

SUPERIOR COURT OF THE COUNTY OF LOS ANGELES

**If you are a subscriber of Kaiser Foundation Health Plan, Inc. and you,
or your dependent, have been diagnosed with an autism spectrum
disorder, a class action lawsuit may affect your rights.**

A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.

- A subscriber of Kaiser Foundation Health Plan, Inc. and his son have sued Kaiser alleging that it improperly denies coverage of applied behavior analysis (ABA) and speech therapy for those with autism spectrum disorder (ASD).
- The Court has allowed the lawsuit to proceed as a class action on behalf of all Californians covered under Kaiser health care service plans—other than private employer or union group health plans covered by the ERISA law—who were diagnosed with ASD at any time from April 8, 2004 to the date of mailing of this notice.
- The Court has not decided whether or not Kaiser’s coverage decisions for ABA and speech therapy are proper. However, your legal rights are affected.
- The Court has ordered that all members of the class will be bound by any decision rendered in this lawsuit. No class member can exclude himself or herself from the class. This means that you do not have any rights to sue Kaiser separately for the same declaratory relief sought in this lawsuit.
- Lawyers must prove the claims against Kaiser at a trial that will be scheduled in the future. If relief is granted in favor of the Class, you will be notified of what that relief is and how it affects you.

Any questions? Read on and visit www.gilardi.com/KaiserASDLitigation

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BASIC INFORMATION

1. Why did I get this notice?

If you have been a member of a Kaiser health plan (other than one through a private employer or union covered by the ERISA law) and you, or your dependent, have been diagnosed with ASD, this notice explains that the Court has determined that this lawsuit may proceed as a class action. If you are within the class, you have legal rights and options you may exercise before the Court holds a trial. The trial is to decide whether the claims against Kaiser, on behalf of the class, are correct. Judge Elihu M. Berle of the Los Angeles County Superior Court is overseeing this lawsuit. The lawsuit is known as *Arce v. Kaiser Foundation Health Plan, Inc.*, Los Angeles County Superior Court Case No. BC 388689. It is part of a coordinated proceeding known as the *Kaiser ASD Cases*, Judicial Council Coordination Proceeding No. 4585.

2. What is this lawsuit about?

This lawsuit is about whether Kaiser's coverage decisions respecting ABA and speech therapy for those with ASD violate the terms of Kaiser's contracts and California's Mental Health Parity Act.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people, called the "Class Representative" (in this case, Guillermo Arce), sue on behalf of other people who allegedly have a similar claim. The people together are a "Class" or "Class Members." Mr. Arce—and all the Class Members like him—are called the "Plaintiffs." The company they sued (in this case, Kaiser) is called the "Defendant." One court resolves the issues for everyone in the Class.

THE CLAIMS IN THE LAWSUIT

4. What does the lawsuit complain about?

In the lawsuit, the Plaintiffs say that Kaiser denies coverage for ABA and speech therapy for those with ASD in breach of promises made in Kaiser's contracts and in violation of the Mental Health Parity Act. Plaintiffs say that Kaiser improperly denies coverage for ABA on the basis it is not a "health care service" or is "educational" and that ABA is provided by "non-licensed" personnel. Plaintiffs also say that Kaiser refuses to provide speech therapy to those with ASD unless there is a physical problem that interferes with normal speech. You can read Plaintiffs' Class Action Complaint at www.gilardi.com/KaiserASDLitigation.

5. How does Kaiser answer?

Kaiser denies that it has done anything wrong. Kaiser says that as a health care services plan, it is only required to cover health care services. Kaiser says that services such as applied behavioral analysis (ABA) often address educational or social needs, not health care needs. Kaiser says ABA is typically provided by workers who are not licensed health care providers, and the California Department of Managed Health Care only requires health care service plans to cover the services of licensed health care workers. Kaiser also says that some forms of speech therapy address social, grammar or language issues that are not health care. For these reasons, Kaiser has denied coverage for certain requests to cover ABA or speech therapy.

6. Has the Court decided who is right?

The Court has not decided whether Kaiser's or the Plaintiffs' positions on ABA and speech therapy are right or wrong. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs or Kaiser will win or lose this case. The Plaintiffs must prove their claims at a trial. (See "The Trial" section below on page 4.)

7. What are the Plaintiffs asking for?

The Plaintiffs, on behalf of the Class, are asking for a declaration by the Court that, under Kaiser's contracts and the Mental Health Parity Act, ABA is a health care service and can be provided by qualified personnel that need not be "licensed." Plaintiffs are also asking the Court to declare that speech therapy for those with ASD does not require a physical impairment. No money damages or injunctive relief is sought on behalf of the Class members.

WHO IS IN THE CLASS?

You need to decide whether you are affected by this lawsuit.

8. Am I part of the Class?

The Court has decided that the members of the Class are: All California residents covered as subscribers under Kaiser Foundation Health Plan, Inc.'s non-ERISA health care plans who have been diagnosed, or whose dependents have been diagnosed, with an autism spectrum disorder at any time from April 8, 2004 to the date of the mailing of the class notice in this action. An ERISA health care service plan, generally, is an employee welfare benefit plan purchased by a private employer or union (non-governmental and non-church).

YOUR RIGHTS

9. What happens next?

If you are a member of the class, you will be bound by any judgment, decision, or final disposition rendered in this lawsuit, whether it is favorable to the Plaintiffs and the Class or not. You will not have any obligation to pay legal fees or costs of the lawsuit under any circumstances. As stated above, this lawsuit only seeks declaratory relief and does not seek any money damages or injunctive relief. You are not precluded from bringing other claims or seeking other remedies, but the statute of limitations, which can bar legal claims unless they are filed within a certain period of time, may affect your right to do so. You may choose to get your own lawyer to intervene, but at your own expense. Any request to intervene must be filed with the Court.

Kaiser will not disclose your name or other identifying information to the named Plaintiffs, their counsel, or any other persons, except that Kaiser will disclose your name to the court-appointed class administrator, Gilardi & Co. LLC, for the purpose of mailing the notice of the class action to class members. Your name, identifying information, or medical information will not be disclosed without your prior written authorization. The Court will take steps to ensure that your name, identifying information, and medical information will not be subject to disclosure under any circumstances in any public proceeding or public filing without such authorization.

THE LAWYERS REPRESENTING THE CLASS

10. Do I have a lawyer in this case?

The Court appointed the following attorneys as Class Counsel: (1) Robert S. Gianelli of Gianelli & Morris; and (2) Scott C. Glovsky of the Law Offices of Scott C. Glovsky. Their contact information is as follows:

Robert S. Gianelli
Gianelli & Morris
888 West Sixth St., Ninth Floor
Los Angeles, CA 90017
Tel: (213) 489-1600
Fax: (213) 489-1611

Scott C. Glovsky
Law Offices of Scott C. Glovsky
100 East Corson St., Suite 200
Pasadena, CA 91103
Tel: (626) 243-5598
Fax: (866) 243-2243

11. How will the lawyers be paid?

If Class Counsel obtains a declaratory judgment for the Class, they may ask the Court for fees and expenses. You will not have to pay these fees and expenses. If the Court grants Class Counsel's request, the fees would be paid separately by Kaiser.

THE TRIAL

12. How and when will the Court decide who is right?

As long as the lawsuit is not resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at a trial. The Court has set the trial date for October 15, 2012. During the trial, the Court and jury will hear all of the evidence in order to reach a decision about whether the Plaintiffs or Kaiser are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win.

13. Do I have to come to trial?

You do not have to attend the trial. Class Counsel will present the case for the Class and Kaiser will present its defenses. You or your lawyer, if you have retained separate counsel, are welcome to come at your own expense.

GETTING MORE INFORMATION

14. Are more details available?

You may review all of the public records of the case, including the class certification order and the operative complaint, at Department 323 of the Los Angeles Superior Court, Central Civil West courthouse located at 600 S. Commonwealth Ave., Los Angeles, California 90005, Monday through Friday between the hours of 9:00 a.m. and 4:30 p.m.

If you still have questions about this notice or this lawsuit, you may contact the Class Administrator, Gilardi & Co. LLC, by electronic mail at KaiserASDLitigation@classactmail.com or by linking from the website, www.gilardi.com/KaiserASDLitigation, or by telephone (toll free) at (877) 264-8384. Please do not write or call the Court or the Clerk of the Court.

Dated: January 31, 2012

Honorable Elihu M. Berle
Judge of the Superior Court