

**Notice to Employees of Member Organizations of the Ontario Hospital Association as of December 29, 1997 – This Notice May Affect Your Rights. Please Read Carefully**

To: All current and former employees of member organizations of the Ontario Hospital Association (“OHA”) who paid a share of premiums and were covered by the OHA’s long-term disability policy (Policy No 2100) as of December 29, 1997.

**Purpose of this Notice**

The OHA and representatives of its members’ unionized and non-unionized employees have entered into a Settlement Agreement to distribute the proceeds arising from the demutualization of certain insurance policies that Mutual Life had issued to the OHA (the “Proceeds”).

The OHA commenced an application in the Superior Court of Justice under the *Class Proceedings Act, 1992* to obtain court approval of the Settlement Agreement and the proposed distribution of the Proceeds. In order for the Settlement Agreement to become effective, it must be approved by the Ontario Superior Court of Justice. A hearing will be held on August 17, 2010 at which time the Ontario Superior Court of Justice will decide whether or not to certify the class and whether the Settlement Agreement should be approved.

The unions involved in the Settlement Agreement are ONA, OPSEU, CUPE, SEIU and the CAW Canada. Employers participating in this Settlement (“Participating Employers”) are organizations which participated in the OHA’s long-term disability policy as of December 29, 1997. The list of Participating Employers can be found on the web sites set out below.

In reaching this Settlement Agreement both the unionized employees and former employees and the non-unionized employees and former employees were represented by separate legal counsel. Contact information for legal counsel is found at the end of this notice.

**Class Proposed**

At the hearing on August 17, 2010, the parties will seek to certify the application under the *Class Proceedings Act, 1992* for the purpose of effecting the Settlement on behalf of the following class:

All current and former employees of Participating Employers who were employed by a Participating Employer, paid a share of premiums and were covered under its LTD Policy as of December 29, 1997.

The parties will also seek to have the following individuals named as the representative Respondents on behalf of class members: Andy Summers, Lee Rogano, Yves Shank, Mike Tracey, Carol McDowell, Katha Fortier, and Nelia Cabral. It is estimated that there

are approximately 41,000 employees and former employees who are eligible to be members of the proposed class.

### **The Terms of the Settlement Agreement**

As of June 1, 2010, there are approximately \$22.5 million in Proceeds being held in trust. The Settlement provides for these Proceeds to be distributed in two parts. As further described below, \$17.2 million will be allocated to a premium holiday for eligible employees and Participating Employers. The remaining Proceeds (approximately \$5.3 million) will be used to pay for legal and other fees and as a Cash Recipients' fund for employees not eligible for a premium holiday.

If more than 25 persons opt out of the Class, as set out below, under the terms of the Settlement Agreement, these proceedings can be terminated and the funds may not be distributed in accordance with the Settlement, even if the Settlement has been approved by the Court.

#### **I. Premium Holiday**

Under the Settlement Agreement, \$17.2 million of the Proceeds will be paid to Participating Employers to fund a premium holiday under their LTD policies for both employees and the Participating Employers in proportion to the premiums that the employer and employees respectively pay under the policy. In order to be eligible for a premium holiday, you must be a Class member and:

1. be actively employed with a Participating Employer as of the date the Proceeds are distributed;
2. pay a share of premiums under your employer's LTD policy as of the date the Proceeds are distributed; and
3. be employed with the same Participating Employer that you were employed with on December 29, 1997 and have participated in the LTD policy as of December 29, 1997 that Mutual Life had issued to the OHA at the time.

#### **II. Cash Recipients Fund**

After legal and other expenses of this proceeding are paid from the balance of the Proceeds, the remaining balance of the Proceeds will go into the Cash Recipients Fund. If you are a Class member but are not eligible to receive a premium holiday (for example, you are currently on LTD, you are retired, or you are no longer employed with the same employer that you worked for on December 29, 1997), you will be entitled to apply for a cash payment from the Cash Recipients Fund.

In the event the court approves the Settlement Agreement, Class members who are not eligible to receive a premium holiday will have 60 days from the publishing of a notice to Class members to submit proof of entitlement to funds in the Cash Recipients Fund.

Further details of how to apply for this cash payment will be set out in that notice (the "Second Notice") and will also be posted on the web sites listed below.

Class members who have valid claims against the Cash Recipients Fund will receive \$100.00. This amount may be reduced if there is not enough money in the Cash Recipient Fund to provide \$100.00 to each class member who makes a valid claim against that Fund.

### **III. Remaining Funds**

Depending on the number of cash claimants to the Cash Recipients Fund, there may be no remaining funds. However, if there are any funds left over in the Cash Recipients Fund after all valid claims have been made against it, the remainder will be distributed as follows:

1. 50% of the amount remaining will be deposited with the OHA; and
2. 50% of the amount remaining will be used to provide premium holidays for employees of Participating Employers who, as of the date that this remaining money is distributed:
  - (a) are still actively employed by a Participating Employer that has continued to participate in the LTD Policy currently sponsored by the OHA (OHA Benefit Plans);
  - (b) pay a share of premiums under the LTD Policy currently sponsored by the OHA (OHA Benefit Plans); and
  - (c) participated in the LTD Policy as of December 29, 1997 that Mutual Life issued to the OHA at the time.

### **Settlement Approval Hearing**

If you are a member of the proposed class and you do not oppose Settlement, you need not appear at the Settlement Approval Hearing or take any other action at this time. If you are a member of the proposed class and you wish to comment on or make an objection to the terms of the Settlement Agreement, you may send your name, address and brief reasons for the objection to Class Counsel at the address and fax number listed below prior to August 10, 2010. Class Counsel will forward each of these submissions to the Court and you will be entitled to appear at the Approval Hearing on August 17, 2010 and be heard if you wish to do so.

### **Order Binding on All Members of the Class**

Please be advised that an order of the Court in this application (including an order approving the proposed Settlement) will bind all members of the Class unless a person chooses to opt out of the class proceeding in accordance with the instructions below.

## **Opting Out**

If the Class is certified, you will be given the opportunity to opt out of the Class (and therefore the Settlement). If the class is certified, information about opting out will be set out in a second Notice, which will also be available on the web sites below.

If you wish to opt out, you will need to ensure that your written election to opt out is received by Class Counsel (see contact details below) in accordance with the procedure that will be set out in the second Notice. If you wish to remain a member of the Class, you do not need to do anything. You are entitled to seek independent legal advice with respect to this Settlement. You may contact your own lawyer, at your own expense.

## **Costs to You**

One of the terms of the settlement is that the legal fees and other costs related to this application are to be paid from the Proceeds as set out above. None of the fees of legal counsel involved in this proceeding will be based on a contingency fee arrangement. Fees and other costs related to this application, including the process of reaching the settlement, to the date of the motion, are estimated at \$1.5 million.

In terms of the financial consequences to you, if the legal fees are paid as intended under the terms of the Settlement, the amount of the Proceeds available under the Cash Recipients Fund (and any Remaining Funds) will be reduced by the legal fees or other expenses incurred in advancing this matter.

## **Questions and Additional Information**

For further information, including the full Settlement Agreement, the list of Participating Employers, and any questions concerning these proceedings you can contact the Class Counsel as follows:

### **I. Contact information for Class Counsel to Class Members represented by (or formerly represented by) a Union:**

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP  
Barristers & Solicitors  
474 Bathurst Street, Suite 300  
Toronto, ON M5T 2S6  
Fax: (416) 964-5895

Please direct inquiries to:

Telephone: 1-877-398-5711

Email: [moconnor@cavalluzzo.com](mailto:moconnor@cavalluzzo.com)

Web site for Class Members: [www.cavalluzzo.com/Class-Actions.aspx](http://www.cavalluzzo.com/Class-Actions.aspx) (click on OHA class proceeding)

**II. Contact information for Class Counsel to Class Members who are (or were) non-unionized employees:**

Koskie Minsky LLP  
Barristers & Solicitors  
P.O. Box 52  
20 Queen Street West, Suite 900  
Toronto, ON M5H 3R3  
Fax: (416) 977-3316

Please direct inquiries to:

Telephone: 1-866-777-6341

Email: [ohaclassproceeding@kmlaw.ca](mailto:ohaclassproceeding@kmlaw.ca)

Web site for Class Members: [www.kmlaw.ca/casecentral](http://www.kmlaw.ca/casecentral) (click on OHA class proceeding)