

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA, ORLANDO DIVISION

**If you received a call or text message from or on behalf of Apria  
Healthcare and were NOT a customer of Apria Healthcare at the time,  
you could be entitled to benefits under a class action settlement.**

*The United States District Court for the Middle District of Florida authorized this Notice.  
This is not a solicitation from a lawyer.*

- A proposed settlement of a class action lawsuit relates to allegations that, among other things, Apria Healthcare Group Inc., and/or Apria Healthcare LLC (collectively “Apria”) placed calls and/or text messages to cellular telephones in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the “TCPA”). The case is known as *Peterson v. Apria Healthcare Group Inc.*, 6:19-cv-856-ORL-31LRH.
- Apria denies all allegations of wrongdoing in the lawsuit. As part of the proposed settlement, Apria does not admit to any wrongdoing and continues to deny the allegations against it.
- The proposed settlement provides for payments to each Class Member submitting a valid claim form by **October 2, 2020** (an “Eligible Claimant”). The criteria for a valid claim form are described below.
- Apria also will pay the costs to administer the settlement.
- Your legal rights are affected whether you act or don’t act. Please read this Notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment under the settlement.
<b>EXCLUDE YOURSELF</b>	Get no payment under the settlement. This is the only option that allows you to be part of any other lawsuit against Apria about the legal claims in the case.
<b>OBJECT</b>	Write to the Court about why you don’t like the settlement. You can do this only if you do not exclude yourself.
<b>GO TO THE HEARING</b>	Ask to speak in Court about the fairness of the settlement. You can do this only if you do not exclude yourself.
<b>DO NOTHING</b>	You will receive no payment under the settlement and will give up your rights to assert any claims against Apria or its vendors about the legal claims in the case.

- This Notice explains these rights and options—**and the deadlines to exercise them.**
- The Court must decide whether to approve the settlement as part of the process described in this Notice. Payments will be made if the Court approves the settlement.

Questions? Visit [www.noncustomercallsettlement.com](http://www.noncustomercallsettlement.com)

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## **BASIC INFORMATION**

### **1. Why was notice provided?**

Notice was published in *The Wall Street Journal*, directed at all potential Class Members. The publication notice referred to an informational web site that included this more detailed Notice.

The Court ordered that a Notice be made available to Class Members because they have a right to know about a proposed settlement of the class action against Apria and about their options before the Court decides whether to approve the settlement. If the Court approves the settlement, a Settlement Administrator will authorize the payments and other relief that the settlement allows.

This Notice explains the lawsuit, the settlement, Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them. Please read this Notice carefully.

The United States District Court for the Middle District of Florida has jurisdiction over this proposed settlement. The person who sued is called the Plaintiff, and the company they sued (Apria) is called the Defendant.

### **2. What is the lawsuit about?**

Apria provides home healthcare goods and services to customers on a nationwide basis.

Plaintiff filed a proposed class action lawsuit against Apria under the caption *Peterson v. Apria Healthcare Group Inc.*, 6:19-cv-856-ORL-31LRH (the "Action").

In the Action, Plaintiff claimed, among other things, that Apria placed calls and/or text messages to cellular telephones in violation of federal law. Apria denies all allegations of wrongdoing and has asserted many defenses. The settlement is not an admission of wrongdoing.

### **3. Why is this a class action?**

In a class action, one or more people, called Class Representative(s), sue on behalf of people who have similar claims. In this case, the Class Representative is the Plaintiff, Scott Peterson. One court resolves the issues for all Class Members, except those who exclude themselves from the Class. United States District Court Judge Gregory A. Presnell has jurisdiction over the case in which the parties have submitted this settlement for approval.

### **4. Why is there a settlement?**

The Court did not decide in favor of Plaintiff or Apria. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and settlement benefits go to the Class Members. The Class Representative and his attorneys think the settlement is best for the Class Members.

## **WHO IS IN THE SETTLEMENT**

To see if you may qualify for a payment, you first have to determine whether you are a Class Member.

### **5. How do I know if I am part of the settlement?**

The Court has preliminarily decided that everyone who fits this description is a Class Member: All persons within the United States who, between May 6, 2015 and the present, (1) received a non-emergency call or text message to their cellular telephone numbers; (2) through the use of an

automatic telephone dialing system or an artificial or pre-recorded voice; (3) from Defendant; and (4) who were not Apria customers at the time of the calls and text messages.

#### **6. Who is not included in the Class?**

The Class does *not* include Apria, any entity that has a controlling interest in Apria, and Apria’s current or former directors, officers, counsel, and their immediate families. The Class also does not include any persons who validly request exclusion from the Class, as well as the presiding Judge in the Action, and the Judge’s staff and their immediate family members.

#### **7. I’m still not sure if I am included.**

If you are still not sure whether you are included, you can visit the settlement website, [www.noncustomercallsettlement.com](http://www.noncustomercallsettlement.com), for more information, or you can fill out and return the claim form described on page 6, in Question 10. You can also click on the claim form on the website and review it to help determine whether you qualify.

### **THE SETTLEMENT BENEFITS — WHAT YOU GET**

#### **8. What does the settlement provide?**

Apria will provide payments to each Class Member submitting a valid claim form by **October 2, 2020**, (an “Eligible Claimant”) that meets the requirements for payment under the conditions described in Question 9 below. These payments are also outlined in Question 9 below.

#### **9. What can I get from the settlement?**

Apria will provide payments to each Class Member submitting a valid claim form by **October 2, 2020**, (an “Eligible Claimant”) that meets the requirements for payment below:

Class Members who submit a valid claim attesting to having received an autodialed or prerecorded or artificial voice call or text message from or on behalf of Apria on a cell phone number to be provided on the claim form, and further attesting to (a) never providing that phone number to Apria, (b) never signing a Sales, Service, and Rental Agreement containing that phone number, (c) never authorizing anyone to provide that number to Apria, or (d) having received one or more such calls or text messages on that phone number after asking Apria or its vendors, either orally or in writing, not to call or text, would have a right to payment in an amount of up to \$50.00.

Thus, Eligible Claimants will receive a check in an amount up to \$50.00.

### **HOW YOU GET A PAYMENT -- SUBMITTING A CLAIM FORM**

#### **10. How can I get a payment?**

To qualify for a payment, you must timely submit a completed claim form. A claim form is available on the settlement website (see Question 7). Read the instructions carefully, fill out the claim form (answering all questions truthfully), and submit it over the Internet no later than **October 2, 2020**, or print out a hard copy of the claim form, fill it out (answering all questions truthfully), sign it, and mail it to the Settlement Administrator with a postmark no later than **October 2, 2020**.

### **11. When would I get a payment?**

The Court will hold a hearing on **October 30, 2020**, to decide whether to approve the settlement. If Judge Presnell approves the settlement after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for the claim forms to be processed. Please be patient.

The proposed Settlement contemplates distributing payments to Eligible Claimants ninety (90) days from the date the Settlement becomes final and not subject to appeal.

### **12. What am I giving up if I remain in the Class?**

Unless you exclude yourself, you stay in the Class, which means that you cannot sue, continue to sue, or be part of any other lawsuit against Apria about the legal issues in this case. If the settlement is approved and becomes final and not subject to appeal, then you and all Class Members release all “Released Claims” against all “Released Parties.”

“Released Claims,” with respect to Plaintiff Class Members, means any and all claims, rights (including rights to restitution or reimbursement), demands, actions, causes of action, suits, liens, damages, attorneys’ fees, obligations, contracts, liabilities, agreements, costs, expenses or losses of any nature, whether known or unknown, direct or indirect, matured or unmatured, contingent or absolute, existing or potential, suspected or unsuspected, equitable or legal, and whether under federal statutory law, federal common law or federal regulation, or the statutes, constitutions, regulations, ordinances, common law, or any other law of any and all states or their subdivisions, parishes or municipalities that arise out of or relate in any way to the TCPA, or any calls or text messages received from Released Parties at any time from May 6, 2015 to the present, including, but not limited to, claims that have been, or could have been, brought in the Action, as well as any claims arising out of the same nucleus of operative facts as any of the claims asserted in the Action. Apria reserves the right to seek contribution or indemnity from anyone or any entity, but not Settlement Class Members.

“Released Parties” means Apria Healthcare LLC; Apria Healthcare Group Inc.; and any other Apria collections and/or calling vendor, and their respective affiliates, parents, direct and indirect subsidiaries, agents, insurers, and any company or companies under common control with any of them, and each of their respective predecessors, successors, past and present officers, directors, employees, agents, servants, accountants, attorneys, advisors, shareholders, insurers, representatives, partners, vendors, issuers, and assigns, or anyone acting on their behalf.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don’t want a payment from this settlement, and you want to keep any right you may have to sue or continue to sue Apria or other Released Parties on your own about the Released Claims, then you must take steps to remove yourself from the Class. This is called excluding yourself — and is sometimes referred to as “opting out” of the Class. Apria may terminate the settlement if a certain number of people exclude themselves from the Class.

### **13. How do I exclude myself from the settlement?**

To exclude yourself from the settlement, you must send a signed letter by mail stating that you “want to opt out of the Apria Litigation.” Please be sure to include your name, address, telephone

number, and your signature. You must mail your exclusion request postmarked no later than **September 18, 2020**, to:

*Apria Litigation* Settlement Administrator  
c/o JND Legal Administration  
P.O. Box 91344  
Seattle, WA 98111

You cannot exclude yourself by phone, fax or email.

**14. What is the effect if I exclude myself from this settlement?**

If you ask to be excluded, you will not get any payment from this settlement. Also, you cannot object to the settlement. You will not be legally bound by anything that happens in the Action. You may be able to sue (or continue to sue) Apria in the future about the legal issues in this case.

**15. If I don't exclude myself, can I sue Apria for the same thing later?**

No. Unless you exclude yourself, you give up your right to sue Apria and the other Released Parties for the claims that this settlement resolves. You must exclude yourself from *this* Class to pursue your own lawsuit. Remember, your exclusion request must be postmarked on or before **September 18, 2020**.

**16. If I exclude myself, can I get a payment from this settlement?**

No. If you exclude yourself, do not send in a claim form to ask for any payment from this settlement. You may exercise any right you may have to sue, continue to sue, or be part of a different lawsuit against Apria and/or the other Released Parties.

**THE LAWYERS REPRESENTING YOU**

**17. Do I have a lawyer in the case?**

The Court appointed John A. Yanchunis and Patrick A. Barthle II of Morgan & Morgan Complex Litigation Group to represent the Class. These lawyers are called Class Counsel. You will not be charged for these lawyers. The Court will determine the amount of Class Counsel's fees and expenses, which Apria will pay as part of the settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How will the lawyers be paid?**

Class Counsel will request from the Court an award of attorneys' fees and expenses and for service awards for the Class Representative. The total amount sought for attorneys' fees, costs, and expenses will come from a settlement fund which will not exceed 33% of the fund. The amount sought as a service award for the Class Representative will not exceed \$2,500. Apria will pay Class Counsel's fees and expenses and the service award from the settlement fund. Apria has agreed not to oppose the application for the service award, if made consistent with this paragraph. Apria has agreed that it may object to the amount of, but not the entitlement to, the attorneys' fees and costs and expenses made under and consistent with this paragraph. *You have the right to*

object to the requested fees and expenses and awards. Apria will also pay the costs to administer the settlement.

Class Counsel will file their papers in support of final approval of the settlement and their application for attorneys’ fees and reimbursement of expenses and for service awards to the Class Representative, by no later than **August 14, 2020**. These papers will also be posted on the settlement website, [www.noncustomercallsettlement.com](http://www.noncustomercallsettlement.com).

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don’t agree with the settlement or some part of it.

**19. How do I tell the Court if I don’t like the settlement?**

If you are a Class Member, you can object to the settlement if you don’t like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file your objection with the Court (together with any briefs, papers, statements, or other materials you want the Court to consider) and serve the objection on Class Counsel, Apria’s counsel and the Settlement Administrator at the addresses below. You must personally sign the objection and indicate that you object to the proposed settlement in *Peterson v. Apria Healthcare Group Inc.*, 6:19-cv-856-ORL-31LRH (M.D. Fla.). Your objection must include: (1) your name and address; (2) an explanation of the basis upon which you claims to be a Class Member, including the cellular telephone number(s) at which you received a non-emergency call or text message, and the dates those calls or text messages were received; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”), if any; and (5) a statement indicating whether you intend to appear at the Settlement Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules). If you or any of your Objecting Attorneys have objected to any class action settlement where you or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption. Your objection and any supporting papers must be mailed to and actually received by the Settlement Administrator at the following address no later than **September 18, 2020**:

<b>Settlement Administrator:</b>	<b>Defendant’s Counsel:</b>	<b>Class Counsel:</b>
<i>Apria Litigation</i> Settlement Administrator c/o JND Legal Administration P.O. Box 91344 Seattle, WA 98111	Attn: Sean M. Sullivan Davis Wright Tremaine LLP 865 S. Figueroa Street, Suite 2400 Los Angeles, CA 90017-2566	Attn: John A. Yanchunis and Patrick A. Barthle II Morgan & Morgan Complex Litigation Group 201 North Franklin Street, 7 <sup>th</sup> Floor Tampa, FL 33602

**20. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object, because the case no longer affects you.

**THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

**21. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Fairness Hearing at **9:00 a.m. on October 30, 2020**, at the George C. Young Federal Annex Courthouse, 401 West Central Boulevard, Orlando, Florida 32801. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Presnell will listen to people who have asked to speak at the hearing. The Court may also consider how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

**22. Do I have to come to the hearing?**

No. Class Counsel will answer any questions Judge Presnell may have. You are welcome to come at your own expense. If you send an objection, you do not have to come to Court and talk about it. As long as your written objection is received on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary. Finally, you may seek to intervene in the Action, but you do not need to do so.

**23. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear" in "*Peterson v. Apria Healthcare Group Inc.*, 6:19-cv-856-ORL-31LRH (M.D. Fla.)." Be sure to include your name, address, telephone number, that you are a Class Member, and your signature. Your Notice of Intention to Appear must be received at the addresses in Question 19, no later than **September 18, 2020**. You cannot speak at the hearing if you exclude yourself.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

If you do nothing, you will not receive a payment. If you do not exclude yourself from the Class, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Apria or the Released Parties about the legal issues in this case, ever again.



## GETTING MORE INFORMATION

### **25. Are there more details about the settlement?**

This Notice summarizes the proposed settlement. More details appear in the Settlement Agreement and Release of Claims (the “Agreement”). Copies of the Agreement and the pleadings and other documents relating to the case are on file at the United States District Court for the Middle District of Florida, Orlando Division and may be examined and copied at any time during regular office hours at the Office of the Clerk, George C. Young Federal Annex Courthouse, 401 West Central Boulevard, Orlando, Florida 32801. The Settlement Agreement and other pertinent case documents are also available at the settlement website, [www.noncustomercallsettlement.com](http://www.noncustomercallsettlement.com).

### **26. How do I get more information?**

You can visit the settlement website at [www.noncustomercallsettlement.com](http://www.noncustomercallsettlement.com), where you will find answers to common questions about the settlement, the claim form, plus other information, including a copy of the Settlement Agreement. You may also write to: *Apria Litigation* Settlement Administrator, c/o JND Legal Administration, P.O. Box 91344, Seattle, WA 98111. **You should not direct questions to the Court.**

Dated: June 17, 2020

By Order of the Court  
CLERK OF THE COURT