

**If You Bought or Provided Reimbursement for the Fentanyl Drug Subsys®  
From January 1, 2013, Through December 31, 2016  
You Could Get Money from a Bankruptcy Plan Setting Aside Funds  
to Satisfy Third Party Payor (TPP) Class Claims**

*This Notice was authorized by the Bankruptcy Plan described below. This is not a solicitation from a lawyer.*

- A United States bankruptcy court has approved the Chapter 11 Plan (the Plan) of Insys Therapeutics, Inc. (Insys). The Plan allocates funds from the bankruptcy estate to satisfy the claims of a class of third party payors (“TPPs”) and others concerning their purchases of Subsys®.
- Insys is accused of fraudulently marketing Subsys®, a potent and highly addictive opioid medication, causing TPPs to pay for more Subsys® than they otherwise would have paid.
- You may be able to recover money from the bankruptcy fund created by the Plan if you are a health insurer, employer-provided health care plan (including third party administrator acting on behalf of such a plan), or a union health and welfare fund that purchased, paid for, and/or reimbursed some or all of the purchase price for Subsys® from January 1, 2013 through December 31, 2016, for your members, employees, insureds, participants, patients, beneficiaries, or anyone else.
- A class proof of claim was filed on behalf of TPPs (the “TPP Class”) that will cover TPP’s that have not filed their own proof of claim.
- You are not included in the TPP Class if you have already separately filed a proof of claim in the bankruptcy matter entitled *In Re INSYS THERAPEUTICS, INC., et. al.*, Case No. 19-11292 (KG), pending in the United States Bankruptcy Court for the District of Delaware.

A Summary of Your Rights and Choices:

*Your Legal Rights Are Affected Even If You Do Not Act.*

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>		
File a Claim Electronically	This is the only way to receive money from the bankruptcy Plan.	Due May 18, 2020
Object to the Proposed Allocation	If you file a claim and do not agree with the amount of funds you will receive from the <i>pro-rata</i> distribution, you may write to the Court explaining why you don’t agree with the calculation.	To be determined
Go to the Hearing on the Motion to Approve the Calculated <i>Pro-Rata</i> Distribution of Funds	Once the Insys Liquidating Trustee files a motion for the Court to approve the calculated <i>pro-rata</i> distribution of funds among TPPs who have filed claims, you may ask to speak in Court about your opinion of the proposed allocation.	To be determined
Do Nothing	If you do nothing, you will NOT get a payment from the bankruptcy proceedings. Because of the bankruptcy, you no longer have a right to sue the Debtors about the claims related to their fraudulent marketing of Subsys®.	

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

## BASIC INFORMATION

### 1. Why Did I Get This Notice?

You have a right to know about the provisions of the Second Amended Joint Chapter 11 Plan of Reorganization of Insys Therapeutics, Inc. (the “Plan”) and your right to file a claim for compensation under the Plan. This Notice explains the provisions of the Plan that may affect your legal rights.

The Plan creates a fund to satisfy the TPP Class proof of claim filed on behalf of the TPP Class concerning their purchases of Subsys®. The total amount available in this fund is dependent on the ability to liquidate and collect on the Debtors’ unliquidated assets. The same fund will also be used to satisfy the claims of TPPs who are not part of the TPP Class (because they have separately filed their own individual proofs of claim) and insurance ratepayers. The Plan appoints a Claims Arbiter to determine how much of the fund will be used to satisfy the claims of TPPs and how much will be used to satisfy the claims of insurance ratepayers. After determining the total amount allocated to all TPP claims, the Insys Liquidating Trustee, also appointed under the Plan, will calculate the *pro-rata* distribution of funds to each TPP based on the electronic claim form and supporting data submitted by each TPP. All fees, costs, and expenses incurred in connection with establishing, noticing, and administering TPP Class claims shall be deducted from the funds earmarked for TPP Class claims prior to distribution to TPP Class members. After these deductions, the remainder of the fund will be distributed *pro rata* to TPPs who filed a valid timely claim form with adequate supporting data. The amount of money each TPP receives will depend on how much of the fund is allocated to TPPs and how much each TPP paid for Subsys® from January 1, 2013 through December 31, 2016, compared to the amount paid by all other TPPs who file valid and timely claims.

### 2. What Is A Class Claim?

In class action litigation, one or more people called “class representatives” sue on behalf of a group or a “class” of people who have similar claims. Normally in a class action, the court resolves the issues for all class members. In the context of this Chapter 11 bankruptcy proceeding, the class representative filed a class proof of claim in the bankruptcy on behalf of itself and all other similarly situated third party payors. By agreement of the Debtors, the Unsecured Creditor’s Committee and representatives of each group, including the TPP Class, the TPP Class proof of claim, along with the those of non-class TPPs who filed individual proofs of claim as well as the claims of a class of insurance ratepayers, are classified together under the Plan as Class 5 claims. Each of these claims are subject to the decision of a Court-approved Claims Arbiter who will determine how much of the funds collected to satisfy Class 5 claims under the Plan are allocated to TPPs and how much is allocated to insurance ratepayers.

### 3. What Is This Claim About?

The TPP Class proof of claim alleges that Insys Therapeutics, Inc., IC Operations, LLC, Insys Development Company, Inc., Insys Manufacturing, LLC, Insys Pharma, Inc., IPSC, LLC and IPT 355 LLC (the “Debtors”) fraudulently marketed Subsys®, a potent and highly addictive opioid medication, causing TPPs to pay for more Subsys® than they otherwise would have paid in the absence of such marketing.

On June 10, 2019, each of the Debtors commenced with the United States Bankruptcy Court for the District of Delaware (the “Court”) a voluntary case under chapter 11 of title 11 of the United States Code. On January 16, 2020, the Court entered a Confirmation Order, confirming the Plan. The Plan includes certain provisions for creation of a fund to satisfy the claims of TPPs and others related to the Debtor’s fraudulent marketing of Subsys®.

## WHO IS INCLUDED IN THE TPP CLASS?

### 4. How Do I Know If I Am A Member Of The TPP Class?

The TPP Class includes:

- Health insurers, employer-provided health care plans (including third party administrators acting on behalf of such plans), and union health and welfare funds that purchased, paid for, and/or reimbursed some or all of the purchase price for Subsys®;

- From January 1, 2013 through December 31, 2016;
- For their members, employees, insureds, participants, patients, beneficiaries, or anyone else.

The TPP Class does **not** include:

- TPPs who have already separately filed a proof of claim in the bankruptcy matter entitled *In Re INSYS THERAPEUTICS, INC., et. al.*, Case No. 19-11292 (KG), pending in the United States Bankruptcy Court for the District of Delaware.

Additional information can be found at [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com).

## **5. What If I Am Still Not Sure If I Am Included In The TPP Class?**

If you are still not sure whether you are included, you can get more information at [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com), or get help by contacting The TPP Class Representative or the Insys Liquidating Trustee (ILT), or their designees, using the contact information listed in Question 11.

## **THE BENEFITS OF THE PLAN**

### **6. What Benefit Does The Plan Provide To TPP Class Members?**

The Plan includes certain provisions for creation of a fund to satisfy the claims of TPPs and others related to the Debtors' fraudulent marketing of Subsys®. The total amount available in the fund is dependent on the ability to liquidate and collect on the Debtors' unliquidated assets. The same fund will also be used to satisfy the claims of TPPs who are not part of the TPP Class (because they have separately filed their own proof of claim in the bankruptcy proceedings) as well as insurance ratepayers. The Plan appoints a Claims Arbiter to determine how much of these funds will be used to satisfy the claims of TPPs and how much will be used to satisfy the claims of insurance ratepayers. After determining the total amount allocated to all TPP claims, the Insys Liquidating Trustee, also appointed under the Plan, will calculate a *pro-rata* distribution of funds to each TPP based on the electronic claim form and supporting data submitted by each TPP. All fees, costs, and expenses incurred in connection with establishing, noticing, and administering TPP claims shall be deducted from the funds earmarked for TPP claims prior to distribution to TPPs. After these deductions, the remainder of the fund will be distributed *pro rata* to TPPs who filed a valid timely claim form with adequate supporting data.

### **7. How Much Will My Payment Be?**

The amount of money each TPP receives will depend on how much the Liquidated Trustee is able to recover and how much of the funds are allocated to TPPs and how much each TPP paid for Subsys from January 1, 2013 through December 31, 2016, compared to the amount paid by all other TPPs who file valid and timely claims. Please note that the Court has the authority to modify the calculated *pro-rata* distribution of funds as part of the approval process, so the calculation of your claim might change.

## **HOW TO GET A PAYMENT**

### **8. What Do I Need To Do To Get A Payment?**

To be eligible to receive a payment, you must complete and submit an electronic claim and electronically upload adequate supporting data by **MAY 18, 2020**. The requirements for submission of a claim, including the fields and format of the data necessary to support your claim can be found at [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com).

### **9. What Happens If I Do Nothing?**

If you do nothing, you won't get any money from the bankruptcy funds. Filing a claim is the only way to obtain compensation for claims related to the Debtors' fraudulent marketing of Subsys®. Because the Debtors have initiated Chapter 11 proceedings, you can't start a lawsuit or be part of any other lawsuit against the Debtors for the claims involving the fraudulent marketing of Subsys.

## OBJECTING TO THE ALLOCATION

### 10. May I Object To The Calculated *Pro-Rata* Distribution Amount?

Yes. If you are a member of the TPP Class, you may object to the calculated *pro-rata* distribution amount. Within 5 days of calculation of the *pro-rata* allocation to all TPPs, including members of the TPP Class, the Insys Liquidating Trustee will make available to each TPP the calculated percentage allocation and the amount of its calculated individual share. Within 25 days of completion of the allocation calculation, the Liquidating Trustee will file a motion for approval of the calculated *pro-rata* distribution amounts with the Bankruptcy Court. You may file an objection to the motion and be heard by the Bankruptcy Court concerning that motion. The Court will hold a hearing on the motion and enter an order either approving or modifying the calculation. The date for determining the proposed calculation and for the approval hearing have not been set. Notice of the filing of the approval motion with the Bankruptcy Court, and of the date of any hearing on that motion, will be posted on-line, so check the website [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com) for details regularly.

### 11. How Do I Object To The Calculation?

To object to your calculated *pro-rata* share, you (or your lawyer if you have one) must file a written objection with the Court and send the objection to the Liquidating Trustee and counsel identified below. Your written objection can include any supporting materials, papers, or briefs that you want the Court to consider. Your written objection must include:

- Your name, address, telephone number, and an explanation of your objection;
- The case name and number: *In Re INSYS THERAPEUTICS, INC., et. al.*, Case No. 19-11292 (KG); and

You must file your objection with the Court (address immediately below) and mail copies to the Liquidating Trustee and counsels' addresses below so that they are received prior to the scheduled hearing. The date for determining the proposed allocation and for the approval hearing have not been set. Notice of the filing of the approval motion with the Bankruptcy Court, and of the date of the approval hearing on that motion, will be posted on-line so check the website [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com) regularly.

Court	Counsel for the Insys Liquidated Trustee	Counsel for TPP Class Representatives
Clerk of the Court United States Bankruptcy Court for the District of Delaware 824 Market Street North, 3 <sup>rd</sup> Floor Wilmington, DE 19801	Alan D. Halperin Halperin Battaglia Benzija, LLP 40 Wall Street – 8 <sup>th</sup> Floor New York, NY 10005	Lauren Barnes, Esq. Hagens Berman Sobol Shapiro LLP 55 Cambridge Parkway, Suite 301 Cambridge, MA 02142

Any lawyer representing a member of the TPP Class for the purpose of making objections must also file a Notice of Appearance with the Court and mail the Notice to Counsel listed above.

## The Approval Hearing

### 12. When And Where Will The Court Decide Whether To Approve The *Pro-Rata* Calculation?

Within 25 days of completion of the *pro-rata* calculation, the Liquidating Trustee will file a motion for approval of the proposed amounts with the Bankruptcy Court. The Court will hold a hearing on the motion and enter an order either approving or modifying the calculation. The date for determining the *pro-rata* calculation and for the approval hearing have not been set. Notice of the filing of the approval motion with the Bankruptcy Court, and of the date of any hearing on that motion, will be posted on-line, so check the website [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com) regularly.

The purpose of the approval hearing is to:

- Decide if the Bankruptcy Court should approve or modify the *pro-rata* calculation;
- Consider objections to the allocation motion, if any; and
- Consider any other issues that the Bankruptcy Court thinks are necessary.

### **13. Must I Attend The Approval Hearing?**

No. Attendance is not required. Class Members who filed and served written objections may (but do not have to) appear at the approval hearing, in person or through an attorney hired at their own expense.

### **14. Can I Attend The Approval Hearing?**

Yes, anyone can attend the approval hearing and watch. If you want to appear at the approval hearing and object, in person or through an attorney hired at your own expense, you need to file a Notice of Intent to Appear with the Court, as well as mail the Notice of Intent to Appear to the addresses listed in Question 11. The Notice of Intent to Appear must contain the following information:

- The name, address, and telephone number of the TPP Class member and, if applicable, the name, address, and telephone number of the TPP Class member's attorney (who must file a Notice of Appearance); and
- The objection, including any supporting papers.

## **GETTING MORE INFORMATION**

### **15. Where Do I Get More Information?**

This notice only summarizes the portions of the Plan relevant to claims by TPP Class members. You can get a copy of the full Plan, Disclosure Statement and other important filings at [www.InsysTPPLitigation.com](http://www.InsysTPPLitigation.com).

Complete copies of public pleadings, Court rulings, and other filings are also available for review and copying at the Clerk's office. The address is United States Bankruptcy Court for the District of Delaware, 824 Market Street North, 3<sup>rd</sup> Floor, Wilmington, Delaware, 19801.

*Please do not contact the Bankruptcy Court or the Judge regarding this Notice.*

DATED: MARCH 19, 2020