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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

STATE OF OREGON, Acting by and through
Patrick Allen, Director of the Oregon
Department of Consumer and Business Services,

Plaintiff,

v.

OREGON'S HEALTH CO-OP, an Oregon
nonprofit corporation,

Defendant.

Case No. 16CV22052

RECEIVER'S STATUS REPORT AND
MOTION FOR APPROVAL OF
REHABILITATION PLAN

18 COMES NOW Patrick Allen, Director of Oregon Department of Consumer and Business
19 Services, as Receiver of Oregon's Health Co-Op (OHC), by and through his counsel, Carolyn G.
20 Wade, of the Oregon Department of Justice, and submits this status report and moves this court
21 for an order approving it.

22 **I. STATUS REPORT**

23 **A. BACKGROUND**

24
25 1. Oregon's Health Co-op (OHC) is a nonprofit public benefit corporation
26 authorized pursuant to ORS Chapter 750 to transact the business of insurance in

1 the State of Oregon as a domestic Health Care Service Contractor. The company
2 was licensed only in the State of Oregon and wrote only health benefit plans.
3 OHC is not a member of the Oregon Insurance Guaranty Association, the Oregon
4 Life & Health Insurance Guaranty Association or any other insurance guaranty
5 association that would make claims payments on behalf of policyholders in the
6 event that OHC is unable to pay its claims.

- 7 2. OHC's corporate offices and principal place of business are located at 220 NW
8 2nd Avenue, Suite 600, Portland, Oregon.
- 9 3. On July 11, 2016 (the "Receivership Date"), the court entered its Stipulated Order
10 Appointing Receiver. The basis of that order was that OHC was unable to pay its
11 obligations as they became due and was insolvent as defined by ORS 734.014(5).
- 12 4. Pursuant to ORS 734.220 the Receiver is conducting the business of OHC and
13 taking steps, subject to the direction of the court, as authorized by the laws of this
14 state for the purpose of rehabilitating OHC.

15 **B. FINANCIAL CONDITION**

- 16
- 17 5. Substantial uncertainty exists regarding the ultimate financial condition of OHC.
18 There are material amounts owed to the company from various sources:
- 19 a. The company has receivables due from the federal government associated
20 with the 2014 policy year in excess of \$10 million. The federal government paid a
21 portion of the original receivable based on funds available at the time.
- 22 b. The company has receivables due from the federal government associated
23 with the 2015 policy year in excess of \$2 million.
- 24 c. The company may have causes of action, which if successful may improve
25 the financial condition of OHC.

26 ///

1 When coupled with other potential recoveries, these potential recoveries may
2 allow for the rehabilitation of OHC.

3 6. Based on information obtained to date, the Receiver believes that OHC has
4 sufficient assets to carry out the rehabilitation plan as provided in this filing.

5
6 **C. OHC MEMBERS**

7 7. At the inception of this receivership, OHC had approximately 21,300 members
8 enrolled with individual, small group, and large group policies, all of which are
9 health benefit plans.

10 8. As a result of the termination of policies noted in paragraphs 9 and 10, OHC will
11 not have any members after July 31, 2016.

12 **II. PLAN OF REHABILITATION**

13 **A. TERMINATION OF POLICIES**

14
15 9. The Receiver shall terminate all individual policies effective July 31, 2016. OHC
16 shall send members termination notices which will support their exercise of
17 available Special Enrollment Periods (SEPs).

18 10. The Receiver shall also terminate all group policies effective July 31, 2016.

19 11. The termination of the individual and group policies will limit any further adverse
20 impact to the company's financial position and will allow members to obtain
21 coverage with a solvent health benefit plan carrier.

22 **B. TRANSITION OF POLICYHOLDERS**

23
24 12. In order to make replacement coverage available to the OHC policyholders, a
25 Special Enrollment Period (SEP) was implemented for all members beginning on
26 July 18, 2016.

1 13. In order to minimize the impact of the loss of coverage to the members of OHC,
2 the Department of Consumer and Business Services (DCBS) has worked with the
3 individual health benefit plan carriers in the State of Oregon to have those carriers
4 accept the amounts paid by OHC members through July 31, 2016 for out-of-
5 pocket health care expenses toward their out-of-pocket maximum limits in the
6 replacement coverage obtained from the new carrier.

7
8 **C. ADVANCE AND UNEARNED PREMIUMS**

9 14. OHC used an automated process to deduct monthly payments directly from
10 members' bank accounts and charge members' credit cards. While most members
11 pay monthly, some others had premiums charged to their credit cards for the
12 balance of the year. Due to the short time period between the Receivership Date
13 and the termination of policies, a number of OHC members have been
14 inadvertently charged premiums for the month of August 2016 and a smaller
15 number for the remaining months in 2016. Because OHC has terminated all
16 policies as of July 31, 2016 and will provide no coverage in August 2016 or
17 beyond, the Receiver intends to return the members' premiums for August and
18 any prepaid premiums for subsequent months in 2016 in their entirety to facilitate
19 the members' efforts to obtain replacement coverage.

20 15. OHC has a number of member requests pending for the return of unearned
21 premiums for policy periods prior to August 1, 2016. Due to uncertainties
22 regarding the financial condition of OHC, and in an effort to provide equitable
23 relief to OHC members, the Receiver intends to make an initial payment for
24 requests for return of unearned premiums, with one or more additional payments
25 at a later date. The initial payment for all of these requests will be calculated as a
26 percentage of the amount determined by the Receiver to be owed. Additional

1 payments for these obligations will be an additional percentage of the amount
2 determined by the Receiver to be owed for the obligation.

3 **D. CLAIMS**
4

5 16. OHC policies remain in effect through July 31, 2016. In order to protect the
6 members and encourage providers, both in and out of network, to continue
7 providing services to members, OHC shall pay claims incurred during the time
8 period from the Receivership Date through July 31, 2016, at 100% of the value of
9 the claim under the OHC policy. In addition, under Oregon law OHC will remain
10 responsible until discharge for the hospitalization costs of members who are
11 inpatients at the end of July 31, 2016, and OHC shall also pay these claims at
12 100% of the value of the claim under the OHC policy. Providers have reasonably
13 relied on the Receiver's announcement on the Receivership Date that such 100%
14 claims payment would be available.

15 17. OHC has and will have claims pending by providers for services rendered prior to
16 Receivership Date. Similar to the unearned premium claims in paragraph 15, due
17 to uncertainties regarding the financial condition of OHC, and in an effort to
18 provide equitable relief to OHC members, the Receiver intends to make an initial
19 payment for these claims, with one or more additional payments at a later date.
20 The initial payment for all of these requests shall be calculated as a percentage of
21 the amount determined by the Receiver to be owed. That percentage will be the
22 same as for the unearned premium claims in paragraph 15. Additional payments
23 for these obligations shall be an additional percentage of the amount determined
24 by the Receiver to be owed for the obligation.

25 18. OHC has claims pending by members for direct payments made for medical
26 services. Similar to the unearned premium claims in paragraph 15, due to

1 uncertainties regarding the financial condition of OHC, and in an effort to provide
2 equitable relief to OHC members, the Receiver intends to make an initial payment
3 for these claims, with one or more additional payments at a later date. The initial
4 payment for all of these requests shall be calculated as a percentage of the amount
5 determined by the Receiver to be owed. That percentage will be the same as for
6 the unearned premium claims in paragraph 15. Additional payments for these
7 obligations shall be an additional percentage of the amount determined by the
8 Receiver to be owed for the obligation.

9 19. In order to expedite additional payments for partially paid claims to providers and
10 members, and to better establish the financial condition of OHC, the Receiver
11 shall require providers and OHC members to submit final claims for services
12 rendered, by October 31, 2016. The Receiver shall notify members, participating
13 providers and known or expected nonparticipating providers of this claims
14 submission deadline. The Receiver and OHC shall publish web announcements of
15 this claims submission deadline.

16 20. OHC does not currently have any requests from employees or former employees
17 for payments for unpaid leave or separation agreements. If OHC receives any
18 such valid requests, the Receiver intends to record these obligations as a liability
19 of the company, but defer any payment pending clarification of the financial
20 position of OHC.

21 21. Since inception of the receivership, the Receiver has paid obligations that it
22 believes are essential to the administration of the rehabilitation. In order to
23 prevent any further adverse impact on the financial condition of OHC, the
24 Receiver has limited services to OHC to those that are essential to the
25 administration of the rehabilitation. The Receiver intends to record any unpaid
26 vendor obligations incurred before the Receivership Date as a liability of the

1 company, but defer payment pending clarification of the financial position of
2 OHC.

3 **E. OTHER ACTIONS BY THE RECEIVER**
4

5 22. In furtherance of its efforts to rehabilitate OHC, the Receiver has:

6 a. Instructed OHC to cease any payments to the federal government, except
7 with permission of the court, pending receipt of amounts owed by the federal
8 government for its receivables.

9 b. Engaged its reinsurer, PartnerRe Ltd., in discussions designed to maximize
10 the recoveries from the reinsurance contract entered into with that reinsurer for
11 2016. The Receiver shall submit claims to PartnerRe Ltd. and any private
12 reinsurer by December 31, 2016.

13 23. The Receiver will provide a further status update on or about September 1, 2016.
14

15 **III. MOTION**

16 Wherefore, and with good cause shown, the Receiver moves this court for an order:

- 17 1. approving the Rehabilitation Plan as detailed above;
18 2. establishing a claims filing deadline bar date of October 31, 2016 for providers to
19 submit final claims for services rendered;
20 3. authorizing the Receiver to issue notice to claimants, including, but not limited to,
21 publishing web announcements of this claims submission deadline;
22 4. authorizing the continuation of ongoing operational activities in the receivership
23 as deemed necessary and appropriate by the Receiver;
24 5. authorizing the continuation of asset recovery efforts as deemed necessary and
25 appropriate by the Receiver;
26

1 CERTIFICATE OF SERVICE BY MAIL

2 I certify that on July 22, 2016, I served the foregoing Receiver’s Status Report and
3 Motion for Approval of Rehabilitation Plan upon the parties hereto by mailing, regular mail,
4 postage prepaid, a true, exact and full copy thereof to:

5 David W. Hercher
6 Miller Nash Graham & Dunn LLP
7 3400 U.S. Bancorp Tower
8 111 S.W. Fifth Avenue
9 Portland, Oregon 97204

10 Attorney for Defendant

11 s/ Carolyn G. Wade
12 Carolyn G. Wade #832120
13 Senior Assistant Attorney General