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F I L E D
Clerk of the Superior Court
Clerk of the Superior Court

FEB 9 2009

By: K. ROBERTS, Deputy
By: K. ROBERTS, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DONALD ADEMA, , D.O., an individual;
REUBEN FARRIS, M.D., an individual;
RODNEY HOOD, M.D., an individual;
and J. RAMIRO LOPEZ, M.D., an
individual, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

SHARP, COMMUNITY MEDICAL
GROUP, a California professional medical
corporation, PACIFICARE HEALTH
SYSTEMS, INC., a Delaware corporation;
PacifiCare of California, a California
corporation, dba Secure Horizons Health
Plan of America; Health Plan Doe
defendants 1-20; and Doe defendants 21-40

Defendants.

CASE NO.: GIC 866561

CLASS ACTION

~~PROPOSED~~ ORDER FOR PRELIMINARY
APPROVAL OF SETTLEMENT

Judge: Hon. David B. Oberholtzer
Date: February 10, 2009
Time: 8:30 a.m.
Dept.: 67

WHEREAS the above-captioned lawsuit is pending before this Court as a certified class
action;

WHEREAS On March 21, 2008, the Court certified the following class:

“All health care providers [primary care physicians] who were
members of SCMG at any time between May 25, 2002, and May
25, 2006, and who also participated with any other Medical Group,
IPA, or Health Plan for managed care contracts that SCMG also

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held; and whose base rate was reduced as a result of their non-exclusive status.”

WHEREAS the parties have participated in a mediation before Viggo Boserup, Esq., through JAMS, and have reached an agreement to settle the action;

WHEREAS the parties have memorialized their agreement in a Settlement Agreement submitted in support of this order;

WHEREAS the parties have made Application to this Court for a Preliminary Order tentatively approving a settlement of the certified class action in accordance with the Settlement Agreement; and

WHEREAS the Court, having read and considered the Settlement Agreement and the files in this action, and having had an opportunity to question counsel for the parties, and finding

GOOD CAUSE THEREFORE, HEREBY ORDERS AS FOLLOWS:

- 1. This Preliminary Order incorporates by reference the definitions in the Settlement Agreement, and all terms defined therein shall have the same meaning as set forth in the Settlement Agreement.
- 2. The Court hereby preliminarily approves the Settlement Agreement.
- 3. The Court hereby preliminarily approves Class Counsel’s request for attorneys’ fees in the amount of 33% of the common class fund and reimbursement of costs.
- 4. The Court hereby preliminarily approves enhancement payments to the class representatives in the amount of \$5,000.00 each.
- 5. A hearing (“Fairness Hearing”) shall be held before this Court in Department 67, at 330 West Broadway, San Diego, California, 92101 on April 15, 2009, at 8:30 a.m., to determine:
 - (a) Whether the proposed settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate;
 - (b) Whether said settlement should be finally approved by the Court;
 - (c) Whether the attorneys’ fees and reimbursement of expenses, and the class

1 representatives' enhancements, should be approved in accordance with the terms of the
2 Settlement Agreement; and

3 (d) Whether Judgment of Dismissal should be entered.

4 The Court may adjourn or continue the Fairness Hearing without further notice to the
5 Class.

6 6. The Court hereby approves, as to form and content, the Notice of Class Action
7 Settlement attached as Exhibit "2" to the Application for Preliminary Approval. The Court finds
8 that the mode of notifying the Class in the manner and form set forth in the Application for
9 Preliminary Approval and this Preliminary Order meets the requirements of California Code of
10 Civil Procedure sections 382 and 581(k), California Rules of Court, Rule 3.769(f), and due
11 process, and is the best notice practicable under the circumstances, and shall constitute due and
12 sufficient notice to all persons entitled thereto.

13 7. The Notice of Class Action Settlement shall be sent via first class mail by the
14 Claims Administrator to the Class Members in the manner set forth in the Application for
15 Preliminary Approval.

16 8. Proof of mailing of the Notice of Proposed Class Action Settlement shall be filed
17 at least 10 days before the Fairness Hearing.

18 9. Pending determination of whether the settlement should be approved, Plaintiffs,
19 and all Class Members, and each of them, and any of their respective representatives, trustees,
20 officers, directors, agents, attorneys, heirs, affiliates, successors and assigns, are barred from
21 commencing or prosecuting any action asserting any claims, either directly or indirectly,
22 representatively, derivatively or in any other capacity, against any defendant herein or any
23 defendant's affiliates or agents, which are or relate to the released claims as set forth in the
24 Settlement Agreement.

25 10. Any Class Member who has standing and has not opted out may appear at the
26 Fairness Hearing through counsel of such member's own choosing and at such member's own
27 expense, or may appear individually and show cause, if he or she has any, as to:

28 (a) Why the proposed settlement of the Class Action embodied in the

1 Settlement Agreement should or should not be approved;

2 (b) Why attorneys' fees and reimbursement of expenses, and the class
3 representative's enhancement, should or should not be approved in accordance with the terms of
4 the Settlement Agreement; or

5 (c) Why the Judgment of Dismissal should or should not be entered.

6 In order to enter such an appearance, the Class Member shall first file with the Clerk of
7 the Court in the Superior Court of California, County of San Diego, 330 West Broadway, San
8 Diego, California, 92101, a notice of the Class Member's intent to appear or a statement of
9 submission of a written brief, together with a statement that indicates: (a) the title of the case,
10 case number and the date, time and location of the hearing; (b) in clear and concise terms, the
11 legal and factual arguments that form the basis for the Class Member's support or opposition,
12 along with any supporting papers; (c) the Class Member's name, address and telephone number;
13 and (d) the approximate dates the Class Member contracted with the Defendants. The Class
14 member must serve copies of the materials that the Class Member files with the Court, either in
15 person or by first-class mail, upon Class Counsel and counsel for the Defendant at the following
16 addresses:

17 Class Counsel
18 Duckor Spradling Metzger & Wynne
19 3043 4th Avenue,
20 San Diego, California 92103,
21 Attn: Annette C. Clark

22 ///

23 SCMG's Counsel
24 Procopio Cory Hargreaves & Savitch LLP
25 530 B Street, Suite 2100
26 San Diego, California, 92101
27 Attn.: Wendy Tucker

28 ///

PacifiCare's Counsel
Sedgwick, Detert, Moran & Arnold LLP
801 South Figueroa Street, 19th Floor
Los Angeles, CA 90017
Attn: Edward Stumpp

In order to be effective, the papers must be filed and served no later than April 3, 2009.

11. Any Class Member who has standing, does not opt out, and who does not make an

1 appearance in the manner provided for in this Order shall be deemed to have waived any
2 objection and shall be foreclosed from making any objection to the Settlement or appealing from
3 any judgment entered on the Settlement.

4 12. To opt out, Class Members shall submit a written request to opt out addressed to
5 "Adema v. SCMG, et al. Independent Claims Administrator, 815 Western Ave. Suite 200, Seattle,
6 WA 98104," postmarked no later than 30 days after the date of mailing of the Notice of Proposed
7 Class Action Settlement. The opt out letter must state the Class Member's name, address,
8 telephone number, social security number and the following declaration: "I wish to be excluded
9 from the Settlement Class in the Superior Court of California, County of San Diego, Case No.
10 GIC 866561. I understand that by requesting to be excluded from the Settlement Class, I will not
11 receive any benefits from the Settlement." An opt out letter is considered mailed when
12 postmarked by the U.S. Postal Service. If there is no postmark on the envelope (or if the
13 postmark is not legible) then the date returned will be deemed to have been two calendar days
14 prior to its actual receipt.

15 13. Each Class Member who has not opted out in accordance with the procedure
16 provided for in the Application for Preliminary Approval and Notice of Proposed Class Action
17 Settlement shall be bound by all determinations of the Court and by the Judgment, and shall be
18 enjoined and barred from asserting any of the released claims against any of the Released
19 Defendants, and each such Class Member shall be deemed to release any and all such Released
20 Claims as against all of the Defendants Persons, as these terms are defined in the Settlement
21 Agreement.

22 14. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of
23 the negotiations or proceedings connected with it, shall be construed in this or any lawsuit as an
24 admission or concession by the Defendants of the truth of any of the allegations in the class
25 action, or of any liability, fault, or wrongdoing of any kind, or by the plaintiffs or any other Class
26 Member of the merit of any defense or lack of merit of any claim.

27 DATED: 02/09/2009



David B. Oberholtzer
JUDGE OF THE SUPERIOR COURT

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