

NOTICE OF CERTIFICATION and PROPOSED SETTLEMENT OF CLASS PROCEEDING

Re: *Charlotte Perrenoud and Rajesh Bedi v. eHealth Ontario and Her Majesty The Queen In Right of Ontario as represented by the Minister of Health And Long-Term Care (Court File No.: CV-11-439656-00CP)*

This Notice was approved by the Superior Court of Justice. You are receiving this Notice because your rights may be affected by the certification of the Action as a Class Proceeding and by the Proposed Settlement described below.

The proposed settlement is without admission of liability by eHealth Ontario or the Crown and there has been no finding of liability by the court.

Summary of Certification and Proposed Settlement

- This action has been certified as a Class Proceeding on behalf of the following Class:

Part A Members

All past and current full time regular eHealth Ontario employees, and employees on a contract for a term of more than one year, for whom eHealth Ontario completed a Compensation Details Statement in respect of the 2010-2011 fiscal year; or,

Part B Class Members

All eHealth Ontario employees¹ who received a performance management rating of '2' or greater, or the equivalent rating of 'Developing' or higher, pursuant to the Performance Incentive Policy (the "Policy") for 2011-2012 fiscal year, and who were actively employed on March 31, 2012; or,

Part C Class Members

All eHealth Ontario employees² who received a performance management rating of '2' or greater, pursuant to the Policy, or the equivalent rating of 'Developing' or higher for 2011-2012 fiscal year, and who were not actively employed on March 31, 2012 by reason only of the exceptions listed at section 3.7 of the Policy namely, retirement, disability or death.

¹ As per the Policy, this means a full time regular eHealth Ontario employee, or employee on a contract for a term of more than one year, who started employment on or before December 31 of the plan year

² See footnote 1

- **You are a Class Member if you meet the definition of the Class set out above.**
- If you meet the definition of a Class Member as set out above, your rights **will be** affected by this action **and it is important that you read this notice carefully to fully understand your options.** Each Class Member **who does not opt out** of the Class Action **will be bound** by the terms of any Judgment or Settlement, whether favourable or not, in respect of the Class Action.
- For more detailed information on the certification order and the opt out procedure, please see below under '**Part I: Certification Order and Opt Out Procedure**'.

Summary of Proposed Settlement

- The representative plaintiffs, Charlotte Perrenoud and Raj Bedi, and the defendant eHealth have agreed to a Proposed Settlement of this action as follows:

eHealth Ontario will pay:

- *To the Part A Class Members, the performance incentive awards set out in the Compensation Details Statements for the fiscal year 2010-2011.*
- *To the Part B Class Members, 50% of the Performance Incentive Awards based on: (i) the performance management ratings that were determined by eHealth Ontario for the 2011-2012 fiscal year; (ii) the budget established for such awards; and (iii) eHealth Ontario's good faith calculation of the specific amounts for each employee.*
- *To the Part C Class Members, 50% of the pro-rated Performance Incentive Awards based on: (i) the performance management ratings that were determined by eHealth Ontario for the 2011-2012 fiscal year; (ii) the budget established for such awards; and (iii) eHealth Ontario's good faith calculation of the specific amounts for each employee.*

Such payments to be subject to the Class Counsel fees of 30% and HST if approved by the court, and required withholding deductions on the employment awards as applicable.

- Payment of claims will be made only if the Court approves the Proposed Settlement and after all appeal rights have expired. The Court will hold a hearing on **March 28, 2013** to consider the Proposed Settlement.

- For more information on the Proposed Settlement, including your right to participate in the settlement approval process, see below under **Part II: Proposed Settlement**.

PART I: Certification Order and Opt Out Procedure

Nature of the Claim

On November 16, 2011, Charlotte Perrenoud and Rajesh Bedi (the "**Representative Plaintiffs**") commenced the following action in the Superior Court of Justice: *Perrenoud and Bedi v. eHealth Ontario and Her Majesty The Queen In Right of Ontario as represented by the Minister of Health And Long-Term Care* (Court File No.: CV-11-439656-00CP) (the "**Action**").

The Representative Plaintiffs brought the Action on their own behalf and on behalf of a class of employees as described above. The Action sought payment for the 2010/2011 Performance Incentive Award and related damages as well as compensation for merit increases that were to be effective April 1, 2011. In August 2012, the Representative Plaintiffs amended the Action to seek additional damages relating to the Performance Incentive Awards for the 2011/2012 fiscal year, although only Performance Management ratings were prepared, and no compensation details statements were provided to employees for 2011/2012.

By reasons dated November 26, 2012, the Honourable Mr. Justice Perell of the Superior Court of Justice found that the Action, including the claim for 2011/2012, should be certified as a Class Proceeding as against the defendant eHealth Ontario. The action against the defendant the Minister of Health and Long-Term Care was dismissed.

On January 28, 2013, the Superior Court of Justice issued an Order (the "**Certification Order**") certifying the Action as a class proceeding (the "**Class Action**") on behalf of Class described above.

The Certification Order appointed Charlotte Perrenoud and Rajesh Bedi as the representative plaintiffs and appointed Shibley Righton LLP ("**Shibley Righton**") as the lawyers for the Class ("**Class Counsel**").

Class Counsel

The terms of Shibley Righton's retainer are set out in a retainer agreement (the "**Retainer Agreement**") entered into on July 15, 2011 between the Representative Plaintiffs and Shibley Righton.

The Retainer Agreement provides that Shibley Righton will not receive payment for their work unless the Class Action is successful. The Retainer Agreement, which must be approved by the Court to be effective, provides for a contingency fee of 30% of the amount recovered in the Class Action to be paid to Class Counsel.

The costs of litigating the action, including all disbursements (out of pocket expenses such as retaining experts, conducting examinations, ordering transcripts, cost of research, photocopying, and court filing fees), will and have been be paid for by Shibley Righton which will be reimbursed by eHealth Ontario as may be directed by the Court.

No Cost to Plaintiff Class Members

No member of the Class will be responsible for paying the legal costs of the Defendants if the action were unsuccessful.

If the action is not successful, the members of the Plaintiff Class will not be responsible for any legal costs nor will they have any other financial obligations. **Shibley Righton is solely responsible for incurring those costs and risks.**

CLASS MEMBERS WHO DO NOT WISH TO PARTICIPATE IN THE CLASS ACTION MUST OPT OUT

The members of the Class, as defined above, who do not opt out **will be** bound by any judgment in the action, including the Proposed Settlement described below, if approved by the court. **This means that, after this Class Action is completed, you cannot start your own action for any of the relief sought in the Action.**

If you opt out you will not be included in the Proposed Settlement described below and will not receive payment. You will have to pursue your own action independently.

If you opt out of the Action please take note of section 28 of the *Class Proceedings Act* (Ontario) and consult your own lawyer in regard to applicable limitation periods.

If you wish to opt out of the Class Action, you must complete and sign the Opt Out Election Form attached hereto (also available at: www.shibleyrighton.com/class_action), and deliver it on or before March 1, 2013 at 5:00 p.m. EST to Shibley Righton LLP at the following address:

eHealth Ontario Class Action
Shibley Righton LLP
250 University Ave., Suite 700
Toronto, ON M5H 3E5

Or by fax to: **(416) 214-5400**

No Plaintiff Class member will be permitted to opt out after **March 1, 2013**.

PART II: THE PROPOSED SETTLEMENT

The proposed settlement is set out on pages 1 and 2 of this notice.

The Representative Plaintiffs and plaintiffs' Class Counsel recommend the settlement.

The proposed settlement is without admission of liability by eHealth Ontario or the Crown and there has been no finding of liability by the court.

All aspects of any proposed settlement in a class action proceeding are always subject to court approval. The Court must be satisfied that the settlement is fair, reasonable and in the best interest of Class Members.

The settlement approval hearing will take place on **March 28, 2013**. Please note that the approval hearing may be postponed to a different date without direct additional notice. In the event the settlement approval hearing has to be rescheduled updated information will be posted at the Class Counsel Website: [www.shibleyrighton.com/Class Action](http://www.shibleyrighton.com/Class_Action).

At the approval hearing on March 28, 2013 Class Counsel will seek an order approving their fees in accordance with their retainer agreement with the Representative Plaintiffs.

Effect of Approved Settlement

If approved by the Court, the Proposed Settlement will be final and binding on all Class Members who do not opt out. It will finally resolve all causes of action set out in the Action, including all claims for the 2010/2011 and 2011/2012 Performance Incentive Awards, merit increase effective April 1, 2011, and punitive damages.

If the Proposed Settlement is approved, all Class Members who do not opt out of the settlement shall be deemed to release the Crown and eHealth Ontario including their predecessors, successors, assigns, agents, past and current employees, directors and officers, past and current Ministers or Members of the Legislative Assembly from all actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts claims and demands whatsoever that were asserted in the action, or could have been asserted, including, but not limited to, the claim for the merit increase and claim for punitive damages.

If approved the Proposed Settlement will resolve all claims between the Representative Plaintiffs and the Class and the defendants.

Speaking at the Approval Hearing

If you are a Class Member that does not opt out, you have the right to speak to the Proposed Settlement at the settlement approval hearing and/or provide comments in writing prior to the settlement approval hearing. However, you do not need to make any submissions or attend the

hearing in order to be part of the Class if you otherwise qualify or in order to obtain settlement funds if you qualify.

If you want to speak at the approval hearing, or have your personal lawyer speak at the approval hearing, you should provide notice in writing to Class Counsel of your intention to appear at the approval hearing on or before **March 15, 2013**. If you intend to have a lawyer speak at the approval hearing on your behalf the notice should indicate the name, address, telephone number, fax number and email address of your lawyer.

Any appearance- personally or through your personal lawyer- will be at your own expense.

If Proposed Settlement Not Approved

If the Proposed Settlement is not approved, the action will continue as a class proceeding as if no settlement had been reached.

How to Obtain More Information

If you have any questions about the action or this Notice, you may:

- Visit the Class Counsel's website at: www.shibleyrighton.com/Class_Action
- Email class counsel at: ehhealthclass@shibleyrighton.com
- Write to Class Counsel at:

Shibley Righton LLP
250 University Ave., Suite 700
Toronto, ON, M5H 3E5

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

RAJESH BEDI and CHARLOTTE PERRENOUD

Plaintiffs

- and -

**EHEALTH ONTARIO
and HER MAJESTY THE QUEEN in right of Ontario
as represented by the MINISTER OF HEALTH AND LONG-TERM CARE**
Defendants

Proceedings under the
Class Proceedings Act, 1992, S.O. 1992, c. 6, as am.

OPT OUT ELECTION FORM

I, _____ (print name), a current/former eHealth Ontario employee,
(circle one) understand that if I complete this form:

- I will not be able to participate in the eHealth class action as described in the Notice of Certification and Proposed Settlement and will not receive a portion of any judgment, settlement or other benefit from the eHealth class action;
- If I want to pursue a legal claim against any of the defendants in the eHealth class action, I will need to start and pursue my own claim at my own expense.

I hereby request to be excluded from the Member Class as set out in the Notice of Certification in this proceeding.

Date: _____ Signature: _____

To be effective, this form **MUST** be received by Class Counsel by 5:00 p.m. on March 1, 2013.

The form may be sent by mail, fax or email as follows:

eHealth Class Action
Shibley Righton LLP
250 University Ave., Suite 700
Toronto, ON M5H 3E5

fax to: (416) 214-5400
email: ehhealthclass@shibleyrighton.com