

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

MAR 05 2020

Clerk, U S District Court
District Of Montana
Billings

CHARLES M. BUTLER, III and
CHOLE BUTLER

Plaintiffs,

vs.

UNIFIED LIFE INSURANCE
COMPANY; HEALTH PLANS
INTERMEDIARIES HOLDINGS,
LLC, doing business as Health
Insurance Innovations, Inc.; ALLIED
NATIONAL, INC.; NATIONAL
BROKERS OF AMERICA, INC.;
THE NATIONAL CONGRESS OF
EMPLOYERS, INC.; and DOES 1-10

Defendants.

CV 17-50-BLG-SPW

CLASS CERTIFICATION
ORDER

Under Federal Rule of Civil Procedure 23(c), IT IS HEREBY ORDERED:

1. Class certification. Civil Action No. CV 17-50-BLG-SPW, *Butler et. al. v. Unified Life Insurance Company, et. al.* shall be maintained as a class action on behalf of the following class of plaintiffs:

- a. All individuals who have purchased the Unified Life Insurance Company (Unified) Short Term Medical Insurance Policy or any policy with similar, operative language as the policy covering the class representative;

- b. Who have paid their premiums;
- c. Who have made one or more claims;
- d. For whom Unified assigned an amount for the claim using the Data iSight formula; and
- e. For whom Unified assigned the payable amount within the applicable statutory period of limitations for written contracts dating back from the filing of the Plaintiff's Third Amended complaint.¹

This class is certified only with regard to the claim that Unified breached its insurance agreements as set forth in Count I of the Class Claims for Relief in the Third Amended Complaint. The grounds for class certification, including analysis of all relevant Rule 23 factors, are set forth in the Magistrate's Recommendations and the Court's Orders concerning Plaintiffs' Motion for Summary Judgment and for Class Certification (Docs. 225, 226, 240, and 241) and are expressly incorporated herein.

2. Class Representative; Class Counsel. Charles Butler is designated as class representative and John Morrison and Scott Peterson are designated as counsel for the class.

¹ Charts outlining the relevant statute of limitations by state are attached as Exhibit 3.

3. Identification of Class Members. Unified Life and its claims administrator Allied National have in their possession information pertinent to the identity of class members.² Therefore, by May 4, 2020, Unified shall produce to the Court and class counsel the names, addresses, and other contact information Unified possesses for all class members organized by state.

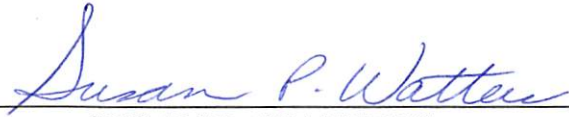
4. Notice. The Court hereby approves the individual notice, an example of which is attached as Exhibit 1, and approves the publication notice, an example of which is attached as Exhibit 2.³ Class counsel, with Unified cooperation, will accomplish having the individual notices mailed, and the publication notice reasonably published. Because this Court has already granted partial summary judgment concerning Unified Life's liability, Unified Life will bear the cost of mailing the notice, including any administrative costs incurred. *Hunt v. Imperial Merchant Servs., Inc.*, 560 F.3d 1137 (9th Cir. 2009). Notice shall be mailed by June 22, 2020. Class members shall have 60 days from the mailing of the notice to opt out as provided in the notice.

5. List of Class Members. By August 31, 2020, class counsel shall file with the clerk a list of all class members and a list of the individuals who opted out of the Class.

² See Charles Butler Explanation of Benefits, attached hereto as Exhibit 4.

³ Counsel will be responsible for incorporating the correct dates into the notices.

DATED this 4th day of March, 2020.

A handwritten signature in blue ink that reads "Susan P. Watters". The signature is written in a cursive style with a large initial 'S'.

SUSAN P. WATTERS
United States District Judge

POSTCARD, SIDE ONE

UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA
Butler et. al. v. Unified Life Insurance Company, et al., Cause No. CV-17-50-SPW-TJC
NOTICE OF PENDENCY OF CLASS ACTION LAWSUIT

On September 30, 2019, the U.S. District Court of Montana certified a class action against Defendant Unified Life Insurance Company "Unified"). The case, *Butler et. al. v. Unified Life Insurance Company, et al.*, alleges that Unified breached their health insurance policies by using a formula that paid claims based on what providers accept versus what providers charge.

Who's included? You may be a member of the Class if: (1) you purchased a Unified Short-Term Medical Insurance Policy and (2) you had any medical claims paid by Unified. If you purchased a Policy, but did not have a claim paid, you are not part of the Class.

What is the case about? This Class Action seeks to recover the difference between what your provider charged and what Unified paid on the claim. The District Court has granted Plaintiff's Motion for Partial Summary Judgment in favor of the Class's breach-of-contract claims, holding that the policies of insurance required Unified to pay what providers "charged", and that Unified breached the policy by using a formula that paid claims based on what providers usually accept. Unified has the right to appeal the Order granting Partial Summary Judgment. Unified denies these claims have any merit and asserts that it properly adjusted all claims in accordance with the contract. Detailed information about the certified Class and the Court's Summary Judgment Order can be found on the website identified below.

What are my options? If you want to stay in the case, you do not need to do anything. If you do not want to participate in this case or want to file your own case, you must mail a letter to Butler v. Unified Case Administrator, c/o Class Action Administrator Co., P.O. Box 123, Billings, MT 12345,¹ stating that you want to be excluded from Butler v. Unified Life Insurance Company. Be sure to include your name and address, and sign the letter. Your request to be excluded must be postmarked by May 4, 2019. If you do not exclude yourself from this case, you will be legally bound by the decisions of the Court and the final outcome of the lawsuit. If you exclude yourself, you will not participate in any favorable result from the litigation, but will retain all rights relating to any claims you may have. An exclusion request form ("Opt-Out") is available at www.UnifiedClassAction.com.²

Do I need to hire a lawyer? The Court has appointed attorneys John Morrison and Scott Peterson of Morrison, Sherwood, Wilson, & Deola, PLLP to represent the Class. You may, but are not required to, enter an appearance through an attorney in this case at your own expense.

¹ Class counsel have not settled on a class administrator yet. The name and address are fictional simply for representation purposes.

² Again, the class does not own this domain. The domain is simply placed in the notice for representative purposes.

POSTCARD, SIDE 2

Butler v. Unified Case Administrator
c/o Class Action Administrator Co.
P.O. Box 12345
Billings, MT 12345

**COURT-ORDERED
LEGAL NOTICE**

Please read the back of this card carefully.
This is not an attempt to collect a debt and
this is not a lawsuit against you.

Postal Service: Please Do Not Mark Barcode

«FirstNAME»«LastNAME»
«Addr1» «Addr2»
«City», «State»«FProv» «Zip»«FZip»
«FCountry»

LEGAL NOTICE

If you purchased a short-term medical insurance policy with Unified Life, a pending class action may affect your rights.

On September 30, 2019, the U.S. District Court of Montana certified a class action against Defendant Unified Life Insurance Company (“Unified”). The case, *Butler et. al. v. Unified Life Insurance Company, et al.*, alleges that Unified breached their health insurance policies by using a formula that paid claims based on what providers accept versus what providers charge.

WHO’S AFFECTED?

You may be a member of the Class if: (1) you purchased a Unified Short-Term Medical Insurance Policy and (2) you had any medical claims paid by Unified from 2014 to the present. If you purchased a Policy, but did not have a claim paid, you are not part of the Class.

WHAT’S THIS ABOUT?

This Class Action seeks to recover the difference between what your provider charged and what Unified paid on the claim. The District Court has granted Plaintiff’s Motion for Partial Summary Judgment on the Class’s breach-of-contract claim, holding that the policies of insurance required Unified to pay what providers “charged”, and that Unified breached the policy by using a formula that paid claims based on what providers usually accept.

Unified has the right to appeal the Order granting Partial Summary Judgment. Unified denies these claims have any merit and asserts that it properly adjusted all claims in accordance with the

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