

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

**DATE: May 14, 2021**

*Lynn Henderson, Espire Concepcion, Antonio Jones and Tyrone Green-Smith, individually and on behalf of all others similarly situated v. CIOX Health, LLC f/k/a HealthPort Technologies, LLC, SSM Health Care Corporation and SSM Regional Health Services,*

Case No. 1416-CV13765, pending in the Circuit Court of Jackson County, Missouri at Kansas City

**If you paid certain fees for medical records to  
CIOX Health, LLC  
(formerly HealthPort Technologies, LLC),  
a class action may affect your or your clients' rights.**

**A COURT IN MISSOURI AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION FROM A LAWYER.**

**READ THIS NOTICE CAREFULLY.  
YOU MAY BENEFIT FROM READING THIS NOTICE.**

- You received notice of this class action because you requested medical records from certain medical provider(s) in Missouri during the applicable time period and were charged by HealthPort Technologies, LLC or CIOX Health, LLC (“CIOX”) for certain E-Delivery Fee(s), No Records Found Fee(s), and/or Notary Fee(s).
- This notice is to inform you about a class action lawsuit (the “Action”) and a proposed class settlement (the “Settlement”) that has been preliminarily approved by the Court. The Court has not ruled on the merits of Plaintiffs’ claims, and there is no determination of wrongdoing or liability against the Defendants or in favor of Plaintiffs. By settling this lawsuit, Defendants are not admitting, and expressly deny, that they have done anything wrong, but CIOX has agreed, as part of the Settlement, to reimburse certain portions of the disputed fees charged in connection with providing copies of requested medical records.
- The Court has preliminarily certified a Settlement Class of all Persons who, on one or more occasions between June 9, 2009 and **March 15, 2021**, sought copies of medical records from the Missouri Hospitals, or had the records requested by some other Person pursuant to their authorization, and were charged an E-Delivery Fee(s), No Records Found Fee(s), and Notary Fee(s) or; and who subsequently paid CIOX, either directly or indirectly, one or more of said E-Delivery Fee(s), No Records Found Fee(s), and Notary Fee(s) and were not reimbursed by CIOX for the same. A listing of the Missouri Hospitals is attached as Exhibit A to the Settlement Agreement.
- This Settlement is conditional upon final approval by the Court. There is no money available now but your legal rights are affected, and you have a choice to make now.
- Unless expressly defined herein, any capitalized term shall have the meaning given to it in the Definitions set forth in the Settlement Agreement, a copy of which is available on the Settlement Webpage.

<b>YOU AND/OR YOUR CLIENTS' LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:</b>	
<b>DO NOTHING</b>	<p><b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b></p> <p>By doing nothing, you or your clients keep the possibility of getting money or benefits that may come pursuant to the Settlement Agreement. But, you give up any rights to sue CIOX separately about the legal claims in this Action, and you will release your Released Claims, as defined further in the Settlement Agreement.</p>
<b>ASK TO BE EXCLUDED</b>	<p><b>Get out of this lawsuit. Get no benefits from it. Keep your rights.</b></p> <p>If you and/or your clients ask to be excluded from the Settlement, you will later awarded, you won't share in those. But, you keep any rights to sue CIOX separately about the same legal claims in this lawsuit.</p>
<b>OBLIGATION TO YOUR CLIENTS</b>	<p>If you are receiving this notice, you may have clients on whose behalf you were acting. Under your potential ethical obligations, you must evaluate your client situation for the individual request at issue and advise your clients of their rights under this notice.</p>

- These rights and options – **and the deadlines to exercise them** – are explained in this notice and the Settlement Agreement. To ask to be excluded, you must act before **July 13, 2021**.
- **Any questions? Read on and visit [www.MOMedicalRecordsSettlement.com](http://www.MOMedicalRecordsSettlement.com).**

## BASIC INFORMATION

### 1. Why did I get this notice?

You received this notice because CIOX's records show that you were charged certain E-Delivery Fee(s), No Records Found Fee(s), and/or Notary Fee(s) between June 9, 2009 and the present. Because you may have been acting on behalf of someone else when you requested copies of the medical records, and because you may have been reimbursed for your request, you are obligated to advise your client(s) or customer(s) of this notice. If you were reimbursed, the person or entity who reimbursed you may be entitled to recovery, and may be affected by the outcome in this case.

Judges S. Margene Burnett and Patrick W. Campbell of the Circuit Court of Jackson County, Missouri are overseeing this Action. The lawsuit is known as *Lynn Henderson, Espire Concepcion, Antonio Jones and Tyrone Green-Smith, individually and on behalf of all others similarly situated v. CIOX Health, LLC f/k/a HealthPort Technologies, LLC, SSM Health Care Corporation and SSM Regional Health Services*, Case No. 1416-CV13765.

### 2. What is this lawsuit about?

Plaintiffs in this Action claim that CIOX charged fees for copies of medical records that are not authorized by Missouri law. Specifically, the lawsuit alleges that CIOX improperly charged the following fees:

- E-Delivery Fee(s): e-delivery, electronic delivery or electronic archive fee(s) charged in connection with a Qualifying Request;
- No Records Found Fee(s): (i) retrieval, basic and/or search fee(s), (ii) per-page fee(s), and/or (iii) notary and/or certification fee(s) charged in connection with a Qualifying Request between June 9, 2009 and August 27, 2018, where the copy of requested medical records was not located and thus not provided.

- Notary Fee(s): the notary and/or certification fee charged in connection with a Qualifying Request where the requester either did not request a notary and/or certification or did not receive a notary and/or certification when requested.

Defendants deny that any of the fees charged were in violation of Missouri law. You can read the Consolidated Petition at [www.MOMedicalRecordsSettlement.com](http://www.MOMedicalRecordsSettlement.com).

## BENEFITS UNDER THE PROPOSED SETTLEMENT

### 3. What is the Payment to Class Members?

Under the proposed Settlement, and subject to final Court approval, CIOX has agreed to establish a Class Settlement Fund of \$1,250,000.00, which will be used to pay the following benefits:

- **Attorneys' Fees, Costs & Incentive Award.** 1/3rd of the Class Settlement Fund, or \$416,666.67, shall be used to pay the attorneys' fees and costs to Class Counsel to compensate them for their time and costs in pursuing this Action on behalf of the Settlement Class.
- **Incentive Award.** \$20,000 from the remaining Class Settlement Fund shall be used to pay the Incentive Award to the named Plaintiffs to compensate them for their time and effort in pursuing this litigation.
- **Payment to Class Members.** The remaining Class Settlement Fund shall be used to reimburse the Class Members who timely submit a Valid Claim reimbursement in the amount equal to 29% of the portion of the E-Delivery Fee(s), No Records Found Fee(s) and/or a Notary Fee(s) paid by the Class Member.

A Claim Form is available and can be completed and submitted on the Settlement Webpage: [www.MOMedicalRecordsSettlement.com](http://www.MOMedicalRecordsSettlement.com). The Webpage also includes instructions for completing and submitting the Claim Form online and for mailing it in written form to the Claims Administrator.

## YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Settlement Class or ask to be excluded, and you have to decide this now.

### 4. What happens if I do nothing at all?

You cannot do nothing. You must notify your customer or client about this notice, and may have ethical obligations to do so. If you or they choose to do nothing you are staying in the Settlement Class. If you stay in, you or your customer or client can complete a Claim Form, which is available on the Settlement Webpage. The Claim Form is also available by mailing a written request to Analytics, LLC: *Henderson et al. v. Ciox Health, LLC et al., Class Action Settlement, P.O. Box 2003, Chanhassen, MN 55317-2003*.

The Claim Form may be submitted electronically or mailed to the Claims Administrator. To be eligible for a recovery you must **(a) be a Class Member; (b) not opt out of the Settlement; and (c) timely submit the Claim Form online or by mail. To be timely, the completed Claim Form must be received by the Claim Administrator either by completing the Claim Form online or by mail postmarked no later than July 13, 2021. Class Members who do not submit a timely Claim Form will not receive any payment under the Settlement but the Settlement, including the Release of claims contained therein, will be fully applicable to the Class Member, unless he/she has opted out of this Settlement. Other information, including the Settlement Agreement and Preliminary Approval Order, is available on the Webpage.**

Settlement Benefits are only available to the person who ultimately paid the E-Delivery Fee(s), No Records Found Fee(s), and/or Notary Fee(s). Any dispute as to who is entitled to a recovery will be decided by the Claims Administrator, Analytics, LLC.

If you or your customer or client take no action, then you will receive nothing, and will be barred from asserting any individual claim against CIOX relating to the claims in the lawsuit, and you will release all claims against CIOX, as the term Released Claims is defined in the Settlement Agreement.

## 5. What if I want to be excluded from the Settlement?

You and/or your customer or client have the right to choose not to be a member (“opt out”) of the Settlement Class. If you opt out, you and/or your customer or client will not receive any Settlement Benefit, you and/or your customer or client will not have any other rights under the Settlement Agreement, and you and/or your customer or client will not be bound by the Settlement Agreement.

If a Person decides to opt out, the Person must send a letter so stating to the (i) Claims Administrator, (ii) Class Counsel, and (iii) Defense Counsel **postmarked no later than July 13, 2021**. The letter must: (a) be signed by the Class Member; (b) include the full name and address of the Person(s) requesting exclusion, and the name of the Patient(s) for whom the records were requested; (c) be timely postmarked and mailed to the address designated in the Class Notice; and (d) include the following statement: “I/we request to be excluded from the proposed class settlement in *Lynn Henderson, Espire Concepcion, Antonio Jones and Tyrone Green-Smith, individually and on behalf of all others similarly situated v. CIOX Health, LLC f/k/a HealthPort Technologies, LLC, SSM Health Care Corporation and SSM Regional Health Services*, Case No. 1416-CV13765, pending in the Circuit Court of Jackson County, Missouri at Kansas City.” No request for exclusion will be valid unless all of prerequisites described above are adhered to in full. For any Person in the Settlement Class who has more than one claim, the exclusion request must specify each separate claim.

## 6. What if I want to object to the Settlement?

You and/or your customer or client have the right to object to all or any part of this proposed Settlement. Only Class Members can object. If you have opted out from the Settlement, you have no right to file or present an objection.

If you object to the Settlement, and want to submit an objection instead of simply excluding yourself from the Settlement Class, you must **(1) file an objection in writing with the Court, located at 415 E. 12th Street, Kansas City, Missouri 64106 and (2) provide a copy of the objection to (i) Class Counsel (one or more of the following Class Counsel): (a) Matthew L. Dameron, Williams Dirks Dameron LLC, 1100 Main Street, Suite 2600, Kansas City, Missouri 64105; (b) M. Blake Heath, M. Blake Heath, Trial Attorney LLC, 917 West 43rd Street, Suite 100, Kansas City, Missouri 64111; and/or (c) William C. Kenney, Bill Kenney Law Firm, LLC,, P.O. Box 561, Lee’s Summit, Missouri 64063; (ii) Defense Counsel: Richard D. Rhyne, Brian Fries, Kate O’Hara Gasper, Lathrop GPM LLP, 2345 Grand Boulevard, Suite 2200, Kansas City, Missouri 64108; and (iii) the Claims Administrator: Henderson et al. v. Ciox Health, LLC et al., Class Action Settlement, P.O. Box 2003, Chanhassen, MN 55317-2003.**

A written objection must be filed no later than **July 13, 2021**. The objection must include: (i) proof of membership in the Settlement Class including, the full name and address of the objector, the name of the Patient(s) for whom the medical records were requested, (ii) the specific grounds for the objection and the reasons why such Class Member objects, and whether the Class Member desires to appear and be heard at the Final Approval Hearing; and (iii) all documents or writings that such Class Member desires the Court to consider. Any Class Member wishing to appear in person at the Final Approval Hearing instead of just submitting a written objection must file, along with the written objection, a written notice of intention to appear at the Final Approval Hearing. 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. Please note that you must state ALL reasons why you believe the Settlement should not be approved.

### THE LAWYERS REPRESENTING YOU

## 7. Do I have a lawyer in this case?

The Court decided that the law firms of Williams Dirks Dameron, LLC, M. Blake Heath Trial Attorney LLC, and Bill Kenney Law Firm, LLC are qualified to represent you and all Class Members. These lawyers are called “Class Counsel.” They are experienced in handling similar cases against other entities.

## 8. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

### FINAL APPROVAL HEARING

## 9. When will there be a Final Approval Hearing?

A final approval hearing will be held to determine whether the proposed Settlement should be finally approved by the Court as fair, reasonable and adequate, and to determine the amount of the incentive payment and attorneys' fees and costs that should be awarded to Plaintiffs and Class Counsel. At the hearing, the Court will consider any objections and arguments concerning the fairness of the proposed Settlement.

The hearing is scheduled to take place on *August 31, 2021 at 1:30 p.m., in the Circuit Court of Jackson County, Missouri at Kansas City, Missouri.*

## 10. Do I have to attend the Final Approval Hearing?

**YOU DO NOT HAVE TO SHOW UP AT THIS HEARING UNLESS YOU OBJECT TO THE SETTLEMENT AND WANT TO ASK THE COURT TO BE HEARD IN PERSON.** Should you wish to object to the Settlement, you must comply with the objection process outlined in the Settlement Agreement.

## 11. What will happen if the Court approves the Settlement at the Final Approval Hearing?

If the Court enters an Order approving the Settlement at the Final Approval Hearing, among other things, Class Members will be bound by any final judgment entered by the Court and also bound by the release provisions of the Settlement Agreement. Please consult the Settlement Webpage for a complete description of the release as contained in the Settlement Agreement.

Upon Court approval of the Settlement Agreement, the Court shall enter a final judgment dismissing this Action with prejudice and fully and finally settling the claims in the Consolidated Petition as to all Class Members. Thereafter, Class Members will be barred from seeking further relief on any of the Released Claims.

### GETTING MORE INFORMATION

## 12. Are there more details available?

Yes. If you have any inquiries regarding this Action or Settlement, you can visit the Settlement Webpage: [www.MOMedicalRecordsSettlement.com](http://www.MOMedicalRecordsSettlement.com). You can also contact Class Counsel: (i) Matthew L. Dameron, Williams Dirks Dameron LLC, 1100 Main Street, Suite 2600, Kansas City, Missouri 64105; (ii) M. Blake Heath, M. Blake Heath, Trial Attorney LLC, 917 West 43rd Street, Suite 100, Kansas City, Missouri 64111; and/or (iii) William C. Kenney, Bill Kenney Law Firm, LLC, P.O. Box 561, Lee's Summit, Missouri 64063.

This notice provides only a summary of the case and basic terms of the proposed Settlement. For a complete copy of the Settlement Agreement, the Consolidated Petition, the Preliminary Approval Order and other documents related to the Action, please visit the Settlement Webpage. In order to see the complete case file you may visit the Court Clerk's office at 415 E. 12th Street, Kansas City, Missouri 64106. The Clerk will make the files relating to this lawsuit available to you for inspection and copying at your own expense.

**DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENSE COUNSEL ABOUT THIS NOTICE OR CASE. CIOX'S TELEPHONE REPRESENTATIVES ARE NOT AUTHORIZED TO VARY THE TERMS OF THIS NOTICE UNDER ANY CIRCUMSTANCES.**

**Dated: May 14, 2021.**

Issued at the Direction of: Clerk of the Circuit Court of Jackson County, Missouri at Kansas City