

Demutualization

Frequently Asked Questions

What is a class proceeding?

A class proceeding is a lawsuit which provides a means for a large group of people with common claims to join together to advance one large claim. Class proceedings are a more efficient and cost-effective way for groups of people with common legal issues to gain access to the legal system and seek justice.

What does certification mean?

In order for a proceeding (in this case, an application to the court) to proceed as a class proceeding, the court must determine whether it is appropriate for the case to be treated as a class proceeding. Some of the factors the courts consider are the extent to which the claims of the class members are common, and whether a class action is preferable to other methods (such as individual actions) of advancing the issues. The decision as to whether a class application should be certified takes place at a certification hearing and is decided by a judge. In this case, the class members are respondents to the application brought by the Ontario Hospitals' Association ("OHA"). If certified, representative respondents will be appointed by the court to represent the interests of all class members in the proceeding.

What is this class proceeding about?

In 1999, the Mutual Life Assurance Company went through a process called demutualization. This means that it converted its ownership structure from a structure by which policy-holders owned it, to a share capital corporation. In this process, eligible policy-holders exchanged their participating policy for shares in the newly demutualized corporation and cash.

At the time of demutualization, the OHA held group insurance policies on behalf of employees of the OHA's participating member employers. The employee beneficiaries of these policies included non-unionized employees and members of the following unions: the Ontario Nurses' Association ("ONA"), the Ontario Public Service Employees' Union ("OPSEU"), the Canadian Union of Public Employees ("CUPE"), the Ontario Council of Hospital Unions ("OCHU"), the Service Employees' International Union ("SEIU"), and the National Automobile Aerospace Transportation and General Workers Union of Canada ("CAW Canada") (the "Unions").

When Mutual Life demutualized, the OHA was allocated shares which it elected to take in cash. The OHA invested the cash (the "proceeds") while it determined how the proceeds should be appropriately distributed. The OHA took the position that, on behalf of its employer members, it owned the proceeds from demutualization. The Unions and non-unionized employees took the position that the proceeds should go to the employees who

were the beneficiaries under the relevant Mutual Life policies. The Settlement, described below, resolves this dispute.

How do I know if I am a Class Member?

You are a Class Member if you are a current or former employee of a participating employer and you were employed at a participating employer and covered under the OHA's long-term disability policy on December 29, 1997. **Please note that Class counsel is unable to confirm the status of any particular person as a Class member, as we do not have a list of included members. If you are unsure about your status, we urge you to check your own records, and you may wish to contact your employer or former employer to determine your dates of employment and whether you paid a share of your insurance premiums.**

Can I opt-out of the proceeding and what happens if I do?

Yes. If the Class is certified, Class Members are always given an opportunity to opt out of the proceeding. A deadline is imposed for opting out. We will advise you of this deadline on this website and by notices to Class Members on the OHA, union, and participating employer websites once the court has determined whether this Class should be certified. If you do not opt out by the given deadline, you will be bound by the outcome of the class application and any settlement that is approved by the court.

If you decide to opt out of the proceeding, you will not be a part of the Class and you will not receive any benefit under the proposed Settlement outlined below. You will also not be bound by the Settlement and you may retain your own legal counsel and pursue an individual claim against the Ontario Hospital Association.

How many Class Members are there?

We do not know the precise number of Class Members. At the time of demutualization (December 29, 1997), there were approximately 41,000 individuals who would have qualified to be in the class.

How did the proposed settlement come about?

The Settlement was the result of negotiations among the Ontario Hospital Association on behalf of its members, the Unions, and individual non-unionized employees plus class counsel on behalf of the unionized and non-unionized employees.

What are the terms of the proposed Settlement?

The OHA originally received \$16,962,643 from Mutual Life upon demutualization. That amount was invested and as of April 2010 totals approximately \$22,500,000 (the "Proceeds").

I. Premium Holiday

The terms of the Settlement are that \$17,200,000 will be distributed to participating employers. Each employer will use the money to provide a premium holiday under its LTD policy for both itself and its employees in proportion to the premiums that the employer and employees each pay under the policy. We do not know the length of the premium holiday at each employer because it depends on the amount of the premiums under that particular policy.

In order to qualify for the premium holiday as an employee, you must:

- a. be actively employed with an employer on the attached Schedule A as of the date the proceeds (the \$17.2M) are distributed;
- b. pay a share of premiums under the applicable LTD policy as of the dates the proceeds are distributed; and
- c. have participated in the OHA LTD policy on December 29, 1997 with the same employer.

II. Contingency Fund

If you are a Class Member but not entitled to receive the premium holiday, you may apply for a payment of approximately \$100.00 from the Contingency Fund. Please note that this amount could be reduced depending on the number of claimants and also depending on the legal fees and other expenses incurred in this matter (see below under “Legal Fees and Other Expenses”). In order to be entitled to the cash payment, you will need to provide proof that you participated in the OHA’s LTD policy on December 29, 1997. Proof of that participation must consist of:

- a. a statement of earnings;
- b. a T-4;
- c. an approved LTD claim;
- d. a pay cheque stub;
- e. a letter from the participating employer confirming that you were a full-time employee at the relevant time; or
- f. other satisfactory documentary evidence of full-time employment with a participating employer on December 29, 1997.

If the Settlement Agreement is approved by the court, class counsel will be posting a notice with details of a claims process which tells you where you should submit this information. These details will be posted on this website, as well as on the websites of the Unions, the OHA and the participating employers.

III. Any Remaining Funds

Depending on how many cash claimants there are, there may be no surplus funds after all eligible class members receive their payment. However, if there are any funds left over in the Contingency Fund/Cash Recipients' Fund after all valid claims have been made against it, the remainder will be distributed as follows:

- a. 50% to the OHA
- b. 50% will be used to provide premium holidays for employees of participating employers who, as of the date of this premium holiday:
 1. 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);
 2. pay a share of premiums under the LTD policy currently sponsored by the OHA (OHA Benefit Plans); and
 3. participated in the LTD Policy as of December 29, 1997 that Mutual Life issued to the OHA at the time.

IV. Legal Fees and Other Expenses

The legal fees and other costs related to this application are to be paid from the Contingency Fund before payment is made to claimants. None of the fees of legal counsel involved in this proceeding will be based on a contingency fee arrangement.

In terms of the financial consequences to you, the anticipated amount of the cash payment (\$100) to contingency fund claimants could be reduced by legal fees or other expenses incurred in advancing this matter.

When will the premium holiday be implemented?

It is hoped that the premium holiday will be implemented by early 2011. However, this is subject to certain contingencies such as Court approval and whether or not any of the Class Members contest the settlement. At this time, all parties involved in the court proceeding are consenting to the terms of the Settlement and we do not anticipate that the Settlement will be contested.

Can I receive my settlement in cash instead of the premium holiday?

No. If the settlement proposal is accepted by the Court and you do not opt out of the Class, and you are eligible for a premium holiday (see the criteria above), then you must receive your settlement by way of premium holiday only, and not by a cash payment.

What do I do if I don't agree with the proposed Settlement?

The Settlement is still subject to court approval. As long as you are a Class Member, you are entitled to object to the Settlement at the court approval hearing. If you intend to object, it would be helpful to send written materials outlining your objection to Class Counsel prior to the court hearing.

Who are Class Counsel and how can I contact them?

The unionized employees in this proceeding are represented by the law firm Cavalluzzo Hayes Shilton McIntyre and Cornish LLP. If you are a unionized Class Member and have any questions of concerns you can direct your inquiries to:

Melissa O'Connor
moconnor@cavalluzzo.com
1-877-398-5711

Cavalluzzo Hayes Shilton McIntyre & Cornish LLP
474 Bathurst Street, Suite 300
Toronto, Ontario
M5T 2S6

The non-unionized employees are represented by the law firm of Koskie Minsky LLP. If you are a non-unionized Class Member and have any questions of concerns you can direct your inquiries to:

Koskie Minsky LLP
Barristers & Solicitors
ohaiclassproceeding@kmlaw.ca
1 (866) 777-6341

P.O Box 52
20 Queen St West, Suite 900
Toronto, On, M5H 3R3