settle, compromise and resolve fully all Released Claims, and to seek the Court's review and approval of the Settlement Agreement, which is required pursuant to Rule 23 of the Federal Rules of Civil Procedure.

N. The foregoing recitals are expressly incorporated into this Settlement Agreement and are a material part thereof, and in consideration of the agreements set forth in this Settlement Agreement, this consolidated individual and class action litigation shall be settled and compromised under the following terms and conditions as set forth in detail below.

SECTION 1 **DEFINITIONS**

1.1 The following terms used in this Settlement Agreement shall have the meanings ascribed to them below for purposes of this Settlement Agreement:

A. "Affiliates" means an individual Defendant's respective past and present predecessors, successors-in-interest, indirect and direct parent companies, indirect and direct subsidiaries, joint ventures, partnerships, related and affiliated companies, sister companies, controlled entities, entities with common control or ownership, unincorporated entities, divisions, groups, directors, officers, members, agents, employees, representatives, administrators, shareholders, insurers, partners, and attorneys. (For the avoidance of doubt, as it relates to Caremark, Caremark's Affiliates include, without limitation, CVS Health Corporation and Caremark Rx, L.L.C.)

B. "Base Payment" means the automatic payments to Settlement Class Members who do not opt out of the Settlement. All Settlement Class Members who do not opt out shall receive the Base Payment amount without submitting a Claim Form as set forth in Section 4 of this Agreement. All Base Payments shall be drawn from the Net Settlement Fund.

C. "Caremark" means Caremark, L.L.C.

D. "Claimant" means a Settlement Class Member who submits a Claim Form.

E. “Claimant Award” means the amount of money that is paid by the Settlement Administrator to each Claimant who submits a valid and timely Claim Form out of the available Net Settlement Fund.

F. “Claim Form” means the claim form attached as Exhibit A hereto, or a claim form approved by the Court that is substantially similar to the claim form in Exhibit A.

G. “Claim Package” means the Claim Form and any required documentation as requested by the Claim Form.

H. “Claim Period” shall mean the time period of 60 days after the date that the Notice of Settlement is mailed by the Settlement Administrator to Settlement Class Members.

I. “Class List” shall mean the list provided by Caremark to the Settlement Administrator containing the names of all Settlement Class Members, along with their last known addresses received by Caremark from OhDAP and any other appropriate identifying information.

J. “Class Representatives” or “Plaintiffs” mean John Doe One, John Doe Two, John Doe Three, and John Doe Four.

K. “Class Counsel” means Gerald S. Flanagan of Consumer Watchdog and Marnie C. Lambert of Lambert Law Firm, LLC, and for purposes of Sections 7.4 and 7.5 of this Settlement Agreement, any other person employed or retained by Consumer Watchdog or the Lambert Law Firm.

L. “Co-Lead Class Counsel” means Joel Strauss and Matthew B. George of Kaplan Fox & Kilsheimer, LLP; Matthew R. Wilson of Meyer Wilson, Co., L.P.A.; Alan Mansfield and Henry Quillen of Whatley Kallas LLP; and Terry L. Kilgore of the Law Offices of Terry L. Kilgore, and their respective firms.

M. “Confidential HIV-related Information” means any information that concerns or could be used to infer that an individual has been the subject of an HIV-related test; has been diagnosed with or identified as having HIV, an HIV-related illness, or AIDS; has been treated with HIV-related medications; or any information that identifies or reasonably could identify an individual as having one or more HIV- or AIDS-related conditions. This definition is without waiver or admission of any interpretation of applicable federal or state law or whether the OhDAP Mailing disclosed such information to third parties.

N. “Consolidated Complaint” means Plaintiffs’ Consolidated Amended Class Action Complaint filed on February 27, 2019, ECF No. 74 in Case No. 2:18-cv-00238 and ECF No. 53 in Case No. 2:18-cv-00488.

O. “Counsel for Caremark” means Kristine M. Brown, Donald M. Houser, and Matthew L.J.D. Dowell of Alston & Bird LLP, and Robert G. Cohen of Kegler Brown Hill & Ritter.

P. “Counsel for Fiserv” means John H. Mathias, David M. Kroeger and Megan B. Poetzel of Jenner & Block LLP, and James B. Hadden of Murray Murphy Moul Basil LLP.

Q. “Court” means the United States District Court for the Southern District of Ohio.

R. “Defendants” means both Caremark and Fiserv. Caremark or Fiserv may be referred to individually as a Defendant.

S. “Effective Date” means the first business day after which all of the following events have occurred: (a) Class Counsel, Co-Lead Class Counsel, Caremark, and Fiserv have executed the Settlement; (b) the Court has entered the proposed Final Approval Order (as described and defined below) without material change to either the Settlement or the agreed-upon proposed Final Approval Order; and (c) (i) the time for seeking rehearing, appellate, or other review of the Final Approval Order has expired with no appeal, motion for rehearing, or motion for further review being filed, except specifically as described further in this definition, or (ii) the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired.

T. “Final Approval Hearing” means the hearing scheduled by the Court to consider the fairness, reasonableness and adequacy of this Settlement Agreement under Rule 23 of the Federal Rules of Civil Procedure, and to determine whether the Final Approval Order should be entered.

U. “Final Approval” means the date that the Court enters an order and judgment granting final approval of the Settlement Agreement and determines the amount of all attorneys’ fees, costs, and expenses, the amount of all service awards, and the amount of Settlement Administrator fees and costs. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.

V. “Final Approval Order” means the order and judgment that the Court enters upon Final Approval and in the form of or materially in the form of the proposed Final Approval Order and Judgment attached hereto as Exhibit E.

W. “Fiserv” means Fiserv, Inc. and Fiserv Solutions, LLC.

X. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) (codified as amended in scattered sections of 42 U.S.C.) and the implementing regulations issued by the U.S. Department of Health and Human Services thereunder, and incorporates by reference the provisions of the Health Information Technology for Economic and Clinical Health Act (Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009)) pertaining to Protected Health Information.

Y. “Incident” means the alleged disclosures of Plaintiffs’ and the Settlement Class Members’ Protected Health Information and/or Confidential HIV-related Information arising from or relating to the OhDAP Mailing.

Z. “Motion for Preliminary Approval” is defined in Section 6.

AA. “Net Settlement Fund” means the amount of money remaining in the Settlement Fund after it is reduced by the following amounts as approved by the Court in its Final Approval Order: (1) any service awards to the Class Representatives; (2) attorneys’ fees and costs and expenses; and (3) fees and costs invoiced or to be invoiced by the Settlement Administrator, plus a reserve for anticipated costs of the Settlement Administrator to fully effectuate this Settlement.

BB. “Notice of Deficiency” means any written notice that the Settlement Administrator sends to any Claimant who submits a Claim Form or Claim Package that contains a deficiency that needs to be cured as determined by the Settlement Administrator. A form of Notice of Deficiency to be used by the Settlement Administrator is attached hereto as Exhibit F.

CC. “Notice of Settlement” means the Notice of Class Action Settlement in the form of Exhibit C attached hereto and approved by the Court in its Preliminary Approval Order, which is to be disseminated by the Settlement Administrator to the Settlement Class Members to provide notice of this Settlement.

DD. “ODH” means the Ohio Department of Health.

EE. “Ohio” means the State of Ohio and its divisions, departments, agencies, boards, commissions, and programs, and their respective directors, administrators, commissioners, officers, employees, and agents. Without limitation to the foregoing sentence, expressly included in the definition of “Ohio” are ODH, OhDAP, the Ohio Department of Administrative Services, the Ohio Office of Procurement Services, and any entity, division, department, agency, board, commission, program, employee, or agent of the State of Ohio in any way involved with Caremark providing pharmacy benefits management services for the Ryan White program/ AIDS Drug Assistance Program as described in RFP CSP901218.

FF. “OhDAP” means the Ohio AIDS Drug Assistance Program.

GG. “OhDAP Mailing” means the mailings that Caremark instructed Fiserv to send on Caremark’s behalf on or around August 2017 that Plaintiffs allege disclosed PHI and Confidential HIV-related Information and are the subject of the Consolidated Complaint.

HH. “Opt Outs” mean Settlement Class Members who timely and properly exercise their right to opt out and exclude themselves from the terms of this Settlement Agreement.

II. “Parties” means Plaintiffs, Caremark, and Fiserv.

JJ. “Preliminary Approval Order” means the Court’s Order in the form of Exhibit B that, among other things, preliminarily approves the Settlement Agreement, preliminarily certifies the Settlement Class, and orders Caremark to provide the Settlement Administrator with the Class List.

KK. “Protected Health Information” or “PHI” means individually identifiable health information as defined in 45 C.F.R. § 160.103.

LL. “Released Claims” is defined in Section 7 below.

MM. “Released Parties” means Caremark and its Affiliates, Fiserv and its Affiliates, and Ohio.

NN. “Settlement Administrator” means Heffler Claims Group, who will be presented by Plaintiffs and Caremark to the Court for approval in the Preliminary Approval Order to perform all responsibilities assigned to the Settlement Administrator in this Settlement Agreement.

OO. “Settlement Agreement” or “Settlement” means this Settlement Agreement and its exhibits and the agreement referenced in Section 9.1, which are incorporated herein, including any subsequent amendments and subsequent exhibits that are agreed to by the Parties in writing and approved by the Court.

PP. “Settlement Class” or “Settlement Class Members” means all persons to whom the OhDAP Mailing was mailed, provided, or sent for delivery, as identified on the Class List.

QQ. “Settlement Fund” means the non-reversionary cash amount of Four Million, Four Hundred Thousand Dollars (\$4,400,000.00), which shall be the total amount from which all of the following will be paid: (1) the Settlement Payments to all Settlement Class Members; (2) all settlement administration fees and costs approved by the Court; (3) all attorneys’ fees, costs, and expenses approved by the Court; and (4) all service awards to the Class Representatives approved by the Court. Within five (5) business days after the (i) docketing on the Court’s CM/ECF system of the Preliminary Approval Order, (ii) receipt by Caremark of wiring instructions on bank letterhead to a non-reversionary common fund escrow account at a bank selected by Co-Lead Class Counsel (which shall be established and maintained by the Settlement Administrator as a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1), and (iii) receipt by Caremark of a W-9 from the Settlement Administrator, Caremark shall wire the amount of fifty thousand dollars (\$50,000.00) into the escrow account for purposes of paying approved invoices of the Settlement Administrator prior to Final Approval. Within ten (10) days after (i) the Effective Date, (ii) receipt by Caremark of wiring instructions on bank letterhead, and (iii) receipt by Caremark of a W-9 from the Settlement Administrator (if updated information is required by Caremark), Caremark shall wire Four Million, Three Hundred-Fifty Thousand Dollars (\$4,350,000.00) into the escrow account. The Settlement Administrator shall be responsible for all administrative, accounting, and tax compliance activities in connection with

the Settlement Fund, including any filings necessary to obtain status as a Qualified Settlement Fund pursuant to Treas. Reg. § 1.468B-1. Caremark and Co-Lead Class Counsel shall provide to the Settlement Administrator any documentation necessary to facilitate obtaining Qualified Settlement Fund status. In no event shall Caremark's aggregate or total liability or obligation under the Settlement exceed Four Million, Four Hundred Thousand Dollars (\$4,400,000.00).

RR. "Settlement Payment" means the total payment that each Settlement Class Member is entitled to receive pursuant to the terms of this Settlement Agreement as determined by the Settlement Administrator. For the avoidance of doubt the Settlement Payment includes, without limitation, the Base Payment and the Claimant Award.

SS. "Settlement Website" means the website that will be established by the Settlement Administrator as set forth in this Settlement that will, *inter alia*, provide relevant documents related to the Settlement, relevant Settlement deadlines, and online access to the Claim Form, as set forth in detail below. The Settlement Website shall be set up in a manner so as not reveal any PHI or Confidential HIV-related Information belonging to any person to members of the public.

SECTION 2

BENEFITS FOR SETTLEMENT CLASS MEMBERS

2.1 Monetary Consideration. In consideration of the Releases set forth in Section 7 below, Caremark shall pay, as set forth in Section 1.1 and as further described in Section 4.1 below, the non-reversionary cash amount of \$4,400,000.00 into the Settlement Fund, to be distributed as approved by the Court in its Final Approval Order. In no event shall Caremark's aggregate or total liability or obligation under the Settlement exceed Four Million, Four Hundred Thousand Dollars (\$4,400,000.00).

2.2 Non-Monetary Consideration. In consideration of the Releases set forth in Section 7 below, Caremark agrees to take the actions set forth in Section 5 below.

SECTION 3

SETTLEMENT ADMINISTRATOR AND NOTICE TO SETTLEMENT CLASS MEMBERS

3.1 Qualified Protective Order. The proposed qualified protective order (the "Qualified Protective Order") included in the Preliminary Approval Order attached as Exhibit B will be filed with Plaintiffs' Motion for Preliminary Approval. The Qualified Protective Order is intended to comply with the requirements of HIPAA and applicable HIV confidentiality protections, including but not limited to Ohio Revised Code § 3701.243. Consistent with Ohio Revised Code § 3701.243(C), Plaintiffs' Motion for Preliminary Approval shall request that the Court issue the Qualified Protective Order based on a demonstrated compelling need for Caremark to disclose the Class List to the Settlement Administrator (as detailed below). The Qualified Protective Order will specifically order Caremark to disclose the Class List to the Settlement Administrator. Caremark's

provision of the Class List to the Settlement Administrator is contingent upon the Court's entry of the Preliminary Approval Order, which includes the Qualified Protective Order.

3.2 Appointment of Settlement Administrator and Protection of Class List

3.2.1 In the Motion for Preliminary Approval, Plaintiffs and Caremark will recommend the appointment of Heffler Claims Group by the Court to act as the Court-appointed independent Settlement Administrator and to implement all settlement administration tasks and duties set forth in this Settlement Agreement.

3.2.2 The Settlement Administrator shall perform all tasks and duties ascribed to it in this Settlement Agreement and as the Court may direct. The Settlement Administrator shall prepare and submit written status reports and declarations to Co-Lead Class Counsel and Counsel for Defendants upon written request. Prior to the Final Approval Hearing, the Settlement Administrator shall prepare and submit to Co-Lead Class Counsel and Counsel for Defendants a declaration confirming that notice was provided to the Settlement Class in accordance with the Settlement and Preliminary Approval Order.

3.2.3 Within ten (10) business days following both the docketing of the Preliminary Approval Order (which includes the Qualified Protective Order directing the Caremark to provide the Class List to the Settlement Administrator) and receipt by Caremark of the Settlement Administrator's agreement in writing to be bound by the Preliminary Approval Order (including the Qualified Protective Order), Caremark will deliver the Class List to the Settlement Administrator in the manner directed by the Preliminary Approval Order and Qualified Protective Order. The Class List shall be used solely for the purposes of administering this Settlement Agreement and the copy received by the Settlement Administrator shall be destroyed in a secure manner by the Settlement Administrator once its obligations under the Settlement have been fully completed. All addresses for Settlement Class Members who are identified on the Class List will be updated by the Settlement Administrator using commercial databases as determined reasonable by the Settlement Administrator, including the U.S. Postal Service's National Change of Address database, to obtain the most recent address of the Settlement Class Member that may be publicly available. The Court's Preliminary Approval Order shall provide that Caremark may work with the Settlement Administrator to provide additional information as may be necessary to locate the most recent address of a Settlement Class Member. For purposes of clarity, in addition to the other requirements set forth herein relating to providing the Class List to the Settlement Administrator, Caremark shall not provide the Class List to the Settlement Administrator absent the entry of a Court order in the form of the proposed Preliminary Approval Order ordering and directing that Caremark provide the Class List to the Settlement Administrator.

3.2.4 At no time shall the Settlement Administrator share the Class List or any information contained in the Class List, or any PHI, or any Confidential HIV-related Information, with the Court, Co-Lead Class Counsel, Class Counsel, Counsel for any Plaintiff, Counsel for Defendants, or any other person or entity, without a Court order or an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf), except as expressly provided in this

Settlement Agreement and the Preliminary Approval Order (including the Qualified Protective Order therein) and except that the Settlement Administrator shall comply with any federal and state tax laws and required reporting and withholding with respect to this Settlement. Defendants shall have no obligations relating to any federal and state tax laws and required reporting and withholding with respect to this Settlement. The Settlement Administrator shall retain a list of all persons with access to the Class List, PHI, and/or Confidential HIV-related Information, and shall set up its systems in a manner that only persons with a need to access such information will be able to do so. All employees of the Settlement Administrator with access to the Class List, PHI, or Confidential HIV-related Information must agree in writing to be bound by the Qualified Protective Order.

3.3 Settlement Administrator Fees and Costs. All Settlement Administrator fees and costs of any kind shall be paid from the Settlement Fund. Prior to Final Approval, all invoiced Settlement Administrator fees and costs shall be paid from the Settlement Fund as approved by Co-Lead Class Counsel, up to \$50,000. All additional fees and costs incurred by the Settlement Administrator that are approved by the Court in its Final Approval Order shall be paid out of the Settlement Fund. The Settlement Administrator shall include a declaration as part of Plaintiffs' Motion for Preliminary Approval that shall set forth an estimate for performing all tasks and duties regarding this Settlement.

3.4 Settlement Website. Within twenty-one (21) days after the Preliminary Approval Order, the Settlement Administrator will cause to be established and maintained a public informational Settlement Website containing relevant information about the Settlement, including, without limitation, downloadable .pdf copies of the Consolidated Complaint, this Settlement Agreement and its exhibits, the Notice of Settlement, the Claim Form, the Preliminary Approval Order, a list of settlement deadlines set in the Preliminary Approval Order, the Final Approval Order, and other case documents relevant to the Settlement, as well as a "Frequently Asked Questions" webpage. The URL address, as well as a draft of the Settlement Website, shall be reviewed and approved by Caremark and Co-Lead Class Counsel before it is made available to the public. The Settlement Website shall be owned and operated by the Settlement Administrator. The Settlement Administrator will post relevant information about the Settlement on the Settlement Website, including, as it becomes available, information about deadlines and methods to participate, and Claim Package requirements. Claim Forms and Claim Packages may be submitted to the Settlement Administrator via the Settlement Website in a secure and private fashion that is HIPAA-compliant and using a HIPAA-compliant file transfer tool.

3.5 Automated Telephone System. Within twenty-one (21) days after the Preliminary Approval Order, the Settlement Administrator will cause to be established and maintained an automated telephone system using a toll-free number to provide information about the Settlement to Settlement Class Members, utilizing an IVR script approved by Caremark and Co-Lead Class Counsel. The automated telephone system shall be operated by the Settlement Administrator. The automated telephone system shall permit Settlement Class Members to request and obtain copies of the Settlement Agreement, Notice of Settlement, and Claim Form. The automated telephone system shall also provide the opportunity for Settlement Class Members to speak with a live

operator during business hours for further information. However, the live operators shall not have access to any PHI, Confidential HIV-related Information, or non-de-identified personal information of any Settlement Class Members unless that information is voluntarily offered by the Settlement Class Member. Access to any Settlement Class Member's personally identifying information by the live operators shall be anonymized by the Settlement Administrator, as set forth below.

3.6 De-identified Information. The Settlement Administrator shall develop a unique number identifier system so that it can communicate with and about Settlement Class Members without including or identifying any PHI or Confidential HIV-related Information or identifying names, addresses or other identifying information belonging to any Settlement Class Member. The unique identifier system shall be reviewed and approved by Caremark and Co-Lead Class Counsel. All Parties and all counsel shall cooperate in good faith to respect the privacy and confidentiality of all Settlement Class Members' PHI, Confidential HIV-related Information, and personally identifying information.

3.7 Notice of Settlement to Settlement Class Members. As part of the Motion for Preliminary Approval, Plaintiffs shall submit to the Court for its approval a declaration by the proposed Settlement Administrator that details the various methods that will be used to provide notice of the Settlement to the Settlement Class Members. The notice shall include sending the Notice of Settlement attached hereto as Exhibit C by U.S. first class mail to all Settlement Class Members for which there is address information on the Class List using practices intended to maintain the confidentiality of Settlement Class Members' PHI and Confidential HIV-related Information, including without limitation:

- (a) by using an envelope (i) that is opaque, of appropriate and sufficient stock, and contains appropriate security tints or patterned or opaque printing to obscure the contents; and (ii) does not have a transparent or glassine window;
- (b) by using a return address on the outside of the envelope with no identifying information other than a generic name reference (e.g., "Claims Administrator"), P.O. Box, City, State and Zip Code;
- (c) by including statements on the front of the envelope stating that it contains "Confidential Legal Information – To Be Opened Only By The Addressee" and "COURT ORDERED LEGAL NOTICE – IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS IS ENCLOSED";
- (d) by using a protective cover page that folds around the Notice of Settlement and that identifies that the information being provided therein is confidential and solely for reading by the Settlement Class Member;
- (e) by using paper stock that will protect the confidentiality of the contents of the envelope from being read through the envelope; and

- (f) by including a postage pre-paid return envelopment that complies with the parameters of subsections (a), (b), and (e) above.

Any subsequent communications with Settlement Class Members shall comply with the provisions of Section 3.7. Nothing in this Section 3.7 shall be construed as an admission that the practices used to send the OhDAP Mailing, or any other mailing, were or are insufficient to maintain the confidentiality of information contained in the mailing.

3.8 Other Notice Requirements. The notice being provided to Settlement Class Members shall be designed to meet the requirements of Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure and shall include: (a) direct notice by U.S. first class mail as set forth above; (b) notice through the Settlement Website and the automated telephone system as set forth above; (c) an announcement mutually agreed upon by Caremark and Co-Lead Class Counsel to be included on the webpages that are maintained by each of Co-Lead Class Counsel; and (d) publication notice, which shall be in the form of Exhibit D and shall be made in accordance with the timing and procedures set out in Plaintiffs' Motion for Preliminary Approval and the Settlement Administrator's declaration submitted in connection with Plaintiffs' Motion for Preliminary Approval.

3.9 Compliance with all Regulatory and Other Requirements. The Class List delivered by Caremark to the Settlement Administrator pursuant to this Settlement Agreement and as ordered by the Court, and any completed Claim Forms, Claim Packages, or other information submitted by Claimants to the Settlement Administrator, will be recorded by the Settlement Administrator in a computerized database that will be securely and confidentially maintained by the Settlement Administrator in accordance with HIPAA and all other applicable federal, state and local laws, regulations and guidelines, including, without limitation, any laws concerning heightened privacy for Confidential HIV-related Information. Backups of this data may be maintained solely for purposes of administering the Settlement so long as the backup is securely and confidentially maintained by the Settlement Administrator in accordance with HIPAA and all other applicable federal, state and local laws, regulations and guidelines, including, without limitation, any laws concerning heightened privacy for Confidential HIV-related Information. The Settlement Administrator must: (a) designate specifically-assigned employees to handle its administration of this Settlement, who shall be trained concerning their legal duties and obligations arising out of this Settlement with respect to the information that they are provided; (b) review the notices to be mailed to Settlement Class Members in the form they will actually be mailed to verify no PHI or Confidential HIV-related Information (or other sensitive information) is visible from the outside of the mailing without opening it; (c) ensure that all of the information it receives is used properly in accordance with HIPAA and all other applicable federal, state and local laws and solely for the purpose of administering this Settlement; and (d) ensure that an orderly system of data management and maintenance is adopted and implemented. At the conclusion of the Settlement Administration, the Settlement Administrator shall securely destroy all data relating to this Settlement, with the exception that the Settlement Administrator may retain any information it is required to retain for federal or state tax purposes. The Settlement Administrator will keep the database (and any backup) in a form that grants access for purposes of administering this

Settlement only, and shall restrict access rights only to the least possible number of employees of the Settlement Administrator who are working directly on the administration of this Settlement. The Settlement Administrator shall notify the Court, Co-Lead Class Counsel, and Counsel for Defendants in writing if there is any breach of applicable privacy laws in any respect in accordance with the timing requirements set forth in HIPAA. The Parties agree that Co-Lead Class Counsel, Class Counsel, Caremark, Fiserv, Counsel for Caremark, and Counsel for Fiserv shall not be responsible or liable in any way for any alleged acts or omissions by the Settlement Administrator, including any alleged negligence.

3.10 Access to the Class List and Related Information. Only the Settlement Administrator shall have access to its copy of the Class List, Claim Forms, Claim Packages, and other information submitted by Settlement Class Members, except as expressly authorized in this Settlement Agreement, upon an Order of the Court (including the Preliminary Approval Order and Qualified Protective Order), or pursuant to an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf). All information submitted by Settlement Class Members to the Settlement Administrator will be treated as highly confidential, and the Settlement Administrator shall not share any such information with Co-Lead Class Counsel, Counsel for any Plaintiff, Defendants or their counsel, or any other person, except (a) as expressly authorized in this Settlement Agreement, (b) upon an Order of the Court (including the Preliminary Approval Order and Qualified Protective Order), or (c) pursuant to an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf).

3.11 Attached hereto as Exhibit G are protocols to be followed by the Settlement Administrator for purposes of administering the Settlement. The protocols do not modify or alter the terms of the Settlement or any related order but set forth additional details regarding Settlement administration procedures. The protocols may be modified by written agreement of all Parties so long as the modifications are consistent with this Settlement and any related orders.

SECTION 4
MONETARY PAYMENTS FOR SETTLEMENT CLASS MEMBERS
AND DISTRIBUTION OF NET SETTLEMENT FUND

4.1 Monetary Consideration. As set forth above in Section 1.1 and Section 2.1, Caremark shall pay, specifically reserving all rights to seek contribution, subrogation, reimbursement, contractual or equitable indemnity and/or consideration against such non-parties, the non-reversionary cash amount totaling Four Million, Four Hundred Thousand Dollars (\$4,400,000.00) into the Settlement Fund. This amount is intended to fully and completely compensate the Settlement Class Members for all Released Claims against all Released Parties. Caremark makes no representation as to the tax treatment of any payment(s) made pursuant to this Settlement Agreement.

4.2 Allocation and Distribution of Net Settlement Fund. The allocation and distribution of the Net Settlement Fund will be proposed by Plaintiffs for the Court's approval in the form set

forth in Exhibit A (Claim Form), Exhibit C (Notice of Settlement), and Exhibit H (Claimant Payment Formula), and which shall be further described in Plaintiffs' Motion for Preliminary Approval.

4.3 Mailing of Settlement Payments. The Settlement Administrator will mail by U.S. first class mail the Base Payment to Settlement Class Members who have not opted out no later than thirty (30) days after the Effective Date. If all Claimant Awards have been reviewed and finally approved by the Settlement Administrator within fourteen (14) days after the Effective Date, the amount of the Claimant Award shall be added to the checks for the Base Payment that are sent to each Claimant who has submitted a timely, valid and approved claim. If all Claimant Awards have not been finally resolved by that deadline, the amount of the Claimant Award shall be sent in a separate check to each Claimant who has submitted a timely, valid and approved claim within thirty (30) days after completion of the review of all claims and the calculation of the payouts to be made to all Claimants. Any mailing to Settlement Class Members pursuant to this Section shall be sent in accordance with the same confidentiality protections as set forth in Section 3.7.

4.4 Money Remaining In Net Settlement Fund After Processing of Payments. If after deducting the Base Payments for all Settlement Class Members, deducting all Claimant Awards, payment of all fees and costs to the Settlement Administrator, and the passing of the deadline for negotiating all Settlement checks, there is money remaining in the Net Settlement Fund, then the remaining money shall be distributed *pro rata* (equally based on number of Settlement Class Members who have not opted out of the Settlement) to all Settlement Class Members who have not opted out of the Settlement. If not administratively and/or economically feasible (for instance, the cost of a subsequent *pro rata* distribution exceeds the amount of remaining money) to make a *pro rata* distribution, then Co-Lead Class Counsel will make an application to the Court to approve a final distribution to a *cy pres* entity, which shall be mutually agreed upon by Co-Lead Class Counsel and Caremark. Any mailing to Settlement Class Members pursuant to this Section shall be sent in accordance with the same confidentiality protections as set forth in Section 3.7.

4.5 Review and Processing of Claim Forms and Claim Packages. Within twenty one (21) days after receiving a Claim Form or Claim Package from a Claimant, the Settlement Administrator shall determine the sufficiency and completeness of the required contents. The Settlement Administrator shall reject a Claim Form or Claim Package if it does not include all required content, subject to the cure provisions set forth below.

4.6 Deficiencies and Cure. For any Claim Forms or Claim Packages that do not include all required content set forth in the Claim Form, the Settlement Administrator shall send a Notice of Deficiency to the Settlement Class Member that contains a brief explanation of the deficiency(ies) at issue, and will, where necessary, request the additional information and/or documentation. The Notice of Deficiency will be sent no later than thirty (30) days from the date of receipt of the Claim Form or Claim Package by the Settlement Administrator and will be sent in accordance with the same confidentiality protections as set forth in Section 3.7. The Notice of Deficiency will provide that the deficiency must be cured by receipt of the missing information

within twenty-one (21) days from the date of mailing of the Notice of Deficiency, with the deadline to be set forth in the Notice of Deficiency. Any deficient Claim Form or Claim Package that is not timely cured will be denied by the Settlement Administrator consistent with the nature of the deficiency, such that if a portion of the claim is determined to be valid but another portion of the claim is not, the Claimant shall only receive a check for the valid portion of the claim. If the deficiency is timely cured before such time as the Settlement Administrator determines and calculates all Claimant Awards, then the Settlement Administrator may reasonably accept the cure.

4.7 Use of Settlement Fund Prior to the Effective Date. Prior to the Effective Date, the only monies that may be distributed from the Settlement Fund are the reasonable fees and costs of the Settlement Administrator billed or incurred prior to the Effective Date up to \$50,000. If the Settlement does not become final and effective for any reason, including without limitation because the Effective Date does not occur, then all monies in the Settlement Fund shall be returned to Caremark except for any amounts reasonably billed or incurred prior to the Effective Date by the Settlement Administrator.

4.8 Check Cashing. All settlement checks to Settlement Class Members will remain negotiable for 120 days from the date they are issued, and shall be accompanied by the cover letter attached hereto as Exhibit I when they are mailed by the Settlement Administrator. They shall be mailed using the same confidentiality protections as set forth in Section 3.7 above. At any point in the check-cashing period, the Settlement Administrator shall have the authority to stop payment on a lost check and issue a new check to an eligible Settlement Class Member upon reasonable request, and after the Settlement Class Member has executed and sent to the Settlement Administrator an affidavit or declaration of lost check.

SECTION 5

NON-MONETARY RELIEF

5.1 Caremark agrees to take the following actions, if it has not already done so by the Effective Date of the Settlement:

A. Caremark has modified the OhDAP program identification number to remove the letters “HIV.” Caremark further agrees that it will no longer use the letters “HIV” in the OhDAP program identification number.

B. Caremark agrees to provide privacy training regarding Caremark’s requirements under HIPAA and applicable federal and state privacy laws as appropriate to Caremark’s specialty account implementation teams primarily responsible for managing the OhDAP relationship by no later than 120 days after the Effective Date.

5.2 Caremark further agrees to maintain records sufficient to establish compliance with the requirements in 5.1(B) for a period of two (2) years from the Effective Date.

5.3 In the event that any obligation that Caremark has agreed to undertake becomes inconsistent with any future federal, state, or local law, enactment, regulation, or judicial ruling,

then Caremark shall seek to amend the Settlement Agreement in accordance with Section 10.13 of the Settlement Agreement.

5.4 Caremark estimates that it will expend additional resources in time and costs to implement all of the actions described in this Section 5 (“Non-Monetary Relief”), which amount shall not come out of or reduce the Settlement Fund, but is additional consideration that is being provided by Caremark to the Settlement Class Members.

5.5 The Parties agree that the failure by Caremark to comply with any terms set forth in Section 5 of this Settlement Agreement shall not be cause to rescind the Settlement and shall not affect the validity of any releases in the Settlement and/or Final Approval Order. The sole remedy for failure to comply with the terms of Section 5 is specific performance.

SECTION 6

PRELIMINARY APPROVAL, FINAL APPROVAL, OPT-OUTS, AND OBJECTIONS

6.1 Filing of Motion for Preliminary Approval. As soon as practicable after this Settlement Agreement is executed, Co-Lead Class Counsel shall file a Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”), which shall include a copy of this Settlement Agreement and its exhibits. The Motion for Preliminary Approval shall request that the Court schedule a Final Approval Hearing. The Final Approval Hearing shall be scheduled no earlier than 90 days after the Class Action Fairness Act notices are mailed to ensure compliance with 28 U.S.C § 1715. The Motion for Preliminary Approval will request entry of the Preliminary Approval Order (and Qualified Protective Order contained therein) consistent with Section 3 of this Agreement.

6.2 Stay of Proceedings and Injunction. The Parties agree to request that to the fullest extent permitted by law, the Preliminary Approval Order stay this litigation (i.e., the above-captioned litigation) and/or any other proceedings arising from any of the same facts that are asserted in Plaintiffs’ Consolidated Complaint during the pendency of the Court’s approval process regarding this Settlement Agreement, and enjoin all Settlement Class Members during that time period from filing, commencing, prosecuting, intervening in, participating in and/or maintaining, as plaintiffs, claimants, or class members, any other lawsuit or proceeding in any jurisdiction (whether state, federal or otherwise) against the Released Parties based on, relating to, or arising out of the OhDAP Mailing, except that any individuals may “opt out” pursuant to Section 6 and proceed on an individual basis with their own individual litigation. If a stay and/or injunction is not issued by the Court, and other class action proceedings are permitted to proceed, Co-Lead Class Counsel agrees to cooperate in good faith with Defendants in taking reasonable actions requested by Defendants to transfer or stay such proceedings during the pendency of the Court’s approval process regarding this Settlement Agreement that are not inconsistent with Co-Lead Class Counsel’s duties to the Settlement Class.

6.3 Stipulation to Certification of Settlement Class For Settlement Purposes Only. The Parties stipulate and agree to certification of the Settlement Class as against Defendants pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure for settlement purposes only. The

Parties do not waive or concede any position or arguments they have for or against certification of any class for any other purpose in any action or proceeding. The Parties agree that the Court's certification of the Settlement Class for purposes of this Settlement does not constitute an admission by Defendants that the claims of the Settlement Class would be appropriate for class treatment if the claims were contested in this or any other forum.

6.4 Opt Outs.

6.4.1 The Notice of Settlement attached hereto as Exhibit C provides detailed instructions to Settlement Class Members regarding the procedures that must be followed to opt out of the Settlement Class pursuant to Rule 23(c)(2)(B)(v) of the Federal Rules of Civil Procedure. To validly request exclusion from the Settlement Class, a Settlement Class Member must submit a written request to opt out to the Settlement Administrator and Counsel for Defendants stating "I wish to exclude myself from the Settlement Class in *John Doe One., et al. v. Caremark, LLC et al.*, No. 2:18-cv-00238-EAS-CMV (S.D. Ohio)" (or substantially similar clear and unambiguous language), no later than sixty (60) days after the date the Notice of Settlement is mailed to Settlement Class Members by the Settlement Administrator. The Notice of Settlement shall inform Settlement Class Members that by opting out they consent to Counsel for Defendants sharing their name, address, and other such information relating to their opt-out (or revocation of opt out) with Defendants and to the Settlement Administrator sharing this same information (i.e., their name, address, and other such information relating to their opt-out (or revocation of opt out)) with Defendants and Counsel for Defendants. Defendants and Counsel for Defendants will use this information solely to the extent necessary for enforcing the Settlement (or as otherwise provided in the Settlement) and shall maintain the confidentiality of this information.

6.4.2 The written opt out request shall contain the Settlement Class Member's printed name, address, telephone number, email address, and date of birth. A written request for exclusion must contain the actual written signature of the Settlement Class Member seeking to exclude himself or herself from the Settlement Class and requests for exclusion cannot be made on a group or class basis. The written request must be sent to both the Settlement Administrator and Counsel for Defendants at the addresses set forth in the Notice of Settlement.

6.4.3 No later than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall provide a declaration to Defendants and Counsel for Defendants identifying each Settlement Class Member who has timely and validly requested exclusion from the Settlement Class, along with corresponding unique claim identification numbers. The declaration may be filed with the Court under seal. Alternatively (or in addition), and at the discretion of Counsel for Defendants, Counsel for Defendants may file with the Court in the public docket the unique claim identification numbers of the Settlement Class Members who timely and validly requested exclusion from the Settlement Class so long as no other information about the Settlement Class Members (such as PHI or Confidential HIV-related Information) is disclosed.

6.4.4 All Settlement Class Members who do not timely and properly request to opt out of the Settlement Class will in all respects be bound by all terms of this Settlement Agreement and the Final Approval Order (including without limitation all releases in the

Settlement Agreement and Final Approval Order), and upon the Effective Date, will be entitled to all benefits described in this Settlement Agreement. Settlement Class Members who opt out can withdraw their request for exclusion by submitting a written request to the Settlement Administrator and Counsel for Defendants at the addresses in the Notice of Settlement stating their desire to revoke their request for exclusion along with their written signature, so long as the revocation request is received no later than three (3) days prior to the Final Approval Hearing. In the event any such withdrawals are received, Co-Lead Class Counsel and/or Counsel for Defendants will take appropriate steps to update the Court as necessary.

6.5 Objections.

6.5.1 Any Settlement Class Member who does not submit a written request for exclusion may submit a written objection to the Settlement Administrator explaining why he, she, or they believes that the Settlement Agreement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to object to any aspect of the Settlement must submit to the Settlement Administrator a written statement of the objection postmarked no later than sixty (60) days after the date the Notice of Settlement is mailed to Settlement Class Members.

6.5.2 The written statement must include (i) the printed name, address, telephone number, and date of birth of the objector; (ii) a detailed statement of all of the objector's objection(s); (iii) the specific reasons for each objection, including any evidence, legal authority, supporting papers, materials, and briefs the objector contends support the objection and wishes to bring to the Court's attention; (iv) the name and contact information for all counsel representing the objector; (v) a list of all persons who will be called to testify at the final approval hearing in support of the objection; (vi) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last 3 years; and (vii) the actual written signature of the Settlement Class Member making the objection.

6.5.3 The Settlement Administrator shall notify Co-Lead Class Counsel and Counsel for Defendants of any objections received and whether the objector matches the name of a Settlement Class Member. The Settlement Administrator shall provide copies of any objections if requested by Co-Lead Class Counsel or Counsel for Defendants, so long as personally identifying information is redacted. Notwithstanding the foregoing, the Settlement Administrator shall disclose to Co-Lead Class Counsel and Counsel for Defendants the name and other identifying information of any objector to the extent that Co-Lead Class Counsel and Counsel for Defendants agree that this information is necessary to adequately respond to the objection.

6.5.4 The Settlement Administrator shall cause the objections to be filed with the Court, either for in camera review or with all personally identifying information redacted.

6.6 Representation. A Settlement Class Member may object on his, her, or their own behalf or through an attorney. However, even if represented, the Settlement Class Member must sign the objection and all attorneys who are involved in any way asserting objections on behalf of

a Settlement Class Member must file a notice of appearance with the Court at the time when the objection is submitted, or as the Court may otherwise direct.

6.7 Final Approval Hearing. A Settlement Class Member (or counsel representing him or her, if any) seeking to make an appearance at the Final Approval Hearing must file with the Court, by fourteen (14) days prior to the Final Approval Hearing, a written notice of his, her, or their intention to appear at the Final Approval Hearing, including a statement of any evidence or exhibits that will be presented.

6.8 Motion for Final Approval and Final Approval Order. No later than thirty (30) days prior to the Final Approval Hearing or at such other time as ordered by the Court, Plaintiffs shall file a Motion for Final Approval of Class Action Settlement to request entry of the Final Approval Order, the approval and entry of which shall be a condition of this Settlement Agreement, that, among other things: (1) approves the Settlement Agreement in its entirety pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable and adequate; (2) confirms the final certification of the Settlement Class; (3) confirms the appointments of the Class Representatives and of Co-Lead Class Counsel; (4) finds that the notice provided to Settlement Class Members satisfied the requirements set forth in Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure and constitutional due process; (5) fully, finally, and irrevocably releases and discharges the Released Parties from all Released Claims; (6) permanently bars, enjoins and restrains the Releasers (and each of them) from commencing, filing, initiating, prosecuting, asserting, and/or maintaining any and all Released Claims against the Released Parties; (7) dismisses with prejudice the operative complaint(s) pursuant to the terms of the Settlement Agreement; (8) confirms the appointment of the Settlement Administrator; and (9) provides that the Court retains continuing and exclusive jurisdiction over the Parties, the Settlement Class and this Settlement Agreement, to interpret, implement, administer and enforce the Settlement Agreement in accordance with its terms and conditions. Objectors, if any, shall file any response to Plaintiffs' motion(s) no later than 17 days prior to the Final Approval Hearing. No later than seven (7) days prior to the Final Approval Hearing or at such other time as ordered by the Court, Plaintiffs shall file a Reply in Support of the Motion for Final Approval of Class Action Settlement and/or responses to any filings by objectors to address any valid and timely objections.

SECTION 7 **RELEASES**

7.1 In consideration of the benefits provided to Settlement Class Members as described in this Settlement Agreement, upon the Effective Date, each Plaintiff and Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (collectively, the "Releasers"), shall automatically be deemed to have, and by operation of the Final Approval Order shall have, completely, fully, finally, irrevocably, and forever released, relinquished, and discharged the Released Parties, and each of them, of and from any and all

liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown (including Unknown Claims), existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) (collectively, the "Released Claims").

7.2 For the avoidance of doubt and without limiting the scope of Section 7.1, the Released Claims as defined in Section 7.1 include, without limitation, any claims, causes of actions, remedies, or damages that were asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV), and any claims, causes of actions, remedies, or damages that could have been asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). For the further avoidance of doubt and without limiting the scope of Section 7.1, the Released Claims as defined in Section 7.1 also include, without limitation, any claims that a Releasor may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States (including, without limitation, any causes of action under Ohio's HIV-Disclosure Law, Ohio Rev. Code Ann., §§ 3701.243, *et seq.*, Ohio's Insurance Information and Privacy Protection Act, Ohio Rev. Code §§ 3904.01, *et seq.*, California Business & Professions Code § 17200 *et seq.*, California Civil Code § 1750 *et seq.*, California Civil Code § 1798.80 *et seq.*, California Civil Code § 56.10 *et seq.*, and any similar statutes or data breach notification statutes in effect in the United States or in any states in the United States); causes of action under the common or civil laws of any state in the United States, including but not limited to: unjust enrichment, negligence (including a "*Biddle*" claim under Ohio law), bailment, conversion, negligence *per se*, breach of contract, breach of implied contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, misrepresentation (whether fraudulent, negligent, or innocent), fraudulent concealment or nondisclosure, invasion of privacy, public disclosure of private facts, and misappropriation of likeness and identity; any causes of action based on privacy rights provided for under the constitutions of the United States or of any states in the United States; any statutory claims under state or federal law; and also including, but not limited to, any and all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit or financial account monitoring services, identity theft insurance, the creation of a fund for future damages, statutory penalties, restitution, the appointment of a receiver, and any other form of relief, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). Notwithstanding the foregoing, Released Claims do not include any claims arising out of any acts or omissions by

the Released Parties after the Effective Date, except as expressly provided in Sections 3.9 and 10.6 of the Settlement Agreement.

7.3 “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including Class Representatives, does not know or suspect to exist in his/her favor at the time of the release of the Released Parties that, if known by him or her, might have affected his or her settlement with, and release of, the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Class Representatives expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Final Approval Order shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542 to the extent applicable, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Settlement Class Members, including Class Representatives, and any of them, may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but Class Representatives expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims, including Unknown Claims. The Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

7.4 Upon the Effective Date Defendants hereby waive, release, and forever discharge Releasers, Co-Lead Class Counsel, Class Counsel, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys’ fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or

unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum that they had, have, or may have in the future arising out of, in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator, including any claims for abuse of process, negligence, malicious prosecution, contribution, subrogation, reimbursement and/or contractual or equitable indemnity in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator. For the avoidance of doubt, the Parties agree that the release in this Section 7.4 does not apply to the routine administration and operation of the OhDAP program including, but not limited to, the payment of co-payments, deductibles, or fees.

7.5 Upon the Effective Date, Co-Lead Class Counsel, Class Counsel, and Plaintiffs, and each of them, hereby waive, release, and forever discharge Defendants, Defendants' counsel, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum that they had, have, or may have in the future arising out of, in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator, including any claims for abuse of process, negligence, malicious prosecution, contribution, subrogation, reimbursement and/or contractual or equitable indemnity in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator.

7.6 Nothing in the releases in this Settlement Agreement will preclude any action to enforce the terms of this Settlement Agreement in the Court.

7.7 The Parties represent and warrant that no promise or inducement has been offered or made for the releases contained in this Settlement Agreement except as set forth in this Settlement Agreement and that the releases are executed without reliance on any statements or any representations not contained in this Settlement Agreement.

SECTION 8

ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS

8.1 Attorneys' Fees and Costs. Co-Lead Class Counsel will petition the Court on behalf of all entitled attorneys and law firms for a payment of attorneys' fees and reimbursement of reasonable out-of-pocket costs and expenses from the Settlement Fund no later than thirty days

(30) days prior to the Final Approval Hearing. The Parties agree that the amount for attorneys' fees shall not exceed thirty-three and one third percent (33 1/3%) of the Settlement Fund, and Defendants will take no position on the petition as long as the requested amount is consistent with this Section 8.1. Should the Court decline to approve any requested payment of attorneys' fees and/or costs and expenses, the Settlement Agreement shall remain effective. The Settlement Administrator shall no earlier than ten (10) days after the Effective Date: (1) wire the Court-approved attorneys' fees and costs to the respective Co-Lead Class Counsel firms in the amounts approved to each of them; or (2) wire the full amount of Court-approved attorneys' fees to one selected Co-Lead Class Counsel firm on the agreement of the Co-Lead Class Counsel firms and/or order of the Court. Co-Lead Class Counsel shall have the discretion as to how to apportion fees among themselves and Class Counsel; if agreement cannot be reached, they may apply to the Court for an order setting forth the appropriate allocation of fees and expenses as between each of the identified counsel for Plaintiffs in these consolidated actions. Defendants shall bear their own costs of litigation and attorneys' fees incurred in connection with the above-captioned litigation and this Settlement Agreement. For the avoidance of doubt, all attorneys' fees, costs, and expenses approved by the Court shall be paid from the Settlement Fund.

8.2 Class Representative Service Awards. In recognition of their service to the Settlement Class, Co-Lead Class Counsel may petition the Court on behalf of the Class Representatives for modest service awards in an aggregate amount not to exceed \$3,500 per Class Representative (i.e., the total amount of *all* service awards to all Class Representatives shall not exceed fourteen thousand dollars (\$14,000.00)), subject to the approval of the Court, the bases for which shall be set forth in Plaintiffs' Motion for Approval of Attorneys' Fees and Costs. Defendants will take no position on the petition as long as the requested aggregate amount is consistent with this Section 8.2. These amounts shall be paid at the same time as the Base Payments are made to Settlement Class Members. Should the Court decline to approve any requested service awards, the Settlement shall remain effective. For the avoidance of doubt, all service awards approved by the Court shall be paid from the Settlement Fund.

SECTION 9 **TERMINATION**

9.1 If more than a certain percentage of all Settlement Class Members submit timely and valid opt outs, then Caremark may in its sole discretion exercise its right to terminate this Settlement Agreement within twenty-one (21) days after the deadline for opting out. The effect of such termination shall be as set forth in Section 9.3. The percentage triggering Caremark's right to terminate is separately agreed to by the Plaintiffs and Caremark and will be submitted to the Court for in camera review if requested.

9.2 This Settlement Agreement may be terminated by either Class Representatives or Caremark by filing with the Court, and serving on the opposing Party and Fiserv, a written notice of termination within fourteen (14) days (or such longer time as may be agreed between Co-Lead Class Counsel and Caremark) after any of the following occurrences:

- (a) Co-Lead Class Counsel and Caremark agree to termination before the Effective Date;

- (b) The Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve, the Settlement Agreement;
- (c) An appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated and finally approved without material change by the Court on remand;
- (d) The Court or any reviewing appellate court incorporates material terms or provisions into, or deletes or strikes material terms or provisions from, or materially modifies, amends, or changes, the proposed Preliminary Approval Order, the Preliminary Approval Order, the proposed Final Approval Order, the Final Approval Order, or the Settlement Agreement; or
- (e) The Effective Date does not occur.

9.3 In the event of a termination as provided for in the Settlement Agreement, the Settlement Agreement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement shall cease to be of any force and effect, and the Parties shall return to the status quo ante in the above-captioned litigation as if the Parties had not entered into this Settlement Agreement, with the sole exception that the Parties will work cooperatively to take all necessary and appropriate steps to safeguard and maintain the confidentiality of all confidential Settlement Class Member information that has been provided to the Settlement Administrator and/or received from Settlement Class Members in connection with this Settlement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved, including all defenses to class certification.

SECTION 10

MISCELLANEOUS PROVISIONS

10.1 In no event shall the total of all Settlement Payments, attorneys' fees, costs, and expenses, service awards, Settlement Administrator costs and expenses, and any other obligation incurred by Caremark under this Settlement exceed the amount of the Settlement Fund (i.e., \$4,400,000.00).

10.2 Continuing Jurisdiction. The Court will retain continuing and exclusive jurisdiction over the interpretation, implementation, administration, and enforcement of this Settlement Agreement. The Parties and the Settlement Class and their counsel are hereby deemed to have submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of, or relating to, this Settlement Agreement but solely for such purposes, and in so agreeing do not waive any argument as to the general jurisdiction of this Court over any such persons.

10.3 Authority. Each of the undersigned signatories represent and warrant that they have authority to enter and sign this Settlement Agreement and fulfill its terms as set forth herein.

10.4 No Admission of Liability. The Parties understand and acknowledge that this Settlement Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Settlement Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any Party of any fault, liability, or wrongdoing of any kind whatsoever. Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the above-captioned litigation or in any proceeding in any court, administrative agency, or other tribunal.

10.5 No Retaliation. Defendants agree that they shall not retaliate against any Plaintiff, Class Representative, or Settlement Class Member in any fashion for having participated in the above-captioned litigation and/or Settlement Agreement, including, without limitation, with respect to the provision, reduction, limitation or denial of any health insurance or pharmacy benefits.

10.6 No Liability for Actions in Accordance with Agreement. The Parties, as well as Co-Lead Class Counsel, Class Counsel, and Counsel for Defendants, shall not be liable for any acts undertaken in conformance with this Settlement Agreement and the Court's Preliminary Approval Order and Final Approval Order.

10.7 Choice of Law. This Settlement Agreement will be interpreted and enforced in accordance with the laws of the state of Ohio, without regard to conflict of law principles.

10.8 Cooperation. The Parties will cooperate, assist and undertake all reasonable actions to accomplish all steps contemplated by this Settlement Agreement and to implement the Settlement Agreement on the terms and conditions provided herein. The Parties and all of their counsel all collectively agree to support the preliminary and final approval and implementation of this Settlement Agreement. Neither the Parties nor their counsel, directly or indirectly, will encourage any person to object to the Settlement Agreement or assist them in doing so.

10.9 Integration. This Settlement Agreement (along with any exhibits attached and the agreement referenced in Section 9.1), constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter of this Settlement Agreement and supersedes all prior proposals, negotiations, letters, conversations, agreements, term sheets, and understandings, whether written or oral, relating to the subject matter of this Settlement Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, agreement, arrangement, or understanding, whether written or oral, concerning any part or all of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement (including any exhibits attached thereto and any agreement referenced in Section 9.1).

10.10 Severability. If any provision or any part of any provision of this Settlement Agreement is for any reason held to be invalid, unenforceable, or contrary to any public policy, law, statute, and/or ordinance, that provision may be severed from the Settlement Agreement and the remainder of the Settlement Agreement shall remain valid and enforceable as if the invalid, unenforceable, or illegal provision or part of any provision had not been contained herein.

10.11 Headings. The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement in any manner. Any inconsistency between the headings used in this Settlement Agreement and the text of the Settlement Agreement shall be resolved in favor of the text.

10.12 Incorporation of Exhibits. All of the exhibits to this Settlement Agreement, and the agreement referenced in Section 9.1, are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, any inconsistency between this Settlement Agreement and any exhibits hereto will be resolved in favor of this Settlement Agreement.

10.13 Amendment. Subject to the approval of the Court, the Parties may agree in a writing executed by Co-Lead Class Counsel and Counsel for Defendants to amend this Settlement Agreement or to modify the exhibits to this Agreement to effectuate the purpose of this Agreement or to conform to guidance from the Court about the contents of such exhibits without the need to further amend this Agreement. Except as expressly set forth in this Settlement, any amendment modifying the Settlement after it is submitted for preliminary approval must be filed with the Court and is subject to the Court's approval.

10.14 Mutual Preparation. The Parties have negotiated all of the terms of this Settlement Agreement at arm's-length and through a mediation process overseen by Judge Denlow. Neither the Settlement Class Members nor Defendants, nor any one of them, nor any of their counsel, will be considered to be the sole drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement. This Settlement Agreement will be deemed to have been mutually prepared by the Parties and will not be construed against any of them by reason of authorship.

10.15 Independent Advice of Counsel. The Parties represent and declare that in executing this Settlement Agreement, each relied upon the advice and recommendations of their own independently selected counsel. Further, the Parties represent that each has had sufficient opportunity to consult with their respective attorneys about the terms and conditions of this Settlement Agreement prior to its execution. Each Party has read and fully understands the full contents and effect of this Settlement Agreement, and consciously and voluntarily contracts and agrees as provided herein.

10.16 Extensions of Time. Co-Lead Class Counsel and Counsel for Defendants may agree in writing, subject to approval of the Court where required, to reasonable extensions of time to implement the provisions of this Settlement Agreement.

10.17 Execution in Counterparts. This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF or similar file format shall be deemed an original. Plaintiffs may sign this agreement using their pseudonyms in the Consolidated Complaint, provided that Co-Lead Class Counsel retain signature pages on which Plaintiffs sign their real names.

10.18 Issuance of Notices. In any instance in which this Settlement Agreement requires the issuance of any notice to the Parties and/or to Co-Lead Class Counsel and Counsel for Defendants, such notice must be issued by issuing written notice, sent via overnight mail and email, to Co-Lead Class Counsel and to Counsel for Defendants as defined above at the addresses provided below

10.18.1 All notices to Co-Lead Class Counsel provided for herein, shall be sent by overnight mail and email to:

Henry C. Quillen
Whatley Kallas LLP
159 Middle St., Suite 2C
Portsmouth, NH 03801
hquillen@whatleykallas.com

and

Matthew R. Wilson
MEYER WILSON CO., LPA
1320 Dublin Road, Ste. 100
Columbus, OH 43215
mwilson@meyerwilson.com

All notices to Caremark provided for herein, shall be sent by overnight mail and email to:

Kristine M. Brown
Donald M. Houser
ALSTON & BIRD LLP
1201 West Peachtree Street
Atlanta, GA 30309
kristy.brown@alston.com
donald.houser@alston.com

All notices to Fiserv provided for herein, shall be sent by overnight mail and email to:

Megan B. Poetzel
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654-3456
MPoetzel@jenner.com

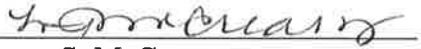
The notice recipients and addresses designated above may be changed by written notice.

10.19 Non-Disparagement. The Parties and their counsel agree that neither the fact that Caremark entered into this Settlement Agreement nor its terms shall at any time, directly or indirectly, be used to disparage Caremark's administration of OhDAP. For purposes of this Section, the term "disparage" shall mean to make comments or statements that would adversely affect the business or professional reputation of Caremark. Nothing in this Paragraph or any other Paragraph of the Agreement, precludes the Parties or their Counsel from (a) referring to public information about the above-captioned litigation, Settlement, or other publicly available documents; (b) responding to any subpoena, legal process or request for information from any governmental authority; (c) testifying truthfully under oath pursuant to any lawful court order or subpoena; or (d) pursuing any legal right they may have against each other. Nothing in this paragraph or any other paragraph of this Agreement precludes Counsel for Plaintiffs from making statements regarding signatories to this Agreement in the context of pursuing a claim or lawsuit. Nothing in this paragraph or any other paragraph of the Agreement shall be construed to restrict the right to practice in violation of applicable Rules of Professional Conduct.

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<p>Date: 9/9/2019</p>	<p>On behalf of Caremark, L.L.C., by:</p> <p><u>Donald Houser</u></p> <p>Kristine M. Brown Donald M. Houser Matthew L.J.D. Dowell ALSTON & BIRD LLP 1201 West Peachtree Street Atlanta, GA 30309 Phone: 404-881-7434 Fax: 404-881-7777 kristy.brown@alston.com donald.houser@alston.com matt.dowell@alston.com</p> <p>Robert G. Cohen (0041707) KEGLER BROWN HILL + RITTER CO., LPA 65 East State Street, Suite 1800 Columbus, Ohio 43215 Phone: 615-462-5492 Fax: 614-462-2634 rcohen@keglerbrown.com</p>
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Date: 09-09-19	On behalf of Fiserv, Inc. and Fiserv Solutions, LLC.  Lynn S. McCreary Chief Legal Officer Fiserv
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<p>Date:</p>	<p>_____ John Doe One (full name maintained on file by counsel for John Doe One below)</p>
<p>Date:</p>	<p><i>John Doe # 2</i> John Doe Two (full name maintained on file by counsel for John Doe Two below)</p>
<p>Date:</p>	<p>_____ John Doe Three (full name maintained on file by counsel for John Doe Three below)</p>
<p>Date:</p>	<p>_____ John Doe Four (full name maintained on file by counsel for John Doe Four below)</p>

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

<p>Date:</p>	<p>_____ John Doe One (full name maintained on file by counsel for John Doe One below)</p>
<p>Date:</p>	<p>_____ John Doe Two (full name maintained on file by counsel for John Doe Two below)</p>
<p>Date:</p>	<p>_____ John Doe Three (full name maintained on file by counsel for John Doe Three below)</p>
<p>Date:</p> <p>9-5-19</p>	<p><u>John Doe Four</u> John Doe Four (full name maintained on file by counsel for John Doe Four below)</p>
<p>Date:</p>	<p>On behalf of Plaintiffs John Doe One, John Doe Two, John Doe Three, and the Settlement Class, by:</p> <p>_____ WHATLEY KALLAS LLP Henry C. Quillen (admitted pro hac vice) 159 Middle St., Suite 2C Portsmouth, NH 03801 Telephone: (603) 294-1591 Facsimile: (800) 922-4851 hquillen@whatleykallas.com</p> <p>WHATLEY KALLAS LLP Joe R. Whatley (admitted pro hac vice) Edith M. Kallas (admitted pro hac vice) 152 West 57th St., 41st Floor New York, NY 10019</p>

<p>Date: September 9, 2019</p>	<p>On behalf of Plaintiffs John Doe One, John Doe Two, John Doe Three, and the Settlement Class, by:</p> <p> _____ WHATLEY KALLAS LLP Henry C. Quillen (admitted pro hac vice) 159 Middle St., Suite 2C Portsmouth, NH 03801 Telephone: (603) 294-1591 Facsimile: (800) 922-4851 hquillen@whatleykallas.com</p> <p>WHATLEY KALLAS LLP Joe R. Whatley (admitted pro hac vice) Edith M. Kallas (admitted pro hac vice) 152 West 57th St., 41st Floor New York, NY 10019 Telephone: (212) 447-7060 Facsimile: (800) 922-4851 jwhatley@whatleykallas.com ekallas@whatleykallas.com</p> <p>WHATLEY KALLAS LLP Alan M. Mansfield (admitted pro hac vice) (Of Counsel) 16870 W. Bernardo Drive, Suite 400 San Diego, CA 92127 Telephone: (858) 674-6641 Facsimile: (855) 274-1888 amansfield@whatleykallas.com</p> <p>_____ TERRY L. KILGORE (0014692) 1113 Northridge Oval, Bldg.13 Brooklyn, OH 44144-3262 Telephone: (614) 648-6009 Facsimile: (216) 600-5494 tksquire13@gmail.com</p>
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Date: 9/9/19

On behalf of Plaintiffs John Doe One, John Doe Two, John Doe Three,
and the Settlement Class, by:

WHATLEY KALLAS LLP

Henry C. Quillen (admitted pro hac vice)
159 Middle St., Suite 2C
Portsmouth, NH 03801
Telephone: (603) 294-1591
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ekallas@whatleykallas.com

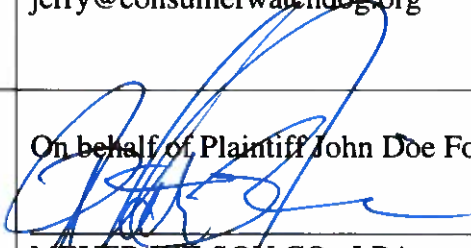
WHATLEY KALLAS LLP

Alan M. Mansfield (admitted pro hac vice)
(Of Counsel)
16870 W. Bernardo Drive, Suite 400
San Diego, CA 92127
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amansfield@whatleykallas.com

Terry L. Kilgore / by permission
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tksquire13@gmail.com

	 CONSUMER WATCHDOG Jerry Flanagan (admitted pro hac vice) 6330 San Vicente Blvd. Suite 250 Los Angeles, CA 90048 Telephone: (310) 392-0522 Facsimile: (310) 392-8874 jerry@consumerwatchdog.org
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	<p>Telephone: (212) 447-7060 Facsimile: (800) 922-4851 jwhatley@whatleykallas.com ekallas@whatleykallas.com</p> <p>WHATLEY KALLAS LLP Alan M. Mansfield (admitted pro hac vice) (Of Counsel) 16870 W. Bernardo Drive, Suite 400 San Diego, CA 92127 Telephone: (858) 674-6641 Facsimile: (855) 274-1888 amansfield@whatleykallas.com</p> <hr/> <p>TERRY L. KILGORE (0014692) 1113 Northridge Oval, Bldg.13 Brooklyn, OH 44144-3262 Telephone: (614) 648-6009 Facsimile: (216) 600-5494 tksquire13@gmail.com</p> <hr/> <p>CONSUMER WATCHDOG Jerry Flanagan (admitted pro hac vice) 6330 San Vicente Blvd. Suite 250 Los Angeles, CA 90048 Telephone: (310) 392-0522 Facsimile: (310) 392-8874 jerry@consumerwatchdog.org</p>
Date: 9/6/19	<p>On behalf of Plaintiff John Doe Four, and the Settlement Class, by:</p>  <hr/> <p>MEYER WILSON CO., LPA David P. Meyer (0065205) Matthew R. Wilson (0072925) Michael J. Boyle, Jr. (0091162) 1320 Dublin Road, Ste. 100 Columbus, OH 43215 Telephone: (614) 224-6000 Facsimile: (614) 819-8230</p>

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Email: mgeorge@kaplanfox.com

LAMBERT LAW FIRM, LLC
Marnie C. Lambert (0073054)
4889 Sawmill Road, Suite 125
Columbus, OH 43235
Telephone: (888) 203-7833
Facsimile: (888) 386-3098

EXHIBIT A

CLAIM FORM INSTRUCTIONS

IMPORTANT -- All Settlement Class Members (i.e., individuals to whom the OhDAP Mailing was mailed, provided, or sent for delivery) who do not opt out of the Settlement will receive a minimum Base Payment of \$400, regardless of whether you claim to have suffered financial or non-financial harm (as discussed below) or complete this form.

Only fill out this Claim Form if you claim to have suffered harm as a result of the OhDAP Mailing. Harm includes: (1) financial harm (meaning out-of-pocket expenses for which you have not been repaid or reimbursed) and (2) non-financial harm (such as emotional distress). If you did not suffer financial harm or non-financial harm, then you should not fill out this Claim Form.

If you decide to fill out this Claim Form, answer all questions honestly and accurately. To validly complete this Claim Form, you must:

1. Completely fill out Part I. Part I asks for basic information about you that will be used solely for purposes of processing your claim.
2. Completely fill out either or both of Part II and/or Part III, as applicable to you.
 - a. Part II (Financial Harm) asks you to identify the out-of-pocket expenses for which you have not been repaid or reimbursed that you claim to have incurred as a result of OhDAP Mailing.
 - b. Part III (Non-Financial Harm) asks you to identify the non-financial harm (like emotional distress) that you claim to have suffered as a result of the OhDAP Mailing.
 - c. Please note that you may complete Part II or Part III or both depending on the harm you claim.
3. Completely fill out Part IV. By completing Part IV you are swearing or affirming that the information you have provided is true and correct to the best of your knowledge.
4. Attach all documentation of your alleged harm as requested below.
5. Timely submit your completed Claim Form and any requested documentation to the Settlement Administrator as set forth below.

YOU MUST SUBMIT YOUR COMPLETED CLAIM FORM BY <<Month>><<Day>>, <<Year>> IN ORDER FOR IT TO BE CONSIDERED TIMELY.

You have several options for submitting this Claim Form:

1. Complete this Claim Form (you may also download a Claim Form from the Settlement Website using your Class Member ID or by contacting the Settlement Administrator). Then return the completed Claim Form along with any accompanying documents using the enclosed self-addressed stamped envelope. No postage is required if mailed from within the United States; *or*
2. Complete the enclosed Claim Form, scan the completed Claim Form and any accompanying documents, and then upload those documents using the Settlement Website's HIPAA-complaint secure portal; *or*
3. Complete the electronic version of the Claim Form on the Settlement Website and submit the electronic Claim Form, along with any accompanying documents, online through the Settlement Website's HIPAA-complaint secure portal. The Settlement Website is: <<websiteURL>>.

In order to assure your privacy in filing a claim, you may use your Class Member ID with the accompanying Notice (or that was otherwise provided to you by the Settlement Administrator) -- You are NOT required to provide your name but can if you choose to do so. Additionally, if you choose to submit a claim online, it is recommended that you do not use an employer-based computer. It is also recommended that you use a secure internet connection to transmit your claim form in order to avoid any potential loss of privacy.

As explained above, there are several options for submitting your Claim Form and any accompanying documents. For your convenience we have included a self-addressed stamped envelope. If you choose to submit your Claim Form and accompany documents by mail but do not use the enclosed envelope, you must mail your completed Claim Form and any accompanying documents to the Settlement Administrator addressed as follows:

Settlement Administrator
PO Box <<XXXX>>
Philadelphia, PA <<zip>>

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at <<TFN>>. For additional information about the Settlement, please visit <<websiteURL>>.

While Settlement Class Members are encouraged to submit valid claims, it is possible that payment of a submitted claim may impact your taxable income and/or your benefits under the OhDAP program. Your individual circumstances will vary. You should discuss this issue with your case worker or tax advisor if you have any questions.

PART I -- YOUR INFORMATION

All information you provide on this Claim Form will be kept strictly confidential by the Settlement Administrator and will not be used for any purpose other than administering this settlement.

[*OPTIONAL – NOT REQUIRED*] Name: _____

Class Member ID: _____

(located on the top of the the Notice of Settlement you received with this Claim Form or as otherwise provided to you by the Settlement Administrator)

Street: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

It is your responsibility to let the Settlement Administrator know if your mailing address changes at any time before you receive a Settlement payment or if you want future mail sent to a different mailing address.

PART II -- FINANCIAL HARM

Please list and provide an itemization below of all out-of-pocket expenses you claim you incurred as a result of the OhDAP Mailing for which you are seeking reimbursement pursuant to this Settlement. Do not include any expenses for which you have already been repaid or reimbursed. For each expense listed, **you must attach and return to the Settlement Administrator the corresponding receipt, invoice, credit card statement, medical record, insurance record, copy of returned check, or other reasonable form of evidence documenting that**

you made each payment listed below. If you need more room, please continue the list on a separate sheet of paper and return it to the Settlement Administrator along with this Claim Form and the required documentation.

Specific description of each non-reimbursed out-of-pocket expense for which you are requesting reimbursement	Date of the expense	Dollar amount of the specific expense
1.)		
2.)		
3.)		
4.)		
Total Amount Claimed		

Please note that your attached documentation may include your name or other personal information. This information will be treated confidentially and only used for purposes of administering the Settlement.

PART III – NON-FINANCIAL HARM

If you claim to have suffered non-financial harm as a result of the OhDAP Mailing, you are also eligible to receive a monetary award based upon your answers to the questions below. Please carefully review and answer each question below in detail. If the question does not apply to you, please leave the answer blank or write “not applicable.” By submitting this form, you are certifying that each answer you provide below is true and correct to the best of your knowledge.

ANSWER EACH QUESTION BELOW IN DETAIL OR LEAVE IT BLANK IF IT IS NOT APPLICABLE
1. If someone other than you received your mail the day the OhDAP Mailing arrived, please explain in detail the circumstances and your relationship to the person(s) that received your mailing (for example, your roommate, parents, co-workers).
2. If the OhDAP Mailing was delivered to a residence or post office box that was not yours, please explain in detail the circumstances including how you came to know of this.
3. If as a result of the OhDAP Mailing, one or more people learned of your medical condition, please explain in detail the circumstances including and your relationship to the person(s) (for example, your roommate, parents, co-workers).
4. If as a result of the OhDAP Mailing, you felt forced to explain to someone for the first time of your medical condition, please explain in detail the circumstances including by identifying your relationship to the person(s) that you felt forced to talk with.

5. If as a result of the OhDAP Mailing, your medical condition has become known to your employer in a way that was not caused by you, or has affected your employment, please explain in detail the circumstances.

6. If as a result of the OhDAP Mailing, one or more of your important relationships has been damaged, such as that you have been treated differently, harassed, threatened and/or shunned by family, friends, roommates, neighbors, landlords, or others please explain in detail the circumstances and identify the relationship(s) that has been damaged, and how.

7. If as a result of the OhDAP Mailing, you or your family have sought and received medical or mental health treatment, including counseling, please explain in detail the circumstances and how many counseling sessions or visits have occurred.

8. If as a result of the OhDAP Mailing, you have experienced repeated episodes of any of the following: trouble sleeping, anxiety, stress, anger, panic attacks, loss of appetite, loss of trust, and/or depression, please explain in detail the circumstances.

9. If as a result of the OhDAP Mailing, you had to change residences, please explain in detail the circumstances, and provide your old and new address, and the reason(s) you moved.

10. If as a result of the OhDAP Mailing, you suffered any additional non-financial harm that is not covered by any of the above questions, please explain in detail the circumstances.

PART IV – CERTIFICATION

I swear or affirm that the foregoing is true and correct to the best of my knowledge.

Class Member ID

Date

REMINDER CHECKLIST BEFORE YOU SUBMIT THIS CLAIM FORM

1. Make sure that you fully completed Part I -- Claimant Information. Reminder: All information must be provided *except* your name – you may provide your name, but your name is **NOT REQUIRED** to receive benefits under this Settlement.
2. Make sure that you fully completed either or both of Part II and Part III as applicable to your personal situation.
3. Make sure that you completed the Certification in Part IV.
4. Make sure you submit your claim in accordance with the deadline set out above and make sure to include a copy of all required documentation requested above.
5. Make sure that you retain a copy of this Claim Form and your supporting documentation for your records.

EXHIBIT B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE ONE, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CAREMARK, LLC, FISERV, INC., FISERV
SOLUTIONS, LLC, and DOES 1-10,

Defendants.

Case No. 2:18-cv-00238-EAS-CMV

Case No. 2:18-cv-00488-EAS-CMV

Chief Judge Edmund A. Sargus

Magistrate Judge Chelsey M. Vascura

**[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND ENTERING QUALIFIED PROTECTIVE
ORDER**

This matter has been brought before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of the Settlement between Plaintiffs, for themselves and on behalf of the Settlement Class, on the one hand, and Caremark and Fiserv, on the other, for consideration of, *inter alia*, whether the Settlement reached between the Parties should be preliminarily approved, the proposed Settlement Class preliminarily certified, the Qualified Protective Order directing Caremark to provide the Class List to the Settlement Administrator entered, and the proposed plan for notifying Settlement Class Members approved.¹ The Court having reviewed the submissions of the Parties, 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 The capitalized terms used in this Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be indicated.

1. The Court has jurisdiction over the subject matter of the above-captioned litigation (i.e., 2:18-cv-238-EAS-CMV and 2:18-cv-00488-EAS-CMV, as consolidated) (the “Litigation”) and over all Parties to this Settlement, including, without limitation, the Settlement Class (as defined below in Paragraph 2), to enter this Order.

2. Pursuant to Fed. R. Civ. P. 23(a) and (b)(3), the Court provisionally certifies, for settlement purposes only, the following Settlement Class: **All persons to whom the OhDAP Mailing was mailed, provided, or sent for delivery, as identified on the Class List.**

3. The Settlement Agreement submitted with the Motion is preliminarily approved as fair, reasonable, and adequate. The Settlement Agreement was arrived at in good faith, following extensive arm’s-length negotiations. The Court finds that the terms of Settlement Agreement fall “within the range of possible approval” sufficient to warrant sending notice thereof to the Settlement Class. *See* Federal Judicial Center, *Manual for Complex Litigation* (“MCL 4th”) § 21.632 (4th ed. 2004). This finding that the Settlement is reasonable is subject to a final determination to be made after the Final Approval Hearing (defined in Paragraph 7).

4. Based upon the submissions of the Parties, for purposes of the Settlement only, the Court finds as to the Settlement Class that: (a) the members of the Settlement Class are so numerous as to make joinder of them impracticable; (b) there are questions of law and fact common to the Settlement Class as to the reasonableness of the Settlement among other common issues in the Litigation, and such questions predominate over any questions affecting only individual members of Settlement Class; (c) the Class Representatives’ claims and the defenses asserted thereto are typical of the claims of members of the Settlement Class and the defenses asserted thereto; (d) the Class Representatives and Co-Lead Class Counsel have fairly and adequately protected the interests of members of the Settlement Class throughout this Litigation;

and (e) a class action is superior to all other available methods for fairly and efficiently resolving this Litigation, considering: (i) the interests of the members of the Settlement Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of the litigation concerning the controversy already commenced by members of the Settlement Class; (iii) the desirability and undesirability of concentrating the litigation of these claims in a particular forum; and (iv) the difficulties likely to be encountered in the management of a class action. Moreover, the Court has considered the factors set forth in Rule 23(e) and has concluded that preliminary approval and notice to the Settlement Class is appropriate and warranted.

5. The Court preliminarily approves Plaintiffs John Does One through Four as Class Representatives for the Settlement Class.

6. The Court preliminarily approves the following law firms listed in the Settlement Agreement as Co-Lead Class Counsel for the Settlement Class: Whatley Kallas, LLP, Meyer Wilson Co., LPA, Kaplan Fox & Kilsheimer LLP, and the Law Office of Terry L. Kilgore. The Court also appoints Lambert Law Firm, LLC and Consumer Watchdog as Class Counsel.

7. The final approval hearing shall be held before this Court on _____, _____, 2019, at _____ a.m. to determine whether (a) the proposed Settlement Class should be finally certified for settlement purposes pursuant to Federal Rule of Civil Procedure 23; (b) the Settlement should be finally approved as fair, reasonable, and adequate and, in accordance with the Settlement's terms, all claims in the Consolidated Complaint and Litigation should be dismissed with prejudice; (c) Settlement Class Members should be bound by the releases set forth in the Settlement; (d) the proposed Final Approval Order should be entered; (e) the application of Co-Lead Class Counsel for an award of attorneys' fees, costs and expenses, payment of Settlement Administrator fees and expenses, and service awards to Class Representatives should be approved;

and (f) any other matters the Court deems necessary and appropriate will also be addressed at the hearing (the “Final Approval Hearing”).

8. Co-Lead Class Counsel shall submit their motion for final approval and application for attorneys’ fees, reasonable costs and expenses, Settlement Administrator fees and expenses, and service awards to the Class Representatives thirty (30) days before the Final Approval Hearing. Objectors, if any, shall file any response to Plaintiffs’ motion(s) no later than 17 days prior to the Final Approval Hearing. No later than seven (7) days prior to the Final Approval Hearing or at such other time as ordered by the Court, Plaintiffs shall file a Reply in Support of the Motion for Final Approval of Class Action Settlement and/or responses to any filings by objectors to address any valid and timely objections.

9. Any Settlement Class Member that has not timely and properly excluded himself, herself, or themselves from the Settlement Class in the manner described below may appear at the Final Approval Hearing in person or by counsel and be heard, to the extent allowed by the Court, regarding the proposed Settlement; provided, however, that no Settlement Class Member that has elected to exclude himself, herself, or themselves from the Settlement Class shall be entitled to object or otherwise appear, and, further provided, that no Settlement Class Member shall be heard in opposition to the Settlement, unless the Settlement Class Member complies with the requirements of this Order pertaining to objections, which are described below.

10. Any person included within the Settlement Class who wishes to be excluded from membership in the Settlement Class must submit a written request to opt out to the Settlement Administrator and Counsel for Defendants stating “I wish to exclude myself from the Settlement Class in *John Doe One., et al. v. Caremark, LLC et al.*, No. 2:18-cv-00238-EAS-CMV (S.D. Ohio)” (or substantially similar clear and unambiguous language), no later than fifty-three (53)

days after the date the Notice of Settlement is mailed to Settlement Class Members by the Settlement Administrator (the “Opt-Out Deadline”). The Notice of Settlement shall inform Settlement Class Members that by opting out they consent to Counsel for Defendants sharing their name, address, and other such information relating to their opt-out (or revocation of opt out) with Defendants and to the Settlement Administrator sharing this same information (i.e., their name, address, and other such information relating to their opt-out (or revocation of opt out)) with Defendants and Counsel for Defendants. Defendants and Counsel for Defendants will use this information solely to the extent necessary for enforcing the Settlement (or as otherwise provided in the Settlement) and shall maintain the confidentiality of this information.

11. The written opt out request shall contain the Settlement Class Member’s printed name, address, telephone number, email address, and date of birth. A written request for exclusion must contain the actual written signature of the Settlement Class Member seeking to exclude himself or herself from the Settlement Class and requests for exclusion cannot be made on a group or class basis. The written request must be sent to both the Settlement Administrator and Counsel for Defendants at the addresses set forth in the Notice of Settlement.

12. No later than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall provide a declaration to Defendants and Counsel for Defendants identifying each Settlement Class Member who has timely and validly requested exclusion from the Settlement Class, along with corresponding Class Member ID. The declaration may be filed with the Court under seal. Alternatively (or in addition), and at the discretion of Counsel for Defendants, Counsel for Defendants may file with the Court in the public docket the Class Member IDs of the Settlement Class Members who timely and validly requested exclusion from the

Settlement Class so long as no other information about the Settlement Class Members (such as PHI or Confidential HIV-related Information) is disclosed.

13. Any request for exclusion that fails to satisfy the requirements of this Order or that is not properly and timely submitted as provided in the Settlement, Notice of Settlement, and/or this Order, shall be ineffective and void absent further Court order. Such member of the Settlement Class shall be deemed to have waived all rights to opt out of the Settlement Class and shall be deemed a Settlement Class Member for all purposes pursuant to this Order. All Settlement Class Members who do not timely and properly request exclusion from the Settlement Class will in all respects be bound by all terms of this Settlement Agreement, the Final Approval Order, and any related orders, if entered.

14. Settlement Class Members who opt out can withdraw their request for exclusion by submitting a written request to the Settlement Administrator and Counsel for Defendants at the addresses in the Notice of Settlement stating their desire to revoke their request for exclusion along with their written signature, so long as the revocation request is received no later than three (3) days prior to the Final Approval Hearing. In the event any such withdrawals are received, Co-Lead Class Counsel and/or Counsel for Defendants will take appropriate steps to update the Court as necessary.

15. All Settlement Class Members who submit valid and timely notices of their intent to be excluded from the Settlement Class shall not receive any benefits of or be bound by the terms of the Settlement. Any Settlement Class Member that does not timely and validly exclude himself, herself, or themselves from the Settlement shall be bound by the terms of the Settlement. If final judgment is entered, any Settlement Class Member that has not submitted a timely, valid written notice of exclusion from the Settlement Class (in accordance with the requirements of the

Settlement and herein) shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the releases set forth in the Settlement and the Final Approval Order.

16. Any Settlement Class Member who does not submit a written request for exclusion may submit a written objection to the Settlement Administrator explaining why he, she, or they believes that the Settlement Agreement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to object to any aspect of the Settlement must submit to the Settlement Administrator a written statement of the objection postmarked no later than fifty-three (53) days after the date the Notice of Settlement is mailed to Settlement Class Members (the “Objection Deadline”).

17. The written statement must include (i) the printed name, address, telephone number, and date of birth of the objector; (ii) a detailed statement of all of the objector’s objection(s); (iii) the specific reasons for each objection, including any evidence, legal authority, supporting papers, materials, and briefs the objector contends support the objection and wishes to bring to the Court’s attention; (iv) the name and contact information for all counsel representing the objector; (v) a list of all persons who will be called to testify at the final approval hearing in support of the objection; (vi) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last 3 years; and (vii) the actual written signature of the Settlement Class Member making the objection.

18. A Settlement Class Member may object on his, her, or their own behalf or through an attorney. However, even if represented, the Settlement Class Member must sign the objection and all attorneys who are involved in any way asserting objections on behalf of a Settlement Class

Member must file a notice of appearance with the Court at the time when the objection is submitted, or as the Court may otherwise direct.

19. The Settlement Administrator shall notify Co-Lead Class Counsel and Counsel for Defendants of any objections received and whether the objector matches the name of a Settlement Class Member. The Settlement Administrator shall provide copies of any objections if requested by Co-Lead Class Counsel or Counsel for Defendants, so long as personally identifying information is redacted. Notwithstanding the foregoing, the Settlement Administrator shall disclose to Co-Lead Class Counsel and Counsel for Defendants the name and other identifying information of any objector to the extent that Co-Lead Class Counsel and Counsel for Defendants agree that this information is necessary to adequately respond to the objection.

20. The Settlement Administrator shall cause the objections to be filed with the Court, either for in camera review or with all personally identifying information redacted. The Settlement Administrator, with Co-Lead Class Counsel and Counsel for Defendants, shall contact the Court's chambers for guidance in terms of how the Court would prefer to receive the objection.

21. Settlement Class Members who timely submit valid written objections in accordance with the requirements of this Order may, but need not, appear and be heard at the Final Approval Hearing regarding any objections so submitted, in person or by counsel. A Settlement Class Member (or counsel representing him or her, if any) seeking to make such an appearance at the Final Approval Hearing must file with the Court, by fourteen (14) days prior to the Final Approval Hearing, a written notice of his, her, or their intention to appear at the Final Approval Hearing, including a statement of any evidence or exhibits that will be presented.

22. Any Settlement Class Member that does not properly and timely submit an objection to the Settlement in accordance with the provisions of this Order will be considered to

have waived any such objection, shall not be permitted to object to the Settlement at the Final Approval Hearing, shall be foreclosed from seeking any review of the Settlement or its terms by appeal or otherwise, and shall be bound by the Settlement, Final Approval Order, and any related orders, including without limitation any and all releases in the Settlement, Final Approval Order, and/or related orders.

23. The Court finds that the manner and content of the notice specified in the Settlement Agreement and as described in the Motion and in the form submitted to the Court will provide the best notice practicable to the Settlement Class under the circumstances to apprise members of the Settlement Class of the pendency of this Litigation, the terms of the Settlement, and their rights under the Settlement, including without limitation their rights to participate in, object to, or exclude themselves from the Settlement. The Court further finds that the Notice of Settlement, the Short Form Notice, the Claim Form, and the Settlement Website are reasonable, constitute due, adequate and sufficient notice to all persons entitled to receive notice, and meet the requirements of due process, the Federal Rules of Civil Procedure, and all other legal requirements. The Court hereby directs that notice be given pursuant to the terms set forth in the Settlement Agreement and in accordance with the Settlement Administrator's plan for providing notice submitted in connection with the Motion for Preliminary Approval, provided that the Parties, by agreement, may revise the Notice of Settlement, Short Form Notice, and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy. All costs incurred in connection with the preparation and dissemination of any notices to the Settlement Class shall be paid to the Settlement Administrator consistent with the provisions of the Settlement Agreement.

24. If the Settlement is finally approved, the Court shall enter a separate Final Approval Order regarding the Settlement, entering judgment and dismissing the claims asserted in the

Consolidated Complaint with prejudice against the Released Parties consistent with the terms of the Settlement Agreement. Such order and judgment shall be fully binding with respect to the Plaintiffs, all Settlement Class Members, and the Released Parties.

25. This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of which shall be restored to their respective positions existing immediately before this Court entered this Order, if the Settlement is not finally approved by the Court or is terminated in accordance with the terms of the Settlement. In such event, the Settlement shall become null and void and be of no further force and effect, and neither the Settlement (including any Settlement-related filings) nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever; provided, however, that the Qualified Protective Order shall remain in effect, and the Parties shall take all necessary and appropriate steps to maintain the confidentiality of Plaintiffs' and Class Members' PHI and Confidential HIV-related Information.

26. If the Settlement is not finally approved or is terminated in accordance with its terms, then this Order shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability; shall not be construed or used as an admission, concession, or declaration by or against Class Representatives or any other Settlement Class Member that their claims lack merit or that the relief requested is inappropriate, improper, unavailable; and shall not constitute a waiver by any party of any defense (including without limitation any defense to class certification) or claims it may have in this Litigation or in any other lawsuit or proceeding.

27. The Court hereby appoints Heffler Claims Group ("Heffler") as the Settlement Administrator to perform the duties of the Settlement Administrator as set forth and in accordance

with the Settlement Agreement and all exhibits thereto, including Exhibit thereto. The dates of performance are set forth below in Paragraph 40.

28. If a Settlement Class Member seeks to claim any amounts under the Settlement (apart from the Base Payment which is automatic and does not require the submission of a Claim Form), the Settlement Class Member must complete and submit a written Claim Form to the Settlement Administrator, postmarked (or submitted electronically in accordance with the requirements for electronic submission of a Claim Form) on or before _____, 2019 (the “Claims Deadline”). Unless the Court orders otherwise, Claim Forms must be submitted in conformance with the Settlement Agreement, Notice of Settlement, and instructions on the Claim Form, and shall be processed in accordance with the procedures set forth in the Settlement Agreement and exhibits thereto.

29. Pending final determination of whether the settlement embodied in the Settlement Agreement is to be finally approved, the Litigation is stayed. In addition, during this period, all Settlement Class Members are enjoined from, either directly, representatively, derivatively, or in any other capacity, filing, commencing, prosecuting, intervening in, participating in and/or maintaining, as plaintiffs, claimants, or class members in any other lawsuit, in any jurisdiction (whether state, federal or otherwise), against the Released Parties based on, relating to, or arising out of the OhDAP Mailing, the Incident, or the facts or allegations in the Consolidated Complaint, except that any individuals may “opt out” in accordance with the Settlement Agreement and this Order and proceed on an individual basis with their own individual litigation. This injunction is necessary to protect and effectuate the Settlement Agreement, this Order, and the Court’s flexibility and authority to effectuate the Settlement Agreement and to enter the Final Approval

Order when appropriate, and is ordered in aid of this Court's jurisdiction and to protect its judgments.

30. The Class List may include "Protected Health Information" ("PHI"), as that term is defined in 45 C.F.R. § 160.103, or Confidential HIV-related Information that is protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Privacy Rule, *see* 45 C.F.R. Parts 160 and 164, or applicable state laws, including O.R.C. 3701.243. This Order provides the requisite satisfactory assurances that HIPAA and O.R.C. 3701.243 require before the disclosure of PHI or Confidential HIV-related Information.

31. In accordance with the HIPAA Privacy Rule and O.R.C. 3701.243(C), the Court finds by clear and convincing evidence that Plaintiffs have demonstrated a compelling need that cannot be accommodated by other means for Caremark to disclose the Class List to the Settlement Administrator. In assessing the compelling need, the Court has weighed the need for disclosure against the privacy right of the individuals whose PHI or Confidential HIV-related Information may be contained in the Class List against any disservice to the public interest that might result from the disclosure, such as discrimination against the individual or the deterrence of others from being tested for HIV or AIDS. This Order provides the requisite satisfactory assurances for the protection of PHI under HIPAA. *See* 45 C.F.R. § 164.512(e)(1).

32. The Court therefore **ORDERS** Caremark to provide the Settlement Administrator the Class List for purposes of providing notice of the Settlement and administering the Settlement within ten (10) business days following both (a) the entry and docketing of this Order and (b) Caremark's receipt of the Settlement Administrator's agreement in writing in the form of Exhibit A to be bound by this Order and the Qualified Protective Order herein.

33. In accordance with the HIPAA Privacy Rule, 45 C.F.R. § 164.512(e)(1)(v)(A), and O.R.C. 3701.243(C), this Order specifically prohibits the Settlement Administrator from using or disclosing any information in the Class List, including but not limited to the PHI or Confidential HIV-related Information, for any purpose other than to carry out its duties and obligations set forth in the Settlement Agreement. Also, in accordance with the HIPAA Privacy Rule, 45 C.F.R. § 164.512(e)(1)(v)(B), and O.R.C. 3701.243(C), the Settlement Administrator shall destroy in a secure manner at the conclusion of the Settlement Administration (including any appeals) the Class List, PHI, or Confidential HIV-related Information disclosed under this Order, including any copies thereof.

34. The Settlement Administrator and each of its employees, agents and/or others accessing information through the Settlement Administrator in this case, shall agree in writing to be bound by this Order, including the Qualified Protective Order herein, and shall execute Exhibit A hereto.

35. At no time shall the Settlement Administrator share the Class List or any information contained in the Class List, or any PHI, or any Confidential HIV-related Information, with the Court, Co-Lead Class Counsel, Class Counsel, Counsel for any Plaintiff, Counsel for Defendants, or any other person or entity, without a Court order or an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf), except as expressly provided in the Settlement Agreement and this Order (including the Qualified Protective Order herein) and except that the Settlement Administrator shall comply with any federal and state tax laws and required reporting and withholding with respect to this Settlement. Defendants shall have no obligations relating to any federal and state tax laws and required reporting and withholding with respect to

this Settlement. The Settlement Administrator shall retain a list of all persons with access to the Class List, PHI, and/or Confidential HIV-related Information, and shall set up its systems in a manner that only persons with a need to access such information will be able to do so. All employees of the Settlement Administrator with access to the Class List, PHI, or Confidential HIV-related Information must agree in writing to be bound by this Order and the Qualified Protective Order herein and shall execute Exhibit A hereto.

36. The Settlement Administrator shall develop a unique number identifier system so that it can communicate with and about Settlement Class Members without including or identifying any PHI or Confidential HIV-related Information or identifying names, addresses or other identifying information belonging to any Settlement Class Member.

37. The Class List and any completed Claim Forms, Claim Packages, or other information submitted by Claimants to the Settlement Administrator, will be recorded by the Settlement Administrator in a computerized database that will be securely and confidentially maintained by the Settlement Administrator in accordance with HIPAA and all other applicable federal, state and local laws, regulations and guidelines, including, without limitation, any laws concerning heightened privacy for Confidential HIV-related Information. Backups of this data may be maintained solely for purposes of administering the Settlement so long as the backup is securely and confidentially maintained by the Settlement Administrator in accordance with HIPAA and all other applicable federal, state and local laws, regulations and guidelines, including, without limitation, any laws concerning heightened privacy for Confidential HIV-related Information. The Settlement Administrator must: (a) designate specifically-assigned employees to handle its administration of this Settlement, who shall be trained concerning their legal duties and obligations arising out of the Settlement with respect to the information that they are provided;

(b) review the notices to be mailed to Settlement Class Members in the form they will actually be mailed to verify no PHI or Confidential HIV-related Information (or other sensitive information) is visible from the outside of the mailing without opening it; (c) ensure that all of the information it receives is used properly in accordance with HIPAA and all other applicable federal, state and local laws and solely for the purpose of administering this Settlement; and (d) ensure that an orderly system of data management and maintenance is adopted and implemented. The Settlement Administrator will keep the database (and any backup) in a form that grants access for purposes of administering this Settlement only and shall restrict access rights only to the least possible number of employees of the Settlement Administrator who are working directly on the administration of this Settlement.

38. The Settlement Administrator shall carry out and fulfill its obligations as set forth in the Settlement Agreement, including all Exhibits thereto, the requirements of this Order and any and all other provisions concerning the protection of PHI and Confidential HIV-related Information.

39. The Settlement Administrator shall provide Co-Lead Class Counsel and Counsel for Defendants with a declaration confirming that notice was provided to Settlement Class Members in accordance with the terms of the Settlement Agreement.

40. The Settlement, as preliminarily approved in this Order, shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement and this Order include but are not limited to the following:

- Mailing of Notice of Settlement: _____ [As promptly as possible consistent with Settlement and Preliminary Approval Order]
- Publication Notice deadline: _____ [No later than 10 days after mailing of Notice of Settlement]
- Activation of Settlement Website by Settlement Administrator: _____ [No later

than 21 days after the entry of this Order]

- Posting of Statement on Settlement Class Counsel’s websites directing individuals to the Settlement Website: _____ [No later than 21 days after the entry of this Order]
- Deadline to Opt Out: _____ [60 days after mailing of Notice of Settlement]
- Deadline to Object: _____ [60 days after mailing of Notice of Settlement]
- Claims Deadline: _____ [60 days after mailing of Notice of Settlement]
- Final Approval Hearing: _____ [No earlier than 90 days after the notice required by 28 U.S.C. § 1715 is required. The Parties shall contact the Court to discuss potential dates]
- Motion for Final Approval of Settlement (“Final Approval Motion”): _____ [No later than 30 days before Final Approval Hearing]
- Motion for attorneys’ fees, reasonable costs and expenses, and service awards for the Class Representatives: _____ [No later than 30 days before Final Approval Hearing]
- Objectors, if any, response to Final Approval Motion and/or motion for award of attorneys’ fees, reasonable costs and expenses, and service awards to Class Representatives: _____ [No later than 17 days before Final Approval Hearing]
- Replies in Support of Final Approval Motion and Fee Motion/ Responses to Objections: _____ [No later than 7 days before Final Approval Hearing]
- Written notice of intention to appear at Final Approval Hearing: _____ [No later than 14 days before Final Approval Hearing]

DATED: _____, 2019

HON. EDMUND A. SARGUS

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE ONE, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CAREMARK, LLC, FISERV, INC., FISERV
SOLUTIONS, LLC, and DOES 1-10,

Defendants.

Case No. 2:18-cv-00238-EAS-CMV

Case No. 2:18-cv-00488-EAS-CMV

Chief Judge Edmund A. Sargus

Magistrate Judge Chelsey M. Vascura

ACKNOWLEDGMENT OF UNDERSTANDING AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she/it has read the Order dated _____, ECF No. ____, in the above captioned action, understands the terms thereof, and agrees to be bound by the Order and all of its terms. The undersigned submits to the jurisdiction of the United States District Court for the Southern District of Ohio in matters relating to the Order and understands that the terms of said Order obligate him/her/it to use PHI and/or Confidential HIV-related Information solely for the purposes of administering the settlement in the above-captioned action, and not to disclose any such confidential information to any other person, firm, or concern, except as expressly authorized in the Order.

The undersigned acknowledges that violation of the Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

Date: _____

Signature

EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

If you participated in the Ohio Department of Health Drug Assistance Program and a mailing in August 2017 containing your protected health information was mailed, provided, or sent for delivery to you, your rights may be affected by a class action lawsuit.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- Certain participants in the Ohio Department of Health Drug Assistance Program (“OhDAP”) have sued Caremark, L.L.C. (“Caremark”), and Fiserv, Inc. and Fiserv Solutions, LLC (collectively, “Fiserv” and with Caremark, “Defendants”) claiming that they wrongfully disclosed OhDAP participants’ confidential, protected health information in mailings that were mailed, provided, or sent for delivery in August of 2017 (the “OhDAP Mailing”). Caremark and Fiserv dispute that they have done anything wrong and believe that they have complied with all applicable laws. The court has not decided which side is right.
- A Settlement has been reached in this lawsuit. Under the terms of the Settlement, Caremark will pay \$4,400,000 into a Settlement Fund. The Settlement will also require Caremark to maintain certain changes to its practices and provide additional training to appropriate employees on privacy.
- All OhDAP participants to whom the OhDAP Mailing was mailed, sent for delivery, or provided are members of the Settlement Class (and are referred to as Settlement Class Members). Settlement Class Members will be entitled to compensation from the Settlement Fund.
- If you are a Settlement Class Member, then you are part of this Settlement. Your legal rights are affected whether you act or don’t act. Read this notice carefully.
- Important: If this Notice was **not** sent to you in the mail by the Settlement Administrator (e.g., this Notice was sent to someone else but you are reading it now), but you believe you are a Settlement Class Member, you **MUST** contact the Settlement Administrator to receive any benefits under this Settlement, including the \$400 Base Payment.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:

<p>DO NOTHING</p>	<p>You will receive at least \$400 if you are a Settlement Class Member (i.e., if the OhDAP Mailing was mailed, provided, or sent for delivery to you). By doing nothing, you are choosing to stay in the Settlement and you are entitled to the monetary benefits described in this Notice, including \$400. You will also give up the right to sue Caremark, Fiserv, and the State of Ohio on your own about the legal claims resolved by the Settlement.</p>
<p>FILE A CLAIM</p>	<p>You may receive additional money. If you file a claim, you may also be entitled to additional reimbursement of up to \$10,000 in non-reimbursed out-of-pocket expenses you claim result from the OhDAP Mailing, such as moving costs, counseling costs, and loss of income. In addition, if you claim to have suffered non-financial harm as a result of the OhDAP Mailing, such as emotional distress,</p>

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD]. You must use this number to file a claim as described below.

	<p>you may be entitled to an additional reimbursement of up to \$2,500. All claims must be postmarked or submitted electronically by [DATE].</p> <p>Reminder: you do not have to file a claim to receive the \$400 automatic payment described above.</p>
OBJECT	<p>You may write to the Court about what you don't like about the Settlement. In order to object to the Settlement you must stay in the lawsuit and be bound by the Settlement and its releases. If you want to object, you must do so in writing and in accordance with the procedures in the Settlement (which are described in this Notice). Your written objection must be postmarked no later than [DATE].</p>
OPT-OUT AND EXCLUDE YOURSELF	<p>Get out of this Settlement. You will give up your right to any benefits from the Settlement. You will <i>not</i> receive the \$400 automatic payment described above or any other compensation. However, you will keep your rights to bring your own lawsuit. If you want to opt out and exclude yourself, you must do so in writing and in accordance with the procedures in the Settlement (which are described in this Notice). Your written opt-out notice must be postmarked no later than [DATE].</p>

NOTICE OF CLASS ACTION SETTLEMENT (“NOTICE”)

What This Notice Contains

1. WHAT IS THIS LAWSUIT AND SETTLEMENT ABOUT? 2

2. WHY SHOULD I READ THIS NOTICE? 2

3. WHY IS THIS LAWSUIT A CLASS ACTION? 2

4. HOW DO I KNOW IF I AM INCLUDED IN THE SETTLEMENT? 2

5. WHAT ARE THE TERMS OF THE SETTLEMENT? 2

6. WHAT AM I GIVING UP AS PART OF THIS SETTLEMENT? 2

7. HOW DO I GET A PAYMENT? 2

8. HOW DO I SUBMIT A CLAIM FORM? 2

9. WHEN WILL I GET PAID? 2

10. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT? 2

11. HOW DO I OBJECT TO THE SETTLEMENT? 2

12. CAN CAREMARK RETALIATE AGAINST ME FOR PARTICIPATING IN THIS SETTLEMENT? 2

13. WHO ARE THE ATTORNEYS REPRESENTING THE CLASS? 2

14. HOW WILL THE ATTORNEYS FOR THE SETTLEMENT CLASS BE PAID? 2

15. HOW WILL THE CLASS REPRESENTATIVES BE PAID? 2

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD]. You must use this number to file a claim as described below.

- 16. WHAT HAPPENS IF I DO NOTHING?..... 2
17. WHO MAY I CONTACT IF I HAVE FURTHER QUESTIONS? 2

1. What is this Lawsuit and Settlement About?

You are receiving this Notice because you have been identified as being part of a group of people whose protected health information ("PHI") is alleged to have been disclosed improperly by Caremark and Fiserv (i.e., the Defendants), through mailings that were mailed, provided, or sent for delivery in August 2017 as part of Caremark's administration of OhDAP.

The envelopes of these mailings had two clear glassine windows. One, in the upper left, contained the logo of "CVS/caremark," the words "Ohio Department of Health," and an address for the Ohio Department of Health. A second window contained the recipient's name and address. These mailings are referred to as the "OhDAP Mailing."

As a result of the OhDAP Mailing, certain OhDAP participants (referred to as "Plaintiffs") filed two lawsuits against Caremark and Fiserv - John Doe One, et al. v. CVS Health Corporation, et al., No. 2:18-cv-00238-EAS-CMV (S.D. Ohio) and John Doe v. CVS Health Corporation, et al., No. 2:18-cv-00488-EAS-CMV (S.D. Ohio) (collectively, the "Doe Lawsuits"). In the Doe Lawsuits, Plaintiffs allege that OhDAP participants' PHI was visible through the glassine window containing the recipient's name and address and was improperly disclosed.

The Settlement resolves the Doe Lawsuits. The Settlement has been preliminarily approved by the United States District Court for the Southern District of Ohio (the "Court"), which is the federal court overseeing the Doe Lawsuits. This Notice provides information about the Doe Lawsuits, the Settlement, and your options as a Settlement Class Member. Please read this Notice carefully because it affects your legal rights. The Court authorized sending this Notice to you. This is not a solicitation.

2. Why Should I Read This Notice?

You are receiving this Notice because Caremark's records show that the OhDAP Mailing was mailed, provided, or sent for delivery to you. As a result, you are a member of the Settlement Class. Members of the Settlement Class are referred to as Settlement Class Members. Your rights are affected by the Settlement, so you should read this Notice carefully.

The Plaintiffs in the Doe Lawsuits allege that the OhDAP Mailing revealed Settlement Class Members' PHI through a window of the envelope.

Following an extensive mediation process overseen by retired federal Magistrate Judge Morton Denlow, Plaintiffs and Defendants have reached a settlement that has been preliminarily approved by the Court overseeing the Doe Lawsuits. As a Settlement Class Member, you are entitled to a settlement payment of \$400 (four hundred dollars), with the opportunity to obtain additional compensation for financial harm and non-financial harm by filing a claim. All Settlement Class Members who do not opt out shall automatically receive the applicable \$400 payment described above without submitting a Claim Form.

Important: If this Notice was not sent to you in the mail by the Settlement Administrator (e.g., this Notice was sent to someone else but you are reading it now), but you believe you are a Settlement Class Member, you MUST contact the Settlement Administrator to receive any benefits under this Settlement, including the \$400 Base Payment.

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

You may submit a claim for an additional monetary award if you can demonstrate through the submission of reasonable proof that as a result of the OhDAP Mailing you suffered: (a) financial harm (meaning non-reimbursed out-of-pocket expenses), or (b) non-financial harm (meaning harm such as emotional distress). Settlement Class Members who meet these requirements can submit such a claim by filling out and returning the enclosed Claim Form or by submitting their Claim Form online at << WebsiteURL >>. Claim Forms must be postmarked (or submitted electronically in accordance with the requirements for electronic submission of a Claim Form) no later than <<Month, Day, Year >>.

If you choose to file a claim you can do so using your unique Class Member ID to protect your privacy. Your Class Member ID is: [ADD].

As noted above, the Court has preliminarily approved this Settlement as fair and reasonable and authorized this Notice to be sent to you. The Court will hold a hearing to consider whether the Settlement should be finally approved, as well as whether to approve requested attorneys' fees, costs and expenses, service awards, and Settlement Administrator fees and costs, among other things. The Court will hold this Final Approval Hearing on <<Month, Day, Year >> at <<Hour >>, at the United States District Court for the Southern District of Ohio, Eastern Division, << Street >>, Columbus, Ohio, <<zip >>. Additional information about this case and the Settlement can be found at <<WebsiteURL >>.

3. Why is this Lawsuit a Class Action?

In a class action, one or more people called representative plaintiffs or class representatives sue on behalf of all people who have similar claims. Together, all of these people are called a class and the individuals are called class members. One court resolves the issues for all class members, except for those who exclude themselves from the class. Here, in this Settlement, the Plaintiffs are the Class Representatives, and this Settlement resolves the claims of all Settlement Class Members who do not opt out of the Settlement. Details about the Settlement, including the Settlement benefits as well as what Settlement Class Members are giving up in this Settlement, are set forth in this Notice and in the Settlement.

The Court did not issue a ruling in favor of the Plaintiffs or Defendants. Rather, both sides, with the assistance of a mediator, agreed to a settlement. The Settlement is not an admission that Defendants did something wrong, but rather is a compromise to end the lawsuit. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will get compensation. The Class Representatives and their attorneys believe the Settlement is fair, reasonable, and adequate and, thus, best for the Settlement Class.

4. How Do I Know if I am Included in the Settlement?

You are included in the Settlement if the OhDAP Mailing was mailed, provided, or sent for delivery to you. Information about the OhDAP Mailing is set forth above in Question 1.

5. What Are the Terms of the Settlement?

Under the terms of the Settlement, a copy of which is available at <<WebsiteURL >>, Caremark has agreed to pay the cash amount of \$4,400,000 (the "Settlement Fund") to settle all claims arising out of or relating the OhDAP Mailing, the alleged disclosure of PHI (and other sensitive health-related information), and/or the facts

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

and allegations in the Doe Lawsuits. For a more detailed description of the claims that Settlement Class Members are releasing, please see Question 6. None of this money will ever be returned to Caremark.

The Settlement Fund will be used to pay: (a) the Settlement Payments to all Settlement Class Members; (b) all settlement administrator fees and costs approved by the Court; (c) all attorneys' fees, costs, and expenses approved by the Court; and (d) all service awards to the Class Representatives approved by the Court. The "Net Settlement Fund" is the amount left in the Settlement Fund after the Court-approved deductions for settlement administrator fees and costs, attorneys' fees and costs, and service awards.

In addition to creating the Settlement Fund, Caremark has agreed to continue its prior modification to the OhDAP program number that removes letters that allegedly revealed PHI and provide privacy training regarding Caremark's requirements under HIPAA and applicable federal and state privacy laws as appropriate to Caremark's specialty account implementation teams primarily responsible for managing the OhDAP relationship.

The Settlement Payments to Settlement Class Members will be calculated as follows:

A. **Base Payment:** All Settlement Class Members who do not opt out will automatically receive a "Base Payment" of \$400, without having to submit a Claim Form. In other words, you do not need to do anything to receive \$400. Depending on the amount of approved Claimant Awards (described below), the Base Payment may exceed \$400. It will not be less than \$400.

B. **Claimant Award:** Each Settlement Class Member who does not opt out may also submit a Claim Form and any required supporting documentation to apply for an additional monetary award if they believe that as a result of the OhDAP Mailing they suffered financial harm and/or non-financial harm. To be considered timely and valid, all Claim Forms and supporting documentation must be postmarked (or submitted electronically in accordance with the requirements for electronic submission of a Claim Form) no later than <<Month>> <<Day>>, <<Year>>. The Court-appointed Settlement Administrator will receive and review all completed Claim Forms and will calculate all Claimant Awards. Claimant Awards shall be based on the total of: (a) the Claimant's Financial Harm Award; and (b) the Claimant's Non-Financial Harm Award.

- i. **Financial Harm Award.** A Claimant's Financial Harm Award shall be calculated by the Settlement Administrator and shall include all reasonable non-reimbursed out-of-pocket expenses incurred by the Claimant up to \$10,000 that were a result of the OhDAP Mailing, including, for example, any moving costs, counseling costs, loss of income, or other non-reimbursed out-of-pocket expenses upon a showing of reasonable proof. The term "reasonable proof" means the submission to the Settlement Administrator by the Claimant of receipts, invoices, credit card statements, medical records, insurance records, copies of returned checks, and/or any other reasonable form of written proof of non-reimbursed out-of-pocket expenses incurred as a result of the OhDAP Mailing.
- ii. **Non-Financial Harm Award.** A Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator based upon the Claimant's answers on their Claim Form using the objective point-scoring system as set forth in Exhibit H to the Settlement Agreement. All answers given on the Claim Form shall be true and correct to the best of the Claimant's knowledge.
- iii. **Amount of Claimant Awards.** Claimant's may receive up to \$10,000 for financial harm as calculated by the Settlement Administrator and up to \$2,500 for non-financial harm as calculated by the Settlement Administrator, for a total maximum of up to \$12,500 in addition to the minimum Base Payment described above. The amount that each Settlement Class Member will receive as a Claimant Award is subject to a pro rata reduction based upon the total amount of all timely and valid claims for a Financial Harm Award and Non-Financial Harm Award as set forth in Exhibit H to the Settlement Agreement.
- iv. Your minimum Base Payment may be **increased** (but never decreased) depending on the amount of valid Claimant Awards and other circumstances as described in Exhibit H to the Settlement Agreement.

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

C. **Timing of Payments.** The Court will hold a hearing on **Month Day, Year** to decide whether to finally approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

D. **Remaining Funds/ Uncashed Checks.** If after deducting the Base Payments for all Settlement Class Members, deducting all Claimant Awards, payment of all fees and costs to the Settlement Administrator, and the passing of the deadline for negotiating all Settlement checks, there is money remaining in the Net Settlement Fund, then the remaining money shall be distributed *pro rata* (based on number of Settlement Class Members who have not opted out of the Settlement) to all Settlement Class Members who have not opted out of the Settlement. If not administratively and/or economically feasible (for instance, the cost of a subsequent *pro rata* distribution exceeds the amount of remaining money) to make a *pro rata* distribution, then Co-Lead Class Counsel will make an application to the Court to approve a final distribution to a *cy pres* entity, which shall be mutually agreed upon by Co-Lead Class Counsel and Caremark.

6. What am I giving up as part of this Settlement?

In order to obtain your Settlement benefits you will give up the rights to sue Caremark and its Affiliates, Fiserv and its Affiliates, and Ohio (defined in the Settlement to include, among others, the Ohio Department of Health and OhDAP) for any claims related to the OhDAP Mailing, as described in greater detail below and in the Settlement.

The release in the Settlement Agreement provides:

“In consideration of the benefits provided to Settlement Class Members as described in this Settlement Agreement, upon the Effective Date, each Plaintiff and Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (collectively, the “Releasors”), shall automatically be deemed to have, and by operation of the Final Approval Order shall have, completely, fully, finally, irrevocably, and forever released, relinquished, and discharged the Released Parties, and each of them, of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown (including Unknown Claims), existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) (collectively, the “Released Claims”).”

“For the avoidance of doubt and without limiting the scope of Section 7.1, the Released Claims as defined in Section 7.1 include, without limitation, any claims, causes of actions, remedies, or damages that were asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV), and any claims, causes of actions, remedies, or damages that could have been asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). For the further avoidance of doubt and without limiting the scope of Section 7.1, the Released Claims as defined in Section 7.1 also include, without limitation, any claims that a Releasor may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States (including, without limitation, any causes of action under Ohio’s HIV-Disclosure Law, Ohio Rev. Code Ann., §§ 3701.243, *et seq.*, Ohio’s Insurance Information and Privacy Protection Act, Ohio Rev. Code §§ 3904.01, *et seq.*, California Business & Professions Code § 17200 *et seq.*,

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

California Civil Code § 1750 *et seq.*, California Civil Code § 1798.80 *et seq.*, California Civil Code § 56.10 *et seq.*, and any similar statutes or data breach notification statutes in effect in the United States or in any states in the United States); causes of action under the common or civil laws of any state in the United States, including but not limited to: unjust enrichment, negligence (including a “*Biddle*” claim under Ohio law), bailment, conversion, negligence *per se*, breach of contract, breach of implied contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, misrepresentation (whether fraudulent, negligent, or innocent), fraudulent concealment or nondisclosure, invasion of privacy, public disclosure of private facts, and misappropriation of likeness and identity; any causes of action based on privacy rights provided for under the constitutions of the United States or of any states in the United States; any statutory claims under state or federal law; and also including, but not limited to, any and all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit or financial account monitoring services, identity theft insurance, the creation of a fund for future damages, statutory penalties, restitution, the appointment of a receiver, and any other form of relief, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). Notwithstanding the foregoing, Released Claims do not include any claims arising out of any acts or omissions by the Released Parties after the Effective Date, except as expressly provided in Sections 3.9 and 10.6 of the Settlement Agreement.”

7. How Do I Get a Payment?

You will *automatically* receive a minimum payment of \$400 without doing anything if you are a Settlement Class Member and do not opt out of the Settlement. If you claim you have been harmed by the OhDAP Mailing, you may submit a Claim Form for *additional* compensation, as described in this Notice.

Important: If this Notice was **not** sent to you in the mail by the Settlement Administrator (e.g., this Notice was sent to someone else but you are reading it now), but you believe you are a Settlement Class Member, you **MUST** contact the Settlement Administrator to receive any benefits under this Settlement, including the \$400 Base Payment.

8. How Do I Submit a Claim Form?

Please note that the Claim Form is solely for Settlement Class Members who do not opt out who claim to have been harmed as a result of the OhDAP Mailing. **If you have not suffered financial harm or non-financial harm as a result of the OhDAP Mailing, then do not fill out the Claim Form. You will automatically receive the applicable \$400 Base Payment described above if you do not opt out.**

In order to be considered valid and timely, Claim Forms must be postmarked (or submitted electronically in accordance with the requirements for electronic submission of a Claim Form) on or before <<MONTH DAY, YEAR>>.

You have several options for submitting a Claim Form:

1. Complete this Claim Form (you may also download a Claim Form from the Settlement Website using your Class Member ID or by contacting the Settlement Administrator). Then return the completed Claim Form along with any accompanying documents using the enclosed self-addressed stamped envelope. No postage is required if mailed from within the United States; **or**

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

2. Complete the enclosed Claim Form, scan the completed Claim Form and any accompanying documents, and then upload those documents using the Settlement Website's HIPAA-complaint secure portal; **or**
3. Complete the electronic version of the Claim Form on the Settlement Website and submit the electronic Claim Form, along with any accompanying documents, online through the Settlement Website's HIPAA-complaint secure portal. The Settlement Website is: <<websiteURL>>.

In order to assure your privacy in filing a claim, you may use your Class Member ID number provided in this Notice -- You are NOT required to provide your name but can if you choose to do so. Additionally, if you choose to submit a claim online, it is recommended that you do not use an employer-based computer. It is also recommended that you use a secure internet connection to transmit your claim form in order to avoid any potential loss of privacy.

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at <<xxx-xxx-xxxx>>. For additional information about the Settlement, please visit <<WebsiteURL>>. You do not have to provide your name in order to obtain information from the Settlement Administrator and can use your unique Class Member ID number.

If you decide to fill out and return the Claim Form, all information you provide will be kept strictly confidential by the Settlement Administrator.

Important -- If this Notice was not sent to you in the mail by the Settlement Administrator (e.g., this Notice was sent to someone else but you are reading it now), but you believe you are a Settlement Class Member, you **MUST** contact the Settlement Administrator to receive any benefits under this Settlement, including the \$400 Base Payment. It is also your responsibility to let the Settlement Administrator know if your mailing address changes at any time before you receive a Settlement Payment or if you want future mail sent to a different mailing address. If you fail to keep your address current, you may not receive your benefits under the Settlement.

9. When Will I Get Paid?

The Court will hold a hearing on **Month Day, Year** to decide whether to finally approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

10. How do I exclude myself from the Settlement?

If you wish to exclude yourself from the Settlement (also known as "opting out of" the Settlement) so that you do not receive any Settlement benefits and are not bound by any releases in the Settlement, then you must submit a written request to opt out to both Settlement Administrator and Counsel for Defendants at the addresses below stating "I wish to exclude myself from the Settlement Class in *John Doe One., et al. v. Caremark, LLC et al.*, No. 2:18-cv-00238-EAS-CMV (S.D. Ohio)" (or substantially similar clear and unambiguous language). The written opt out request must contain your printed name, address, telephone number, email address, date of birth, and your (i.e., the Settlement Class Member's) actual written signature. Requests to opt out cannot be made on a group or class basis. The written request to opt out must be sent to (i) the Settlement Administrator, (ii) Counsel for Caremark, and (iii) Counsel for Fiserv at the addresses set out below in response to Question 11 and **postmarked** no later than **[Date]**.

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

Any person who timely and validly requests to opt out of the Settlement will **not** be entitled to any Settlement benefits. (For instance, a person who opts out will **not** receive the \$400 automatic payment and will **not** be entitled to any other benefits from the Settlement.) Moreover, any person who timely and validly requests to opt out of the Settlement will **not** be bound by the Settlement (including its releases) and will **not** have any right to object or appeal.

All Settlement Class Members who do **not** timely and properly opt out of the Settlement Class will in all respects be bound by all terms of the Settlement and the Final Approval Order (including without limitation all releases in the Settlement and Final Approval Order), and upon the Effective Date, will be entitled to all benefits described in the Settlement Agreement.

You may withdraw your request for exclusion by submitting a written request to (i) the Settlement Administrator, (ii) Counsel for Caremark, and (iii) Counsel for Fiserv at the addresses set out below in response to Question 11 stating your desire to revoke their request for exclusion along with your written signature, so long as the revocation request is received no later than three (3) days prior to the Final Approval Hearing (the date, location, and time of which is set forth in response to Question 11).

Please note that by submitting a request to opt out you consent to Counsel for Defendants sharing your name, address, and other such information relating to your opt-out (or revocation of opt out) with Defendants and to the Settlement Administrator sharing this same information (i.e., your name, address, and other such information relating to your opt-out (or revocation of opt out)) with Defendants and Counsel for Defendants. However, please know that Defendants and Counsel for Defendants will use this information solely to the extent necessary for enforcing the Settlement (or as otherwise provided in the Settlement) and shall maintain the confidentiality of this information.

11. How Do I Object to the Settlement?

If you wish to remain in the Settlement and accept the Settlement's benefits but submit an objection to the Settlement, you must submit a written objection to the Settlement explaining why you believe that the Settlement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to object to any aspect of the Settlement must submit a written statement of the objection. To be valid, the written objection must comply with the requirements below and be sent to the Settlement Administrator at the address below, postmarked no later than [DATE].

The written statement must include (i) the printed name, address, telephone number, and date of birth of the objector; (ii) a detailed statement of all of the objector's objection(s); (iii) the specific reasons for each objection, including any evidence, legal authority, supporting papers, materials, and briefs the objector contends support the objection and wishes to bring to the Court's attention; (iv) the name and contact information for all counsel representing the objector; (v) a list of all persons who will be called to testify at the final approval hearing in support of the objection; (vi) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last 3 years; (vii) the actual written signature of the Settlement Class Member making the objection.

Following receipt, the Settlement Administrator will submit your objection to the Court. The Settlement Administrator will submit the objection either for *in camera* reviewing (meaning it is only viewable by the Court and the Court's staff), or the Settlement Administrator will submit the objection in the public docket *but with all personally identifying information redacted*.

You may object on your own behalf or through an attorney. However, even if represented, you must sign the objection and all attorneys who are involved in any way asserting objections on your behalf must file a notice of appearance with the Court at the time when the objection is submitted, or as the Court may otherwise direct.

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

Please note that by submitting an objection you consent to the Settlement Administrator disclosing to Co-Lead Class Counsel and Counsel for Defendants your name and other identifying information but only to the extent that Co-Lead Class Counsel and Counsel for Defendants agree that this information is necessary to adequately respond to the objection.

You may also attend the Final Approval Hearing set for [DATE] at [LOCATION]. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. If you (and/or your attorney) would like to appear and speak at the Final Approval Hearing you (and/or your attorney) must file with the Court, by fourteen (14) days prior to the hearing, a written notice of your intention to appear at the Final Approval Hearing, including a statement of any evidence or exhibits that will be presented.

Address Information		
Settlement Administrator	Counsel for Caremark	Counsel for Fiserv
Attn: PO Box <<xxxxxx>> Philadelphia, PA <<zip>>.	Donald M. Houser ALSTON & BIRD LLP 1201 West Peachtree Street Atlanta, GA 30309	Megan B. Poetzel JENNER & BLOCK LLP 353 N. Clark Street Chicago, IL 60654-3456

12. Can Caremark Retaliate Against Me For Participating In This Settlement?

No. Defendants agree that they shall not retaliate against any Plaintiff, Class Representative, or Settlement Class Member in any fashion for having participated in this litigation and/or Settlement Agreement, including, without limitation, with respect to the provision, reduction, limitation or denial of any health insurance or pharmacy benefits.

13. Who Are The Attorneys Representing The Class?

The attorneys who represent the Settlement Class are Joel Strauss and Matthew B. George of Kaplan Fox & Kilsheimer, LLP; Matthew R. Wilson of Meyer Wilson, Co., L.P.A.; Alan Mansfield and Henry Quillen of Whatley Kallas LLP; Terry L. Kilgore of the Law Offices of Terry L. Kilgore; Gerald S. Flanagan of Consumer Watchdog; and Marnie C. Lambert of Lambert Law Firm, LLC.

14. How Will The Attorneys For The Settlement Class Be Paid?

You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that attorneys' fees and costs will be paid from the Settlement Fund subject to the approval of the Court. The attorneys' request for fees will not exceed thirty-three and one third percent (33 1/3%) of the Settlement Fund plus reimbursement of reasonable out-of-pocket costs. The request for attorneys' fees, along with other information about the Settlement, will be available on the Settlement Website.

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Your unique Class Member ID is [ADD].

You must use this number to file a claim as described below.

15. How Will The Class Representatives Be Paid?

Each of the four (4) Class Representatives who initiated these lawsuits as “John Does” will be provided up to \$3,500 for their willingness to be plaintiffs in this action and for their services to the class. The service awards will take up no more than \$14,000 of the entire Settlement Fund and are subject to Court approval.

16. What Happens if I Do Nothing?

You will receive at least \$400 if you are a Settlement Class Member (i.e., if the OhDAP Mailing was mailed, provided, or sent for delivery to you). By doing nothing, you are choosing to stay in the Settlement and you are entitled to the monetary benefits described in this Notice, including the \$400 Base Payment, which may be increased (but not decreased). You will also give up the right to sue Caremark, Fiserv, and Ohio on your own about the legal claims resolved by the Settlement as described in this Notice and in the Settlement.

17. Who May I Contact If I Have Further Questions?

If you need more information or have any questions, you may contact the Settlement Administrator using the information below. Please refer to the [website].

Settlement Administrator
PO Box <<xxxxxx>>
Philadelphia, PA <<zip>>
Phone: (xxx) xxxx-xxxx>>

Website: <<WebsiteURL>>

This Notice only summarizes the Lawsuit, the Settlement and related matters. For more information, you may also inspect the Court files at the Office of the Clerk, United States District Court located at <<Street>>, <<City>>, Ohio, from <<xx:xx>> a.m. to <<xx:xx>> p.m., Monday through Friday.

PLEASE DO NOT CONTACT THE COURT.

QUESTIONS? CALL 1-XXX-XXX-XXXX TOLL FREE OR VISIT WWW.[WEBSITE].COM

EXHIBIT D

LEGAL NOTICE

If you participated in the Ohio Department of Health Drug Assistance Program and a mailing in August 2017 containing your protected health information was mailed, provided, or sent for delivery to you, your rights may be affected by a class action lawsuit.

A settlement as described below (“Settlement”) has been reached with Caremark, L.L.C. (“Caremark”), and Fiserv, Inc. and Fiserv Solutions, LLC (collectively, “Fiserv”) of a class action lawsuit alleging they wrongfully disclosed confidential, protected health information of certain participants in the Ohio Drug Assistance Program (“OhDAP”) in mailings that were mailed, provided, or sent for delivery in August 2017 (the “OhDAP Mailing”). OhDAP participants to whom the OhDAP Mailing was mailed, provided, or sent for delivery are entitled to compensation under the Settlement.

The United States District Court for the Southern District of Ohio (“Court”) authorized this notice in two cases, known as *John Doe One, et al. v. CVS Health Corporation, et al.*, No. 2:18-cv-00238-EAS-CMV (S.D. Ohio) and *John Doe v. CVS Health Corporation, et al.*, No. 2:18-cv-00488-EAS-CMV (S.D. Ohio) (collectively, the “Doe Lawsuits”).

WHAT IS THIS ABOUT?

The Doe Lawsuits claim that the OhDAP Mailing disclosed OhDAP participants’ confidential, protected health information in violation of Ohio law. Caremark and Fiserv dispute that they have done anything wrong and believe that they have complied with all applicable laws. The Court has not decided which side is right.

WHO IS INCLUDED?

You are included in the Settlement if the OhDAP Mailing was mailed, provided, or sent for delivery to you.

WHAT DOES THE SETTLEMENT PROVIDE?

Under the terms of the Settlement, Caremark has agreed to pay the cash amount of \$4,400,000 (the “Settlement Fund”) to settle and release claims arising out of or relating the OhDAP Mailing, the alleged disclosure of protected health information in connection with the OhDAP Mailing, and/or the facts and allegations in the Doe Lawsuits. The Settlement Fund will be used to pay all settlement payments to all Settlement Class Members, all settlement administrator fees and expenses, all attorneys’ fees up to one-third of the Settlement Fund (plus costs and expenses), and all service awards to the Class Representatives (which may be up to \$14,000).

The Settlement provides for two types of payments to Settlement Class Members who do not opt out of the Settlement:

- (1) Base Payment of at least \$400 automatically provided (without the need to submit a Claim Form) to all Settlement Class Members for whom the Settlement Administrator has address information (this amount may be increased but never decreased); and
- (2) Payment of up to \$10,000 for certain financial harm and \$2,500 for certain non-financial harm, subject to a reduction depending on the total amount damages claimed in valid Claim Forms received.

HOW DO YOU GET A PAYMENT?

As long as the Settlement Administrator has a valid address for the person, Settlement Class Members who do not opt out will

automatically be sent a minimum payment of \$400. To receive an additional payment for financial or non-financial harm, you must submit a Claim Form by **Month Day, Year**. Claim Forms are available from the Settlement Administrator.

- If you have not received a notice about the Settlement with a Class Member ID and a Claim Form through the mail but believe you are a Settlement Class Member, you **MUST** contact the Settlement Administrator immediately at www.XXXX.com or by calling XXX-XXX-XXXX to receive any benefits under this Settlement.
- If you receive in the mail a notice about the Settlement with a Class Member ID and a Claim Form, you will automatically be sent a check for at least \$400. To receive additional compensation for financial and/or non-financial harm, follow the instructions in the notice and Claim Form. Additional information may be found by visiting www.XXXX.com or calling XXX-XXX-XXXX.

WHAT ARE YOUR OPTIONS?

If you do not want to be legally bound by the Settlement, you must exclude yourself from it by **Month Day, Year**, or you will not be able to sue, or continue to sue, Caremark, Fiserv, or the State of Ohio (including the Ohio Department of Health and OhDAP) about the claims this Settlement resolves. If you exclude yourself, you will not get money from the Settlement. If you stay in the Settlement Class, you can tell the Court that you do not agree with the Settlement by objecting to it by **Month Day, Year**. This is only a summary of the Settlement. The full Notice of Settlement available at www.XXXXX.com explains how to exclude yourself or object and describes the released claims in detail.

WHO REPRESENTS YOU?

The Court appointed several law firms to represent the Settlement Class. You can locate this information at www.XXXXXX.com. If you want to be represented by your own lawyer, you may hire one at your expense.

WHEN WILL THE SETTLEMENT BE APPROVED?

The Court will hold a hearing on **Month Day, Year**, at **TIME** to consider whether to approve the Settlement, the request for payment of attorneys’ fees, costs and expenses, service awards to the Class Representatives, and the payment of the Settlement Administrator’s fees and costs. You or your own lawyer may ask to appear and speak at the hearing at your own cost, but you do not have to.

WANT MORE INFORMATION?

If you want more information or want to review the Settlement’s terms, the Notice of Settlement and the Claim Form, or to inquire with the Settlement Administrator whether you are a Settlement Class Member, please visit www.XXXXXX.com or call XXXXXXXX.

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE ONE, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CAREMARK, LLC, FISERV, INC., FISERV
SOLUTIONS, LLC, and DOES 1-10,

Defendants.

Case No. 2:18-cv-00238-EAS-CMV

Case No. 2:18-cv-00488-EAS-CMV

Chief Judge Edmund A. Sargus

Magistrate Judge Chelsey M. Vascura

[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

On _____[DATE], this Court entered an order granting preliminary approval (the “Preliminary Approval Order”) (Doc. ____) of the Settlement Agreement between Plaintiffs, for themselves and on behalf of the Settlement Class, on the one hand, and Caremark and Fiserv, on the other hand, as memorialized in Exhibit __ (Doc. __) to Plaintiffs’ Unopposed Motion for Preliminary Approval of the Settlement;¹

Pursuant to the notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement Agreement, of the right of Settlement Class Members to opt out, and the right of Settlement Class Members to object to the Settlement Agreement and to be heard at the Final Approval Hearing;

On _____[DATE], Plaintiffs filed the Motion for Final Approval of the Class Action Settlement (“Final Approval Motion”) and accompanying Memorandum of Law and

¹ The capitalized terms used in this Final Approval Order and Judgment shall have the same meaning as defined in the Settlement Agreement except as may otherwise be indicated.

supporting exhibits, and Co-Lead Class Counsel filed their application for attorneys' fees, reasonable costs and expenses, payment of the Settlement Administrator's fees and expenses, and service awards to Class Representatives;

On _____[DATE], the Court held a Final Approval Hearing to determine, inter alia: whether (a) the proposed Settlement Class should be finally certified for settlement purposes pursuant to Federal Rule of Civil Procedure 23; (b) the Settlement should be finally approved as fair, reasonable and adequate and, in accordance with the Settlement's terms, all claims in the Consolidated Complaint and the above-captioned litigation (i.e., 2:18-cv-238-EAS-CMV and 2:18-cv-00488-EAS-CMV, as consolidated) (the "Litigation") should be dismissed with prejudice; (c) Settlement Class Members should be bound by the releases set forth in the Settlement; (d) the proposed Final Approval Order should be entered; (e) the application of Co-Lead Class Counsel for an award of attorneys' fees, costs and expenses, payment of the Settlement Administrator's fees and expenses, and service awards to Class Representatives should be approved; and (f) any other matters the Court deemed necessary and appropriate.

The Court is satisfied that Settlement Class Members were properly notified of their right to appear at the Final Approval Hearing in support of or in opposition to the proposed Settlement Agreement, and the award of attorneys' fees, costs and expenses, payment of the Settlement Administrator's fees and expenses, and service awards to the Class Representatives.

Having given an opportunity to be heard to all requesting persons in accordance with the Preliminary Approval Order, having heard the presentation of Co-Lead Class Counsel and Counsel for Defendants, having reviewed all of the submissions presented with respect to the proposed Settlement Agreement, having determined that the Settlement Agreement is fair, adequate, and reasonable, having considered the application made by Co-Lead Class Counsel for (i) attorneys' fees ("Fee Award"), (ii) reasonable costs and expenses ("Expense Award"), (iii) service awards to

the Class Representatives (“Service Award”), and (iv) payment of costs and expenses of the Settlement Administrator (“Settlement Administrator Award”), and having reviewed the materials in support thereof, and good cause appearing in the record, Plaintiffs’ Final Approval Motion is **GRANTED** and Co-Lead Class Counsel’s application for a Fee Award, Expense Award, Service Award, and Settlement Administrator Award is **GRANTED**, and:

IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of this action and over all claims raised therein and all Parties thereto, including the Settlement Class.

2. The Settlement Agreement was entered into in good faith following arm’s length negotiations and is non-collusive.

3. The Settlement Agreement is, in all respects, fair, reasonable, and adequate, is in the best interests of the Settlement Class, and is therefore approved. The Court finds that the Parties faced significant risks, expenses, delays and uncertainties, including as to the outcome, including on appeal, of continued litigation of this complex matter, which further supports the Court’s finding that the Settlement Agreement is fair, reasonable, adequate and in the best interests of the Settlement Class Members. The Court finds that the uncertainties of continued litigation in both the trial and appellate courts, as well as the expense associated with it, weigh in favor of approval of the settlement reflected in the Settlement Agreement.

4. This Court grants Final Approval of the Settlement Agreement, including but not limited to the releases in the Settlement Agreement and the plans for implementation and distribution of the settlement relief. The Court finds that the Settlement Agreement is in all respects fair, reasonable, and in the best interest of the Settlement Class. Therefore, all Settlement Class Members who have not timely and validly opted out are bound by the Settlement Agreement and this Final Approval Order and Judgment, including without limitation all releases therein.

5. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

OBJECTIONS AND OPT-OUTS

6. _____ objections were filed by Settlement Class Members. The Court has considered all objections and finds the objections do not counsel against Settlement Agreement approval, and the objections are hereby overruled in all respects.

7. All persons who have not objected to the Settlement Agreement in the manner provided in the Settlement Agreement and Preliminary Approval Order are deemed to have waived any objections to the Settlement Agreement, including without limitation by appeal, collateral attack, or otherwise.

8. A list of Settlement Class Members, identified only by unique identification number, who opted out of the Settlement Class is set forth in Exhibit 1. The Court has filed under seal as Exhibit 2 a list of Settlement Class Members who have opted out. Exhibit 2 shall be accessible only to Counsel for Defendants, who may share it with Defendants for purposes of enforcing the Settlement and this Order. Those Settlement Class Members identified in Exhibits 1 and 2 (the "Opt-Out Members") are not bound by the Settlement Agreement or this Final Approval Order and Judgment. Opt-Out Members shall not be entitled to any of the benefits afforded to the Settlement Class Members under the Settlement Agreement.

CLASS CERTIFICATION

9. For purposes of the Settlement Agreement and this Final Approval Order and Judgment only, the Court hereby finally certifies the following Settlement Class: **All persons to whom the OhDAP Mailing was mailed, provided, or sent for delivery, as identified on the Class List.**

10. The Court determines that for settlement purposes the Settlement Class meets all the requirements of Federal Rule of Civil Procedure 23(a) and (b)(3), namely that the class is so numerous that joinder of all members is impractical; that there are common issues of law and fact; that the claims of the Class Representatives are typical of absent class members; that the Class Representatives will fairly and adequately protect the interests of the class as they have no interests antagonistic to or in conflict with the class and have retained experienced and competent counsel to prosecute this matter; that common issues predominate over any individual issues; and that a class action is the superior means of adjudicating the controversy.

11. The Court grants final approval to the appointment of Plaintiffs John Does One through Four as Class Representatives. The Court concludes that the Class Representatives have fairly and adequately represented the Settlement Class and will continue to do so.

12. The Court grants final approval to the appointment of Joel Strauss and Matthew B. George of Kaplan Fox & Kilsheimer, LLP, Matthew R. Wilson of Meyer Wilson, Co., L.P.A., Alan Mansfield and Henry Quillen of Whatley Kallas LLP, and Terry L. Kilgore of the Law Offices of Terry L. Kilgore as Co-Lead Class Counsel. The Court concludes that Co-Lead Class Counsel have adequately represented the Settlement Class and will continue to do so.

NOTICE TO THE CLASS

13. The Court finds that the Notice of Settlement, as set forth in the Settlement Agreement and Plaintiffs' Motion for Preliminary Approval, and effectuated pursuant to the Preliminary Approval Order, satisfied Rule 23(c)(2), was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the litigation, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and of their right to object and to appear at the Final Approval Hearing or to exclude themselves from the Settlement

Class, and satisfied the other requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.

14. The Court finds that Defendants have fully complied with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

AWARD OF ATTORNEYS' FEES, COSTS AND EXPENSES, AND SERVICE AWARDS

15. The Court has considered Co-Lead Class Counsel's Motion for Fee Award, Expense Award, Service Award, and Settlement Administrator Award.

16. Pursuant to Rule 23(h), the Court awards Co-Lead Class Counsel the sum of \$_____ as the Fee Award and \$_____ as the Expense Award. The Court finds these amounts to be fair and reasonable. These amounts shall be paid in accordance with the terms of the Settlement Agreement.

17. The Court grants Co-Lead Class Counsel's request for service awards to the Class Representatives and awards \$_____ to the Class Representatives as the Service Award. The Court finds that this payment is justified by their service to the Settlement Class. This payment shall be paid in accordance with the Settlement Agreement.

18. The Court awards the Settlement Administrator the sum of \$_____, as the Settlement Administrator Award. The Court finds these costs and fees are fair and reasonable.

RELEASES AND OTHER PROVISIONS

19. The Parties to the Settlement Agreement shall carry out their respective obligations thereunder.

20. Within the time period set forth in the Settlement Agreement, the relief provided for in the Settlement Agreement shall be made available to the Settlement Class Members pursuant to the terms and conditions of the Settlement Agreement.

21. Upon the Effective Date, each Plaintiff and Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (collectively, the “Releasers”), shall automatically be deemed to have, and by operation of this Final Approval Order shall have, completely, fully, finally, irrevocably, and forever released, relinquished, and discharged the Released Parties, and each of them, of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown (including Unknown Claims), existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) (collectively, the “Released Claims”).

22. For the avoidance of doubt and without limiting the scope of Paragraph 21, the Released Claims as defined in Paragraph 21 include, without limitation, any claims, causes of actions, remedies, or damages that were asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV), and any claims, causes of actions, remedies, or damages that could have been asserted in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV) that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). For the further

avoidance of doubt and without limiting the scope of Paragraph 21, the Released Claims as defined in Paragraph 21 also include, without limitation, any claims that a Releasor may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States (including, without limitation, any causes of action under Ohio's HIV-Disclosure Law, Ohio Rev. Code Ann., §§ 3701.243, *et seq.*, Ohio's Insurance Information and Privacy Protection Act, Ohio Rev. Code §§ 3904.01, *et seq.*, California Business & Professions Code § 17200 *et seq.*, California Civil Code § 1750 *et seq.*, California Civil Code § 1798.80 *et seq.*, California Civil Code § 56.10 *et seq.*, and any similar statutes or data breach notification statutes in effect in the United States or in any states in the United States); causes of action under the common or civil laws of any state in the United States, including but not limited to: unjust enrichment, negligence (including a "*Biddle*" claim under Ohio law), bailment, conversion, negligence *per se*, breach of contract, breach of implied contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, misrepresentation (whether fraudulent, negligent, or innocent), fraudulent concealment or nondisclosure, invasion of privacy, public disclosure of private facts, and misappropriation of likeness and identity; any causes of action based on privacy rights provided for under the constitutions of the United States or of any states in the United States; any statutory claims under state or federal law; and also including, but not limited to, any and all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit or financial account monitoring services, identity theft insurance, the creation of a fund for future damages, statutory penalties, restitution, the appointment of a receiver, and any other form of relief, that result from, arise out of, are based upon, or relate to the Incident, OhDAP Mailing, the facts, circumstances, or allegations in Consolidated Complaint, and/or the facts, circumstances, or allegations in the above-captioned

litigation (i.e., in either 2:18-cv-238-EAS-CMV or 2:18-cv-00488-EAS-CMV). Notwithstanding the foregoing, Released Claims do not include any claims arising out of any acts or omissions by the Released Parties after the Effective Date, except as expressly provided in Sections 3.9 and 10.6 of the Settlement Agreement.

23. “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including Class Representatives, does not know or suspect to exist in his/her favor at the time of the release of the Released Parties that, if known by him or her, might have affected his or her settlement with, and release of, the Released Parties, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Parties stipulate and agree that upon the Effective Date, Class Representatives expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of this Final Approval Order shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542 to the extent applicable, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Settlement Class Members, including Class Representatives, and any of them, may hereafter discover facts in addition to, or different from, those that they now know or believe to be

true with respect to the subject matter of the Released Claims, but Class Representatives expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of this Final Approval Order shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims, including Unknown Claims. The Parties acknowledge, and Settlement Class Members shall be deemed by operation of this Final Approval Order to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

24. Upon the Effective Date Defendants hereby waive, release, and forever discharge Releasers, Co-Lead Class Counsel, Class Counsel, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum that they had, have, or may have in the future arising out of, in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator, including any claims for abuse of process, negligence, malicious prosecution, contribution, subrogation, reimbursement and/or contractual or equitable indemnity in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator. For the avoidance of doubt, the Parties agree that the release in this Paragraph 24 does not apply to the routine

administration and operation of the OhDAP program including, but not limited to, the payment of co-payments, deductibles, or fees.

25. Upon the Effective Date, Co-Lead Class Counsel, Class Counsel, and Plaintiffs, and each of them, hereby waive, release, and forever discharge Defendants, Defendants' counsel, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum that they had, have, or may have in the future arising out of, in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator, including any claims for abuse of process, negligence, malicious prosecution, contribution, subrogation, reimbursement and/or contractual or equitable indemnity in any way relating to, or in connection with, the investigation, filing, prosecution, or resolution of the Incident, implementation or administration of this Settlement Agreement, or actions of the Settlement Administrator.

26. This Final Approval Order and Judgment and the Settlement Agreement, and all acts, statements, documents or proceedings relating to the Settlement Agreement are not, and shall not be construed as, used as, or deemed to be evidence of, an admission by or against Defendants of any claim, any fact alleged in the Litigation, any fault, any wrongdoing, any violation of law,

or any liability of any kind on the part of Defendants or of the validity or certifiability of any claims that have been, or could have been, asserted in the Litigation.

27. This Final Approval Order and Judgment, the Settlement Agreement, all acts, statements, documents or proceedings relating to the Settlement Agreement shall not be offered or received or be admissible in evidence in any action or proceeding, or be used in any way as an admission or concession or evidence of any liability or wrongdoing of any nature or that Plaintiffs, any Settlement Class Member, or any other person has suffered any damage; *provided, however*, that the Settlement Agreement and this Final Approval Order and Judgment may be filed in any action by Defendants or Settlement Class Members seeking to enforce the Settlement Agreement or this Final Approval Order and Judgment (including but not limited to enforce the releases contained herein). The Settlement Agreement and this Final Approval Order and Judgment shall not be construed or admissible as an admission by Defendants that Plaintiffs' claims or any similar claims are suitable for class treatment.

28. The Settlement's terms shall be forever binding on, and shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims (and other prohibitions set forth in this Final Approval Order and Judgment) that are brought, initiated, or maintained by, or on behalf of, any Settlement Class Member who is not an Opt-Out Member or any other person subject to the provisions of this Final Approval Order and Judgment.

29. The Court hereby dismisses the Litigation and Consolidated Complaint and all claims therein on the merits and with prejudice, without fees or costs to any Party except as provided in this Final Approval Order and Judgment.

30. If the Settlement is terminated according to its terms or if the Effective Date does not occur for any reason, this Final Approval Order and Judgment and the Preliminary Approval Order shall be deemed vacated and shall have no force and effect whatsoever; the Settlement

Agreement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement, the Preliminary Approval Order, and this Final Approval Order and Judgment shall cease to be of any force and effect and the Parties shall return to the status quo ante in the litigation as if the Parties had not entered into the Settlement Agreement. In such an event, the Parties shall be restored to their respective positions in the litigation as if the Settlement Agreement had never been entered into (and without prejudice to any of the Parties' respective positions on the issue of class certification or any other issue).

31. Pursuant to the All Writs Act, 28 U.S.C. § 1651, this Court shall retain the authority to issue any order necessary to protect its jurisdiction from any action, whether in state or federal court.

32. Without affecting the finality of this Final Approval Order and Judgment, the Court will retain jurisdiction over the subject matter and the Parties with respect to the interpretation and implementation of the Settlement for all purposes, including enforcement of its terms at the request of any party and resolution of any disputes that may arise relating in any way to, arising from, the implementation of the Settlement or the implementation of this Final Approval Order and Judgment.

DATED: _____, 2019

HON. EDMUND A. SARGUS

EXHIBIT F

Doe v. Caremark
c/o Settlement Administrator
P.O. Box <<POB>>
Philadelphia, PA <<ZIP>>

<<Date>>

<<refnum barcode>>
Class Member ID: <<refnum>>
<<First Name>> <<Last Name>>
<<Address>>
<<City>>, << State>> << Zip>>

NOTIFICATION OF DEFICIENCY IN CLAIM FORM

Re: **[CASE NAME]**

Dear Claimant:

We are the Settlement Administrator in the above action. You submitted a claim form, which we received on **[date]**. This claim form has not been accepted for payment for the following reasons:

- o **[REASON FOR DEFICIENCY]**

In order for your claim form to be considered and processed for payment, **by no later than [date]** you must provide the information identified above, including any required additional documents.

You may return this additional information by U.S. Mail to the address provided above in the postage pre-paid envelope enclosed with this letter. Or you may submit this additional information through **[URL]** and follow the instructions provided under "Claim Form".

If you have any questions you may also contact us at: <<TFN>>

Regards,

Settlement Administrator

31034

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DEF

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EXHIBIT G

Heffler Claims Group (HCG) Administration Protocols

The Parties do not intend this document to modify any requirements in the Settlement or in any related orders. The Parties did not attempt to include or repeat all requirements and obligations of the Settlement Administrator in this document. Nor did the Parties intend to create inflexible processes and procedures. The purpose of this document is to provide additional details regarding the mechanics and operation of the administration process, which shall be carried out in a manner that is fully consistent with the Settlement and any and all related orders. Nothing herein shall be read to alleviate the Settlement Administrator from any obligations in the Settlement or related orders or to modify the Settlement. The Settlement Administrator will abide by all requirements set forth in the Settlement and in any related orders.

HCG Claims Team assigned to the project

The HCG Claims Team will include a Senior Project Manager (“Senior PM”), Senior Director, Chief of Operations and other specifically assigned HCG employees as HCG determines reasonable and appropriate to administer the Settlement. All HCG Claims Team members will be HCG employees, will agree in writing to be bound by the Preliminary Approval Order and Qualified Protective Order therein, will receive all necessary and appropriate training and instruction (including as set forth in the Settlement and any related orders), and will comply with all obligations under the Settlement and any related orders.

Data Handling

Receipt of data from Caremark – HCG will receive data from or through Caremark’s HIPAA-compliant secure portal. Only the Senior PM or Chief of Operations will have access for HCG and will sweep the folder. Once received, the data on the secure portal will be deleted by HCG and the portal will be closed either manually or through automatic time expiration.

Data Storage – Senior PM or Chief of Operations will review and QC the data received. Once data is reviewed and verified, then the records will be assigned a unique, randomly-assigned Class Member ID and then uploaded into CAS. CAS is the HCG proprietary, encrypted, HIPAA-compliant claims management system. Any copies of the data created as part of the process for ingesting the data into CAS will be securely deleted or destroyed; however, a backup may be stored during the administration process in a manner that is encrypted and HIPAA-compliant.

Data Access – Full record access in CAS will only be granted to Senior PM, Chief of Operations and an assistant, who will be trained concerning their legal duties and obligations arising out of the Settlement. Call Center Staff shall not have access to any personally identifiable information, PHI, or Confidential HIV-related Information; Call Center Staff will only have the ability to search and view de-identified, randomly assigned Class Member IDs and the corresponding status of the claim. The information regarding the status of the claim shall not include any personally identifying information, PHI, or Confidential HIV-related Information.

Initial Notice

Production and QC of Notice – Notices will be printed in-house at the HCG Philadelphia office. Only HCG Claims Team members shall have access to any sheets or data with personally identifiable information. Each Notice package will be inserted into a non-window envelope, consistent with the envelope requirements of the Settlement Agreement. The envelopes will not have identifying information with the specific case name. Rather, each Notice package will have the generic “Claims Administrator” with the PO Box for the return address and otherwise fully consistent with the Settlement and related orders.

Additionally, each non-windowed envelope will have “Confidential Legal Information – To Be Opened Only By The Addressee” and “COURT ORDERED LEGAL NOTICE – IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS IS ENCLOSED” printed on the outside.

Each Notice package will utilize a protective cover page that folds around the Notice of Settlement and that identifies that the information being provided therein is confidential and solely for reading by the Settlement Class Member.

Sample Notice packages will be produced and mailed to the appropriate counsel for physical review and sign-off prior to the notices being mailed to Class Members.

The Notice will comply with all requirements in the Settlement Agreement. Moreover, in addition to any and all other requirements in the Settlement Agreement and related orders, the HCG Claims Team will also verify a minimum of twice that the contents of the Notice package and the addressee on the outside of the envelope match.

Form and Format of Notice – The form and format of the Notice envelope and return envelope will comply with the requirements of the Settlement and any related orders, including the requirements in Section 3.7 of the Settlement. This includes – but is not limited to – the requirement that the envelope (i) is opaque, of appropriate and sufficient stock, and contains appropriate security tints or patterned or opaque printing to obscure the contents; and (ii) does not have a transparent or glassine window.

Each Notice package will have a postage paid return envelope for the Class Members to use in the event they file a claim, which shall be in a form and format fully consistent with the requirements of the Settlement and related orders. The postage paid return envelope will be addressed to:

The address provided will be:

Settlement Administrator
Claims
PO Box <<XXXXXX>>
Philadelphia, PA <<Zip>>

without any case specific identifying information.

If necessary to retain undeliverable Notice packages as determined by the Settlement Administrator or any Party to the Settlement, undeliverable mail will be stored securely in compliance with HIPAA and all other applicable laws until the Settlement Administration is finally completed, at which point it will be securely destroyed. If not necessary to retain the actual piece of undeliverable mail as determined in the discretion of the Settlement Administrator or any Party to the Settlement, then it shall be promptly destroyed in a secure manner.

The Notice mailing and re-mailing counts will be provided in the weekly status reports. No personally identifiable information will be contained in the weekly status report.

Automated Telephone System

Telephone System Operation. The telephone system shall be operated by HCG.

Training of Operators – There will be a limited number of agents trained on this case. The agents will be thoroughly briefed on the extremely sensitive nature of this case. All agents will be employees of HCG and will agree in writing to be bound by the Preliminary Approval Order and Qualified Protective Order therein.

Call Protocols - Phone calls with the HCG Claims Team and Class members will not be recorded. The opening message on the call center IVR will notify callers that they need not identify themselves by name. Most inquires can/should be handled utilizing the unique Class Member ID previously assigned. Call escalations will be handled by the HCG Claims Team.

Call backs – Callers may request a callback through the IVR or when speaking to a live agent. IVR and agent should inform the caller that they are not required to leave their name to receive a call back but leave their Class Member ID. The Parties will also discuss and develop additional safeguards aimed at protecting confidentiality, such as recommending that the caller provide a callback number that is not a work number, providing times that are best for the caller to receive a callback during, etc.

- a. If the caller does not provide their name, they must provide their unique Class Member ID. When their call is returned, HCG Claims Team member will state to the effect that they are “calling about a settlement” and request the Class Member ID. If the call recipient does not provide the Class Member ID, then the HCG Claims Team member will politely terminate the call. If the correct Class Member ID is provided, the HCG Claims Team member may discuss all information about the Settlement Class Member, including any personally identifiable and/or sensitive information.
- b. If the caller chooses to leave their name, the script will explain that the HCG Team Member will return the call and ask to speak to the person by name. The HCG Team Member shall not reveal any additional information other than that the call is “about a settlement” and request the Class Member ID. If the Class Member ID is not provided, the HCG Claims Team member will politely terminate the call. If the correct Class Member ID is provided, the HCG Claims Team member may discuss all information about the Settlement Class Member, including any personally identifiable and/or sensitive information.

- c. Additional procedures shall be developed for callbacks for individuals who are seeking to verify that they are Settlement Class Members but did not receive the Notice of Settlement and Claim Form with a Class Member ID, including as set forth below.¹

The number of calls and minutes will be provided on the weekly status report. No personally identifiable information will be contained in the weekly status report. No incoming or outgoing calls will be recorded.

Website

Functionality –

The website will provide the ability of a Class Member to file a claim and upload supporting documentation in a HIPAA-compliant, secure manner.

The website will provide the relevant court documents such as a copy of the Settlement Agreement, Preliminary Approval Order, relevant motions etc. The important dates would be prominent. A frequently asked questions page will provide easy to understand instructions for visitors explaining their options in the Settlement. The website will also allow a Class Member to provide any responses to a deficiency notice and upload supporting documentation in a HIPAA-compliant, secure manner.

The number of website visits and claims will be included in the weekly status report. No Class Member identifying information will be provided on the weekly status report.

If someone calls and claims that they are a Class Member but did not receive a notice or a Class Member ID, HCG will issue them a provisional Class Member ID. They will be advised that this does not mean that their claim is automatically approved. They will be advised to provide whatever proof that they can to substantiate their claim and it will be reviewed. At that point they can request a notice package be sent and/or they can file their claim online.

Correspondence

Inbound Correspondence – Class Members will be instructed to mail their correspondence to HCG to a generic address in the following form or similar:

Settlement Administrator
Correspondence
PO Box <<XXXXXX>>
Philadelphia, PA <<Zip>>

Inbound correspondence will be gathered unopened in the HCG mailroom and routed to the HCG Claims Team for processing.

¹ For these individuals, the callback will not require the person to provide a Class Member ID because the very purpose of the call is that the person believes that they are a Settlement Class Member but did not receive a Class Member ID/ Notice.

Correspondence Report – A count of the inbound correspondence will be provided on the weekly status report. No personally identifiable information will be contained in the weekly status report.

Objections

Inbound Objections – Objections will be gathered unopened in the HCG mailroom and routed to the HCG Claims Team for processing.

Objection Report – HCG will provide weekly status report indicating the number of objections and whether any objections do not match a name on the Class List, among other information. No personally identifiable information will be contained in the weekly status report.

Exclusions

Inbound Exclusion Requests – Exclusion requests will be gathered unopened in the HCG mailroom and routed to the HCG Claims Team for processing.

Claims

Electronic Claims – All electronic claims are housed in CAS. Data is encrypted at rest. Only the HCG Claims Team shall have access to personally identifying information, PHI, or Confidential HIV-related Information. When a claim is submitted, HCG will *not* send a confirming email; however, the Settlement Website may display a confirmation or similar message that the claim as been submitted.

Inbound Paper Claims/Cures - Class Members will be provided with envelopes to mail their Claim Forms and documentation consistent with the procedures above and in the Settlement. Class Members with responses to Claim Deficiency letters will be instructed to respond to the deficiency letter by submitting their information electronically through the HIPAA-compliant Settlement Website or mail their information to HCG to a generic address in the following form or similar:

Settlement Administrator
PO Box <<XXXXXX>>
Philadelphia, PA <<Zip>>

Claims Review - Claims will be reviewed only by members of the HCG Claims Team to determine if the necessary documentation has been completed and/or provided. If the documentation is not sufficient then a Claim Deficiency letter will be mailed out. The Claim Deficiency letter will be generated by the HCG Claims Team. The letter will be generated and mailed in accordance with the same processes and procedures as the initial Notice and in full compliance with the Settlement and related orders. Responses to deficiency notices may be provided in a postage pre-paid envelope mailed with the deficiency notice in the same manner as

the original mailing. Class members may also provide responses and supporting documentation to the deficiency notices through the HIPAA-compliant website.

Payments

Initial Payments – Checks will not be mailed to Settlement Class Members for which the Notice package was returned as undeliverable and no updated address was located. Checks will be mailed out without any case identifying information on them and fully consistent with the procedures and requirements in the Settlement and related orders.

Subsequent Payments and Uncashed Checks – Will be handled as set forth in the Settlement and related orders.

Taxes

Amounts below \$600 – Non-taxable event no 1099 needed.

Amounts above \$600 – A 1099 will be issued by HCG.

Case Closing

Data and Document Destruction – Shall be handled consistent with the Settlement and related orders.

EXHIBIT H

CLAIMANT PAYMENT AND DISTRIBUTION FORMULA

Each Settlement Class Member who has not opted out shall be entitled to the Base Payment of \$400. For Settlement Class Members who submit a valid Claim Form ('Claimant'), the Claimant's Award shall be the total of, subject to a pro-rata adjustment: (a) the Claimant's Financial Harm Award, if any; and (b) the Claimant's Non-Financial Harm Award, if any. Any Financial Harm Award and Non-Financial Harm Award will be provided in addition to the Base Payment. In other words, the claimed financial or non-financial harm will not be offset by the Base Payment.

A. Financial Harm Award. A Claimant's Financial Harm Award shall be calculated by the Settlement Administrator and shall include all reasonable non-reimbursed out-of-pocket expenses incurred by the Claimant up to \$10,000 that were a result of the OhDAP Mailing, including, for example, any moving costs, counseling costs, loss of income, or other non-reimbursed out-of-pocket expenses upon a showing of reasonable proof. The term "reasonable proof" means the submission to the Settlement Administrator by the Claimant of receipts, invoices, credit card statements, medical records, insurance records, copies of returned checks, and/or any other reasonable form of written proof of non-reimbursed out-of-pocket expenses incurred as a result of the OhDAP Mailing.

B. Non-Financial Harm Award. A Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator based upon the Claimant's answers on their Claim Form using the objective Claim Form award grid below. The Settlement Administrator shall award one point for each question responded to and tally the points for each Claimant as set forth below, up to a maximum payment of \$2,500.

Total Points for Claimant	Amount of Award
1	\$250
2	\$500
3	\$750
4	\$1000
5	\$1250
6	\$1500
7	\$1750
8	\$2000
9	\$2250
10	\$2500

C. Pro-rata Adjustments

1. The total amount available for Claimant Awards shall be referred to “Available Funds for Claimant Awards” and shall equal the Net Settlement Fund minus (a) the Base Payments; and (b) any and all fees and costs of the Settlement Administrator.¹

2. In the event that the total amount of valid Claimant Awards (i.e., the sum of valid Financial Harm Awards plus valid Non-Financial Harm Awards) exceeds the amount of the Available Funds for Claimant Awards, then each valid Claimant Award shall be reduced on a pro rata basis (based on the proportion of each valid Claimant Award to the total amount of valid Claimant Awards) such that the total amount of all Claimant Awards equals the amount of the Available Funds for Claimant Awards.

3. In the event that the total amount of valid Claimant Awards (i.e., the sum of valid Financial Harm Awards plus valid Non-Financial Harm Awards) is less than the amount of the Available Funds for Claimant Awards, the amount of Available Funds for Claimant Awards remaining after reduced by the amount of valid Claimant Awards shall be distributed on a *pro rata* basis (equally based on the number of Settlement Class Members who have not opted out of the Settlement) to all Settlement Class Members who have not opted out of the Settlement (i.e., it will have the effect of increasing the Base Payment to an amount *above* \$400.00).

4. If after deducting the Base Payments for all Settlement Class Members, deducting all Claimant Awards, payment of all fees and costs to the Settlement Administrator, and the passing of the deadline for negotiating all Settlement checks, there is money remaining in the Net Settlement Fund, then the remaining money shall be distributed *pro rata* (equally based on number of Settlement Class Members who have not opted out of the Settlement) to all Settlement Class Members who have not opted out of the Settlement. If not administratively and/or economically feasible (for instance, the cost of a subsequent *pro rata* distribution exceeds the amount of remaining money) to make a *pro rata* distribution, then Co-Lead Class Counsel will make an application to the Court to approve a final distribution to a *cy pres* entity, which shall be mutually agreed upon by Co-Lead Class Counsel and Caremark.

D. In no event shall Caremark’s liability or obligations exceed the amount of the Settlement Fund.

¹ By definition the Net Settlement Fund reflects a reduction for Settlement Administrator costs and expenses. However, given that the final amount of such fees and expenses is not certain until the Settlement Administration process is completed, this reference here is simply to account for the fact that all Settlement Administrator fees and costs must be deducted from the Settlement Fund to calculate the final amount available for distribution.

EXHIBIT I

SETTLEMENT ADMIN INFO

«ClaimantName»

<<Mail Date>>

«Addr1»

«Addr2»

«City» «State» «Zip»

RE: <<CASE NAME>>

Dear <<INSERT NAME>>:

Thank you for participating in the class action settlement in the above-referenced matter. Your settlement payment, which is attached to this letter, was calculated in accordance with the terms of the Court-approved Settlement Agreement.

Please note that your attached check must be cashed on or before <<MAIL DATE + 120 days>>. If you fail to cash your check by <<MAIL DATE + 120 days>> your check will be voided and the funds will be distributed to other Settlement Class Members and/or as otherwise provided for in the Settlement Agreement and related orders.

Please also note that the Settlement Administrator, Co-Lead Class Counsel, and Class Counsel cannot provide tax advice. We suggest that you contact your tax advisor regarding your settlement payment and the tax consequences related to these proceeds.

If you have any questions about your settlement payment, please call us toll-free at <<TFN>> or contact us using the Contact Us form located at <<WEBSITE>>. For additional information about the Settlement, please visit <<WEBSITE>>.

Sincerely,
Settlement Administrator

SAVE THIS INFORMATION

DETACH CHECK BEFORE CASHING -- VOID AFTER <<MAILDATE+120 days>>

