

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

IN RE: MANAGED CARE LITIGATION

MDL NO. 1334

THIS DOCUMENT RELATES ONLY TO
PROVIDER TRACK CASES

MASTER FILE NO.
00-1334-MD MORENO

CHARLES B. SHANE, MD, et al.

Plaintiffs,

v.

HUMANA, INC.; AETNA, INC.; AETNA-USHC, INC.;
CIGNA; COVENTRY HEALTH CARE, INC.;
HEALTH NET, INC.; HUMANA HEALTH PLAN, INC.;
PACIFICARE HEALTH SYSTEMS, INC.; PRUDENTIAL
INSURANCE COMPANY OF AMERICA; UNITED HEALTH
GROUP; UNITED HEALTH CARE; WELLPOINT HEALTH
NETWORKS, INC.; AND ANTHEM, INC.

Defendants.

JOINT MOTION FOR PRELIMINARY APPROVAL OF PRUDENTIAL SETTLEMENT

Class Representative Plaintiffs and Defendant The Prudential Insurance Company of America ("Prudential") respectfully move this Court to enter the proposed Order Preliminary Approving Proposed Settlement Among Prudential and Physicians, Physician Groups and Physician Organizations, Setting Form and Content of Notice to the Class and Scheduling Settlement Hearing, a copy of which is attached hereto as Exhibit A.

In support of this motion, Class Representative Plaintiffs and Prudential state as follows:

1. Class Representative Plaintiffs and Prudential have entered into a settlement agreement, a copy of which is attached hereto as Exhibit B.
2. Class Representative Plaintiffs and Prudential respectfully request that this Court grant preliminary approval to the settlement agreement as fair, adequate and reasonable.

3. Class Representative Plaintiffs and Prudential respectfully request that this Court approve the notice plan set forth in Section 5 of the settlement agreement, and the forms of notice attached to the settlement agreement as Exhibits C and E.

4. Class Representative Plaintiffs and Prudential respectfully request that this Court proceed with the hearing scheduled for May 6, 2005 to consider the settlement agreement and to enter the proposed order.

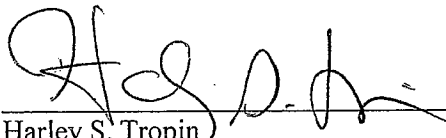
Respectfully submitted this 5th day of May, 2005.

PRUDENTIAL

John D. Aldock/Mark S. Raffman
GOODWIN PROCTER LLP
901 New York Ave., N.W.
Washington, D.C. 20001

252837

PROVIDER PLAINTIFFS:



Harley S. Tropin
KOZYAK TROPIN & THROCKMORTON, P.A.
2525 Ponce de Leon, 9th Floor
Miami, Florida 33134
305-372-1800

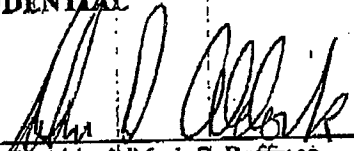
3. Class Representative Plaintiffs and Prudential respectfully request that this Court approve the notice plan set forth in Section 5 of the settlement agreement, and the forms of notice attached to the settlement agreement as Exhibits C and E.

4. Class Representative Plaintiffs and Prudential respectfully request that this Court proceed with the hearing scheduled for May 6, 2005 to consider the settlement agreement and to enter the proposed order.

Respectfully submitted this 5th day of May, 2005.

PRUDENTIAL

PROVIDER PLAINTIFFS:

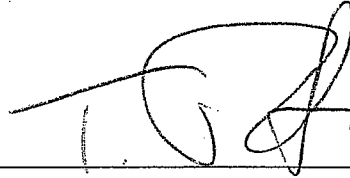

John D. Aldock/Mark S. Raffinan
GOODWIN PROCTER LLP
901 New York Ave., N.W.
Washington, D.C. 20001

Harley S. Tropin
KOZYAK TROPIN & THROCKMORTON, P.A.
2525 Ponce de Leon, 9th Floor
Miami, Florida 33134
305-372-1800

252837

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 5th day of May, 2005, a true copy of the foregoing was served via courier to: **Edward Soto, Esq.** at Weil Gotshal & Manges, LLP, 1395 Brickell Avenue, 12th Floor, Miami, FL 33131 (Defense Liaison Counsel); and via e-mail on all parties of record on the 2/08/05 Service List.



A handwritten signature in black ink, appearing to be 'T. G. S.', is written over a horizontal line.

2957/101/252837.1

EXHIBIT “A”

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MDL NO.: 1334

IN RE: MANAGED CARE LITIGATION

THIS DOCUMENT RELATES ONLY TO PROVIDER
TRACK CASES

CHARLES B. SHANE, M.D., et al.

Plaintiffs,

v.

HUMANA, INC.; AETNA, INC.; AETNA-USHC,
INC.; CIGNA; COVENTRY HEALTH CARE, INC.;
HEALTH NET, INC.; HUMANA HEALTH PLAN,
INC.; PACIFICARE HEALTH SYSTEMS, INC.;
PRUDENTIAL INSURANCE COMPANY OF
AMERICA; UNITED HEALTH GROUP; UNITED
HEALTH CARE; WELLPOINT
HEALTH NETWORKS, INC.; AND ANTHEM, INC.

Defendants.

**ORDER PRELIMINARILY APPROVING PROPOSED SETTLEMENT
AMONG PRUDENTIAL AND PHYSICIANS, PHYSICIAN GROUPS
AND PHYSICIAN ORGANIZATIONS, SETTING FORM AND CONTENT
OF NOTICE TO THE CLASS AND SCHEDULING SETTLEMENT HEARING**

The Court having reviewed and considered the Joint Motion for Preliminary Approval of Settlement Concerning Claims Against Defendant The Prudential Insurance Company of America filed on _____, 2005, and having reviewed and considered the terms and conditions of the proposed settlement (the "Settlement") as set forth in the Settlement Agreement dated _____, 2005 (the "Settlement Agreement"), a copy of which has been submitted with the joint motion, and on the basis of such submissions, together with any other submissions by the parties in support of the joint motion, and all prior proceedings had in this consolidated multi-district litigation, good cause for this Order having been shown,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The terms of the Settlement Agreement are hereby preliminarily approved, subject to further consideration at the Settlement Hearing provided for below. The Court concludes that the Settlement is sufficiently within the range of reasonableness to warrant the conditional certification of the settlement Class, the scheduling of the Settlement Hearing and the circulation of notice to members of the Class, each as provided for in this Order.

Conditional Certification of the Class

2. For purposes of settlement only, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3), solely with respect to The Prudential Insurance Company of America and the other Released Persons ("Prudential"), the action styled Shane v. Humana, Inc., et al., Master File No. 00-1334-MD-MORENO (the "Action"), is conditionally certified as a class on behalf of the following persons (the "Class"):

Any and all Physicians, Physician Groups and Physician Organizations who provided Covered Services to any Plan Member or any other individual enrolled in or covered by a plan offered or administered by any Person named as a defendant in the Complaint or by any of their respective current or former subsidiaries or affiliates, in each case from August 4, 1990 through and including the date of entry of this order (the "Preliminary Approval Date").

Representative Plaintiffs are conditionally certified as representatives of the Class. Class Counsel are appointed and designated as counsel for the Class. This conditional certification of the settlement class and class representatives is solely for purposes of effectuating the proposed Settlement. If the Settlement Agreement is terminated or is not consummated for any reason, the foregoing conditional certification of the Class and appointment of class representatives shall be void and of no further effect and the parties to the Settlement shall be returned to the status each occupied before entry of this Order without prejudice to any legal

argument that any of the parties to the Settlement Agreement might have asserted but for the Settlement Agreement.

Based on the Court's review of the joint motion and supporting materials, the Court conditionally finds that the proposed Class satisfies Rule 23(a) of the Federal Rules of Civil Procedure in that:

- A. The Class, which consists of hundreds of thousands of Physicians, Physician Groups and Physician Organizations, is so numerous that joinder of all Persons who fall within the class definition is impracticable;
- B. The commonality requirement is satisfied where members of the Class share at least one common legal or factual issue. Here, there are questions of law common to the Class, including allegations under RICO and other causes of action as set forth in the Plaintiffs' Second Amended Consolidated Class Action Complaint in *Shane*. There are also questions of fact common to the Class, including certain factual issues related to whether computer systems were inadequate and whether computer programs were systematically used to improperly deny or delay payment for health care services furnished by members of the Class;
- C. The claims of the Class representatives are typical of the claims of the Class; and
- D. The Class representatives will fairly and adequately protect the interests of the Class and are represented by qualified counsel who are competent to represent the Class and prosecute this Action.

The Court further conditionally finds that the proposed Class satisfies Rule 23(b)(3) of the Federal Rules of Civil Procedure which requires that common issues predominate and that a class action is superior to other available methods for the fair and efficient resolution of this controversy. The Court notes that the terms of the Settlement Agreement include procedures that absolve individual Class Members, for example, from having to prove, pursuant to RICO, that they relied to their detriment on alleged misrepresentations and nondisclosures, with the result that the Court need not resolve many individual factual and legal issues that might otherwise arise. The Court further notes that because the Action is being settled, rather than litigated, it need not consider the

manageability issues that would be presented by a nationwide class litigation with respect to such individualized issues. *Amchem Prods., Inc. v. Windsor*, 117 S. Ct. 2231, 2240 (1997). Against this background, and in light of the Complaint's allegations of systemic computer and claims processing issues, the Court conditionally finds that common issues predominate and that a class action is superior to other available methods for the fair and efficient resolution of this controversy.

Settlement Hearing; Right to Appear and Object

3. A Settlement Hearing shall take place before the Court on _____, 2005, at ____:00 A.M./P.M., in the United States Courthouse, Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132 to determine:

- (a) whether the Court should certify the Class and whether Representative Plaintiffs and Class Counsel have adequately represented the Class;
- (b) whether the Settlement, on the terms and conditions provided for in the Settlement Agreement, should be finally approved by the Court as fair, reasonable and adequate;
- (c) whether the Released Claims of the Class Members in this Action should be dismissed on the merits and with prejudice as to Prudential;
- (d) whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Action against Prudential or any of the other Released Parties by the members of the Class, the other defendants in the Action or any other persons;
- (e) whether the application for attorneys' fees, costs and expenses to be submitted by Class Counsel in connection with the Settlement Hearing should be approved;

(f) whether the application for incentive awards to Representative Plaintiffs to be submitted in connection with the Settlement Hearing should be approved;

(g) whether each Tag-Along Action should be dismissed with prejudice as to Released Claims against Prudential with the exception of any Tag-Along Action with respect to any named plaintiff that has timely submitted an Opt-Out request; and

(h) such other matters as the Court may deem necessary or appropriate.

4. The Court may finally approve the proposed Settlement Agreement at or after the Settlement Hearing with any modifications agreed to by the settling parties and without further notice to the members of the Class.

5. Any Class Member who or which has not timely and properly provided notice of an election to Opt-Out of the Class and the Settlement Agreement in the manner set forth below, and any other interested Person, may appear at the Settlement Hearing in person or by counsel and be heard, to the extent allowed by the Court, either in support of or in opposition to the matters to be considered at the hearing, provided, however, that no Class Member who or which has elected to Opt-Out from the Class shall be entitled to object; and provided further that no Person shall be heard, and no papers, briefs or other submissions shall be considered by the Court in connection with its consideration of those matters, unless on or before _____, 2005 [**Objection Date - 60 days after Notice Date**], such Person:

(a) files with the Court a notice of such Person's intention to appear, together with a written statement of objection setting forth such Person's objections, if any, to the matters to be considered and the basis therefore, together with all other support, papers or briefs that he, she or it wishes the Court to consider and intends to rely upon at the Settlement Hearing, and

(b) serves copies of all such materials either by hand or overnight delivery, upon the following counsel:

Harley S. Tropin, Esq.
Kozyak Tropin & Throckmorton, P.A.
200 South Biscayne Boulevard
Miami, Florida 33131

and

John Aldock, Esq.
Goodwin Procter LLP
901 New York Ave., N.W.
Washington, DC 20001

All responses by the settling parties to objections shall also be served by hand or overnight delivery on the objecting Person or his, her or its attorney. Objectors' papers may be supplemented ten (10) days prior to the Settlement Hearing following the filing of any responsive papers by the settling parties and served in the manner and on counsel described above.

6. The Court may adjourn the Settlement Hearing, or any adjournment thereof, including the consideration of the application for attorneys' fees, costs and expenses, without further notice of any kind other than an announcement of such adjournment in open court at the Settlement Hearing or any adjournment thereof.

Form and Timing of Notice

7. As soon as practicable after entry of this Order, but no later than 30 days after this Order is entered, Class Counsel or its designee shall cause copies of the Notice of Class Action and Proposed Settlement in the form attached as Exhibit _ to the Settlement Agreement (the "Mailed Notice"), the form of which is hereby approved, to be mailed by first-class mail, postage pre-paid, to all potential members of the Class to the extent that such Class members can be identified with reasonable diligence from records maintained by the American Medical Association (the "AMA"), to the extent that such

records can be obtained by Class Counsel for this purpose within the schedule for notice provided in this Order. No later than 20 days after entry of this Order, Class Counsel shall cause to be obtained from the AMA, in machine readable form to the extent reasonably available, the AMA records referred to in this paragraph.

8. As soon as practicable after the mailing of the Mailed Notice, and in all events no later than 30 days prior to the Opt-Out Deadline that is set forth below, Class Counsel shall cause to be published in the legal notices sections of the national editions of *The Wall Street Journal* and *USA Today* one day a week for two consecutive weeks, a summary notice substantially in the form of Exhibit ___ to the Settlement Agreement (the "Published Notice"), the form of which is hereby approved. In addition, to the extent reasonably practicable within the schedule contemplated by this Order, Class Counsel shall cause the Published Notice to be published at least once no later than 30 days prior to the Opt-Out Deadline in a nationwide periodical addressing issues of concern to physicians, such as *The Journal of the American Medical Association* or *The American Medical News*.

9. Beginning on the earliest date that notice is provided pursuant to paragraphs 7 and 8 of this Order and continuing through the opt-out, Class Counsel shall make available to potential members of the Class printable versions of the Mailed Notice on the public websites maintained by or on behalf of at least five of the law firms serving as Class Counsel in the Action.

10. Prior to the Settlement Hearing, (a) Class Counsel shall serve and file a sworn statement attesting to compliance with paragraphs 7 and 8 of this Order and (b) Class Counsel shall file a sworn statement attesting to compliance with paragraph 9 of this Order. Costs of providing the notice to the Class that is specified in this Order shall be paid as set forth in the Settlement Agreement.

11. The notice to be provided as set forth in paragraphs 7, 8 and 9 of this Order is hereby found to be the best means of notice to members of the Class that is practicable under the circumstances and, when completed, shall constitute due and sufficient notice of the Settlement and the Settlement Hearing to all persons affected by and/or entitled to participate in the Settlement or the Settlement Hearing, in full compliance with the requirements of due process and the Federal Rules of Civil Procedure.

Ability of Class Members to Opt-Out of Settlement Class

12. All members of the Class who wish to opt-out of the Class must do so by sending written notice of their election to opt-out to the address set forth in the notices to be provided pursuant to paragraphs 7 and 8 of this Order. To be considered timely, and thereby effectively exclude a person from the Class, the envelope delivering a completed opt-out request for such person must be postmarked by no later than _____, 2005 (the "Opt-Out Deadline"). Prior to the Settlement Hearing, Class Counsel or their designee shall submit to the Court a sworn statement setting forth the names and addresses of each member of the Class who has timely elected to opt-out from the Class.

13. Any potential member of the Class that does not properly and timely request exclusion from the Class shall be included in such Class and, if the Settlement is approved and becomes effective, shall be bound by all the terms and provisions of the Settlement Agreement, including but not limited to the releases, waivers and covenants not to sue described therein, whether or not such person shall have objected to the Settlement and whether or not such person makes a claim upon, or participates in, the Settlement Fund or the other benefits to the Class to be provided under the Settlement Agreement.

Other Provisions

14. Capitalized terms used in this Order that are not otherwise defined herein have the meaning assigned to them in the Settlement Agreement.

15. All discovery and any other proceedings against or concerning Prudential in the Action, other than proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further order of the Court. Pending final determination of whether the Settlement and the Settlement Agreement should be approved and the Class permanently certified, all members of the Class are hereby barred and enjoined from commencing or prosecuting any action asserting any Released Claims, and any actions or proceedings brought by any member of the class asserting any Released Claims are hereby stayed. In the event the Final Order and Judgment is not entered or is reversed for any reason, or this Agreement terminates for any reason, the Parties shall not be deemed to have waived any rights with respect to proceedings in this Action that arise during the period of the stay and shall have a full and fair opportunity to present any position in such proceedings.

16. All discovery and any other proceedings against or concerning Prudential in Tag-Along Actions (as defined in Section 15.1 of the Settlement Agreement) to the extent of Released Claims, other than proceedings as may be necessary to carry out the terms and conditions of the proposed Settlement, are hereby stayed and suspended until further order of the Court.

17. No discovery with regard to the Settlement or the Settlement Agreement shall be permitted as to any of the parties to the Settlement Agreement other than as may be directed by the Court upon a proper showing by the party seeking such discovery by motion properly noticed and served in accordance with this Court's Local Rule 7.1.

18. Pending entry of an Order setting forth the final determination of the Court with respect to the parties' application for final approval of the Settlement,

Prudential is hereby relieved of any and all obligations under paragraph 2(b) of the Agreed Order For Preservation of Records entered in this Action on January 12, 2001, to preserve Future Documents (as defined in the January 12, 2001 Order) created on or after the date of this Order.

19. Prudential is authorized to communicate with Class Members regarding the provisions of the Settlement Agreement, so long as such communications are not inconsistent with the agreed upon communications concerning the Settlement Agreement. Prudential shall refer to Class Counsel any inquiries from Class Members about claims to be filed under the Settlement Agreement.

20. Any Class Member may enter an appearance in this Action, at his, her or its own expense, individually or through counsel of his, her or its own choice, in connection with paragraph 5 above or otherwise. Any Class Member who does not enter an appearance will be represented by Class Counsel.

21. Neither the Settlement Agreement nor any provision therein, nor any negotiations, statements or proceedings in connection therewith shall be construed as, or be deemed to be evidence of, an admission or concession on the part of any of the Representative Plaintiffs, the Signatory Medical Societies, Class Counsel, any members of the Class, Prudential or any other person of any liability or wrongdoing by them, or that the claims and defenses that have been, or could have been, asserted in the Action are or were not meritorious, and neither the Settlement Agreement nor any such communications shall be offered or received 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 Representative Plaintiffs, the Signatory Medical Societies, any member of the Class or any other person has or has not suffered any damage.

22. In the event that the Settlement Agreement is terminated or is not consummated for any reason, the Settlement and all proceedings had in connection therewith shall be null and void, except to the extent expressly provided to the contrary in the Settlement Agreement, and without prejudice to the rights of the parties to the Settlement Agreement before it was executed.

DONE AND ORDERED after a hearing in open court at the United States District Courthouse in Miami, Florida, on _____, and signed this _____ day of _____, 2005.

HON. FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

EXHIBIT “B”

SETTLEMENT AGREEMENT

dated as of

May 5, 2005

by and among

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,

THE REPRESENTATIVE PLAINTIFFS,

THE SIGNATORY MEDICAL SOCIETIES

AND CLASS COUNSEL

SETTLEMENT AGREEMENT

This Settlement Agreement (the "**Agreement**") is made and entered into as of the date set forth on the signature pages hereto by and among the Representative Plaintiffs (on behalf of themselves and each of the class members who have not validly and timely requested to Opt-Out of this Agreement ("Class Members")), by and through their counsel of record in In re Managed Care Litigation, MDL Docket No. 1334 ("Litigation"), The Prudential Insurance Company of America ("Prudential" or "Company") and those medical societies identified on the signature pages hereto (such medical societies are herein collectively referred to as the "**Signatory Medical Societies**") (Representative Plaintiffs, Class Members Signatory Medical Societies, and Company are herein collectively referred to as the "**Parties**"). The Parties intend this Agreement to resolve, discharge and settle the Released Claims, fully, finally and forever according to the terms and conditions set forth below.

WITNESSETH:

WHEREAS, by Order filed June 13, 2000, the United States District Court for the Southern District of Florida (the "**Court**") assigned each action that has been assigned MDL Docket No. 1334 to one of two tracks: a "**Subscriber Track**" and a "**Provider Track**";

WHEREAS, the Provider Track includes all actions under MDL Docket No. 1334 brought by health care providers or Physician Groups who participated in Company's health insurance plans or otherwise treated Company's insureds, or who assert claims against Company based on their participation in health insurance plans of other Defendants or other treatment of any Defendants' insureds, and by representatives of said providers or Physician Groups;

WHEREAS, by Order filed October 23, 2000, the Judicial Panel on Multidistrict Litigation transferred and consolidated the Provider Track actions for pretrial purposes before the Court;

WHEREAS, on September 19, 2002, the Representative Plaintiffs filed Plaintiffs' Second Amended Consolidated Class Action Complaint (hereinafter the "**Complaint**");

WHEREAS, on September 26, 2002, the Court issued its Order Granting Provider Track Class Certification;

WHEREAS Company exited the managed care business on August 6, 1999 when its health care operations were acquired by Aetna-USHC, Inc. ("Aetna");

WHEREAS, a previous settlement among and between Representative Plaintiffs, Class Members, the Signatory Medical Societies (collectively "Plaintiffs") and Aetna ("Aetna settlement") encompasses the operations acquired by Aetna from Prudential in the August 1999 transaction, and affords the Representative Plaintiffs and Class Members prospective relief with respect to those operations;

WHEREAS, the Aetna settlement included provisions that barred discovery of documents and data from Aetna, including claims data relating to the health care operations formerly owned by Company, which data would be needed to show amounts contended to be wrongfully withheld from Class Members by Company prior to its exit from the managed care business;

WHEREAS on September 1, 2004, the Eleventh Circuit affirmed the grant of class certification as to the RICO claims asserted in the Action, but reversed the grant of class certification as to the nationwide

state-law class claims asserted in the Action, leaving the RICO claims and the claims of the California subclass as the only ones for which class certification had been sustained;

WHEREAS, the only claims that remain to be litigated at this juncture against Company are Plaintiffs' RICO conspiracy and aiding and abetting claims, and their claim under § 17200 of the California Business and Professions Code asserted by the California subclass;

WHEREAS, the RICO claims asserted against Company seek compensatory damages representing amounts that other Defendants have allegedly wrongfully withheld from class members, and as to which Plaintiffs contend that Company is liable under RICO as a conspirator or aider-and-abetter;

WHEREAS, the cause of action asserted by the California subclass excludes claims that are subject to arbitration, and most of Company's provider contracts with physicians in California are subject to mandatory arbitration that might exclude such claims from consideration if the case were to proceed to trial;

WHEREAS, Company denies the material factual allegations and legal claims asserted in the Complaint, including without limitation any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Complaint including without limitation the allegations that the Representative Plaintiffs and/or other Class Members have suffered damages; that Company improperly manipulated claim procedures or capitation payments or any other payments; that Company paid at incorrect rates or improperly applied reimbursement policies; that Company fraudulently misrepresented the criteria for insurance coverage determination, treatment decisions, claims payments and adequacy of capitation payments; that Company conspired with or aided and abetted wrongful conduct of any other person; and that the Representative Plaintiffs and/or other Class Members were harmed by the conduct alleged in the Complaint;

WHEREAS, Company has asserted a number of defenses to the claims set forth in the Complaint that Company believes are meritorious; nonetheless, Company has concluded that further conduct of the Action would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement;

WHEREAS, the Representative Plaintiffs believe that the claims asserted in the Action have merit; provided that Class Counsel recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Action against Company through trial and appeals;

WHEREAS, Class Counsel also have taken into account the uncertain outcome and the risk of any class action, especially in complex actions such as the Action, as well as the difficulties and delays inherent in such Action, and Counsel for the Representative Plaintiffs believe that the settlement set forth in this Agreement confers substantial benefits upon the Representative Plaintiffs and the other Class Members;

WHEREAS, based on their evaluation of all of these factors, and recognizing that Company's compliance with the terms of this Agreement is beneficial to Class Members and constitutes compensation for damages alleged to have been sustained by them, and that such compliance does not and shall not violate any legal right of Class Members, the Representative Plaintiffs and their counsel have determined that this Agreement is in the best interests of themselves and the other Class Members;

WHEREAS, the Signatory Medical Societies have determined that it is in their best interests to obtain the benefits afforded to such Signatory Medical Societies by the applicable provisions of this Agreement, and, in exchange therefor, to make the commitments and agreements contained herein, including without limitation those contained in § 13;

WHEREAS, the Parties acknowledge that the implied duty of good faith and fair dealing is applicable to each Party's obligations under this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Representative Plaintiffs (for themselves and all Class Members who have not validly and timely requested to Opt-Out of this Agreement) and Medical Societies, by and through their respective counsel or attorneys of record, and Company, that, subject to the approval of the Court, the Action and the Released Claims shall be finally and fully resolved, compromised, discharged and settled under the following terms and conditions:

1. Definitions

As used in this Agreement, the following terms have the meanings specified below:

"Action" means *Shane v. Humana, Inc., et al.*, Master File No. 00-1334-MD-MORENO.

"Affiliate" means with respect to any Person, any other Person controlling, controlled by or under common control with such first Person, including without limitation any parent or subsidiary. The term "control" (including without limitation, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and Policies of such Person, whether through the ownership of voting securities or otherwise.

"Agreement" shall have the meaning assigned to that term in the preamble of this Agreement.

"Attorneys' Fees" means the funds for attorneys' fees and expenses that may be awarded by the Court to Class Counsel.

"Bar Order" means an order of the Court barring the assertion of claims against the Released Parties for contribution, indemnity or other similar claims by the non-settling defendants in the Action or other Persons in the form included as part of the Final Order and Judgment.

"Business Day" means any day on which commercial banks are open for business in New York City.

"Capitation" means the payment by Company to Physicians, Physician Groups or Physician Organizations of a per member per month amount (including but not limited to percentage of premium) by which Company transfers to the provider the financial risk for those Covered Services as set forth in the contract between Company and the provider.

"Class" means any and all Physicians, Physicians Groups and Physician Organizations who provided Covered Services to any Plan Member or any individual enrolled in or covered by a plan offered or administered by any Person named as a defendant in the Complaint or by any of their respective current or former subsidiaries or affiliates, in each case from August 4, 1990 through the Preliminary Approval Date.

“Class Counsel” means those Persons set forth in Section 5 as such.

“Class Member” means any Person who is or was a member of the Class and who does not timely opt out.

“Company” means The Prudential Insurance Company of America.

“Company Counsel” means those Persons set forth in Section 5 as such.

“Complaint” shall have the meaning assigned to that term in the recitals of this Agreement.

“Court” shall have the meaning assigned to that term in the recitals of this Agreement.

“Covered Services” means those health care services and supplies for which a Plan Member is entitled to receive coverage under the terms and conditions of his or her Plan.

“Defendants” means the defendants in the Litigation.

The word **“day”** means a calendar day, unless otherwise noted herein.

Effective Date shall have the meaning assigned to that term in § 14 of this Agreement.

“Execution Date” means the later of (i) the date on which the signature of Company Counsel, acting with authority of Company, has been delivered to Class Counsel; and (ii) the date on which the signature of Class Counsel, acting with authority of all Representative Plaintiffs and Signatory Medical Societies, has been delivered to Company.

“Fee for Service Claim” means any submission by a Class Member to Company (or to Company’s claims payment agent) using CPT® Codes or HCPCS Level II Codes and seeking payment on a fee for service basis for the provision of one or more Covered Services to a Plan Member.

“Final Order and Judgment” means the order and form of judgment approving this Agreement and dismissing Company with prejudice, in each case in the form attached hereto as Exhibits A and B.

“Fully-Insured Plan” means a Plan as to which Company, as opposed to the subscriber or Plan sponsor, assumes all or substantially all of the healthcare cost and the Company’s coverage product is approved as the product of a licensed insurer or HMO under state law.

“Interest Rate” means a blended rate of return based on the quarterly Federal Funds rate (“FFR”) and the quarterly Merrill Lynch U.S. Domestic Master Index (1-5 years)(“MLI”) blended: $(0.4 \times \text{FFR}) + (0.6 \times \text{MLI})$ and compounded quarterly.

“Litigation” means the above-captioned action and any other action pending before the Court and raising the same or substantially similar claims against Company.

“Mailed Notice” means the form of notice attached hereto as Exhibit C.

“Non-Participating Physician” means any Physician other than a Participating Physician.

“Notice Date” shall have the meaning assigned to that term in § 6.1 of this Agreement.

“Objection Date” shall have the meaning assigned to that term in § 6.1 of this Agreement.

“Opt-Out” shall have the meaning assigned to that term in § 6.1 of this Agreement.

“Opt-Out Deadline” shall have the meaning assigned to that term in § 6.1 of this Agreement.

“Participating Physician” means any Physician who, prior to August 6, 1999, had entered into a valid written contract with Company (directly or indirectly through a Physician Organization, Physician Group or other entity authorized by physician) to provide Covered Services to Plan Members and, where applicable, had been credentialed by Company or by a delegated entity pursuant to Company’s credentialing policies in effect at the time of such credentialing, during the effective period of such a contract.

“Parties” shall have the meaning assigned to that term in the preamble of this Agreement.

“Person” and **“Persons”** means all persons and entities (including without limitation natural persons, firms, corporations, limited liability companies, joint ventures, joint stock companies, unincorporated organizations, agencies, bodies, governments, political subdivisions, governmental agencies and authorities, associations, partnerships, limited liability partnerships, trusts, and their predecessors, successors, administrators, executors, heirs and assigns).

“Physician” means an individual duly licensed by a state licensing board as a Medical Doctor or as a Doctor of Osteopathy and shall include both Participating Physicians and Non-Participating Physicians.

“Physician Group” means two or more Physicians, and those claiming by or through them, who practice medicine and bill under a single taxpayer identification number.

“Physician Organization” means any association, partnership, corporation or other form of organization (including without limitation independent practice associations and physician hospital organizations) that arranges for care to be provided by Physicians organized under multiple taxpayer ID numbers, to Plan Members.

“Physician Services” means Covered Services that a Physician provides to a Plan Member, as specified in applicable agreements with Company, or otherwise.

“Physician Specialty Society” means a United States medical specialty society that represents diplomats certified by a board recognized by the American Board of Medical Specialties.

“Plan” means a Plan Member’s health care benefits as set forth in the Plan Member’s Summary Plan Description, Certificate of Coverage or other applicable coverage document.

“Plan Member” means an individual enrolled in or covered by a Plan offered or administered by Company.

“Preliminary Approval Date” means the date the Preliminary Approval Order is entered by the Court.

“Preliminary Approval Hearing” shall have the meaning assigned to that term in § 4 of this Agreement

“Preliminary Approval Order” means the preliminary approval order, in the form attached hereto as Exhibit D.

“Provider Track” shall have the meaning assigned to that term in the recitals of this Agreement.

“Published Notice” means the form of notice attached hereto as Exhibit E.

“Released Parties” or “Released Persons” means

- (a) The Company and each of its Affiliates (whether direct or indirect) as of the Execution Date, and any and all of their respective officers, directors, employees, insurers and attorneys, together with each such individual’s or entity’s predecessors and successors (subject to the provisions of Section 23 regarding successors);
- (b) Each former Affiliate of The Company (whether direct or indirect) as of the Execution Date, and any and all of their respective officers, directors, employees, insurers and attorneys, together with each such individual’s or entity’s predecessors and successors, but only as to claims that arise from or relate to acts or omissions that occurred prior to the time the Affiliate (and other persons listed above) were no longer affiliated with the Company;
- (c) Persons who provided claims processing services, software, proprietary guidelines or technology to the Company or its Affiliates, those contracted agents processing claims on their behalf, together with each such person’s or entity’s predecessors or successors, but only to the extent of such person’s or entity’s services and work done pursuant to contract with the Company or its Affiliates. Such persons are expressly not “Released Persons” as to services provided to any person or entity other than the Company or its Affiliates.

“Released Rights” or “Released Claims” means and includes any and all claims that have been or could have been asserted by or on behalf of any or all Class Members against the Released Persons, or any of them, and which arise prior to the Preliminary Approval Date and which arise out of or relate to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters referred to in the Litigation, except as otherwise provided for by this Agreement. This includes, without limitation and as to Released Persons only, any aspect of any Fee for Service Claim submitted by any Class Member to Company, and any claims of any Class Member related to or based upon any Capitation agreement between Company and any Class Member or other person or entity, or the delay, nonpayment or amount of any Capitation payments by Company, and any allegation that Defendants and/or Company have conspired with, aided and abetted, or otherwise acted in concert with other managed care organizations, other health insurance companies, delegated entities and/or other third parties with regard to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters referred to in the Litigation, or with regard to Company’s liability for any other demands for payment submitted by any Class Member to such other managed care organizations, health insurance companies, delegated entities and/or other third parties.

“Releasing Parties” (each a “Releasing Party”) means Class Members, Representative Plaintiffs and Signatory Medical Societies. “Releasing Parties” also includes any and all Subsidiaries, affiliates, members, shareholders, parents, directors, officers, employees, professional corporations, agents, administrators, executors, legal representatives, partners and partnerships, heirs, predecessors, successors and assigns of such Class Members, and shall also include Representative Parties and Signatory Medical Societies, to the extent such persons or entities have claims against Company derived by contract or operation of law from the claims of such Class Members, Representative Parties and Signatory Medical Societies.

“Representative Plaintiffs” means collectively Manual Porth, M.D., Glenn Kelly, M.D., Leonard Klay, M.D., Charles B. Shane, M.D., Jeffrey Book, M.D., Andres Taleisnik, M.D., Julio Taleisnik, M.D., Roger Wilson, M.D., Susan R. Hansen, M.D., Thomas Backer, M.D., Martin Moran, M.D., H. Robert Harrison, Ph.D., M.D., and Lance R. Goodman, M.D.

“Self-Insured Plan” and **“Self-Funded Plan”** means any Plan other than a Fully-Insured Plan.

“Settlement Amount” shall have the meaning assigned to that term in § 8 of this Agreement.

“Settlement Fund” or **“Compliance Fund”** shall have the meaning assigned to that term in § 8 of this Agreement.

“Settlement Hearing” means the hearing at which the Court shall consider and determine whether to enter the Final Order and Judgment and make such other orders as are contemplated by this Agreement.

“Settlement Hearing Date” shall have the meaning assigned to that term in § 6.2 of this Agreement.

“Signatory Medical Societies” shall have the meaning assigned to that term in the preamble of this Agreement.

“State Medical Society” means a state medical society or association that is recognized by the American Medical Association.

“Subscriber Track” shall have the meaning assigned to that term in the recitals of this Agreement.

“Subsidiary” means any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are, as of Preliminary Approval Date, directly or indirectly owned by the Company, but only so long as such securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are, directly or indirectly, held by the Company.

“Tag-Along Actions” shall have the meaning assigned to such term in § 15.1 of this Agreement.

“Termination Date” shall have the meaning assigned to that term in § 14.7 of this Agreement.

2. The Action and Class Covered by This Agreement

This Agreement sets forth the terms of an agreement with respect to the Action between Company and all Class Members. This Agreement relates only to the Action and other Provider Track actions assigned MDL Docket No. 1334 or otherwise encompassed within the Litigation, unless otherwise specified herein.

3. Commitment to Support and Communications with Class Members

The Settling Parties agree that it is in their best interests to consummate this Agreement and all the terms and conditions contained herein and to cooperate with each other and to take all actions reasonably necessary to obtain Court approval of this Agreement and entry of the orders of the Court that are required to implement its provisions. They also agree to support this Agreement in accordance with and subject to the provisions of this Agreement.

Class Counsel and Plaintiffs shall make every reasonable effort to encourage putative Class Members to participate and not to Opt-Out. In addition, Class Counsel shall make all reasonable efforts to enforce the provisions of this Agreement set forth in Section 15.

Plaintiffs, Class Counsel and Company agree that Company may communicate with putative Class Members regarding the provisions of this Agreement, so long as such communications are not inconsistent with the Initial Notice, the Notice of Commencement of the Claims Period or other agreed upon communications concerning the Agreement. Company will refer to Class Counsel any inquiries from Class Members about claims to be filed under this Agreement.

4. Preliminary Approval of Settlement

Pursuant to Rule 23(e), the Settling Parties shall submit this Agreement, together with the exhibits attached hereto, to the Court at a hearing (the "Preliminary Approval Hearing") for, among other things, its conditional certification of a settlement class, preliminary approval of the Agreement and Plan of Notice and scheduling of a Fairness Hearing, and shall apply to the Court for an Order of Preliminary Approval and Conditional Class Certification, substantially in the form of Exhibit D ("Preliminary Approval Order").

5. Notice to Class Members; Notice to Parties Pursuant to This Agreement

After the Court has entered the Preliminary Approval Order and approved the Mailed Notice, and the Published Notice, notice to Class Members shall be disseminated in such form as the Court shall direct; provided that the forms of notice are substantially similar to the Mailed Notice and the Published Notice. The Mailed Notice shall request and require that any Class Member who has assigned a claim covered by this Agreement to another Person, in whole or in part, to deliver the Mailed Notice to such Person.

Class Counsel shall be responsible for identifying names and addresses of Class Members.

~~Class Counsel shall pay the reasonable cost of notice to Class Members. Payment by Class Counsel of the cost of the Mailed Notice shall be non-refundable. It is contemplated that the Mailed Notice shall be sent with the mailed notice in the pending settlement between Health Net, Inc. and the Class (the "Health Net Settlement"), so that Class Counsel shall only be required to pay the additional marginal cost associated with providing the Mailed Notice in that Health Net Settlement mailing. Class Counsel shall pay for the cost to publish the Published Notice no more than three times in the legal notices section in the national editions of THE WALL STREET JOURNAL and USA TODAY. If publication in one or more of said publications on the foregoing schedule is determined not to be practicable, then Class Counsel may apply to the Court for alternative notice by publication. Class Counsel shall also publish the Published Notice on the public websites maintained by or on behalf of at least five of the law firms serving as Class Counsel in the Action, and, to the extent feasible, shall also publish notice in a nationwide periodical addressing issues of concern to physicians such as The Journal of the American Medical Association or The American Medical News. Class Counsel shall maintain the public website notices at Class Counsel's cost through at least the Objection Date. All reasonable costs related to notice will be advanced by Company. Any such sums advanced by Company will be deducted from the Class Counsel Attorneys Fees when those fees are paid.~~

All notices to any Party (including without limitation any designations made by Class Counsel pursuant to this Agreement) required under this Agreement shall be sent by first class U.S. Mail, by hand delivery, or by facsimile, to the recipients designated in this Agreement. Timeliness of all

submissions and notices shall be measured by the date of receipt, unless the addressee refuses or delays receipt. The Persons designated to receive notices under this Agreement are as follows, unless notification of any change to such designation is given to each other Party hereto pursuant to this § 5:

Representative Plaintiffs and Signatory Medical Societies: Notice to be given to Class Counsel on behalf of Representative Plaintiffs and Signatory Medical Societies.

Class Counsel:

Archie C. Lamb, Jr.
Law Offices of Archie C. Lamb, LLC
2017 Second Avenue North
Birmingham, AL 35203

Mark Gray
GRAY WHITE & WEISS
1200 PNC Plaza
500 West Jefferson
Louisville, KY 40202

Aaron S. Podhurst
Barry L. Meadow
Podhurst Orseck, PA
25 W. Flagler Street, Suite 800
Miami, FL 33130-1780

Robert Foote
FOOTE & MEYERS
416 S. 2nd Street
Geneva, IL 60134

Nicholas B. Roth
Eyster Key Tubb Weaver & Roth, LLP
402 East Moulton Street, SE
Eyster Building
Decatur, AL 35601

James B. Tilghman
STEWART TILGHMAN FOX & BIANCHI
1 SE 3rd Avenue, Ste 3000
Miami, FL 33131-1764

Harley S. Tropin
Janet L. Humphreys
Adam M. Moskowitz
Kozyak Tropin & Throckmorton, PA
200 S. Biscayne Boulevard, Suite 2800
Miami, FL 33131-2335

Dennis G. Pantazis
WIGGINS CHILDS QUINN & PANTAZIS
1400 SouthTrust Tower
420 North 20th Street
Birmingham, AL 35203

Joe R. Whatley, Jr.
Charlene P. Ford
Othni J. Lathram
Whatley Drake, LLC
2323 Second Avenue North
Birmingham, AL 35203-3807

J. Mark White
WHITE ANDREWS ARNOLD & DOWD
2025 3rd Avenue North, Ste 600
Birmingham, AL 35203

Edith M. Kallas
Joseph P. Guglielmo
Milberg Weiss Bershad & Schulman
One Pennsylvania Plaza
New York, NY 10119

Guido Saveri
R. Alexander Saveri
Cadio Zirpoli
SAVERI & SAVERI
111 Pine Street, Ste 1700
San Francisco, CA 94111-5619

Kenneth S. Canfield, Esq.
DOFFERMYRE SHIELDS CANFIELD
KNOWLES & DEVINE
1355 Peachtree St., Ste 1600
Atlanta, GA 30309

Company Counsel

John D. Aldock
Mark S. Raffman
GOODWIN PROCTER LLP
901 New York Ave., N.W.
Washington, DC 20001

In the event that any Party receives a notice from any another Party (in accordance with the provisions of § 5 of this Agreement and as required by any other provision of this Agreement), for which there is a written acknowledgement of receipt, and such receiving Party does not respond to such notice within thirty (30) days of receipt thereof, such receiving Party shall be deemed to have accepted any proposal made by the notifying Party in such notice and shall be deemed to have waived any rights under this Agreement with respect to the matter that is the subject of such notice.

6. Procedure for Final Approval; Limited Waiver

Following the dissemination of notice as described in § 5, Representative Plaintiffs, Class Counsel and Company shall seek the Court's final approval of this Agreement. Class Members shall have until the Objection Date to file, in the manner specified in the Mailed Notice, any objection or other response to this Agreement. The Parties agree to urge the Court to set the Objection Date for the date that is 60 days after the Notice Date (the "**Objection Date**").

6.1 Opt-Out Timing and Rights

The Parties will jointly request of the Court that the Mailed Notice and the Published Notice be disseminated no later than 30 days after the Preliminary Approval Date (the "**Notice Date**").

The Mailed Notice and the Published Notice shall provide that Class Members may request exclusion from the Class by providing notice, in the manner specified in the Notice, on or before a date set by the Court as the Opt-Out Deadline. Representative Plaintiffs, Class Counsel and Company agree to urge the Court to set the Opt-Out Deadline for the date that is 60 days after the Notice Date (the "**Opt-Out Deadline**").

Class Members have the right to exclude themselves ("**Opt-Out**") from this Agreement and from the Class by timely submitting to the Clerk of the Court a request to Opt-Out and otherwise complying with the agreed upon Opt-Out procedure approved by the Court. Class Members who so timely request to Opt-Out shall be excluded from this Agreement and from the Class. Any Class Member who does not submit a request to Opt-Out by the Opt-Out Deadline or who does not otherwise comply with the agreed upon Opt-Out procedure approved by the Court shall be bound by the terms of this Agreement and the Final Order and Judgment. Any Class Member who does not Opt-Out of this Agreement shall be deemed to have taken all actions necessary to withdraw and revoke the assignment to any Person of any claim against Company.

Any Class Member who timely submits a request to Opt-Out shall have until the Settlement Hearing to deliver to Class Counsel a written revocation of such Class Member's request to Opt-Out. Class Counsel shall timely apprise the Court of such revocations.

Within ten (10) days after the Opt-Out Deadline, Class Counsel shall furnish Company with a complete list in machine-readable form of all Opt-Out requests filed by the Opt-Out Deadline and not timely revoked. Company shall pay costs of obtaining a copy of the Opt-Out requests.

Notwithstanding any other provisions in this Agreement, after reviewing said list and/or copies of Opt-Out requests and revocations, Company reserves the right, in its sole and absolute discretion, to terminate this Agreement by delivering a notice of termination to Class Counsel, with a copy to the Court, prior to the commencement of the Settlement Hearing if Company determines that Opt-Out requests have been filed (i) relating to more than 25,000 individual Physicians who are Class Members or (ii) representing Class Members who, in the aggregate, received at least five percent (5%) of the total dollar payments that Company made to Class Members in calendar year 1998.

6.2 Setting the Settlement Hearing Date and Settlement Hearing Proceedings

Representative Plaintiffs, the Signatory Medical Societies, Class Counsel and Company agree to urge the Court to hold the Settlement Hearing on the date that is 105 days after the Notice Date (the "**Settlement Hearing Date**") and to work together to identify and submit any evidence that may be required by the Court to satisfy the burden of proof for obtaining approval of this Agreement and the orders of the Court that are necessary to effectuate the provisions of this Agreement, including without limitation the Final Order and Judgment and the orders contained therein. At the Settlement Hearing, the Representative Plaintiffs, the Signatory Medical Societies, Class Counsel and Company shall present evidence necessary and appropriate to obtain the Court's approval of this Agreement, the Final Order and Judgment and the orders contained therein (including without limitation the Bar Order), and shall meet and confer prior to the Settlement Hearing to coordinate their presentation to the Court in support of Court approval thereof.

6.3 Limited Waiver

Solely for purposes of securing settlement of the Action, upon the Effective Date, the Releasing Parties and Company shall be deemed to have waived any and all rights (known or unknown) to arbitrate any Released Claim.

Nothing in this Agreement shall preclude Releasing Parties from challenging the enforceability of arbitration provisions in connection with disputes or claims not resolved by this Agreement, provided, however, that no Releasing Party may assert that by entering into this Agreement, Company has waived its right to compel arbitration of such disputes or claims. This Agreement is not intended to be, nor shall it be argued or interpreted to represent, any waiver of arbitration rights except to the limited extent expressly set forth in this Section 6.3.

7. **Omitted**

8. **Settlement Consideration**

The consideration supporting this Settlement shall include a “**Compliance Fund**” as set forth in this Section 8. Company will pay, within five (5) business days after the Effective Date by wire transfer to an escrow agent acceptable to both Class Counsel and Company and held pursuant to an order of the Court, the “**Settlement Amount**” of \$22,050,000 plus interest accrued at the Interest Rate on the Settlement Amount from the Preliminary Approval Date to the entry of the Final Order and Judgment by the Court. This payment will constitute the Compliance Fund. It is anticipated that the assets of the Compliance Fund will be lawfully transferred or poured into a non-profit, tax exempt entity with the same purposes as the Compliance Fund. (See § 8.1 below.)

8.1 Compliance Fund

The assets of the Compliance Fund and any successor entity shall be used to address issues relating to abuses of managed care, and in particular to assist Class Members by (a) monitoring and attempting to assure compliance with all settlements in this litigation and (b) identifying and addressing future health plan practices that burden the ability of Class Members to be paid fairly for their services. The Compliance Fund is intended compensate Class Members for damages claimed in the Litigation by benefiting them in the manner set forth in this Agreement. Class Counsel will appoint a Committee of General Counsel and/or Executives of Signatory Medical Societies and/or Representative Plaintiffs to monitor the Fund and to determine expenditures made from it.

8.2 Omitted

8.3 Omitted

8.4 Omitted

8.5 Omitted

8.6 Omitted

8.7 Other Settlement Administration Provisions

- (a) The Company’s payment of the Settlement Amount plus accrued interest into the Settlement Fund shall be treated as a payment to a Qualified or Designated Settlement Fund under I.R.C. § 468B and the regulations or proposed regulations promulgated thereunder (including without limitation Treasury Reg. § 1.468B-1 through 5 or any successor regulation).
- (b) The Settling Parties and Company Counsel shall not have any responsibility for, interest in, or liability whatsoever with respect to the investment of or distribution of the Settlement Fund.
- (c) The escrow agent(s) with whom the Settlement Fund is deposited shall invest the monies in those funds solely in interest bearing investments which the escrow

agent(s) consider(s) to involve no substantial risk to payment of principal at maturity.

- (d) No Person shall have any cause of action against the Plaintiffs, Class Counsel, Company, the Released Persons, or Company Counsel, including any counsel representing Company in connection with this Litigation, based on the administration or implementation of the Agreement or orders of the Court or based on the distribution of monies under the Agreement. In such circumstances, the sole remedy (other than those provided pursuant to the terms of the Agreement) is application to this Court for enforcement of the Agreement or order pursuant to Section 12.
- (e) Omitted
- (f) Omitted
- (g) If the Final Order and Judgment is set aside or reversed in whole or in part for any reason (except for a matter found to be severable under Section 13.6(c)), then at such time as the time for any appeal from the final order of set aside or reversal has elapsed (including without limitation any extension of time for the filing of any appeal that may result by operation of law or order of the Court) with no notice of appeal having been filed, all funds in the Compliance Fund, including interest accrued thereon, shall be released forthwith to Company.

9. Attorneys' Fees, and Representative Plaintiffs' Fees

9.1 Company Shall Pay Attorneys' Fees

Class Counsel intend to apply to the Court for an award of Attorneys' Fees in an amount not to exceed Five Million Dollars (\$5,000,000), which application Company agrees not to oppose. Company shall pay such Attorneys' Fees in the amount awarded by the Court up to but not exceeding such unopposed amount in accordance with § 9.3 of this Agreement. If the Court awards Attorneys' Fees in excess of Five Million Dollars (\$5,000,000), Class Counsel, on behalf of themselves and the Class, hereby covenant and agree to waive, release and forever discharge the amount of any such excess award and to make no effort of any kind or description ever to collect same. The Attorneys' Fees agreed to be paid pursuant to this provision are in addition to and separate from all other consideration and remedies paid to and available to the Class Members who have not validly and timely requested to Opt-Out of this Agreement. Company shall not be obligated to pay any attorneys' fees or expenses incurred by or on behalf of any Releasing Party in connection with the Action, other than the payment of Attorneys' Fees in accordance with this § 9.1.

9.2 Company Shall Pay Representative Plaintiffs' Fees

In addition to Attorneys' Fees, Class Counsel intends to apply to the Court for an award of fees for each Representative Plaintiff in the amount of \$ 7,500, which application Company agrees not to oppose. Company shall pay such fees to Representative Plaintiffs in the amount awarded by the Court up to but not exceeding such unopposed amount in accordance with § 9.3. If the Court awards fees to Representative Plaintiffs in excess of \$7,500 each, Representative Plaintiffs hereby covenant and agree to waive, release and forever discharge the amount of any such excess award and to make no effort of any kind

or description ever to collect same. The fees to Representative Plaintiffs agreed to be paid pursuant to this § 9.2 are in addition to the other consideration afforded the Class Members who have not validly and timely requested to Opt-Out of this Agreement. Company shall support the award of fees to Representative Plaintiffs up to \$ 7,500 as reasonable and appropriate and shall not to object to such request nor appeal an award up to the amounts specified above. Such amounts are the only consideration and fees that Released Persons shall be obligated to give Class Counsel or Representative Plaintiffs as a result of prosecuting and settling this Action, other than the additional express agreements made herein. In the event that the Court awards Representative Plaintiffs less than \$7500 each then the aggregate amount not awarded or paid will be added to the Compliance Fund.

9.3 Timing of Fee Payments

Within five (5) Business Days after the Effective Date, Company shall pay the Attorneys' Fees and Representative Plaintiffs' fees as determined in Sections 9.1 and 9.2 above, plus interest accrued at the Interest Rate on such amounts from the Preliminary Approval Date to the date of the Final Order and Judgment. Payment shall be made by wire transfer to the Trust Account of the Law Office of Archie C. Lamb, L.L.C., for the benefit of Class Counsel and for the distribution by Class Counsel of the Representative Plaintiffs' fees.

10. Application to Fully Funded and Self Funded Plans

This Agreement applies to Company's conduct with respect to both Fully-Insured Plans and Self-Funded Plans, except where otherwise specified.

11. Omitted

12. Omitted

13. Release and Covenant Not to Sue

13.1 Discharge of All Released Claims

Upon the Effective Date, the Releasing Parties and each of them shall hereby be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever, remised, released, relinquished, compromised and discharged all Released Claims against each Released Person.

13.2 Covenant Not to Sue

- (a) The Releasing Parties and each of them agree and covenant not to sue or prosecute, institute or cooperate in the institution, commencement, filing, or prosecution of any suit on the basis of any Released Claim against any Released Person.
- (b) Upon the entry of the Final Order and Judgment and through the "Termination Date," each Releasing Party shall be deemed to have covenanted and agreed not to sue or to assert or to prosecute, institute or cooperate in the institution, commencement, filing, or prosecution of any proceeding against any Released Person, in any forum, any cause of action, judgment, lien, indebtedness, costs, damages, obligation, attorneys' fees, losses, claims, liabilities and demands of whatever kind or character arising after the Preliminary Approval Date, that in any

way relates to, arises from, is similar to, or is based on the causes of action and/or factual allegations in the Complaint.

13.3 Waiver of California Civil Code Section 1542

With respect to all Released Claims, the Releasing Parties and each of them agree that they are expressly waiving and relinquishing to the fullest extent permitted by law (a) the provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor.

and (b) any law of any state or territory of the United States, federal law or principle of common law, or of international or foreign law, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Each Class Member who has not validly and timely requested to Opt-Out of this Agreement and each Signatory Medical Society may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of the provisions of § 13, but each such Class Member and each Signatory Medical Society hereby expressly waives and fully, finally and forever settles and releases, upon the entry of Final Order and Judgment, any known or unknown, suspected or unsuspected, contingent or non contingent claim with respect to the subject matter of the provisions of § 13, whether or not concealed or hidden, without regard to the discovery or existence of such different or additional facts.

13.4 Omitted

13.5 Omitted

13.6 Non-Released Persons and Non-Released Claims

- (a) Nothing in this Agreement is intended to relieve any Person that is not a Released Person from responsibility for its own conduct or conduct of other Persons who are not Released Persons for claims that are not Released Claims, or to preclude any Representative Plaintiffs from introducing any competent and admissible evidence to the extent consistent with Sections 14 and 16.
- (b) Except as provided in Sections 13.1 and 23.2(c), nothing in this Agreement prevents the Plaintiffs and the Class from pursuing claims to hold any person or party that is not a Released Person liable for damages caused by any Released Person.
- (c) Section 13.6(b) of this Agreement is intended to be severable. Should it be found illegal or invalid by any court for any reason, it shall be severable from the remainder of this Agreement, and the remainder of this Agreement shall be unchanged and shall be read as if it did not contain the Section 13.6(b).

- (d) If Representative Plaintiffs, the Class or any Class Members pursue claims against any person or party for damages allegedly caused by any Released Person, any finding, judgment, opinion or other result from such proceeding under any circumstances (i) shall not be deemed, construed or asserted as a finding, judgment, opinion or result against any Released Person; (ii) shall not be deemed, construed or asserted as res judicata, collateral estoppel or similar doctrines against any Released Person; and (iii) shall not be admitted or considered as evidence against or used for any purpose against any Released Party in any judicial, administrative, regulatory, arbitration proceeding or any other forum.

13.7 Omitted

13.8 Irreparable Harm

The Settling Parties agree that Company shall suffer irreparable harm if a Releasing Party takes action inconsistent with either Section 13.1 or Section 13.2, and that in that event Company may seek an injunction from the Court as to such action without further showing of irreparable harm.

13.9 Legislative Changes

Nothing contained in this Agreement is intended, or shall be construed, to preclude any Party from seeking legislative or regulatory changes as to matters addressed herein or from seeking to enforce any such changes using any available legal remedy permitted under this Agreement.

14. Stay of Discovery and All Other Proceedings, Termination, and Effective Date of Agreement

14.1 Suspension of Discovery and All Other Proceedings

Until the Preliminary Approval Order has been entered, including the stay of discovery and all other proceedings as to the Released Parties in the form contained therein, the Releasing Parties and Class Counsel covenant and agree that Class Counsel shall not pursue discovery or other proceedings against the Released Persons and shall not in any way subsequently argue that the Released Persons have failed to comply with their discovery obligations or other obligations in the Litigation in any respect by reason of the Released Persons' suspension of discovery and other litigation efforts following the Execution Date.

14.2 Right to Terminate this Agreement

If, at the Preliminary Approval Hearing or within 30 days thereafter, the Court does not enter the Preliminary Approval Order and approve the Mailed Notice, and the Published Notice submitted to the Court pursuant to § 4 of this Agreement, in each case in substantially the same form as Exhibits C, D, and E, each of Class Counsel and Company shall have the right, in the sole and absolute discretion of such Party, to terminate this Agreement by delivering a notice of termination to the other, it being understood that, notwithstanding the foregoing, if the Court does not grant the stay of discovery and other proceedings as to Company and the interim injunction with respect to the Tag-Along Actions, each in the form contained in the Preliminary Approval Order, Company may in

its sole and absolute discretion terminate this Agreement by delivering a notice of termination to Class Counsel. In the event of any termination pursuant to the terms hereof, the Parties shall be restored to their original positions, except as expressly provided herein.

14.3 Notice of Termination

If the Court has not entered the Final Order and Judgment substantially in the form attached hereto as Exhibits A and B by the date that is 180 calendar days after the Preliminary Approval Date, each of Class Counsel and Company may, in the sole and absolute discretion of such Party, terminate this Agreement by delivering a notice of termination to the other.

14.4 Effective Date

If the Final Order and Judgment is entered by the Court and the time for appeal from all of such orders and judgment has elapsed (including without limitation any extension of time for the filing of any appeal that may result by operation of law or order of the Court) with no notice of appeal having been filed, the "Effective Date" shall be the 11th calendar day after the last date on which notice of appeal could have been timely filed. If the Final Order and Judgment is entered and an appeal is filed as to any of them, the "Effective Date" shall be the 11th calendar day after the Final Order and Judgment, is affirmed, all appeals are dismissed, and no further appeal to, or discretionary review in, any Court remains.

14.5 Suspension of Discovery And Other Proceedings After Preliminary Approval Date

From and after the Preliminary Approval Date, the Releasing Parties and Class Counsel covenant and agree that the Releasing Persons and Class Counsel shall not pursue discovery and other proceedings against the Released Parties. Nothing contained herein shall preclude the Releasing Parties or Class Counsel from introducing and relying on otherwise admissible evidence as to non-Released Parties and non-Released Claims.

14.6 Appeal

Notwithstanding § 14.4, if one or more notices of appeal are filed from the Final Order and Judgment, Company shall have the right, in its sole and absolute discretion, to provide notice of the occurrence of the Effective Date and the signatory Parties shall thereafter be bound by this Agreement and shall perform their respective obligations as if the Final Order and Judgment had been affirmed. If the Final Order and Judgment is not affirmed in their entirety on any such appeal or discretionary review (except for a matter found to be severable under Section 13.6(c)), either Class Counsel or Company may terminate this Agreement by delivering a notice of termination to the other. If both Company and Class Counsel do not elect to so terminate this Agreement, Company shall be entitled to provide notice of the occurrence of the Effective Date (if the Company has not already done so pursuant to the first sentence of this paragraph) and the Parties shall continue to be bound by this Agreement and shall perform their respective obligations hereunder as if the Final Order and Judgment had been affirmed in its entirety on such appeal or discretionary review.

14.7 Termination Date of Agreement

This Agreement shall terminate (the “**Termination Date**”) upon the earlier to occur of (i) termination of this Agreement by any Party pursuant to the terms hereof and (ii) the four-year anniversary of the Effective Date. Effective on the Termination Date, the provisions of this Agreement shall immediately become void and of no further force and effect and there shall be no liability under this Agreement on the part of any of the Parties, except for willful or knowing breaches of this Agreement prior to the time of such termination; provided that in the event of a termination of this Agreement as contemplated by clause (ii) of this § 14.7, the provisions of §§ 13, 15, 16, 17, 18, and 19 shall survive such termination indefinitely. On the Termination Date, all of Company’s obligations under this Agreement shall be satisfied .

15. Related Provider Track Actions

15.1 Ordered Stays and Dismissals in Tag-Along Actions

As to any action brought by or on behalf of Class Members that asserts any claim that as of the Effective Date would constitute a Released Claim against Company, other than the Action, that has been, or will in the future, be consolidated with the Provider Track Actions under MDL Docket No. 1334 (the “**Tag-Along Actions**”), Representative Plaintiffs, the Signatory Medical Societies, Class Counsel and the Company shall cooperate to obtain an order of the Court, to be included in the Preliminary Approval Order, providing for the interim stay of all proceedings as to Company with respect to all Released Claims in each such action pending entry of the Final Order and Judgment. In addition, no later than ten (10) business days after the Effective Date, Representative Plaintiffs, the Signatory Medical Societies, Class Counsel and Company shall jointly apply for orders from the Court dismissing each of the Tag-Along Actions with prejudice as to Company, to the extent that they assert Released Claims.

15.2 Certain Related State Court Actions

As to any action in which at least one Class Counsel is counsel of record that is now pending, hereafter may be filed in or remanded to any state court that asserts any Released Claim against Company on behalf of any Releasing Party, the Representative Plaintiffs, the Signatory Medical Societies and Class Counsel agree that they will cooperate with Company, and file all documents necessary, (a) to obtain an interim stay of all proceedings against Company in any such state court action to the extent that the action asserts Released Claims and (b) on or promptly after the Effective Date, to obtain the dismissal with prejudice of any such action to the extent that the action asserts Released Claims, other than with respect to any named plaintiff in such action that has submitted a valid and timely Opt-Out.

15.3 Other Related Actions

As to any action not referred to in §§ 15.1 or 15.2 that is now pending or hereafter may be filed in any court that asserts any of the Released Claims against Company on behalf of any Class Member who has not timely submitted a valid and timely Opt-Out request, Representative Plaintiffs, the Signatory Medical Societies and Class Counsel agree that they will cooperate with Company, to the extent reasonably practicable, in Company’s effort to seek relief from the Court or the forum court to obtain the interim stay and

dismissal with prejudice of such action as to Company to the extent necessary to effectuate the other provisions of this Agreement.

16. Not Evidence; No Admission of Liability

In no event shall this Agreement, in whole or in part, whether effective, terminated, or otherwise, or any of its provisions or any negotiations, statements, or proceedings relating to it in any way be construed as, offered as, received as, used as or deemed to be evidence of any kind in the Action, in any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Agreement. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements or proceedings shall be construed as, offered as, received as, used as or deemed to be evidence, or an admission or concession of liability or wrongdoing whatsoever or breach of any duty on the part of Company, the Defendants, the Representative Plaintiffs or the Signatory Medical Societies, or as a waiver by Company, the Defendants, the Representative Plaintiffs or the Signatory Medical Societies of any applicable defense, including without limitation any applicable statute of limitations. None of the Parties waives or intends to waive any applicable attorney-client privilege or work product protection for any negotiations, statements or proceedings relating to this Agreement. This provision shall survive the termination of this Agreement.

17. Entire Agreement; Amendment

17.1 Entire Agreement

This Agreement, including its Exhibits, contains an entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties; it is not subject to any condition not provided for herein. This Agreement supersedes any prior agreements or understandings, whether written or oral, between and among Representative Plaintiffs, Class Members, Class Counsel, Company and the Signatory Medical Societies regarding the subject matter of the Action or this Agreement. This Agreement shall not be modified in any respect except by a writing executed by Class Counsel and the Company.

17.2 Amendment Generally

This Agreement may be amended or modified only as provided in by a written instrument signed by or on behalf of Company and Class Counsel (or their successors in interest) and approved by the Court.

17.3 Omitted

18. No Presumption Against Drafter

None of the Parties shall be considered to be the drafter of this Agreement or any provision hereof 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 hereof. This Agreement was drafted with substantial input by all Parties and their counsel, and no reliance was placed on any representations other than those contained herein.

19. Continuing Jurisdiction and Exclusive Venue

19.1 Continuing Jurisdiction

Except as otherwise provided in this Agreement, it is expressly agreed and stipulated that the United States District Court for the Southern District of Florida shall have exclusive jurisdiction and authority to consider, rule upon, and issue a final order with respect to suits, whether judicial, administrative or otherwise, which may be instituted by any Person, individually or derivatively, with respect to this Agreement. This reservation of jurisdiction does not limit any other reservation of jurisdiction in this Agreement nor do any other such reservations limit the reservation in this subsection.

Except as otherwise provided in this Agreement, Company, each Signatory Medical Society and each Class Member who has not validly and timely requested to Opt-Out of this Agreement hereby irrevocably submits to the exclusive jurisdiction and venue of the United States District Court for the Southern District of Florida for any suit, action, proceeding, case, controversy, or dispute relating to this Agreement and/or Exhibits hereto and negotiation, performance or breach of same.

19.2 Parties Shall Not Contest Jurisdiction

In the event of a case, controversy, or dispute arising out of the negotiation of, approval of, performance of, or breach of this Agreement, and solely for purposes for such suit, action or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is in any way an improper venue or an inconvenient forum. Furthermore, the Parties shall jointly urge the Court to include the provisions of this § 19 in its Final Order and Judgment approving this Agreement.

20. Cooperation

Representative Plaintiffs, Class Counsel and Company agree to move that the Court enter an order to the effect that should any Person desire any discovery incident to (or which the Person contends is necessary to) the approval of this Agreement, the Person must first obtain an order from the Court that permits such discovery.

21. Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original. Facsimile signatures shall be considered valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Agreement.

22. Additional Signatory Medical Societies

The Parties agree that, from and after the date of this Agreement, additional medical societies may elect to execute a signature page to this Agreement and thereby agree to be bound by the provisions of this Agreement that are applicable to Signatory Medical Societies. Upon such execution of a signature page, each such additional medical society shall be deemed to be a Signatory Medical Society for all purposes of this Agreement and shall be bound by all of the provisions of this Agreement that are applicable to Signatory Medical Societies.

23. Successors and Assigns

23.1 No Assignment Without Consent

The provisions of this Agreement shall be binding upon and inure to the benefit of Company and its respective successors and assigns; provided that Company may not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement to a third party that is not a successor or affiliate without the consent of Class Counsel. Under no circumstances shall this Agreement create a right of Class Members or Class Counsel to review, approve or consent to any transaction involving corporate governance of Company, including without limitation any transaction involving the merger or acquisition or other form of transaction resulting in a change of control of Company or any transaction whereby all or substantially all of Company's assets or more than 50% of Company's stock are transferred to an acquiring company.

23.2 Acquisition or Change of Control Transactions

Notwithstanding any other provision of this Agreement, in the event of (i) an acquisition or change of control of Company whereby all or substantially all of Company's assets or stock are transferred to an acquiring person by way of merger or transfer of stock or assets, or (ii) Company consolidates with, or merges with or into, another person or any other person consolidates with, or merges with or into, Company (any such other person being referred to hereinafter as a "Combining Person"), the following provisions apply (with the term "Acquirer" referring to and including any acquiring person referred to in the foregoing clause (i) and any Combining Person referred to in the foregoing clause (ii)):

- (a) The provisions of this Agreement shall continue to apply only to Company (or Company's successor by merger) and not to the Acquirer or other Affiliates of the Acquirer, so long as Company (or Company's successor by merger) remains a separate Affiliate of the Acquirer.
- (b) **Omitted.**
- (c) Notwithstanding Section 13.6(b) or any other provision of this Agreement, the Acquirer shall be deemed a Released Party with respect to any claims that arise from or are based on conduct by any other Released Party under this Agreement that occurred on or before the Effective Date and are or could have been alleged in the Complaint, but not as to claims that arise from or are based on conduct by the Acquirer.
- (d) The term "Acquirer" includes an entity that has entered or enters a written agreement with Company for change of control or transfer of assets or stock as described above and (i) the transaction has closed or (ii) the transaction has not closed but the agreement has been approved by the boards of directors of Company and Acquirer and publicly announced. An entity that is an Acquirer under condition (i) or (ii) above shall remain an Acquirer unless and until the written agreement for change of control or transfer of stock or assets is terminated, revoked, abandoned, or enjoined by final order of a court of competent jurisdiction.

24. Governing Law

This Agreement and all agreements, exhibits, and documents relating to this Agreement shall be construed under the laws of the State of Florida, excluding its choice of law rules.

//
//
//
//
//
//
//
//
//
//
//

EXECUTED and DELIVERED on May 4, 2005

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

< to be supplied >

Name:
Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen MD
Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:

Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.



Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

~~USBC~~ ~~RUT~~

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name: _____

Title: _____

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

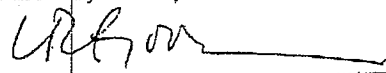
Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.



Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:
Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.


Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.



Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

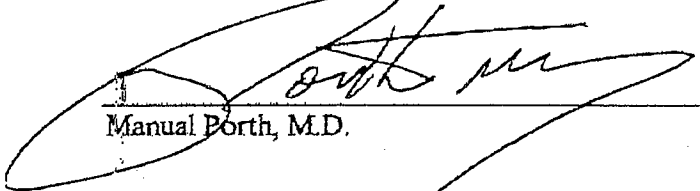
Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:
Title:

REPRESENTATIVE PLAINTIFFS:


Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

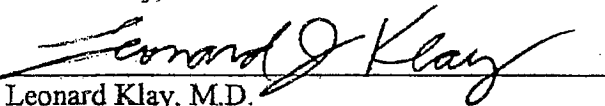
EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:
Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.


Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:
Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

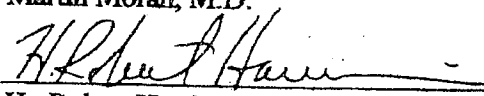
Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.



H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name:
Title:

REPRESENTATIVE PLAINTIFFS:

Manual Porth, M.D.

Glenn Kelly, M.D.

Leonard Klay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.

Andres Taleisnik, M.D.

Julio Taleisnik, M.D.

Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

EXECUTED and DELIVERED on _____

COMPANY: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Name: _____
Title: _____

REPRESENTATIVE PLAINTIFFS:

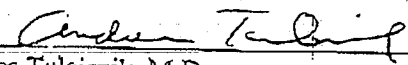
Manual Porth, M.D.

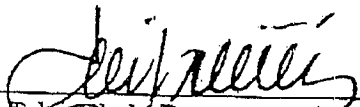
Glenn Kelly, M.D.

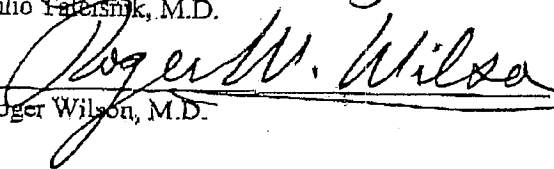
Leonard Flay, M.D.

Charles B. Shane, M.D.

Jeffrey Book, D.O.


Andres Tuleisnik, M.D.


Julio Tuleisnik, M.D.


Roger Wilson, M.D.

Susan R. Hansen, M.D.

Thomas Backer, M.D.

Martin Moran, M.D.

H. Robert Harrison, Ph.D., M.D.

Lance R. Goodman, M.D.

SIGNATORY MEDICAL SOCIETIES:

Name:
Title:

CONNECTICUT STATE MEDICAL SOCIETY

Name:
Title:

EL PASO COUNTY MEDICAL SOCIETY

Name:
Title:

HAWAII MEDICAL ASSOCIATION

Name:
Title:

NEBRASKA MEDICAL ASSOCIATION

Name:
Title:

Name:
Title:

MEDICAL SOCIETY OF NEW JERSEY

Name:
Title:

Name:
Title:

Name:
Title:

NORTH CAROLINA MEDICAL SOCIETY

Name:
Title:

SOUTH CAROLINA MEDICAL ASSOCIATION

Name:
Title:

TENNESSEE MEDICAL ASSOCIATION

Name:
Title:

TEXAS MEDICAL ASSOCIATION

Bahn D. Allen, MD

Name: *Bahn D. Allen, MD*

Title: *President, Texas Medical Association*

RUSSEL C. LIBBY, M.D.
President, Medical Society of Northern Virginia
(formerly Fairfax County and Alexandria
Medical Societies)

LOUISIANA STATE MEDICAL SOCIETY

Name:
Title:

NIRMALA LIMAYE, M.D.
President, Arlington County Medical Society

KENNETH JOSOVITZ, M.D.
President, Prince William County Medical
Society

RANDALL PEYTON, M.D.
President, Loudoun County Medical Society

Collectively known as, and on behalf of, North
Virginia Medical Societies

**WASHINGTON STATE MEDICAL
ASSOCIATION**

Name:
Title:

CALIFORNIA MEDICAL ASSOCIATION

Name:
Title:

JOHN C. LEWIN MD
CEO

MEDICAL ASSOCIATION OF GEORGIA

Name:
Title:

FLORIDA MEDICAL ASSOCIATION

Name:
Title:

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / Owner*

KOZYAK TROPIN & THROCKMORTON

Name:
Title:

DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE

Name:
Title:

DRUBNER, HARTLEY & O'CONNOR, LLC

Name:
Title:

EYSTER KEY, TUBB, WEAVER & ROTH,
LLP

Name: *[Signature]*
Title: *Partner*

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

MILBERG WEISS BERSHAD HYNES &
LERACH LLP

Name:
Title:

STEWART, FILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: *Aaron Podhurst*
Title: *Partner*

NEBRASKA MEDICAL ASSOCIATION

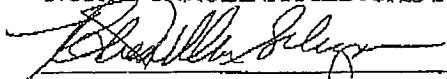
Sandra A. Johnson

Name:

Title:

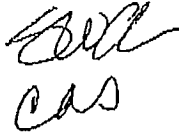
Executive Vice President

NORTH CAROLINA MEDICAL SOCIETY



Name: ROBERT WILLIAM SELIGSON

Title: EVP/CEO



WASHINGTON STATE MEDICAL
ASSOCIATION

Thomas J. Curry

Name: *Thomas J. Curry*

Title: *Executive Director/CEO*

EL PASO COUNTY MEDICAL SOCIETY

Carol A. Walker

Name:

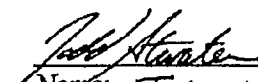
Title: *Executive Vice President*

TENNESSEE MEDICAL ASSOCIATION

A handwritten signature in cursive script, appearing to read "Donald H. Alexander", written over a horizontal line.

Name: Donald H. Alexander
Title: Chief Executive Officer

SOUTH CAROLINA MEDICAL
ASSOCIATION

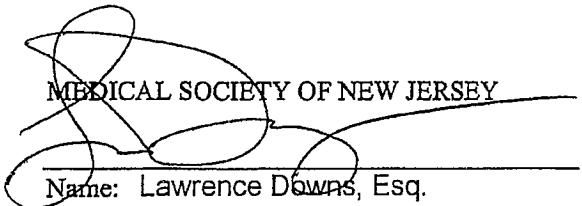

Name: Todd Atwater
Title: CEO

CONNECTICUT STATE MEDICAL SOCIETY

Timothy B. Norbeck

Name: *Executive Director*

Title:



MEDICAL SOCIETY OF NEW JERSEY

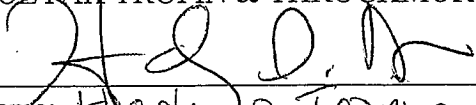
Name: Lawrence Downs, Esq.
Title: Staff Counsel

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name:
Title:

KOZYAK/TROPIN & THROCKMORTON



Name: Harley S. Tropin
Title: Partner

DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE

Name:
Title:

DRUBNER, HARTLEY & O'CONNOR, LLC

Name:
Title:

EYSTER, KEY, TUBB, WEAVER & ROTH,
LLP

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

MILBERG WEISS BERSHAD HYNES &
LERACH LLP

Name:
Title:

STEWART, TILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: Aaron Podhurst
Title: Partner

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / Owner*

KOZYAK TROPIN & THROCKMORTON

Name:
Title:

**DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE**

Name:
Title:

DRUBNER, HARTLEY & O'CONNOR, LLC

Name:
Title:

**EYSTER, KEY, TUBB, WEAVER & ROTH,
LLP**

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

**GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.**

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name: *Jeffery A. Mobley*
Title: *Partner*

**MILBERG WEISS BERSHAD HYNES &
LERACH LLP**

Name:
Title:

STEWART, TILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: *Aaron Podhurst*
Title: *Partner*

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / Owner*
KOZYAK TROPIN & THROCKMORTON

Name:
Title:
DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE

Paul M. Devine Jr.

Name:
Title:
DRUBNER, HARTLEY & O'CONNOR, LLC

Name:
Title:
EYSTER, KEY, TUBB, WEAVER & ROTH,
LLP

Name:
Title:
FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:
GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

MILBERG WEISS BERSHAD HYNES &
LERACH LLP

Name:
Title:

STEWART, FILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: Aaron Podhurst
Title: Partner

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / Owner*

KOZYAK TROPIN & THROCKMORTON

Name:
Title:

**DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE**

Name:
Title:

DRUENER, HARTLEY & O'CONNOR, LLC

Name:
Title:

**EYSTER, KSY, TUBB, WEAVER & ROTH,
LLP**

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

**GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.**

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

**MILBERG WEISS BERSHAD HYNES &
LERACH LLP**

Name:
Title:

STEWART, TILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Aaron Podhurst
Name: Aaron Podhurst
Title: Partner

**MILBERG WEISS BERSHAD &
SCHULMAN, LLP**

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

WIGGINS CHILDS QUINN & PANTAZIS, PC

Name:
Title:

WHITE ARNOLD ANDREWS & DOWD



Name:
Title:

EYSTER KEY TUBB WEAVER & ROTH

Name:
Title:

LOWE MOBLEY & LOWE

Name:
Title:

GRAY WEISS & WHITE

Name:
Title:

DOFFERMYRE SHIELDS CANFIELD

Name:
Title:

DRUBNER HARTLEY & O'CONNOR

Name:
Title:

STEWART TILGHMAN FOX & BIANCHI

Name:
Title:

MILBERG WEISS BERSHAD &
SCHULMAN, LLP

Edith M. Kallap
Name: *Edith M. Kallap*
Title: *Partner*

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

WIGGINS CHILDS QUINN & PANTAZIS, PC

Name:
Title:

WHITE ARNOLD ANDREWS & DOWD

Name:
Title:

EYSTER KEY TUBB WEAVER & ROTH

Name:
Title:

LOWE MOBLEY & LOWE

Name:
Title:

GRAY WEISS & WHITE

Name:
Title:

DOFFERMYRE SHIELDS CANFIELD

Name:
Title:

DRUBNER HARTLEY & O'CONNOR

Name:
Title:

STEWART TILGHMAN FOX & BIANCHI

Name:
Title:

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / Owner*

KOZYAK TROPIN & THROCKMORTON

Name:
Title:

DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE

Name:
Title:

DRUBNER, HARTLEY & O'CONNOR, LLC

Name:
Title:

EYSTER, KEY, TUBE, WEAVER & ROTH,
LLP

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

MILBERG WEISS BERSHAD HYNES &
LERACH LLP

Name:
Title:

STEWART, TILGHMAN, FOX & BIANCHI

Name: *James B. Tilghman Jr.*
Title: *Vice President*

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: *Aaron Podhurst*
Title: *Partner*

CLASS COUNSEL:

LAW OFFICES OF ARCHIE LAMB, LLC

Name: *Archie Lamb*
Title: *President / owner*

KOZYAK TROPIN & THROCKMORTON

Name:
Title:

DOFFERMYRE, SHIELDS, CANFIELD,
KNOWLES & DEVINE

Name:
Title:

DRUBNER, HARTLEY & O'CONNOR, LLC

Name: *James E. Hartley, Jr.*
Title: *Member*

EYSTER, KEY, TUBB, WEAVER & ROTH,
LLP

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

GORDON, SILBERMAN, WIGGINS &
CHILDS, P.C.

Name:
Title:

GRAY & WEISS

Name:
Title:

LOWE, MOBLEY & LOWE

Name:
Title:

MILBERG WEISS BERSHAD HYNES &
LERACH LLP

Name:
Title:

STEWART, TILGHMAN, FOX & BIANCHI

Name:
Title:

WHATLEY DRAKE, LLC

Name:
Title:

WHITE, DUNN & BOOKER

Name:
Title:

PODHURST & ORSECK

Name: *Aaron Podhurst*
Title: *Partner*

MILBERG WEISS BERSHAD &
SCHULMAN, LLP

Name:
Title:

FOOTE, MEYERS, MIELKE & FLOWERS

Name:
Title:

WIGGINS CHILDS QUINN & PANTAZIS, PC
LLC

Name:
Title:

WHITE ARNOLD ANDREWS & DOWD

Name:
Title:

EYSTER KEY TUBB WEAVER & ROTH

Name:
Title:

LOWE MOBLEY & LOWE

Name:
Title:

GRAY WEISS & WHITE

Name:
Title:

DOFFERMYRE SHIELDS CANFIELD

Name:
Title:

DRUBNER HARTLEY & O'CONNOR

Name:
Title:

STEWART TILGHMAN FOX & BIANCHI

Name:
Title:

EXHIBIT A

Miami Division

MDL NO.: 1334

MASTER FILE NO.: 00-1334-MD-MORENO

IN RE:
MANAGED CARE LITIGATION

THIS DOCUMENT RELATES TO
PROVIDER TRACK CASES ONLY

**ORDER APPROVING SETTLEMENT AMONG PRUDENTIAL AND
PHYSICIANS, PHYSICIAN GROUPS AND PHYSICIAN ORGANIZATIONS,
CERTIFYING CLASS AND DIRECTING ENTRY OF FINAL JUDGMENT**

The Court having reviewed and considered the Joint Motion for Final Approval of Settlement Concerning Claims Against Defendant The Prudential Insurance Company of America dated _____, 2005 in the action styled Shane v. Humana, Inc., et al., Master File No. 00-1334-MD-MORENO (the "Action"), and having reviewed and considered the terms and conditions of the proposed settlement (the "Settlement") as set forth in the Settlement Agreement dated _____, 2005 (the "Settlement Agreement"), a copy of which has been submitted to the Court, and having reviewed and considered the applications of Class Counsel for an award of attorneys' fees and expenses and for an award of fees to Representative Plaintiffs, and the Court having held a Settlement Hearing after being satisfied that notice to the Class had been provided in accordance with the Court's Order Preliminarily Approving Proposed Settlement Among Prudential and Physicians, Physician Groups and Physician Organizations, Setting Form and Content of Notice to the Class and Scheduling Settlement Hearing entered on _____, 2005 (the "Preliminary Approval Order"), and the Court having taken into account the objections submitted prior to the Settlement Hearing in accordance with the provisions of the Preliminary Approval Order and the presentations and other proceedings at the Settlement Hearing, and having considered the Settlement in the

context of all prior proceedings had in this consolidated multi-district litigation, the Court makes the following FINDINGS:

A. The Court has jurisdiction over the subject matter of this Action pursuant to 28 U.S.C. §§ 1331 and 1367, and all acts within this Action, and over all the parties to this Action, and all members of the Class.

B. Capitalized terms used in this Order that are not otherwise defined herein have the meaning assigned to them in the Settlement Agreement.

C. Notice to members of the Class and other potentially interested parties has been provided in accordance with the notice requirements specified by the Court in the Preliminary Approval Order. Such notice: (i) constituted the best notice to members of the Class that was practicable under the circumstances; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object and to appear at the Settlement Hearing or to exclude themselves from the Settlement, and the binding effect of a class judgment; (iii) was reasonable and constituted due, adequate and sufficient notice to persons entitled to be provided with notice; and (iv) fully complied with the requirements of due process and the Federal Rules of Civil Procedure.

D. The Court has held a hearing to consider the fairness, reasonableness and adequacy of the Settlement, has been advised of all objections to the Settlement and has given fair consideration to such objections.

E. The Settlement is the product of good faith, arm's length negotiations between Representative Plaintiffs and the Signatory Medical Societies and their counsel, on one hand, and The Prudential Insurance Company of America ("Prudential"), on the other hand.

F. The Settlement, as provided for in the Settlement Agreement, is in all respects fair, reasonable, adequate and proper and in the best interest of the Class. In

reaching this conclusion, the Court has considered a number of factors, including: (i) an assessment of the likelihood that the Representative Plaintiffs and/or the Class would prevail at trial; (ii) the range of possible recovery available to such plaintiffs as a result of such a trial; (iii) the consideration provided to members of the Class pursuant to the Settlement, as compared to the range of possible recovery discounted for the inherent risks of litigation; (iv) the complexity, expense and possible duration of such litigation in the absence of a settlement; (v) the nature and extent of any objections to the Settlement; and (vi) the stage of proceedings at which the Settlement was reached. See Bennett v. Behring Corp., 737 F. 2d 982, 986 (11th Cir. 1984).

G. A list of those members of the Class who have timely elected to opt-out of the Settlement and the Class and who therefore are not bound by the Settlement, the provisions of the Settlement Agreement, this Order and the Judgment to be entered by the Clerk of the Court hereon, has been submitted to the Court as an exhibit to the Affidavit of _____ sworn to on _____, 2005. A copy of such exhibit is attached hereto and incorporated by reference herein. All other members of the Class (as permanently certified below) shall be subject to all of the provisions of the Settlement, the Settlement Agreement, this Order and the Judgment to be entered by the Clerk of the Court.

H. The bar order provision of this Order, which prohibits the assertion of claims against Prudential and the other Released Parties, as set forth below, is a condition of the Settlement and a significant component of the consideration afforded to Prudential in the Settlement, and that provision is reasonable under the circumstances.

I. The dismissal with prejudice and entry of Judgment contemplated by the Settlement and this Order will dispose of fewer than all of the claims at issue, or parties to, this Action. The Court finds that there is no just reason for delay in entering judgment in the form attached hereto (the "Judgment") dismissing the Action with prejudice as to

Prudential and that entry of the Judgment to that effect, as directed below, is warranted under Rule 54(b) of the Federal Rules of Civil Procedure.

On the basis of the foregoing findings and the submissions and proceedings referred to above, NOW THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED:

Certification of the Class and Approval of Settlement

1. The Settlement and the Settlement Agreement are hereby approved as fair, reasonable, adequate and in the best interests of the Class, and the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure have been satisfied. The objections to the Settlement and the Settlement Agreement are overruled and denied in all respects.

2. The Court having found that each of the elements of Rule 23(b)(3) of the Federal Rules of Civil Procedure are satisfied, for purposes of settlement only, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3), solely with respect to defendant Prudential, as well as the other Released Parties, the Action is permanently certified as a class action on behalf of the following persons (the "Class"):

Any and all Physicians, Physician Groups and Physician Organizations who provided Covered Services to any Plan Member or any other individual enrolled in or covered by a plan offered or administered by any Person named as a defendant in the Complaint or by any of their respective current or former subsidiaries or affiliates, in each case from August 4, 1990 through and including _____ 2005 (the date of entry of the Preliminary Approval Order).

The persons identified on the list submitted to the Court (and attached hereto as an exhibit) as having timely and properly elected to opt-out from the Settlement and the Class are hereby excluded from the Class and shall not be entitled to any of the monetary or other benefits afforded to the Class under the Settlement Agreement. The Court readopts and incorporates herein by reference its preliminary conclusions as to the satisfaction of the

requirements of Rule 23(a) and 23(b)(3) set forth in the Preliminary Approval Order and notes again that because this certification of the Class is in connection with the Settlement rather than litigation, the Court need not address the issues of manageability presented by certification of the nationwide class proposed in the complaint in the Action.

3. For purposes of the Settlement only, Representative Plaintiffs are certified as representatives of the Class and Class Counsel is appointed counsel to the Class. The Court concludes that Class Counsel and Representative Plaintiffs have fairly and adequately represented the Class with respect to the Settlement and the Settlement Agreement.

4. Notwithstanding the certification of the foregoing Class and appointment of class representatives for purposes of effecting the Settlement, if this Order is reversed on appeal or the Settlement Agreement is terminated or is not consummated for any reason, the foregoing certification of the Class and appointment of class representatives shall be void and of no further effect and the parties to the Settlement shall be returned to the status each occupied before entry of this Order, without prejudice to any legal argument that any of the parties to the Settlement Agreement might have asserted but for the Settlement Agreement.

Release and Injunctions Against Released Claims

5. The "Released Parties," which shall include: (a) Prudential and each of its Affiliates (which include present and former parents, subsidiaries, divisions and affiliates and any and all of their respective current or former officers, directors, employees, insurers and attorneys, together with each such individual's or entity's predecessors and successors); and (b) Persons who or which provided claims processing services, software, proprietary guidelines or technology to Prudential or its Affiliates, and those contracted agents processing claims on their behalf, together with each such Person's predecessors or successors, but only to the extent of such Person's services and

work done pursuant to contract with Prudential or its Affiliates, but excluding all delegated entities, shall be fully, finally, and forever remised, released, relinquished, compromised and discharged by the Signatory Medical Societies, Representative Plaintiffs and all Class Members who have not submitted a valid and timely Opt-Out, and any and all subsidiaries, affiliates, members, shareholders, parents, directors, officers, employees, professional corporations, agents, administrators, executors, legal representatives, partners and partnerships, heirs, predecessors, successors and assigns of such Class Members, to the extent such persons or entities have claims against Prudential or its Affiliates derived by contract or operation of law from the claims of such Class Members, Representative Parties and Signatory Medical Societies (collectively, the "Releasing Parties") from any and all claims that have been or could have been asserted by or on behalf of any or all Class Members against the Released Persons, or any of them, and which arise prior to the Preliminary Approval Date and which arise out of or relate to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters referred to in the Action, except as otherwise provided for in the Settlement Agreement. This includes, without limitation and as to Released Persons only, any aspect of any Fee for Service Claim submitted by any Class Member to Prudential or its Affiliates, and any claims of any Class Member related to or based upon any Capitation agreement between Prudential or its Affiliates and any Class Member or other person or entity, or the delay, nonpayment or amount of any Capitation payments by Prudential or its Affiliates, and any allegation that Defendants and/or Prudential or its Affiliates have conspired with, aided and abetted, or otherwise acted in concert with other managed care organizations, other health insurance companies, delegated entities and/or other third parties with regard to any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters referred to in the Action, or with regard to

Prudential or its Affiliate's liability for any other demands for payment submitted by any Class Member to such other managed care organizations, health insurance companies, delegated entities and/or other third parties (the "Released Claims").

6. The Releasing Parties are permanently enjoined from: (a) filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise) or receiving any benefits from any lawsuit, administrative or regulatory proceeding or order in any jurisdiction based on any or all Released Claims against one or more Released Parties; (b) instituting, organizing class members in, joining with class members in, amending a pleading in or soliciting the participation of class members in, any action, including but not limited to a purported class action, in any court against one or more Released Parties based on, involving, or incorporating, directly or indirectly, any or all Released Claims, and (c) filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise) or receiving any benefits from any lawsuit, administrative or regulatory proceeding or order in any jurisdiction based on an allegation that Prudential or its Affiliate's compliance with the provisions of the Settlement Agreement violates any legal right of any member of the Class.

7. Nothing in the Settlement Agreement is intended to relieve any person or entity that is not a Released Party from responsibility for its own conduct or the conduct of other persons or entities who are not Released Parties, or to preclude any plaintiff from introducing any competent and admissible evidence to the extent consistent with the Settlement. Moreover, nothing in the Settlement Agreement prevents the plaintiffs and the Class from pursuing claims to hold any person or party that is not a Released Person liable for damages caused by any Released Person.

8. With respect to the Released Claims described in paragraph 5 of this Order, each member of the Class that has not timely elected to opt-out of the Settlement and the Class is hereby deemed expressly to have waived and released any and all

provisions, rights and benefits conferred either (a) by California Civil Code § 1542, which reads:

Section 1542. General release – Claims Extinguished.
A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

or (b) by federal law, by any law of any state or territory of the United States, or principle of common law, which is similar to § 1542 of the California Civil Code.

9. All Persons, including without limitation all defendants named in the complaint other than Prudential, who are, have been, could be, or could have been alleged to be joint tortfeasors, co-tortfeasors, co-conspirators, or co-obligors with the Released Parties or any of them respecting the Released Claims or any of them, are hereby, to the maximum extent permitted by law, barred and permanently enjoined from instituting, commencing, prosecuting, participating in or continuing any claim, claim-over, cross-claim, action, or proceeding, however denominated, regardless of the allegations, facts, law, theories or principles on which they are based, in this Court or in any other court or tribunal, against the Released Parties or any of them with respect to the Released Claims, including without limitation equitable, partial, comparative, or complete contribution, indemnity or otherwise (where the alleged injury arises from or relates to liability to a Class Member with respect to the Released Claims), whether by contract, common law or statute, arising out of or relating in any way to the Released Claims. All such claims are hereby fully and finally barred, released, extinguished, discharged, satisfied, and made unenforceable to the maximum extent permitted by law, and no such claim may be commenced, maintained, or prosecuted against Prudential or any Released Party. Any judgment or award obtained by a Class Member against any such defendant or third party shall be reduced by the amount or percentage, if any, necessary under applicable law to

relieve Prudential or any Released Party of all liability to such defendants or third parties on such barred claims. Such judgment reduction, partial or complete release, settlement credit, relief, or setoff, if any, shall be in an amount or percentage sufficient under applicable law as determined by the Court to compensate such defendants or third parties for the loss of any such barred claims against Prudential or any Released Party. Where the claims of a person who is, has been, could be, or could have been alleged to be a joint tortfeasor, co-tortfeasor, co-conspirator or co-obligor with a Released Party respecting the Released Claims have been barred and permanently enjoined by this paragraph 9, the claims of Released Parties against that person respecting those Released Claims are similarly fully and finally barred, released, extinguished, discharged, satisfied and made unenforceable to the maximum extent permitted by law.

10. In contemplation of the Settlement and the dismissal with prejudice of Released Claims as to Prudential after this order becomes final, all proceedings are stayed as to Prudential or any other Released Party who is a defendant in any action brought by or on behalf of members of the Class that asserts any claim that as of the date of this Order would constitute a Released Claim that has been, or will in the future be assigned to this Court under MDL Docket No. 1334, *provided, however*, that this stay in contemplation of dismissal shall not apply to any such action to the extent that a named plaintiff has timely elected to opt-out of the Settlement and the Class.

11. In accordance with the terms of the Settlement Agreement, the Releasing Parties and Class Counsel are barred from pursuing discovery in the Action against Prudential or the other Released Parties. Prudential shall have the right to object to any discovery of third parties that relates solely to Prudential.

Applications for Attorneys' Fees and Representative Plaintiff Fees

12. The Court has reviewed the application for an award of fees and expenses submitted by Class Counsel and the exhibits, memoranda of law and other

materials submitted in support of that application. The Court recognizes that in the Settlement Agreement Prudential has agreed not to oppose an award of fees and expenses to Class Counsel up to Five Million Dollars (\$5,000,000.00), to be paid by Prudential up to that amount. This agreement is in addition to the monetary consideration and other benefits to be provided to members of the Class under the Settlement Agreement. On the basis of its review of the foregoing, the Court hereby awards fees and expenses to Class Counsel in the aggregate amount of \$ _____, to be paid by Prudential in accordance with the provisions of the Settlement Agreement.

13. The Court has also reviewed the application for a fee award to Representative Plaintiffs. The Court recognizes that in the Settlement Agreement Prudential has agreed not to oppose an award of fees up to Seven Thousand Five Hundred Dollars (\$7,500.00) for each Representative Plaintiff, to be paid by Prudential up to that amount. This agreement is in addition to the monetary consideration and other benefits to be provided to members of the Class under the Settlement Agreement. On the basis of its review of the foregoing, the Court hereby awards a fee of \$ _____ to each Representative Plaintiff, to be paid by Prudential in accordance with the provisions of the Settlement Agreement.

Other Provisions

14. Prudential is hereby permanently relieved from any and all obligations under the Agreed Order For Preservation of Records entered in this Action on January 12, 2001.

15. Neither the Settlement Agreement nor any provision therein, nor any negotiations, statements or proceedings in connection therewith shall be construed as, or be deemed to be evidence of, an admission or concession on the part of any of the Representative Plaintiffs, the Signatory Medical Societies, Class Counsel, any members of the Class, Prudential or any other Person of any liability or wrongdoing by them, or

that the claims and defenses that have been, or could have been, asserted in the Action are or are not meritorious, and this Order, the Settlement Agreement or any such communications shall not be offered or received 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 Representative Plaintiffs, the Signatory Medical Societies, any member of the Class or any other person has or has not suffered any damage; *provided, however*, that the Settlement Agreement, this Order and the Judgment to be entered thereon may be filed in any action by Prudential or any Released Party seeking to enforce the Settlement Agreement or the Judgment by injunctive or other relief, or to assert defenses including, but not limited to, *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim. The terms of the Settlement Agreement and of this Order and the Judgment shall be forever binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings that are subject to the Release and other prohibitions that are set forth in paragraphs 5 through 6 and 8 through 11 of this Order that are maintained by, or on behalf of, the Releasing Parties or any other Person subject to those provisions of this Order.

16. In the event that the Settlement Agreement does not become effective or is canceled or terminated in accordance with the terms and provisions of the Settlement Agreement, then this Order and the Judgment shall be rendered null and void and be vacated and all orders entered in connection therewith by this Court shall be rendered null and void.

Entry of Judgment; Continuing Jurisdiction

17. The Clerk of the Court is directed to enter the Judgment in the form attached to this Order dismissing all Released Claims with prejudice as to Prudential pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

18. Without in any way affecting the finality of this Order and the Judgment, this Court hereby retains jurisdiction as to all matters relating to (a) the interpretation, administration, and consummation of the Settlement Agreement and (b) the enforcement of the injunctions described in paragraphs 6 and 9 of this Order.

SO ORDERED this ____ day of _____, 2005.

HON. FEDERICO A. MORENO
UNITED STATES DISTRICT COURT

EXHIBIT B

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division**

**MDL NO.: 1334
MASTER FILE NO.: 00-1334-MD-MORENO**

**IN RE:
MANAGED CARE LITIGATION**

**THIS DOCUMENT RELATES TO
PROVIDER TRACK CASES ONLY**

**CHARLES B. SHANE, M.D.; JEFFREY BOOK,
D.O.; MICHAEL BURGESS, M.D.; H. ROBERT
HARRISON, M.D.; GLENN L. KELLY, M.D.;
LEONARD J. KLAY, M.D.; EUGENE MANGIERE,
M.D.; KEVIN MOLK, M.D.; MARTIN MORAN,
M.D.; MANUEL FORTH, MD.; THOMAS
BACKER, M.D.; DAVID BOXSTEIN, M.D.; SUSAN
HANSEN, M.D.; ANDRES TALEISNIC, M.D.;
JULIO TALEISNIK, M.D.; ROGER WILSON,
M.D.; NAVED GHALAMBOR, M.D.;
CALIFORNIA MEDICAL ASSOCIATION; TEXAS
MEDICAL ASSOCIATION; MEDICAL
ASSOCIATION OF GEORGIA; FLORIDA
MEDICAL ASSOCIATION; LOUISIANA STATE
MEDICAL SOCIETY; and DENTON COUNTY
MEDICAL SOCIETY,**

Plaintiffs,

v.

**HUMANA, INC.; AETNA, INC.; AETNA-USHC,
INC.; CIGNA; COVENTRY HEALTH CARE, INC.;
HEALTH-NET, INC.; HUMANA HEALTH PLAN,
INC.; PACIFICARE HEALTH SYSTEMS, INC.;
PRUDENTIAL INSURANCE COMPANY OF
AMERICA; UNITED HEALTH GROUP; UNITED
HEALTH CARE; WELLPOINT
HEALTH NETWORKS, INC.; and ANTHEM, INC.**

Defendants.

JUDGMENT DISMISSING WITH PREJUDICE
DEFENDANT THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

In accordance with, and for the reasons set forth in, the Order Approving Settlement, Certifying Class and Directing Entry of Final Judgment entered on _____, 2005 (the "Order"): (i) this Action is dismissed with prejudice as to defendant The Prudential Insurance Company of America pursuant to Rule 54(b) of the Federal Rules of Civil Procedure; and (ii) the claims of those Class Members set forth on the attached list who or which properly Opted Out of the Class are not dismissed.

Dated: Miami, Florida

_____, 2005

Clerk of the Court

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division

MDL NO.: 1334

IN RE:
MANAGED CARE LITIGATION

THIS DOCUMENT RELATES TO
PROVIDER TRACK CASES ONLY

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION WITH THE
PRUDENTIAL INSURANCE COMPANY OF AMERICA, OF SETTLEMENT
HEARING TO CONSIDER THE PROPOSED SETTLEMENT AND OF YOUR
RIGHTS CONCERNING THE PROPOSED SETTLEMENT

IF YOU ARE A PHYSICIAN WHO PROVIDED COVERED SERVICES TO ANY
INDIVIDUAL ENROLLED IN OR COVERED BY CERTAIN HEALTH CARE
PLANS AT ANY TIME BETWEEN AUGUST 4, 1990 AND _____, 2005, OR A
PHYSICIAN GROUP OR A PHYSICIAN ORGANIZATION THAT INCLUDES
SUCH PHYSICIANS, PLEASE READ THIS NOTICE CAREFULLY. THIS CLASS
ACTION AND THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

I. WHY SHOULD YOU READ THIS NOTICE?

If you are or have been a physician, physician group, or physician organization who or which practiced in the United States since August 1990, your rights may be affected by a proposed settlement with The Prudential Insurance Company of America, in the class action lawsuit known as *Shane v. Humana, Inc., et al.*, Master File No. 00-1334-MD-MORENO (the "Action"), which is part of a federal multi-district litigation that is pending in the U.S. District Court for the Southern District of Florida (the "Court") called In re Managed Care Litigation, MDL Docket No. 1334 (Provider Track Cases). In addition to Prudential, the Action involves all of the direct and indirect subsidiaries and affiliates of Prudential involved in the health care business, including PRUCO, Inc., Prudential Health Care Plan, Inc., Prudential Health Care Plan of Oklahoma, Inc., Prudential Health Care Plan of New York, Inc., Prudential Health Care Plan of Connecticut, Inc., Prudential Health Care Plan of California, Inc., and Prudential Health Care Plan of Georgia, Inc., and others (collectively "Prudential"). The settlement encompasses all of these entities. You may be a member of the Prudential settlement class in this Action if you have submitted claims to any of these Prudential entities or to other managed care companies.

The class representatives and certain medical societies have agreed to settle all claims against Prudential in the Action in exchange for the establishment of a settlement fund. The Court has scheduled a hearing to consider the fairness, reasonableness and adequacy of the proposed settlement with Prudential, together with certain other matters, to be held on _____, 2005, at ____:00 A.M./P.M., at the United States Courthouse,

Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132. (the "Settlement Hearing").

You may be a member of the Class who therefore would be entitled to receive the benefits of the proposed settlement. As a member of the Class, however, you will also be bound by the release and other provisions of the settlement if it is approved by the Court. You may elect to opt-out of the Class and the settlement, as explained below. You also have a right to object to the settlement or to the applications for attorneys' fees and representative plaintiffs' fees that counsel for the Class intend to make to the Court, but only if you comply with the procedures described in this notice. **BECAUSE YOUR RIGHT TO PURSUE CERTAIN TYPES OF CLAIMS AGAINST PRUDENTIAL, AND CERTAIN OTHERS AFFILIATED WITH PRUDENTIAL, MAY BE AFFECTED BY THE SETTLEMENT, YOU SHOULD READ THIS NOTICE CAREFULLY.**

II. WHAT IS THIS LITIGATION ABOUT?

The Action has been brought by the representative plaintiffs, who are practicing or retired physicians from around the United States, on behalf of a class of physicians, and by certain medical societies, against a number of health care insurance companies, including Aetna, Anthem, Inc., Cigna, Coventry Health Care, Inc., Health Net, Inc., Humana Health Plan, Inc., Humana, Inc., Pacificare Health Systems, Inc., The Prudential Insurance Company of America, United Health Care, United Health Group and Wellpoint Health Networks, Inc. (collectively the "Defendants"). The complaint in the Action alleges that between 1990 and present, these companies engaged in a conspiracy to improperly deny, delay and/or reduce payment to physicians, physician groups and physician organizations by engaging in several types of allegedly improper conduct, including:

- Misrepresenting and/or failing to disclose the use of edits to unilaterally "bundle," "downcode" and/or reject claims for medically necessary covered services;
- Failing to pay for "medically necessary" services in accordance with member plan documents;
- Failing and/or refusing to recognize CPT® modifiers;
- Concealing and/or misrepresenting the use of improper guidelines and criteria to deny, delay, and/or reduce payment for medically necessary covered services;
- Misrepresenting and/or refusing to disclose applicable fee schedules;
- Failing to pay claims for medically necessary covered services within the required statutory and/or contractual time periods;
- Misrepresenting and/or failing to disclose the use of inappropriate or unsound criteria to determine payments due to physicians, physician groups and physician organizations compensated under "capitation" systems;
- Failing to pay "actuarially sound" capitation rates;

- Failing to timely assign members to physicians, physician groups and physician organizations compensated under capitation systems.

The complaint claims that this conduct violated various state and federal statutes. The named plaintiffs in the complaint also seek recovery on various common law theories, including breach of contract, based on practices such as those summarized above. If you would like further information about the claims asserted in the Action, you can review a copy of the complaint at www.hmocrisis.com.

The Action is one significant component of litigation asserting these claims and certain others against managed care companies which began in early 2000 and ultimately were transferred to the federal court in Miami to become part of a multi-district litigation. Since the initial complaints were filed, substantial proceedings have occurred in the Action, including the production of a significant number of documents by the Defendants, as well as claims and payment data, and the depositions of various of the representative plaintiffs, and witnesses employed by defendants, including Prudential, and third parties. In an order dated September 26, 2002, the Court certified a class and two subclasses of physicians in the Action. As part of the settlement, Prudential would no longer actively participate in Action, but expects other defendants, who are not parties to the proposed settlement, to continue to defend the claims asserted in the Action on various grounds.

III. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENT?

In a settlement agreement dated ____, 2005 (the "Settlement Agreement"), the representative plaintiffs and the signatory medical societies have agreed to settle all claims that were or could have been asserted against Prudential and its affiliates and subsidiaries in the Action in exchange for certain monetary consideration.¹ The terms of the Settlement Agreement are summarized in this notice, but a copy of the entire Settlement Agreement can be reviewed at www.hmocrisis.com. It is also available at www.WhatleyDrake.com, www.ArchieLamb.com, www.milberg.com, www.kttlaw.com and www.wcqp.com.

None of the Defendants in the Action other than Prudential are parties to the Prudential proposed settlement, and even if the settlement is approved by the Court, the representative plaintiffs and the signatory medical societies intend to continue to prosecute their claims against other defendants in the Action who are not parties to this settlement or any other settlement.

A. The Settlement Class

The proposed Prudential settlement will be on behalf of the following Class, which has been certified for settlement proposes:

Any and all physicians, physician groups and physician organizations who provided covered services to any plan member or any other individual enrolled in or covered

¹ A previous settlement with Aetna has already provided for changes in practices of the health care business units acquired by Aetna from Prudential, and thus changes in business practices are not a part of this settlement with Prudential.

by a plan offered or administered by any person or entity named as a defendant in the Action or by any of their respective current or former subsidiaries or affiliates, in each case from August 4, 1990 through and including _____, 2005 (the date that the Court entered its order preliminarily approving the proposed settlement and directing that this notice be provided to you).

The Prudential settlement Class is different from the class and subclasses certified by the Court in the Action. Prudential believes that there are significant aspects of the settlement Class that distinguish it from the class and subclasses that have been certified by the Court, including, for example, the fact that the settlement Class includes physician groups and physician organizations, while the class and subclasses that have been certified by the Court are limited to physicians alone, and the fact that if the proposed settlement is approved and becomes effective, both Prudential and all members of the settlement Class will be deemed to have waived their rights to arbitration under the applicable contracts. In addition, the settlement Class does not raise the problems of manageability that Prudential believes affect the class and subclasses as certified by the Court in the Action.

B. The Settlement Consideration

If the settlement is approved by the Court, the Settlement Agreement provides for the following as compensation for damages to the Class members:

1. The Settlement Fund

Prudential will make a settlement payment of Twenty-Two Million, and Fifty-Thousand Dollars (\$22,050,000) which, together with accrued interest from the date of Preliminary Approval, will be distributed to the Settlement Fund. The Settlement Fund shall be used to address issues relating to abuses of managed care, and in particular to assist Class Members by (a) monitoring and attempting to assure compliance with all settlements in this litigation and (b) identifying and addressing future health plan practices that burden the ability of Class Members to be paid fairly for their services. It is anticipated that the assets of the Settlement Fund will be lawfully transferred into a non-profit, tax exempt entity with the same purposes. Class Counsel will appoint a Committee of General Counsel and/or Executives of Signatory Medical Societies and/or Representative Plaintiffs to monitor the Fund and successor entity and to determine expenditures made from either.

C. The Release and Dismissal with Prejudice

Upon final approval, the Action will be dismissed with prejudice as to Prudential. In addition, Prudential, and certain others affiliated with Prudential, will receive a release and discharge from the Class (which would not include members of the Class who timely elect to opt-out of the settlement, as discussed below) of any and all causes of action, judgments, liens, indebtedness, costs, damages, obligations, attorneys' fees, losses, claims, liabilities and demands of whatever kind or character (each a "Claim"), arising on or before _____, 2005 (the date that the Court's order preliminary approving the settlement was entered), that are, were or could have been asserted against any of the released parties based on or arising from the factual allegations of the complaint in the

Action, whether any such Claim was or could have been asserted by any releasing party on its own behalf or on behalf of other persons.

Nothing in the Settlement Agreement is intended to relieve any person or entity that is not a released party from responsibility for its own conduct or the conduct of other persons or entities who are not released parties, or to preclude any plaintiff from introducing any competent and admissible evidence to the extent consistent with the Settlement. Moreover, nothing in the Settlement Agreement prevents the plaintiffs and the Class from pursuing claims to hold any person or entity that is not a released party liable for damages caused by any released party.

Finally, the Settlement Agreement includes a covenant not to sue Prudential or the other released parties for Claims that are generally subject to the release, subject to certain limited exceptions which are described in detail in section 13.6 of the Settlement Agreement.

The release provided for in the Settlement Agreement applies to Claims whether they are known or unknown. In this regard, each member of the Class that has not timely elected to opt-out of the settlement and the Class shall be deemed expressly to have waived and released any and all provisions, rights and benefits conferred either (a) by California Civil Code § 1542, which reads:

"Section 1542. General Release – Claims Extinguished.
A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

or (b) by federal law, by any law of any state or territory of the United States, or principle of common law, which is similar to § 1542 of the California Civil Code.

IV. WHAT WILL HAPPEN AT THE SETTLEMENT HEARING?

As mentioned above, the Settlement Hearing will be held on _____, 2005, at ___:00 A.M./P.M., at the United States Courthouse, Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132. However, the order scheduling that hearing also provides that it may be adjourned by the Court and that no additional notice will be provided to potential members of the Class other than an announcement in open court.

At the Settlement Hearing, the Court will consider several different issues.

First, the Court will consider whether the proposed settlement of the Action with Prudential that is reflected in the Settlement Agreement is fair, reasonable and adequate to members of the Class.

Second, the Court will consider whether it should certify the Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure. Among other things, this will require the Court to determine (i) whether questions of law or fact common to the members of the Class predominate over questions affecting only individual members of

the Class, and (ii) whether a class action is superior to other available methods for fair and efficient adjudication of the controversy. If the Court certifies the Class, potential Class members who have timely elected to opt-out from the Class by following the procedures described below will be excluded from it.

Third, the Court will consider whether to enter orders that would prevent members of the Class and certain other persons, including the Defendants in the Action other than Prudential, from asserting certain claims against Prudential in the future.

Fourth, the Court will consider the application for a payment of fees to the representative plaintiffs by Prudential, which is discussed in more detail below.]

Finally, the Court will consider an application by counsel to the Class for attorneys' fees and expenses to be paid by Prudential, which is also discussed in more detail below.

V. CAN I PARTICIPATE IN THE SETTLEMENT HEARING?

Any member of the Class, or other interested person or entity, who or which objects to the proposed settlement with Prudential, the Settlement Agreement, the application for plaintiffs' attorneys' fees or the other matters to be considered at the Settlement Hearing may appear and present such objections, provided, however, that no member of the Class who or which has elected to opt out from the Class will be entitled to object. In order to be permitted to object to the proposed settlement, however, you must, on or before _____, 2005 [**"Objection Date" – 60 days after Notice Date**] comply fully with the following requirements:

- File with the Court a notice of your intention to appear, together with a statement setting forth your objections, if any, to the matters to be considered and the basis for those objections, together with any documentation that you intend to rely upon at the Settlement Hearing, and
- Serve copies of all such materials either by hand delivery or by first-class mail, postage prepaid, upon the following counsel:

Harley S. Tropin, Esq.
Kozyak Tropin & Throckmorton, P.A.
200 South Biscayne Boulevard
Miami, Florida 33131

John D. Aldock, Esq.
Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001

If you do not comply with the foregoing procedures and deadlines for submitting written objections and/or appearing at the Settlement Hearing, you may lose substantial legal rights, including but not limited to, the right to appear and be heard at the Settlement Hearing; the right to contest approval of the proposed settlement or the application for an award of attorneys' fees and expenses to plaintiffs' counsel; the right to

contest approval of the application for an award of a fee to representative plaintiffs; or the right to contest any other orders or judgments of the Court entered in connection with the proposed settlement.

If the Court does not approve the proposed settlement, the Settlement Agreement will be null and void. If there are further actions taken in the Action that affect your rights, you will receive notice as determined by the Court.

VI. WHAT IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you do not want to be a member of the Class and participate in the proposed Settlement, then **BY NO LATER THAN _____, 2005**, you must send a signed statement to that effect that includes your name, business address, telephone number and Federal Tax Identification Number to the following:

[Name]
[Address]
[Phone number]

TO BE CONSIDERED TIMELY AND TO EFFECTIVELY OPT-OUT OF THE SETTLEMENT, YOUR COMPLETED AND SIGNED OPT-OUT NOTICE MUST BE POSTMARKED BY NO LATER THAN _____, 2005. IF IT IS NOT POSTMARKED BY THAT DATE, YOUR RIGHT TO OPT-OUT WILL BE DEEMED WAIVED AND YOU WILL BE BOUND BY ALL ORDERS AND JUDGMENTS ENTERED IN CONNECTION WITH THE SETTLEMENT.

If you choose to opt-out of the settlement and the settlement Class, you will not be entitled to receive the benefits of the proposed settlement with Prudential. Your claims against Prudential will not be released and you will be free to pursue any claims you believe you have by filing a separate action or request for arbitration if you are subject to an arbitration agreement.

Any member of the Class who or which timely submits a request to opt out of the settlement will have until the Settlement Hearing to deliver to the above address a written revocation of the request to opt out and shall thereby become a member of the Class.

VII. WHAT ABOUT ATTORNEYS' FEES, COSTS AND EXPENSES?

If the Court approves the proposed settlement, counsel to the plaintiff class will apply to the Court for an award of attorneys' fees, including costs and expenses. In the Settlement Agreement, Prudential agreed not to oppose such an application in the aggregate amount of up to Five Million Dollars (\$5,000,000). If the Court awards plaintiffs' attorneys' fees and expenses in an amount no greater than that amount, Prudential will pay the amount awarded by the Court to plaintiffs' counsel. This payment is in addition to the consideration to the members of the Class that is described above and will not reduce the amount available to members of the Class if the proposed settlement is approved.

VIII. WHAT ARE THE REPRESENTATIVE PLAINTIFFS' FEES?

In addition to the application for attorneys' fees and expenses described in the preceding section, in connection with the Court's consideration of the proposed settlement, the representative plaintiffs intend to seek an award from the Court of fees in the amount of up to \$7,500 for each representative plaintiff which if awarded would be in addition to the settlement consideration that will be available to members of the Class generally. In the Settlement Agreement, Prudential agreed not to oppose such an application up to \$7,500 for each representative plaintiff. If the Court awards representative plaintiffs a fee up to that amount, Prudential will pay such amount to the representative plaintiffs.

IX. WHO CAN I CONTACT WITH QUESTIONS?

If you have questions regarding this notice, the proposed settlement with Prudential or the Action generally, you can obtain additional information from the following sources:

On the Internet, at any of these sites:

www.ArchieLamb.com
www.kttlaw.com

www.WhatleyDrake.com
www.milberg.com

By Telephone:

[fill in]

By Mail:

Law Offices of Archie Lamb, LLC
2017 2nd Avenue
Birmingham, Alabama 35203
Attention: Archie Lamb, Esq.

Kozyak Tropin & Throckmorton
200 South Biscayne Boulevard
Miami, Florida 33131-2335
Attention: Harley Tropin, Esq.

Milberg Weiss Bershad Hynes & Lerach LLP
One Pennsylvania Plaza
New York, New York 10119-0165
Attention: Edith Kallas, Esq.

PLEASE DO NOT CALL PRUDENTIAL, THE COURT OR THE CLERK'S OFFICE.

X. EXAMINATION OF PAPERS

This notice is a summary and does not describe all details of the proposed settlement with Prudential, the Settlement Agreement or the proceedings in the Action generally. Complete copies of the Settlement Agreement and certain pleadings and papers filed in the Action can be found for review on the following websites:

www.ArchieLamb.com
www.kttlaw.com

www.WhatleyDrake.com
www.milberg.com

In addition, you may review the complete files of papers submitted in the Action at the office of the Clerk of the Court, United States Courthouse, U.S. District Court for the Southern District of Florida, 301 North Miami Avenue, Miami, Florida during regular business hours.

XI. REQUEST TO FORWARD THIS NOTICE

If you would be a member of the Class described in this notice but you have assigned any claim that might be covered by the proposed settlement or the release described above, please forward this notice to the appropriate person as soon as possible.

Dated: _____, 2005

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF FLORIDA

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MDL NO.: 1334

IN RE: MANAGED CARE LITIGATION

THIS DOCUMENT RELATES ONLY TO PROVIDER
TRACK CASES

CHARLES B. SHANE, M.D., et al.

Plaintiffs,

v.

HUMANA, INC.; AETNA, INC.; AETNA-USHC,
INC.; CIGNA; COVENTRY HEALTH CARE, INC.;
HEALTH NET, INC.; HUMANA HEALTH PLAN,
INC.; PACIFICARE HEALTH SYSTEMS, INC.;
PRUDENTIAL INSURANCE COMPANY OF
AMERICA; UNITED HEALTH GROUP; UNITED
HEALTH CARE; WELLPOINT
HEALTH NETWORKS, INC.; AND ANTHEM, INC.

Defendants.

**ORDER PRELIMINARILY APPROVING PROPOSED SETTLEMENT
AMONG PRUDENTIAL AND PHYSICIANS, PHYSICIAN GROUPS
AND PHYSICIAN ORGANIZATIONS, SETTING FORM AND CONTENT
OF NOTICE TO THE CLASS AND SCHEDULING SETTLEMENT HEARING**

The Court having reviewed and considered the Joint Motion for Preliminary Approval of Settlement Concerning Claims Against Defendant The Prudential Insurance Company of America filed on _____, 2005, and having reviewed and considered the terms and conditions of the proposed settlement (the "Settlement") as set forth in the Settlement Agreement dated _____, 2005 (the "Settlement Agreement"), a copy of which has been submitted with the joint motion, and on the basis of such submissions, together with any other submissions by the parties in support of the joint motion, and all prior proceedings had in this consolidated multi-district litigation, good cause for this Order having been shown,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The terms of the Settlement Agreement are hereby preliminarily approved, subject to further consideration at the Settlement Hearing provided for below. The Court concludes that the Settlement is sufficiently within the range of reasonableness to warrant the conditional certification of the settlement Class, the scheduling of the Settlement Hearing and the circulation of notice to members of the Class, each as provided for in this Order.

Conditional Certification of the Class

2. For purposes of settlement only, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3), solely with respect to The Prudential Insurance Company of America and the other Released Persons ("Prudential"), the action styled Shane v. Humana, Inc., et al., Master File No. 00-1334-MD-MORENO (the "Action"), is conditionally certified as a class on behalf of the following persons (the "Class"):

Any and all Physicians, Physician Groups and Physician Organizations who provided Covered Services to any Plan Member or any other individual enrolled in or covered by a plan offered or administered by any Person named as a defendant in the Complaint or by any of their respective current or former subsidiaries or affiliates, in each case from August 4, 1990 through and including the date of entry of this order (the "Preliminary Approval Date").

Representative Plaintiffs are conditionally certified as representatives of the Class. Class Counsel are appointed and designated as counsel for the Class. This conditional certification of the settlement class and class representatives is solely for purposes of effectuating the proposed Settlement. If the Settlement Agreement is terminated or is not consummated for any reason, the foregoing conditional certification of the Class and appointment of class representatives shall be void and of no further effect and the parties to the Settlement shall be returned to the status each occupied before entry of this Order without prejudice to any legal

argument that any of the parties to the Settlement Agreement might have asserted but for the Settlement Agreement.

Based on the Court's review of the joint motion and supporting materials, the Court conditionally finds that the proposed Class satisfies Rule 23(a) of the Federal Rules of Civil Procedure in that:

- A. The Class, which consists of hundreds of thousands of Physicians, Physician Groups and Physician Organizations, is so numerous that joinder of all Persons who fall within the class definition is impracticable;
- B. The commonality requirement is satisfied where members of the Class share at least one common legal or factual issue. Here, there are questions of law common to the Class, including allegations under RICO and other causes of action as set forth in the Plaintiffs' Second Amended Consolidated Class Action Complaint in *Shane*. There are also questions of fact common to the Class, including certain factual issues related to whether computer systems were inadequate and whether computer programs were systematically used to improperly deny or delay payment for health care services furnished by members of the Class;
- C. The claims of the Class representatives are typical of the claims of the Class; and
- D. The Class representatives will fairly and adequately protect the interests of the Class and are represented by qualified counsel who are competent to represent the Class and prosecute this Action.

The Court further conditionally finds that the proposed Class satisfies Rule 23(b)(3) of the Federal Rules of Civil Procedure which requires that common issues predominate and that a class action is superior to other available methods for the fair and efficient resolution of this controversy. The Court notes that the terms of the Settlement Agreement include procedures that absolve individual Class Members, for example, from having to prove, pursuant to RICO, that they relied to their detriment on alleged misrepresentations and nondisclosures, with the result that the Court need not resolve many individual factual and legal issues that might otherwise arise. The Court further notes that because the Action is being settled, rather than litigated, it need not consider the

manageability issues that would be presented by a nationwide class litigation with respect to such individualized issues. *Amchem Prods., Inc. v. Windsor*, 117 S. Ct. 2231, 2240 (1997). Against this background, and in light of the Complaint's allegations of systemic computer and claims processing issues, the Court conditionally finds that common issues predominate and that a class action is superior to other available methods for the fair and efficient resolution of this controversy.

Settlement Hearing; Right to Appear and Object

3. A Settlement Hearing shall take place before the Court on _____, 2005, at ____:00 A.M./P.M., in the United States Courthouse, Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132 to determine:

- (a) whether the Court should certify the Class and whether Representative Plaintiffs and Class Counsel have adequately represented the Class;
- (b) whether the Settlement, on the terms and conditions provided for in the Settlement Agreement, should be finally approved by the Court as fair, reasonable and adequate;
- (c) whether the Released Claims of the Class Members in this Action should be dismissed on the merits and with prejudice as to Prudential;
- (d) whether the Court should permanently enjoin the assertion of any claims that arise from or relate to the subject matter of the Action against Prudential or any of the other Released Parties by the members of the Class, the other defendants in the Action or any other persons;
- (e) whether the application for attorneys' fees, costs and expenses to be submitted by Class Counsel in connection with the Settlement Hearing should be approved;

(f) whether the application for incentive awards to Representative Plaintiffs to be submitted in connection with the Settlement Hearing should be approved;

(g) whether each Tag-Along Action should be dismissed with prejudice as to Released Claims against Prudential with the exception of any Tag-Along Action with respect to any named plaintiff that has timely submitted an Opt-Out request; and

(h) such other matters as the Court may deem necessary or appropriate.

4. The Court may finally approve the proposed Settlement Agreement at or after the Settlement Hearing with any modifications agreed to by the settling parties and without further notice to the members of the Class.

5. Any Class Member who or which has not timely and properly provided notice of an election to Opt-Out of the Class and the Settlement Agreement in the manner set forth below, and any other interested Person, may appear at the Settlement Hearing in person or by counsel and be heard, to the extent allowed by the Court, either in support of or in opposition to the matters to be considered at the hearing, provided, however, that no Class Member who or which has elected to Opt-Out from the Class shall be entitled to object; and provided further that no Person shall be heard, and no papers, briefs or other submissions shall be considered by the Court in connection with its consideration of those matters, unless on or before _____, 2005 [**Objection Date - 60 days after Notice Date**], such Person:

(a) files with the Court a notice of such Person's intention to appear, together with a written statement of objection setting forth such Person's objections, if any, to the matters to be considered and the basis therefore, together with all other support, papers or briefs that he, she or it wishes the Court to consider and intends to rely upon at the Settlement Hearing, and

(b) serves copies of all such materials either by hand or overnight delivery, upon the following counsel:

Harley S. Tropin, Esq.
Kozyak Tropin & Throckmorton, P.A.
200 South Biscayne Boulevard
Miami, Florida 33131

and

John Aldock, Esq.
Goodwin Procter LLP
901 New York Ave., N.W.
Washington, DC 20001

All responses by the settling parties to objections shall also be served by hand or overnight delivery on the objecting Person or his, her or its attorney. Objectors' papers may be supplemented ten (10) days prior to the Settlement Hearing following the filing of any responsive papers by the settling parties and served in the manner and on counsel described above.

~~6. The Court may adjourn the Settlement Hearing, or any adjournment thereof, including the consideration of the application for attorneys' fees, costs and expenses, without further notice of any kind other than an announcement of such adjournment in open court at the Settlement Hearing or any adjournment thereof.~~

Form and Timing of Notice

7. As soon as practicable after entry of this Order, but no later than 30 days after this Order is entered, Class Counsel or its designee shall cause copies of the Notice of Class Action and Proposed Settlement in the form attached as Exhibit __ to the Settlement Agreement (the "Mailed Notice"), the form of which is hereby approved, to be mailed by first-class mail, postage pre-paid, to all potential members of the Class to the extent that such Class members can be identified with reasonable diligence from records maintained by the American Medical Association (the "AMA"), to the extent that such

records can be obtained by Class Counsel for this purpose within the schedule for notice provided in this Order. No later than 20 days after entry of this Order, Class Counsel shall cause to be obtained from the AMA, in machine readable form to the extent reasonably available, the AMA records referred to in this paragraph.

8. As soon as practicable after the mailing of the Mailed Notice, and in all events no later than 30 days prior to the Opt-Out Deadline that is set forth below, Class Counsel shall cause to be published in the legal notices sections of the national editions of *The Wall Street Journal* and *USA Today* one day a week for two consecutive weeks, a summary notice substantially in the form of Exhibit ___ to the Settlement Agreement (the "Published Notice"), the form of which is hereby approved. In addition, to the extent reasonably practicable within the schedule contemplated by this Order, Class Counsel shall cause the Published Notice to be published at least once no later than 30 days prior to the Opt-Out Deadline in a nationwide periodical addressing issues of concern to physicians, such as *The Journal of the American Medical Association* or *The American Medical News*.

9. Beginning on the earliest date that notice is provided pursuant to paragraphs 7 and 8 of this Order and continuing through the opt-out, Class Counsel shall make available to potential members of the Class printable versions of the Mailed Notice on the public websites maintained by or on behalf of at least five of the law firms serving as Class Counsel in the Action.

10. Prior to the Settlement Hearing, (a) Class Counsel shall serve and file a sworn statement attesting to compliance with paragraphs 7 and 8 of this Order and (b) Class Counsel shall file a sworn statement attesting to compliance with paragraph 9 of this Order. Costs of providing the notice to the Class that is specified in this Order shall be paid as set forth in the Settlement Agreement.

11. The notice to be provided as set forth in paragraphs 7, 8 and 9 of this Order is hereby found to be the best means of notice to members of the Class that is practicable under the circumstances and, when completed, shall constitute due and sufficient notice of the Settlement and the Settlement Hearing to all persons affected by and/or entitled to participate in the Settlement or the Settlement Hearing, in full compliance with the requirements of due process and the Federal Rules of Civil Procedure.

Ability of Class Members to Opt-Out of Settlement Class

12. All members of the Class who wish to opt-out of the Class must do so by sending written notice of their election to opt-out to the address set forth in the notices to be provided pursuant to paragraphs 7 and 8 of this Order. To be considered timely, and thereby effectively exclude a person from the Class, the envelope delivering a completed opt-out request for such person must be postmarked by no later than _____, 2005 (the "Opt-Out Deadline"). Prior to the Settlement Hearing, Class Counsel or their designee shall submit to the Court a sworn statement setting forth the names and addresses of each member of the Class who has timely elected to opt-out from the Class.

13. Any potential member of the Class that does not properly and timely request exclusion from the Class shall be included in such Class and, if the Settlement is approved and becomes effective, shall be bound by all the terms and provisions of the Settlement Agreement, including but not limited to the releases, waivers and covenants not to sue described therein, whether or not such person shall have objected to the Settlement and whether or not such person makes a claim upon, or participates in, the Settlement Fund or the other benefits to the Class to be provided under the Settlement Agreement.

Other Provisions

14. Capitalized terms used in this Order that are not otherwise defined herein have the meaning assigned to them in the Settlement Agreement.

15. All discovery and any other proceedings against or concerning Prudential in the Action, other than proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further order of the Court. Pending final determination of whether the Settlement and the Settlement Agreement should be approved and the Class permanently certified, all members of the Class are hereby barred and enjoined from commencing or prosecuting any action asserting any Released Claims, and any actions or proceedings brought by any member of the class asserting any Released Claims are hereby stayed. In the event the Final Order and Judgment is not entered or is reversed for any reason, or this Agreement terminates for any reason, the Parties shall not be deemed to have waived any rights with respect to proceedings in this Action that arise during the period of the stay and shall have a full and fair opportunity to present any position in such proceedings.

16. All discovery and any other proceedings against or concerning Prudential in Tag-Along Actions (as defined in Section 15.1 of the Settlement Agreement) to the extent of Released Claims, other than proceedings as may be necessary to carry out the terms and conditions of the proposed Settlement, are hereby stayed and suspended until further order of the Court.

17. No discovery with regard to the Settlement or the Settlement Agreement shall be permitted as to any of the parties to the Settlement Agreement other than as may be directed by the Court upon a proper showing by the party seeking such discovery by motion properly noticed and served in accordance with this Court's Local Rule 7.1.

18. Pending entry of an Order setting forth the final determination of the Court with respect to the parties' application for final approval of the Settlement,

Prudential is hereby relieved of any and all obligations under paragraph 2(b) of the Agreed Order For Preservation of Records entered in this Action on January 12, 2001, to preserve Future Documents (as defined in the January 12, 2001 Order) created on or after the date of this Order.

19. Prudential is authorized to communicate with Class Members regarding the provisions of the Settlement Agreement, so long as such communications are not inconsistent with the agreed upon communications concerning the Settlement Agreement. Prudential shall refer to Class Counsel any inquiries from Class Members about claims to be filed under the Settlement Agreement.

20. Any Class Member may enter an appearance in this Action, at his, her or its own expense, individually or through counsel of his, her or its own choice, in connection with paragraph 5 above or otherwise. Any Class Member who does not enter an appearance will be represented by Class Counsel.

21. Neither the Settlement Agreement nor any provision therein, nor any negotiations, statements or proceedings in connection therewith shall be construed as, or be deemed to be evidence of, an admission or concession on the part of any of the Representative Plaintiffs, the Signatory Medical Societies, Class Counsel, any members of the Class, Prudential or any other person of any liability or wrongdoing by them, or that the claims and defenses that have been, or could have been, asserted in the Action are or were not meritorious, and neither the Settlement Agreement nor any such communications shall be offered or received 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 Representative Plaintiffs, the Signatory Medical Societies, any member of the Class or any other person has or has not suffered any damage.

22. In the event that the Settlement Agreement is terminated or is not consummated for any reason, the Settlement and all proceedings had in connection therewith shall be null and void, except to the extent expressly provided to the contrary in the Settlement Agreement, and without prejudice to the rights of the parties to the Settlement Agreement before it was executed.

DONE AND ORDERED after a hearing in open court at the United States District Courthouse in Miami, Florida, on _____, and signed this _____ day of _____, 2005.

HON. FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

EXHIBIT E

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MDL NO.: 1334 MASTER
FILE NO.: 00-1334-MD-MORENO

IN RE: MANAGED CARE LITIGATION

THIS DOCUMENT RELATES ONLY TO
PROVIDER TRACK CASES

NOTICE OF PROPOSED SETTLEMENT WITH PRUDENTIAL

IF YOU ARE A PHYSICIAN WHO PROVIDED COVERED SERVICES TO ANY INDIVIDUAL ENROLLED IN OR COVERED BY CERTAIN HEALTH CARE PLANS AT ANY TIME BETWEEN AUGUST 4, 1990 AND _____, 2005, OR A PHYSICIAN GROUP OR OTHER PHYSICIAN ORGANIZATION THAT INCLUDES SUCH PHYSICIANS, PLEASE READ THIS NOTICE CAREFULLY. THIS CLASS ACTION AND THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS.

If you are or have been a physician who actively practiced in the United States since August 1990 or a physicians' group or organization that includes such physicians, your rights may be affected by a proposed settlement with The Prudential Insurance Company of America ("Prudential") in a class action lawsuit known as *Shane v. Humana, Inc., et al.*, Master File No. 00-1334-MD-MORENO (the "Action"), which is part of a federal multi-district litigation that is pending in the U.S. District Court for the Southern District of Florida (the "Court") called *In re Managed Care Litigation*, MDL Docket No. 1334 (Provider Track Cases). The class representatives and certain medical societies have agreed to settle all claims against Prudential in the Action in exchange for the establishment of a settlement fund. The Court has scheduled a hearing to consider the fairness, reasonableness and adequacy of the proposed settlement with Prudential, together with certain other matters, to be

held on _____, 2005, at _____:00 A.M./P.M., at the United States Courthouse, Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132. You may be a member of the Class who therefore would be entitled to receive the benefits of the proposed settlement. As a member of the Class, however, you will also be bound by the release and other provisions of the settlement if it is approved by the Court. You may elect to opt-out of the Class and the settlement, as explained below. You also have a right to object to the settlement or to the applications for attorneys' fees and representative plaintiffs' fees that counsel for the Class intend to make to the Court, but only if you comply with the procedures described in this notice or the other resources it refers to.

WHAT IS THE LITIGATION ABOUT?

The Action has been brought by the representative plaintiffs, who are practicing physicians from around the United States, and certain medical societies, on behalf of physicians against the following health care insurance companies: Aetna, Anthem, Inc., Cigna, Coventry Health Care, Inc., Health Net, Inc., Humana Health Plan, Inc., Humana, Inc., PacifiCare Health Systems, Inc., Prudential Insurance Company of America, United Health Care, United Health Group and Wellpoint Health Networks, Inc. The complaint in the Action alleges that between 1990 and 2002, these companies engaged in a conspiracy to improperly deny, delay and/or reduce payment to physicians and other health care providers by engaging in several types of allegedly improper conduct. The complaint seeks relief on behalf of a purported nationwide class under various theories arising under federal and state statutory and common law.

WHO IS INVOLVED?

The proposed settlement, which is only with Prudential and not any of the other defendants in the Action, will be on behalf of a settlement class (the "Class") consisting of any and all physicians, physician groups and physician organizations who provided covered services to any individual enrolled in or covered by a plan offered or administered by Prudential, any other person named as a defendant in the complaint in the Action, or by any of the current or former subsidiaries or affiliates of any of the foregoing, during the period beginning on August 4, 1990 and ending on _____, 2005 (the date that the Court entered its order preliminarily approving the proposed settlement and directing that this notice be provided to you).

THE PROPOSED SETTLEMENT

Under the proposed settlement, Prudential has agreed to fund a settlement fund. The settlement fund shall be used to address issues relating to abuses of managed care, and in particular to assist Class Members by (a) monitoring and attempting to assure compliance with all settlements in this litigation and (b) identifying and addressing future health plan practices that burden the ability of Class Members to be paid fairly for their services.

This settlement consideration is described more fully in a longer notice that has been mailed directly to the members of the class. If you have not received the mailed notice, you can access it and other information about the settlement at www.hmocrisis.com, or use the resources described below.

Only claims against Prudential will be resolved in the Action if the settlement is approved. The other defendants are not parties to the settlement and even if the settlement is approved by the Court, the representative plaintiffs and the signatory medical societies who are parties to the Action intend to continue to prosecute their claims against the other defendants in the Action, who are not parties to this settlement or any other settlement.

YOUR RIGHTS

If you are a member of the class, you will be considered a participant in the proposed settlement and will be bound by all orders of the Court relating to the settlement, and if the settlement is approved, certain possible legal claims you may have against Prudential, will be resolved and forever released.

If you want to be excluded from the proposed settlement, you must submit a request for exclusion. This must be signed by you and must include: your name, business address and telephone

number and all federal tax identification numbers under which you have sought or received reimbursement from Prudential or any of the other health care insurance companies identified above. The completed request must be POSTMARKED NO LATER THAN [____], 2005, and mailed to:

The Court has scheduled a hearing to consider the proposed settlement and other matters, which will take place on _____, 2005, at _____:00 A.M./P.M., at the United States Courthouse, Courtroom IV, Tenth Floor, Federal Justice Building, 99 Northeast Fourth Street, Miami, Florida, 33132. At that hearing, the Court will determine, among other things, whether the proposed settlement with Prudential should be approved as fair, reasonable and adequate, whether the proposed settlement class should be certified, whether the Court should award attorneys' fees and expenses to plaintiffs' counsel or to the representative plaintiffs in the Action, and certain other matters. You may attend this hearing if you wish, but you do not have to attend in order to participate in the proposed settlement.

If you wish to appear at the settlement hearing or to object to the proposed settlement, you must submit a written objection and/or notice to appear in accordance with the procedures and deadlines that are described in the longer notice. If you have not received that notice, you should request it from one of the sources identified below. If these procedures and deadlines are not followed, you may lose significant legal rights, including, but not limited to, the right to have your objections considered by the Court.

For Complete Information and a Copy of the Full Notice:

Call: 1-800-368-[fill in]

Or Write to:

Archie C. Lamb, Jr.
Law Offices of Archie C. Lamb, L.L.C.
2017 Second Avenue North
Birmingham, AL 35203

Harley S. Tropin
Kozyak Tropin & Throckmorton, PA
200 S. Biscayne Boulevard, Suite 2800
Miami, FL 33131

Edith Kallas, Esq.
Milberg Weiss Berahad
Hynes & Lernch, LLP
One Pennsylvania Plaza
New York, NY 10119-0165

Or Visit:

www.WhatlevDrake.com
www.ArchieLamb.com
www.milberg.com
www.kttlaw.com

Please do not contact the Court directly.