

December 9, 2022

***** CONSUMER ALERT*****

ATTORNEY GENERAL RAOUL GAINS LARGER RECOVERY IN \$25 MILLION REMICADE SETTLEMENT

Raoul Increases Share of Reimbursement from 1% to 100% and Urges Consumers to Make Claims by Dec. 27 Deadline

Chicago — Attorney General Kwame Raoul today announced that, as a result of his intervention, Illinois consumers and third-party reimbursers, such as insurance companies and self-insured businesses, who purchased Remicade from April 5, 2016 to Feb. 28, 2022, have until **Dec. 27, 2022** to submit claims to be included in a \$25 million settlement for overcharges due to antitrust violations. Recovery payments will be based on 100% of the price of Remicade purchases made, however, the exact amount of reimbursements will be determined after a final approval hearing.

Remicade is a drug used to treat Crohn's disease and other autoimmune disorders. Under the original proposed allocation plan of a settlement that Johnson & Johnson and Janssen Biotech, Inc. (J&J) entered to resolve antitrust allegations related to the drug, Illinois residents and businesses could claim only 1% of the price of their Remicade purchases. Meanwhile, consumers and businesses in other states with similar laws would claim 100% of their purchases for the shared reimbursement. As a result of Raoul's objections to these terms, the parties agreed to a revised plan in a [settlement letter](#) that allows Illinois residents and businesses to claim 100% of the price of their purchases of Remicade.

"I am pleased with the revised settlement allocation plan that allows Illinois purchasers and businesses to receive amounts equal to those in other states with similar laws," Raoul said. "I will continue to work to ensure that Illinois residents and businesses are treated fairly and have access to the recovery they are entitled."

The settlement resolves a class action lawsuit that alleged J&J engaged in an anticompetitive scheme to foreclose competition posed by less expensive alternative drugs. J&J's scheme allegedly caused consumers and businesses to pay artificially inflated prices by preventing similar drugs, which were up to 35% cheaper than Remicade, from being offered to them as an alternative.

While Illinois consumers can claim 100% of their purchases of Remicade, that does not mean they will receive a payment for the full price of their purchases. Reimbursements will be calculated based on the percentage of all claims submitted by consumers and businesses, but under the new agreement, Illinois residents will be eligible for a larger share of the payout than they were under the earlier plan.

Federal antitrust laws do not allow individual consumers to qualify to receive compensation if they do not purchase items directly from the alleged wrongdoer, which in this case is J&J. However, Illinois recognized that consumers and third-party payers bear the burden of antitrust overcharges and was among the first states to amend its antitrust laws to allow indirect purchasers to qualify for recovery. Illinois' laws are now mirrored in roughly half the states.

Attorney General Raoul encourages individuals or businesses that purchased Remicade between April 5, 2016 and Feb. 28, 2022 to [submit a claim](#) for compensation as soon as possible, but no later than the **Dec. 27, 2022 deadline**.

Assistant Attorney Generals Richard Schultz and Brian Yost handled the case for Attorney General Raoul's Antitrust Bureau.

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

In re REMICADE ANTITRUST LITIGATION)	Civil Action No. 2:17-cv-04326-KSM
_____)	(Consolidated)
)	
This Document Relates To:)	<u>CLASS ACTION</u>
)	
INDIRECT PURCHASER ACTIONS.)	The Honorable Karen S. Marston
_____)	AMENDED PLAN OF ALLOCATION AND DISTRIBUTION

1. This Amended Plan of Allocation and Distribution (“Plan of Allocation”) will govern distributions from the net proceeds of the Settlement Fund created by the April 15, 2022, Stipulation of Class Action Settlement (“Settlement Agreement”) between Plaintiffs Local 295 IBT Employer Group Welfare Fund and National Employees Health Plan (“Plaintiffs”) and Defendants Johnson & Johnson and Janssen Biotech, Inc. (“Defendants”) (the “Net Settlement Fund”).

2. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund to Settlement Class Members who suffered economic losses as a result of the alleged violations of law asserted in the Complaint. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial, whether as a measure of damages or restitution. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the actual amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund.

3. To receive a Distribution under this Plan of Allocation, persons or entities must be a member of the Settlement Class and must submit a timely and valid Claim Form.¹ Claimants who requested exclusion from the Settlement Class shall not receive any distributions pursuant to this Plan of Allocation.

¹ With the exception of Settlement Class Members in Illinois and Massachusetts, the claims period for the Settlement Class ended on November 30, 2022. For Massachusetts consumer Settlement Class Members and all Illinois Settlement Class Members, however, this claim submission period shall be extended for an additional three weeks from the Notice Date, and any claims made before the last date of that period shall be considered timely. The “Notice Date” shall be the date on which Class Counsel initiates a new, targeted digital notice campaign targeting Massachusetts consumer Class Members and Illinois Class Members. Such notice will be provided as soon as is practicable after the date on which this Amended Plan of Allocation is filed with the Court.

4. The timeliness and validity of all Claims submitted by Settlement Class Members shall be determined by the Settlement Administrator, subject to review by Class Counsel and approval by the Court. All determinations under this Plan of Allocation shall be made by the Settlement Administrator, subject to review by Class Counsel and approval by the Court.

5. Recognized Claim: A Claimant's "Recognized Claim" shall be calculated based on the total dollars spent by the Settlement Class Member to indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade during the settlement Class Period. Settlement Class Members' Recognized Claims are subject to calculation under only one of ¶¶5(a), 5(b), or 5(c) below. The Recognized Claims of Settlement Class Members that have indirectly purchased or provided reimbursement for some or all of the purchase price of Remicade and that reside or have their principal place of business in one of the Selected States² shall be calculated entirely and solely under ¶5(a), the Recognized Claims of Settlement Class Members that have indirectly purchased or provided reimbursement for some or all of the purchase price of Remicade in one or more of the Selected States, but do not reside or have their principal place of business in one of the Selected States shall be calculated entirely and solely under ¶5(b), and the Recognized Claims of Settlement Class Members that have not indirectly purchased or provided reimbursement for some or all of the purchase price of Remicade in any of the Selected States, and neither reside nor have their principal place of business in one of the Selected States shall be calculated entirely and solely under ¶5(c):³

² "Selected States" includes the states or commonwealths in the Settlement Agreement, but shall also include Illinois and Massachusetts. However, Massachusetts will be considered a Selected State only with respect to claims filed by consumers whose Remicade purchases were made only for personal use.

³ Counsel have determined that Class Members who neither reside nor have their principal place of business in the Selected States and who have not indirectly purchased or provided reimbursement for some or all of the purchase price of Remicade in one of the Selected States may receive compensation in recognition of potential equitable claims by those Class Members.

(a) The Recognized Claim of Class Members that reside or have their principal place of business in one of the Selected States shall be the total dollars spent by that member to indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade.

(b) The Recognized Claim of Class Members that do not reside or have their principal place of business in one of the Selected States but indirectly purchased or provided reimbursement for some or all of the purchase price of Remicade in one or more of the Selected States shall be the sum of:

(i) The total dollars spent to indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade in any of the Selected States; and

(ii) The total dollars spent to indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade outside of the Selected States multiplied by 0.01.

(c) The Recognized Claims of Class Members of that do not reside or have their principal place of business in one of the Selected States and did not indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade in any of the Selected States shall be the total dollars spent to indirectly purchase or provide reimbursement for some or all of the purchase price of Remicade multiplied by 0.01.

6. Documentation Requirement: All Claim Forms claiming a Recognized Claim of \$1,000 or more require Claim Documentation, as defined below. In addition, Claim Forms below that threshold may be determined to require Claim Documentation by the Settlement Administrator where the Settlement Administrator disputes a material fact concerning the Claim Form. Absent acceptable Claim Documentation, the Settlement Administrator may, in consultation with Class Counsel, deny all or part of a claim.

7. “Claim Documentation” means itemized receipts, cancelled checks, invoices, statements, or other business or transaction records documenting payment for purchases or reimbursement paid for Remicade during the settlement Class Period.

8. Determination of Distribution Amount: The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which shall be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

9. If an Authorized Claimant’s Distribution Amount calculates to less than \$25.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

10. Settlement Benefits shall be paid via Zelle, PayPal, Venmo, or other direct deposit via ACH, as selected by the Authorized Claimant when submitting a claim. Authorized Claimants choosing Zelle, PayPal or Venmo shall be provided 180 days from issuance to take custody of the funds. After the initial Distribution of the Net Settlement Fund, to the extent any monies remain in the Net Settlement Fund after the initial Distribution, if Class Counsel, in consultation with the Settlement Administrator, determines that it is cost-effective to do so, the Settlement Administrator, no less than 7 months after the initial Distribution, will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have received initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have received re-distributions and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Class Counsel, in consultation with the Settlement Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-

distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to the Crohn's & Colitis Foundation, or one or more other non-sectarian, not-for-profit, 501(c)(3) organization(s) to be determined by Class Counsel and approved by the Court.

11. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all claimants. No person or entity shall have any claim against Plaintiffs, Class Counsel, the Settlement Administrator, or any other agent designated by Class Counsel, or Defendants' Released Persons and/or their respective counsel, arising from distributions made substantially in accordance with the Settlement Agreement, the Plan of Allocation approved by the Court, or any order of the Court. Plaintiff and Defendants, and their respective counsel, and all other Released Persons shall have no liability whatsoever for the investment or Distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

12. The Plan of Allocation set forth herein is the plan that is being proposed by Plaintiffs to the Court for its approval. The Court may approve this Plan of Allocation as proposed or it may further amend or modify the Plan of Allocation without additional notice to the Settlement Class. Any orders regarding any amendment or modification of this Plan of Allocation will be posted on www.RemicadeSettlement.com.