

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

D.D., by his parent and Next Friend **B.N.**; **G.P.**, by her parent and Next Friend **A.P.**; **G.G.**, by his mother and Next Friend **M.G.**; **M.M.**, by his parent and Next Friend **C.C.**; **L.G.**, by her parent and Next Friend **T.G.**; **S.W.**, by his parent and Next Friend **C.W.**; and **K.M.**, by his parent and guardian **L.M.**,

Plaintiffs,

v.

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES; **ELIZABETH HERTEL**, Director of Michigan Department of Health and Human Services, in her official capacity,

Defendants.

No. 18-cv-11795-TLL-PTM
Hon. Thomas L. Ludington
Mag. Patricia T. Morris

**PLAINTIFFS' MOTION FOR
ATTORNEY FEES AND COSTS, AND
BRIEF IN SUPPORT**

COUNSEL FOR THE CLASS
Dave Honigman (P33146)
1361 E. Big Beaver
Troy, MI 48083
(248) 457-9200
dhonigman@manteselaw.com

MANTESE HONIGMAN, PC
Dave M. Honigman (P33146)
Gerard V. Mantese (P34424)
Theresamarie Mantese (P53275)
Attorneys for Plaintiffs
1361 E Big Beaver

DISABILITY RIGHTS MICHIGAN
Kyle M. Williams (P77227)
Nicholas A. Gable (P79069)
Attorneys for Plaintiffs
4095 Legacy Parkway
Lansing, MI 48911
(517) 487-1755
kwilliams@drmich.org
ngable@drmich.org

Troy, MI 48083
(248) 457-9200
dhonigman@manteselaw.com
gmantese@manteselaw.com
tmantese@manteselaw.com

NATIONAL HEALTH LAW PROGRAM
Kimberly Lewis (CA – 144879)
lewis@healthlaw.org
Attorney for Plaintiffs
3701 Wilshire Blvd., Ste. 750
Los Angeles, CA 90010
(919) 968-6308

JOHN J. CONWAY PC
John J. Conway (P56659)
Attorney for Plaintiffs 2622 Wood-
ward Ave. Ste. 225
Royal Oak, MI 48067
(313) 961-6525
jj@jjconwaylaw.com

Stephanie M. Service (P73305)
Mark Donnelly (P39281)
**MICHIGAN DEPARTMENT OF AT-
TORNEY GENERAL**
Attorneys for Defendants
Health, Education & Family
Services Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-8703
ServiceS3@michigan.gov
Donnellym@michigan.gov

**PLAINTIFFS' MOTION FOR ATTORNEYS' FEES
AND COSTS, AND BRIEF IN SUPPORT**

MOTION

Pursuant to Fed. R. Civ. P. 23(h), 42 U.S.C. § 1988, 42 U.S.C. § 12205, 29 U.S.C. § 794a(b), and Fed. R. Civ. P. 54(d), Plaintiffs hereby petition the Court for approval of attorneys' fees and costs payable by Defendants pursuant to the Parties' Settlement Agreement ("the Agreement"):

1. Plaintiffs are prevailing parties in this action.
2. Plaintiffs' hours and rates are reasonable, and the costs requested are reasonable.
3. Defendants agree to the relief sought herein. In accordance with the Settlement Agreement (ECF#108-2) the parties have negotiated an amount of \$3.5 million dollars for work performed and to be performed by Class counsel and Plaintiffs' counsel and any of their agents, employees, or contractors through December 31, 2027.

Plaintiffs' Motion is supported by the attached Brief and the declarations previously attached to Plaintiffs' Motion for Preliminary Approval (ECF#108-6 to -9).

WHEREFORE, Plaintiffs respectfully request that their motion for attorneys' fees and costs be granted.

BRIEF

Index of Authorities	iii
Statement of Questions Presented	iv
Most Appropriate Authority.....	iv
Introduction	1
Argument	2
I. Plaintiffs Are Prevailing Parties	2
A. Standard.....	2
B. Plaintiffs Are Prevailing Parties.....	3
II. Plaintiffs Seek Fees For A Reasonable Number Of Hours At Reasonable Hourly Rates	4
A. Plaintiffs' Hourly Rates Are Reasonable	5
B. Plaintiffs' Hours Are Reasonable	14
III. Plaintiffs' Costs Are Compensable	15
IV. Notice of Fee Award Under Rule 23(h)	16
Conclusion and Relief Requested	16

INDEX OF AUTHORITIES

Cases

<i>Adcock-Ladd v. Sec’y of Treasury</i> , 227 F.3d 343 (6th Cir. 2000).....	5
<i>B & G Min., Inc. v. Dir., Off. of Workers’ Compen. Programs</i> , 522 F.3d 657 (6th Cir. 2008)	12
<i>Barnes v. City of Cincinnati</i> , 401 F.3d 729 (6th Cir. 2005)	13
<i>Betancourt v. Indian Hills Plaza LLC</i> , 87 F.4th 828 (6th Cir. 2023)	3
<i>Cherry by Cherry v. Magnant</i> , 823 F. Supp. 1271 (S.D. Ind. 1993)	7
<i>D.D. by Next Friend B. N. v. MDHHS</i> , 639 F.Supp.3d 750 (E.D. Mich. 2022).....	10
<i>Farrar v. Hobby</i> , 506 U.S. 103 (1992)	5
<i>Friedman v. Berger</i> , 547 F.2d 727 (2d Cir. 1976).....	7
<i>Hadix v. Johnson</i> , 65 F.3d 532 (6th Cir. 1995)	10
<i>Hensley v. Eckerhart</i> , 461 U.S. 424 (1983)	2, 3, 5, 12
<i>Johnson v. Georgia Highway Express, Inc.</i> , 488 F.2d 714 (5th Cir. 1974)	5
<i>Lavin v. Husted</i> , 764 F.3d 646 (6th Cir. 2014)	4, 5
<i>McHugh v. Olympia Entm’t, Inc.</i> , 37 F. App’x 730 (6th Cir. 2002)	11
<i>Missouri v. Jenkins</i> , 491 U.S. 274 (1989).....	13
<i>Roloff v. Sullivan</i> , 975 F.2d 333 (7th Cir. 1992).....	7
<i>Waskul v. WCCMH</i> , 979 F.3d 426 (6th Cir. 2020).....	3

Statutes

29 U.S.C. § 794a(b)	i, 2, 16
42 U.S.C. § 12205	i, 2, 16
42 U.S.C. § 1988.....	i, 2, 15

Rules

Fed. R. Civ. P. 23(h)	i, 2, 15, 16
-----------------------------	--------------

Fed. R. Civ. P. 54(d) i, 15

Treatises

5 Newberg and Rubenstein on Class Actions (6th Ed.)..... 10, 12

STATEMENT OF QUESTIONS PRESENTED

1. Whether the Court should approve the \$3.5 million in attorneys’ fees and costs negotiated as part of the Settlement Agreement.

- Plaintiffs and State Defendants answer: Yes.

MOST APPROPRIATE AUTHORITY

Hensley v. Eckerhart, 461 U.S. 424 (1983)

Fed. R. Civ. P. 23(h)

Fed. R. Civ. P. 54(d)

INTRODUCTION

On January 17, 2025, Plaintiffs filed their Motion for Preliminary Approval of their Settlement Agreement (“Agreement”) with the Michigan Department of Health and Human Services and its Director. The Agreement institutes sweeping reforms obligating Michigan to provide Medicaid-funded intensive home and community-based services to individuals under the age of 21. Plaintiffs hereby request that the Court approve the attorneys’ fees and costs set forth in the Agreement in the amount of \$3.5 million.

The procedural history of this action is set forth in Plaintiffs’ Motion for Preliminary Approval (ECF#108 PageID1661-1663), and the Agreement is described in detail at ECF#108 PageID1663-1674. The Agreement is a landmark reform to Michigan’s Medicaid system and the result of nearly 7 years of work. As set forth below, the exceptional result achieved, complexity of the underlying claims, and experience and skill of the attorneys involved more than justify the fees and costs sought, which represent a substantially more than 50% reduction in the fees and costs actually incurred, a more than 40% reduction in the total originally sought, and which include work to be performed through December 31, 2027 (*see* ECF#108-6 to -9).

Accordingly, Plaintiffs respectfully request that, following appropriate notice to the class members, the Court approve the negotiated \$3.5 million award of fees and costs.

ARGUMENT

In class actions, reasonable attorneys' fees may be awarded when such fees are "authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). Plaintiffs seek an award of attorneys' fees pursuant to their agreement with Defendants and three fee-shifting statutes, 42 U.S.C. § 1988(b), 42 U.S.C. § 12205, and 29 U.S.C. § 794a(b), which allow recovery of reasonable attorneys' fees to a "prevailing party" in civil rights and disability discrimination cases.

I. Plaintiffs Are Prevailing Parties

A. Standard

Four of Plaintiffs' six claims in this action were brought pursuant to 42 U.S.C. § 1983 (Counts I, II, V, and VI). 42 U.S.C. § 1988(b) allows "prevailing parties" in actions brought under 42 U.S.C. § 1983 to be awarded reasonable attorneys' fees and costs. The purpose of § 1988 "is to ensure 'effective access to the judicial process' for persons with civil rights grievances." *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983) (quoting H.R. Rep. No. 94-1558 p. 1 (1976)). Prevailing parties "should ordinarily recover an attorney fee," *id.*, and Plaintiffs "may be considered 'prevailing

parties’ for attorney’s fees purposes if they succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit.” *Id.* at 433.

Plaintiffs’ two remaining claims are *Olmstead* “most integrated setting” claims brought pursuant to Title II of the Americans with Disabilities Act (Count III) and Section 504 of the Rehabilitation Act (Count IV). Section 504 and its implementing regulations are construed *in pari materia* with the ADA with respect to *Olmstead* “most integrated setting” claims, *Waskul v. WCCMH*, 979 F.3d 426, 459 (6th Cir. 2020), and both statutes contain similar fees provisions (42 U.S.C. § 12205 and 29 U.S.C. § 794a(b)). Both statutes allow “prevailing parties” to recover attorneys’ fees, and the standards established in *Hensley* “are generally applicable in all cases in which Congress has authorized an award of fees to a ‘prevailing party.’” *Hensley*, 461 U.S. at 433 n.7. Accordingly, the Sixth Circuit “routinely borrow[s] from that body of case law in reviewing awards under the ADA.” *Betancourt v. Indian Hills Plaza LLC*, 87 F.4th 828, 830 (6th Cir. 2023) (citing *Hensley*).

B. Plaintiffs Are Prevailing Parties

Here, Plaintiffs achieved complete success on their claims through the Agreement, which stands to benefit tens of thousands of class members for years to come. Indeed, the Agreement likely provides *more* relief than Plaintiffs could have obtained after trial.

Most significantly, the Agreement defines and makes available to the class a comprehensive, intensive home and community-based Medicaid service array (The Michigan Intensive Child and Adolescent Services” array or “MICAS”) described in Appendix A to the Agreement (*see* ECF#108-2 PageID1726-1730). Additionally, Plaintiffs obtained commitments from Defendants to establish systems which ensure timely provision of the MICAS array; to create quality management tools designed to improve care and increase transparency; to educate the class, providers, and the public on the availability of the MICAS array; to support workforce development and training for MICAS providers; to collect and report data to the public regarding the state-wide provision of the MICAS array; and to take measures designed to ensure the protection of class members’ due process rights. (ECF#108 PageID1663-1672).

By any measure, the Agreement accomplishes the purpose of this action and confers major benefits on the class.

II. Plaintiffs Seek Fees For A Reasonable Number Of Hours At Reasonable Hourly Rates

“In calculating a reasonable attorney fee, the trial court should first determine the fee applicant’s ‘lodestar,’ which is the proven number of hours reasonably expended on the case by an attorney, multiplied by his court-ascertained reasonable hourly rate.” *Lavin v. Husted*, 764 F.3d 646, 649 (6th Cir. 2014).

The District Court may also adjust the award “to reflect relevant considerations peculiar to the subject litigation.” *Husted*, 764 F.3d at 649. “The factors which the district court may consider, either in determining the basic lodestar fee and/or adjustments thereto, include the twelve listed in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717–19 (5th Cir. 1974).” *Adcock-Ladd v. Sec’y of Treasury*, 227 F.3d 343, 349 (6th Cir. 2000).

In assessing fees, “the district court should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.” *Hensley*, 461 U.S. at 435.

A. Plaintiffs’ Hourly Rates Are Reasonable

Stakes and Success Obtained

The most important factor in determining the reasonableness of hourly rates and hours expended is “the degree of success obtained.” *Farrar v. Hobby*, 506 U.S. 103, 114 (1992). Application of this principle is particularly important in complex civil rights litigation involving numerous challenges to institutional practices or conditions. *Hensley*, 461 U.S. at 436. “The relevant indicia of success” include “the extent of relief, the significance of the legal issue on which the plaintiff prevailed, and the public purpose served.” *Farrar*, 506 U.S. at 122.

First, the magnitude of the stakes contingent on the outcome of litigation is extremely important. When the stakes are more consequential, it is more reasonable

to invest the labor of more senior, experienced, and skilled attorneys who charge higher hourly fees. Similarly, the more consequential the stakes, the more time it is reasonable to invest to achieve a favorable outcome. Here, the stakes are high: this action concerns the medically necessary Medicaid services of tens of thousands of individuals under the age of 21.

Second, the value of the relief that counsel ultimately obtains for the Class and the public is accorded great weight, especially in civil rights litigation like this case, which challenges systemic policies, practices, and conditions impacting large numbers of people.

Here, the benefit to Medicaid beneficiaries is priceless and life-changing: the ability to receive mental health services and reside at home and participate in their communities. In complex litigation involving a nearly 3-year long settlement negotiation, Plaintiffs achieved more than they could have obtained through litigation and at trial. And from a common-fund perspective, the Agreement has injected 91 million dollars into Michigan's Medicaid system each year for the last several years and continuing into the future, making the negotiated fee award well within a lodestar cross-check analysis when compared to the total monetary benefit to the Class.¹

¹ State of Michigan Fiscal Year 2021-22 Appropriations Summary and Analysis, Department of Health and Human Services, Summary of FY 2021-22 Enacted with Vetoes Public Act 87 of 2021, Major Budget Changes from FY 2020-21 YTD Appropriations. ("Includes \$91.0 million Gross (\$30.0 million GF/GP) and authorizes 12.0 FTE positions for estimated children behavioral

Given that Plaintiffs obtained through the Settlement all the relief that was initially sought in the case, the fees sought are reasonable and should be recovered by counsel.

Other Johnson Factors

The additional *Johnson* factors support the negotiated award as well. First, this is an action about Medicaid services, a complex federal health care program. It is governed by thousands of pages of state and federal statutory and regulatory provisions, which courts have described as “the regulatory equivalent of the Serbonian bog,” *Cherry by Cherry v. Magnant*, 823 F. Supp. 1271, 1274 n. 4 (S.D. Ind. 1993), “almost unintelligible to the uninitiated,” *Friedman v. Berger*, 547 F.2d 727, n. 7 (2d Cir. 1976), and “labyrinthian.” *Roloff v. Sullivan*, 975 F.2d 333, 340, n. 12 (7th Cir. 1992).

health service utilization increases to implement future policy changes related to the KB v. Lyon lawsuit agreement.”) https://www.house.mi.gov/hfa/PDF/RevenueForecast/Summ_Analysis_fy21-22.pdf. Last visited 1/31/2025.

Senate Fiscal Agency SFA Analysis, Appropriation Line Item and Boilerplate History, Department of Health and Human Services Part 1: Line Item Detail, p. 29 (August 2024) (“[T]he budget included \$90.1 million to implement policy changes resulting from the KB v Lyon lawsuit that claimed the State failed to fulfill its legal obligation under the Medicaid program to provide needed intensive home- and community-based mental health services to children and young adults.”). https://sfa.senate.michigan.gov/Departments/LineItem/Llhhs_web.pdf. Last visited 1/31/2025.

This was, moreover, Medicaid litigation involving a class of tens of thousands of Medicaid beneficiaries and seeking major statewide reforms. Obtaining systemic reforms to a Medicaid system requires significant time and expertise.

Second, while the parties have enjoyed a productive and congenial working relationship, this case was not always a collaborative effort. Defendants litigated this action before the Interim Agreement was reached on August 4, 2020 (ECF#50), necessitating substantial briefing on a dispositive motion (ECF##19, 21) and a reconsideration motion (ECF#34). Before the Interim Settlement Agreement (ECF#50) was negotiated, the parties also exchanged paper discovery. Plaintiffs subsequently amended the Complaint (ECF#71) and moved for class certification, and the parties engaged in years of negotiations to craft the final Settlement Agreement (ECF#108-2).

Third, Plaintiffs' counsel has invested substantial time in this case over nearly seven years, sometimes to the preclusion of other projects (ECF#108-6 PageID1749), and the time and expense required to obtain a very uncertain result would have made this a highly undesirable case for most attorneys to take (*Johnson* factor 10). Additionally, private-sector firms are usually paid month-to-month and not, as here, deferred payment for 6 ½ years (ECF#108-7 PageID1772). Each pri-

vate-sector firm has forgone significant, professional opportunities at great opportunity cost, and has done so without compensation for the risk of nonpayment absent “prevailing party” status (ECF#108-7 PageID1777).

Finally, the ninth *Johnson* factor (experience, reputation, and ability of the attorneys) supports the requested award. Every attorney contributed meaningfully to this litigation in various capacities and to various extents, with Class Counsel Dave Honigman heavily involved in all aspects of the case from its inception.

The Plaintiffs’ counsel team brings together state and national expertise in disability rights, Medicaid, complex litigation, and class actions. (ECF#108-6 to -9). In fact, the National Health Law Program, a national non-profit law office with over 50 years of experience and expertise in Medicaid and disability laws, joined the lawsuit after it was filed to assist the Michigan based firms in litigating and settling the case. This firm has litigated and successfully settled similar cases involving children’s mental health in multiple states throughout the country (ECF#108-8). Disability Rights Michigan is a statewide leader in Medicaid and disability rights litigation; as this Court previously observed, its attorneys “have extensive experience litigating Medicaid disputes.” *D.D. by Next Friend B. N. v. MDHHS*, 639 F.Supp.3d 750, 757

(E.D. Mich. 2022).² As set forth in each firm’s declarations, each attorney seeks an appropriate rate based on his or her relevant experience.

The actual rate that private-sector class counsel charges to fee paying clients is the best evidence of a “reasonable” hourly rate.³ “Where applicable, courts presume that an attorney’s actual billing rate for similar litigation is appropriate to use as a market rate.” 5 Newberg and Rubenstein on Class Actions § 15:40 (6th Ed.).⁴ However, “[w]hen an attorney uses contingent fee arrangements or otherwise does not charge a standard hourly rate, courts rely on evidence of rates charged by similarly experienced attorneys in the community for similar work.” *Id.*

Although the actual rates customarily charged by counsel is the preferred basis for calculating a reasonable hourly rate when, as here, counsel routinely charges for its services on an hourly basis, the rates charged by similarly experienced attorneys in the relevant community for similar work can be a consideration. To ascertain the relevant community, “district courts are free to look to a national market, an area of

² See, e.g., *Waskul et al. v. Washtenaw County Community Mental Health et al.*, 979 F.3d 426 (6th Cir. 2020); *Wiesner v. Washtenaw County Community Mental Health*, 340 Mich. App. 572 (2022); *C.B. v. Livingston County Community Mental Health*, 2023 WL 8482984, -- Mich. App. -- (2023); *Pelichet et al. v. Nick Lyons et al.*, No 2:18-cv-11385 (E.D. Mich. 2018); *McBride, et al. v. Mich. Dept of Corr.*, No. 2:15-cv-11222 (E.D. Mich. 2015).

⁴ See *Hadix v. Johnson*, 65 F.3d 532, 536 (6th Cir. 1995).

specialization market, or any other market they believe is appropriate to fairly compensate attorneys in individual cases.” *McHugh v. Olympia Entm’t, Inc.*, 37 F. App’x 730, 740 (6th Cir. 2002).

Unfortunately, there are no especially probative studies of the hourly rates charged in litigation like the present case: extraordinarily consequential, life-changing, public interest civil rights class action litigation seeking statewide reforms of entrenched institutional policies and practices. Nonetheless, counsel would point the Court to numerous national studies we believe best identifies the rates justified in cases like this. These studies include the LEXISNEXIS CounselLink 2024 Trends Report, 2022 Partner Compensation Survey, Major, Lindsey, & Africa LLC and Acritas, and National Association of Legal Fee Analysis. Exhibits 1, 2, & 3. Class counsel’s requested rate in this case, applying the legal services inflation rate, is a 20% discount from the 90th percentile rates by all legal professionals polled in the LEXISNEXIS report, a 15% discount from the average rates charged by equity partners polled in the Partner Compensation Survey, and a substantial discount from the inflation adjusted range of \$895-\$1006 for Senior Partner rates from firms performing class action work (Exhibit 4 - Statement of Dave Honigman).

Finally, “if courts have approved fee awards to the petitioning attorney or similar attorneys in recent cases of like kind, those awards may provide evidence of the prevailing market rate.” 5 Newberg and Rubenstein on Class Actions § 15:40 (6th

Ed.).⁵ In 2018, the Eastern District of Michigan Court approved an hourly rate of \$775 for class counsel Dave Honigman and Plaintiffs' counsel Gerard Mantese in an antitrust class action. *In Re: Automotive Parts Antitrust Litigation*, (Case No. 2:13-cv-00802-MOB-MKM, ECF#258 (2018)).⁶ Applying the legal services rate of inflation to this 2018 hourly rate yields a 2024 hourly rate of \$969. Plaintiffs seek a fee for these lawyers at a 20% discount.

Private-sector counsel herein charge standard hourly rates in their practices. The hourly rates they request for the private-sector law firms representing the Class are equal to or less than the hourly rates the firms routinely bill their fee-paying clients in less demanding litigation. Moreover, all requested rates, for both the private and non-private firms, fit comfortably within the range of rates for civil rights

⁵ “Rates from prior cases can . . . provide some inferential evidence of what a market rate is.”) *B & G Min., Inc. v. Dir., Off. of Workers' Compen. Programs*, 522 F.3d 657, 664 (6th Cir. 2008).

⁶ “[T]he legislative history of § 1988 reveals Congress’s basic goal that attorneys should view civil rights cases as essentially equivalent to other types of work they could do, even though the monetary recoveries in civil rights cases (and hence the funds out of which their clients would pay legal fees) would seldom be equivalent to recoveries in most private-law litigation. Thus, the Senate Report specifies that fee awards under § 1988 should be equivalent to fees ‘in other types of equally complex Federal litigation, such as antitrust cases, and not be reduced because the rights involved may be nonpecuniary in nature.’” *Hensley*, 461 U.S. at 447.

work set forth in the State Bar of Michigan’s 2023 Economics of Law Survey Results⁷ considering each attorney’s background and years of experience (*see* ECF#108-6 to -9).

Plaintiffs’ current hourly rates⁸ are as follows:

Attorney and Firm	Hourly Rate
David Honigman & Gerard Mantese (Mantese Honigman, PC “MH”)	\$775
Theresamarie Mantese (MH)	\$600
Terry Osgood (MH)	\$550
Emily Fields (MH)	\$400
Jonathan Ajlouny (MH)	\$300

⁷ Available at https://www.michbar.org/file/pmrc/pdfs/2_2023EOL_Survey-Results.pdf. Courts in this district frequently rely on this report, which is why we reference it here. The Sixth Circuit has held, however, that district courts retain the right to disregard such reports in light of their small sample size and lack of information “regarding the skill, experience, and reputation of those who responded.” *Husted*, 831 F.3d at 719.

⁸ Using current billing rates is appropriate in this case, which was filed nearly seven years ago: Courts are to award “current rather than historic hourly rates” because “compensation received several years after the services were rendered . . . is not equivalent to the same dollar amount received . . . as the legal services are performed.” *Missouri v. Jenkins*, 491 U.S. 274, 283-84 (1989); *see also Barnes v. City of Cincinnati*, 401 F.3d 729, 745 (6th Cir. 2005) (district court properly applied current market rate to adjust for payment delay where litigation had been ongoing for six years).

Nicole Lockhart & Ryan Hansen (MH)	\$260
Mark Cody (Disability Rights Michigan “DRM”)	\$700
Chris Davis (DRM)	\$600
Kyle Williams, Nicholas Gable, and Andrea Rizer (DRM)	\$450
Kim Lewis (National Health Law Program “NHELP”)	\$775
Sarah Somers (NHELP)	\$700
J.J. Conway (John J. Conway, PC)	\$795
Joshua Whicker (JJC)	\$255
Trevor Sims (JJC)	\$225

B. Plaintiffs’ Hours Are Reasonable

June 6, 2025 will be the seventh year anniversary of this action’s filing, and work on it began long before that. As set forth above and in the declarations accom-

panying the Preliminary Approval Motion (ECF#108-6 to -9), work has been continuous since this action was filed. Intensive, protracted litigation requires a serious time investment. The same is true for lengthy, complex settlement negotiations.

Nevertheless, driven by a desire to settle this long-running litigation, Plaintiffs agreed to a nearly 40% cut to the initial demand for fees and a more than 50% cut from fees and costs actually incurred. Plaintiffs exchanged detailed billing records with Defendants, and Defendants were well positioned to assess the merits of Plaintiffs' request.

Finally, the scope of work under the Agreement, and the attorneys' fees and costs reimbursed therein, continues until December 31, 2027. This future work foreseeably includes the work on the present motion, work associated with the notice and public distribution of the Agreement, a Motion for Final Approval, monitoring the Defendant's progress toward reaching the Exit Criteria, continued assistance to address the needs of individual class members, and involvement in crafting an implementation plan in accordance with the Settlement Agreement (ECF#108-2 PageID.1704-1705). As such, in addition to the above cuts, Plaintiffs' counsel have agreed to forgo any additional payment for work done over the next three years.

III. Plaintiffs' Costs Are Compensable

As detailed in the declarations, (ECF#108-6 to -9)), Plaintiffs seek costs under Fed. R. Civ. P. 54(d)(1) and (2), 42 U.S.C. § 1988, Fed. R. Civ. P. 23(h), 42 U.S.C.

§ 12205, and 29 U.S.C. § 794a(b). Those costs are included in the \$3.5 million award negotiated in the Agreement.

IV. Notice of Fee Award Under Rule 23(h)

Notice of a motion for attorneys' fees must be "directed to class members in a reasonable manner." Fed. R. Civ. P. 23(h)(1).

Plaintiffs' proposed Notice to class members informs class members that:

The Agreement does not provide any monetary payments to Class Members. The Agreement requires Defendants to pay \$3,500,000.00 (Three Million and Five Hundred Thousand Dollars) to Plaintiffs' counsel for any attorney fees and costs incurred through December 31, 2027. No Class Members have paid any fees or litigation costs, nor will they be required to do so.

Proposed Class Notice (ECF#108-4).

CONCLUSION AND RELIEF REQUESTED

Plaintiffs respectfully request that the Court grant their Motion, approve the attorneys' fees and costs negotiated pursuant to the Agreement, and schedule a hearing on this Motion at the same time as the final approval hearing.

Dated: January 31, 2025

/s/ Dave Honigman
COUNSEL FOR THE CLASS
Dave Honigman (P33146)
1361 E. Big Beaver
Troy, MI 48083
(248) 457-9200
dhonigman@manteselaw.com

/s/ Kyle Williams
DISABILITY RIGHTS MICHIGAN
Kyle M. Williams (P77227)
Nicholas A. Gable (P79069)
Attorneys for Plaintiffs
4095 Legacy Parkway
Lansing, MI 48911
(517) 487-1755

/s/ Gerard V. Mante

MANTESE HONIGMAN, PC

Dave Honigman (P33146)

Gerard V. Mante (P34424)

Theresamarie Mante (P53275)

Emily S. Fields (P82047)

Attorneys for Plaintiffs

1361 E. Big Beaver

Troy, MI 48083

(248) 457-9200

dhonigman@manteselaw.com

gmante@manteselaw.com

tmante@manteselaw.com

efields@manteselaw.com

kwilliams@drmich.org

ngable@drmich.org

/s/ John Conway

JOHN J. CONWAY PC

John J. Conway, III (P56659)

Attorney for Plaintiffs

Woodward Ave. Ste. 225

Royal Oak, MI 48067

(313) 961-6525

jj@jjconwaylaw.com

/s/ Kimberly Lewis

NATIONAL HEALTH LAW PROGRAM

Kimberly Lewis (CA – 144879)

3701 Wilshire Blvd., Ste. 750

Los Angeles, CA 90010

(919) 968-6308

lewis@healthlaw.org

CERTIFICATE OF SERVICE

I hereby certify that, on January 31, 2025 I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Kyle Williams
Kyle Williams