

IN THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

DR. FRANK C. BEMIS & ASSOCIATES,  
CHIROPRACTORS, S.C., individually and on  
behalf of others similarly situated,

Plaintiff,

v.

AUTO-OWNERS INSURANCE COMPANY,

Defendant.

No. 05-L-179

**FILED**  
DEC 22 2008

PRELIMINARY APPROVAL ORDER

CLERK OF CIRCUIT COURT # 82  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

This matter comes before the Court on the Motion for Preliminary Approval of a Class Action Settlement Agreement ("Settlement") between Plaintiff Dr. Frank C. Bemis & Associates, Chiropractors, S.C., individually and on behalf of others similarly situated ("Plaintiff"), and Defendant Auto-Owners Insurance Company, ("Defendant"). The Court, being fully advised in the premises, hereby finds and orders:

1. The Settlement has been negotiated at arms-length and is preliminarily determined to be fair, reasonable, adequate, proper and in the best interests of the class. Because the Court finds that the Settlement is within the range of fairness and reasonableness, it is preliminarily approved.

2. Subject to the Settlement, and for purposes of the settlement of this case only, the Court hereby certifies the following class pursuant to 735 ILCS 5/2-801:

All licensed healthcare providers in Illinois whose reimbursement for medical services relating to the treatment of an Illinois workers compensation claimant was reduced by or on behalf of Auto-Owners Insurance Company pursuant to a PPO discount since February 15, 1995 through December 22, 2008.

3. Plaintiff Dr. Frank C. Bemis & Associates, Chiropractors, S.C., is designated as the representative of the Class.

4. The Lakin Law Firm, P.C. is appointed class counsel.

5. A hearing (the "Fairness Hearing") is set for April 3, 2009 at 11:00 a.m./p.m. to decide, among other things: (a) whether the Class should be certified; (b) whether the Settlement should be finally approved as fair, reasonable and adequate; (c) whether the Action should be dismissed with prejudice pursuant to the terms of the Settlement; (d) whether Class Members should be bound by the release set forth in the Settlement; (e) whether Class

Members should be subject to a permanent injunction that, among other things, enjoins and bars Class Members from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise), any lawsuit in any jurisdiction based on or relating to the claims and causes of action; or the facts and circumstances relating thereto, in this Action and/or the Released Claims (as defined in the Settlement); and (f) whether the application of Class Counsel for an award of Attorneys' Fees and Expenses should be approved. The Fairness Hearing may be adjourned by the Court from time to time without further notice to the Class.

6. Having considered, among other factors, (i) the cost of giving notice by various methods, (ii) the interests of each Class Member; (iii) the likelihood that Class Members' current address can be obtained, and (iv) the likelihood that each Class Member will receive actual notice, the Court expressly finds that notice given in the form and manner provided in the Settlement will provide the best notice practicable under the circumstances. The Court finds that the content and manner of the class notice: (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and of their right to object to or exclude themselves from the Settlement; (iii) is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable requirements of any law, the Due Process Clause of the United States Constitution, and 735 ILCS 5/2-803. The Court further finds that the proposed manner and form of the class notice reasonably advises potential members of the Class of the following: (a) the nature of the Action and settlement relief, and that the relief is limited to that provided by the Settlement and is contingent on the Court's final approval thereof; (b) that the Court will exclude a member from the Class if requested by a specified date; (c) that the judgment incorporating the settlement will include and bind all Class Members who do not request exclusion by the specified date; and (d) that any Class Member who does not request exclusion may, if he or she desires, object and enter an appearance through his or her counsel. In sum, the Court finds that the class notice and method of mailing to Class Members provided in the Settlement is readily understandable, reasonable, constitutes due, adequate and sufficient notice to all persons entitled to receive notice and meets all the requirements of due process. As soon as practicable after the date of this Order, Defendants shall disseminate the class notice in accordance with the Settlement. The parties may make minor changes to the sample class notice either by agreement or with further Court approval.

7. The Court approves the proposed Claim Form, attached as part of the Settlement, along with the length of the claims period.

8. Class Members have until March 4, 2009 to opt out of the Class. All Class Members who properly file a timely written request for exclusion shall be excluded from the Class (*i.e.* opt out of the Class), and shall have no rights under the Settlement Agreement. A request for exclusion must be in writing and state the current name of the Class Member and any former name (if different) and a current address and former address (if different). The request for exclusion must be signed. Each request must also contain a signed statement that: "I/we hereby request that I/we be excluded from the class in the Auto-Owners PPO litigation." The request must be mailed to the address provided in the Class Notice and postmarked (or mailed by overnight delivery) by the date specified in this paragraph. A request for exclusion that does not include all of the foregoing information, that is sent to an address other than the one designated

in the Class Notice, or that is not sent within the time specified, shall be invalid and the person(s) serving such a request shall be a member(s) of the Class and be bound as a Settlement Class Member, if the Settlement Agreement is finally approved. No Class Member may purport to exercise any exclusion rights of any other person, or purport to exclude other Class Members as a group, aggregate, or class involving more than one person, or as an agent or representative. Any such purported exclusion shall be invalid and the Class Member(s) that is or are the subject of the purported opt-out shall be a member of the Class and treated and be bound as Settlement Class Members for all purposes.

9. Class Members shall have until March 4, 2009 to object to the Settlement. Any Class Member who has not submitted a timely written request for exclusion and who wishes to object to the fairness, reasonableness or adequacy of the Settlement may make a written objection, in compliance with Settlement, which must be received by Class Counsel and defense counsel and have been file-stamped by the Court no later than the date specified in this paragraph. Written objections must be verified by sworn affidavit and must include: (i) the objector's name, address and telephone number; (ii) the name of the Action and the case number, (iii) a statement of each objection; and (iv) a written brief detailing the specific reasons, if any, for each objection, including any legal and factual support the objector wishes to bring to the Court's attention and any evidence the objector wishes to introduce in support of the objection(s). If the objection is presented through an attorney, the written objection must also include: (i) the identity and number of Class Members represented by objector's counsel; (ii) the number of such represented Class Members who have opted out of the settlement; (iii) the number of such represented Class Members who have remained in the settlement and have not objected; (iv) the date the objector's counsel assumed representation for the objector, and (v) a list of the names of all cases where the objector's counsel has objected to a class action settlement in the last three years. Objecting Class Members who intend to testify in support of their objection either in person or by affidavit must also make themselves available for deposition by Class Counsel or defense counsel in their county of residence, between the time the objection is filed and fourteen (14) days before the date of the Fairness Hearing. Any Class Member who files and serves a written objection, as described in the preceding subsection, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement. Class Members, or their attorneys, intending to make an appearance at the Fairness Hearing, must deliver a Notice of Intention to Appear to Class Counsel and Defendant's Counsel, and have file-marked by the Court, no later than thirty (30) days before the Fairness Hearing. The Notice of Intention to Appear must: (i) state how much time the Class Member and/or their attorney anticipates needing to present the objection; (ii) identify, by name, address, telephone number and detailed summary of testimony any witnesses the Class Member and/or their attorney intends to present any testimony from; and (iii) identify all exhibits the Class Member and/or their attorney intends to offer in support of the objection and attach complete copies of all such exhibits. Any Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and forever be barred from making any such objections in this Action.

10. In aid of the Court's jurisdiction to implement and enforce the proposed settlement, all potential Class Members who do not timely exclude themselves from the Class are

preliminarily enjoined and barred (i) from filing, commencing, prosecuting, intervening in, or participating as class members in, any lawsuit in any jurisdiction based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action and/or the Released Claims; and (ii) from filing, commencing or prosecuting any other lawsuit as a class action on behalf of Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on or relating to the claims and causes of action, or the facts and circumstances relating thereto, in this Action and/or the Released Claims.

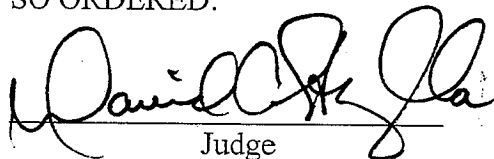
11. All papers in support of the Settlement, including responses to objections, shall be filed with the Court and served at least seven (7) days before the Fairness Hearing. Class Counsel shall file their petition for attorneys' fees and expenses at least seven (7) days prior to the final Fairness Hearing.

12. This Order shall become null and void, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if (a) the Settlement is not finally approved by the Court, or does not become final, pursuant to its terms; or (b) the Settlement is terminated in accordance with its terms or does not become effective as required by its terms. In such event, the Settlement shall become null and void and be of no further force and effect, shall be inadmissible into evidence for any purposes, and neither the Settlement nor this Preliminary Approval Order shall be used or referred to for any purpose whatsoever.

Date:

12/22/08

SO ORDERED:

  
Judge