



CLERK OF THE COURT

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16 *as the Permanent Receiver for*
17 *Nevada Health CO-OP*

18 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20	STATE OF NEVADA, EX REL.)	Case No. A-15-725244-C
21	COMMISSIONER OF INSURANCE, IN HER)	
22	OFFICIAL CAPACITY AS STATUTORY)	Dept. No. 1
23	RECEIVER FOR DELINQUENT DOMESTIC)	
24	INSURER,)	
25)	
26	Plaintiff,)	
27)	
28	vs.)	
29)	
30	NEVADA HEALTH CO-OP,)	
31)	
32	Defendant.)	
33)	
34)	

35 **SIXTH STATUS REPORT**

36 COME NOW, Commissioner of Insurance Barbara D. Richardson in her capacity as
37 Receiver of Nevada Health CO-OP ("NHC," or the "CO-OP"), and CANTILO & BENNETT, L.L.P.,
38 Special Deputy Receiver ("SDR" - SDR and the Commissioner as Receiver are referred to
collectively herein as "Receiver"), and file this Sixth Status Report in the above-captioned
receivership.

1 **I. INTRODUCTION AND HISTORICAL BACKGROUND**

2 The CO-OP is a state-licensed health insurer, formed in 2012 as a Health
3 Maintenance Organization (“HMO”), with a Certificate of Authority granted by the State of
4 Nevada Division of Insurance effective January 2, 2013. NHC is an Internal Revenue Code
5 501(c)(29) Qualified Non-Profit Health Insurance Issuer, entitled to tax exemption by the
6 Internal Revenue Service. NHC was formed under a provision of the Patient Protection and
7 Affordable Care Act (“ACA”) providing for the formation of Consumer Operated and Oriented
8 Plans. Having received from the Centers for Medicare and Medicaid Services (“CMS”) of the
9 United States Department of Health and Human Services (“HHS”) a start-up loan of
10 \$17,080,047, and a “solvency” loan of \$48,820,349, NHC was required to operate as a non-
11 profit, consumer-driven health insurance issuer for the benefit of the public. The CO-OP’s
12 primary business was to provide ACA-compliant health coverage to residents of Nevada, and
13 it operated its business for the benefit of Nevadans within the state, save for certain
14 arrangements to provide nationwide health coverage to Nevadans traveling outside the state
15 in certain circumstances. NHC began selling products on and off the Silver State Health
16 Insurance Exchange (the “Exchange”) on January 1, 2014. Its products include individual,
17 small group, and large group managed care coverages.

18 On October 1, 2015, this Court issued its Order Appointing the Acting Insurance
19 Commissioner, Amy L. Parks as Temporary Receiver of NHC Pending Further Orders of the
20 Court and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270 (the “Temporary
21 Receivership Order”). Further, on October 14, 2015, the Receivership Court entered its
22 Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of
23 Nevada Health CO-OP (the “Permanent Receivership Order”), appointing the law firm of
24 CANTILO & BENNETT, L.L.P. as SDR of NHC, in accordance with Chapter 696B of the Nevada
25 Revised Statutes.

26 Via a Notice of Substitution of Receiver dated April 6, 2016, Ms. Joanna N. Grigoriev
27 informed interested parties of the substitution of Commissioner Barbara D. Richardson, in
28 place and stead of former Acting Commissioner Amy L. Parks, as the Receiver of NHC. This

1 substitution of Receiver was subsequent to Commissioner Richardson’s appointment as
2 Commissioner of Insurance for the State of Nevada.

3 This Court, through its Final Order Finding and Declaring Nevada Health CO-OP to be
4 Insolvent and Placing Nevada Health CO-OP into Liquidation (the “Final Order”) dated
5 September 20, 2016, adjudged NHC to be insolvent on the grounds that it is unable to meet
6 obligations as they mature. The Final Order also authorized the Receiver to liquidate the
7 business of NHC and wind up its ceased operations pursuant to applicable Nevada law. The
8 Receiver has since transitioned the receivership estate from rehabilitation to liquidation.

9 The Receiver continues to file quarterly status reports as ordered by this Court.

10 **II. RECEIVERSHIP ADMINISTRATION**

11 **Receivership Administrative Services and Oversight**

12 CANTILO & BENNETT, L.L.P. as SDR of NHC, manages the receivership estate and
13 conducts its affairs. PALOMAR FINANCIAL, LC (“Palomar”), an affiliate of the SDR, performs
14 administration, information technology, and other related services for the Receiver under the
15 supervision of the SDR. The Receiver has included an informational copy, as Exhibit 1 to this
16 Sixth Status Report, of the invoices paid to the SDR and Palomar since the last status report
17 to this Court.

18 **Resolution of Outstanding Receivership Matters**

19 ***Pre-Liquidation Claims Adjudications and Data Inaccuracy Resolution***

20 NHC’s staff continues the process of claims adjudications to adjudicate all new and
21 pending claims. Additionally, NHC’s staff also continues to correct what inaccuracies remain
22 in NHC’s enrollment databases. This enrollment evaluation is necessary to determine dates
23 of coverage for each member’s medical care. The final evaluation of enrollment information
24 will also reconcile NHC’s obligations to pay for member health care. NHC staff members
25 continue to keep interested parties informed of relevant updates concerning the status of their
26 claims, as well as any applicable deadlines.

27 Throughout the receivership, the Receiver has received reports that some plan
28 members were reported to collection agencies by healthcare providers. In cases where

1 collection efforts have taken place in violation of the Permanent Receivership Order, NHC
2 staff members contact those providers and any related collection agencies to inform them of
3 the Permanent Receivership Order and its moratorium on the payment of health claims.
4 When necessary, the SDR sends a letter to such providers to advise them that their actions
5 are in violation of the Permanent Receivership Order.

6 ***Continuation of Mandatory Regulatory Reporting to CMS***

7 As explained in prior status reports, the Receiver and SDR continue to coordinate with
8 CMS in the submission of essential data for the various regulatory reporting processes
9 required for CO-OPs under the ACA. These submissions are also critical to NHC's right to
10 claim amounts under the federal receivables programs for the CO-OP's revenues.

11 NHC remains a participant in several such programs, which include the following: Cost
12 Sharing Reduction ("CSR") Reconciliation, Federal Transitional Reinsurance, Risk
13 Adjustment, and the Risk Corridors. The expected receipt of these federal receivables is a
14 key part of NHC's finances, and their receipt remains critical for future payments to NHC's
15 creditors. The non-receipt of substantially all federal reimbursements for plan year 2015,
16 including a material portion of reimbursements for plan year 2014, has greatly diminished
17 NHC's assets and, therefore, its claims-paying ability.

18 ***Updates as to Current Status of Regulatory Submissions Projects***

19 NHC Risk Adjustment and Federal Transitional Reinsurance data was submitted to
20 CMS on May 2, 2016. Periodically, CMS inquires about particular subsets of this data, which
21 the SDR continues to resolve. On June 30, 2016, CMS released its Summary Report on
22 Transactional Reinsurance and Permanent Risk Adjustment Transfers for the 2015 Benefit
23 Year.¹ Per the report, for coverage year 2015, the CO-OP is owed a Federal Transitional
24 Reinsurance payment of \$8,842,009.69 and net Risk Adjustment transfer of \$4,532,560.29.
25 The 2015 Federal Transitional Reinsurance payment amount increased by \$4,601.65 to
26 \$8,846,611.34 in the December 6, 2016, Amendment to the Summary Report on Transitional
27

28 ¹ Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/June-30-2016-RA-and-RI-Summary-Report-5CR-063016.pdf>.

1 Reinsurance Payments and Permanent Risk Adjustment Transfers for the 2015 Benefit
2 Year.²

3 The reporting related to the CSR Reconciliation program resulted in a net amount
4 owed by NHC to CMS of \$3,579,359.65 for 2014 and 2015 CSRs. NHC is working on an
5 updated CSR filing with CMS for 2017. The SDR is working with Truven Health Analytics to
6 prepare 2014 and 2015 CSR files in advance of the June 2, 2017, CMS deadline for CSR
7 submission. All issuers have the opportunity to submit their 2015 CSR files during this
8 submission window. NHC requested CMS permission to submit a 2014 CSR file as well.
9 After follow-up correspondence by the SDR, CMS granted NHC permission to submit an
10 updated 2014 CSR file. The deadline for the final submission of CSR data is June 2, 2017,
11 and CMS will notify issuers of reconciled amounts on June 30, 2017.

12 The second installment payment of the 2015 Federal Transitional Reinsurance (“FTR”)
13 premium in the amount of \$195,660.30 was withdrawn by CMS from NHC’s operating
14 account on November 15, 2016. NHC did not contest this transaction in order to preserve its
15 claims for reinsurance. However, NHC has requested a recalculation of the FTR premium
16 and partial refund based upon enrollment corrections. On January 6, 2017, CMS informed
17 NHC that its request does not meet the criteria to receive a refund. The SDR plans to
18 request additional clarification and may challenge this determination.

19 The 2015 Risk Corridors data submissions were reported by the deadline of August 1,
20 2016, and showed a significant receivable for the CO-OP. CMS originally requested a small
21 restatement to one line item in NHC’s submission, which would have had a small impact
22 upon the amount owed to NHC. However, CMS then directed NHC not to make any
23 restatement(s) of the 2015 Risk Corridors or Medical Loss Ratio (“MLR”) data in 2016.
24 Instead, CMS advised that a restatement of Risk Corridors and MLR data may be filed in
25 2017. After advising that the 2015 Risk Corridors and MLR data may be filed in 2017, CMS
26
27

28 ² Available at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC_RevisedJune30thReport_v2_5CR_120516.pdf

1 provided different instructions on the re-filing of this data, and consequently, the SDR has
2 requested that CMS clarify its position on when and whether to re-file this data in 2017.

3 In regard to the original 2015 filing of the Risk Corridors, CMS confirmed that NHC is
4 owed \$29.9 million for its individual market and \$3.75M for its small group market.³ CMS has
5 previously announced that, based on its preliminary analysis, “. . . all 2015 benefit year
6 collections will be used towards remaining 2014 benefit year risk corridors payments, and no
7 funds will be available at this time for 2015 benefit year risk corridors payments.”⁴

8 In addition to balances due for year 2015, the CO-OP is still owed over \$9.5 million for
9 2014 Risk Corridors payments.⁵ CMS stated in its November 18, 2016, Risk Corridors report
10 that the expected payment towards NHC’s 2014 Risk Corridors amounts is only \$355,443.99.
11 However, CMS has also maintained the position that any new monies deemed owed to the
12 receivership estate are to be set-off against the amounts CMS asserts it is owed pursuant to
13 its decision to accelerate, and therefore declare presently due, the original funds loaned to
14 NHC.

15 NHC has made monthly submissions of Advance Premium Tax Credit (“APTC”) billing
16 data in accordance with CMS reporting requirements. The total of APTC payments received
17 from CMS is substantially less than what NHC billed CMS for 2015 APTC, and the SDR has
18 asserted a claim for the shortfall. NHC’s data indicates that CMS still owes NHC at least \$4.7
19 million for APTC. NHC is evaluating APTC data recently provided by CMS, but NHC’s
20 current data reflects that at least \$4.7 million is still owed by CMS. The SDR will be following
21 up with CMS in an attempt to resolve the APTC matter.

22
23 ³ DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,
24 CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR THE 2015 BENEFIT
25 YEAR (November 18, 2016) (available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2015-RC-Issuer-level-Report-11-18-16-FINAL-v2.pdf>)

26 ⁴ DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,
27 CCIIO MEMORANDUM, Risk Corridors Payments for 2015 (September 9, 2016) (available at:
28 <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Risk-Corridors-for-2015-FINAL.PDF>).

⁵ DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES,
CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR BENEFIT YEAR 2014
(1, Table 29) (November 19, 2015) (stating CMS’ need to decrease, or “prorate,” amounts owed to issuers due
to budget shortfall, providing amounts owed to each issuer) (available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/RC-Issuer-level-Report.pdf>).

1 **Use of Third-Party Contractors as Part of Business Operations**

2 The Receiver utilizes the services of several third-party contractors that had been
3 engaged before commencement of the receivership, and of two who were engaged after the
4 receivership commenced to assist in management of NHC’s affairs

5 The following is a list of independent contractors currently assisting the receivership:

- 6 1. Change Healthcare Solutions, LLC, to perform paper claims scanning services.
- 7 2. Eldorado, a division of Mphasis Corporation, to provide a hosting service for
8 claims data and information.
- 9 3. The Jacobson Group, to provide claims adjustment and customer service
10 staffing support.
- 11 4. Redcard, to perform check processing and delivery to health care providers,
12 and delivery of Explanation of Benefit disclosures to plan members.
- 13 5. Truven Health Analytics, to provide services for the resubmission of CSR
14 filings with CMS for calendar years 2014 and 2015.
- 15 6. ADP, to provide payroll support and processing for employee compensation
16 and benefits.

17 **Internal Administrative Matters Related to Wind Down**

18 NHC maintains staff to address calls from interested parties regarding the recently
19 approved proof of claim (“POC”) process, other claim matters, and the collection of assets for
20 the receivership. The Receiver also continues to determine and refund premium
21 overpayments to members since such overpayments were not funds to which NHC was
22 entitled and are therefore outside the normal claim process. Currently, the receivership
23 estate has returned approximately \$151,789 in premium overpayments to members since
24 January 1, 2016.

25 The wind down of NHC’s 401(k) retirement plan continues, with the SDR having
26 submitted to the Internal Revenue Service the Form 5310 for the retirement plan wind down.
27 The Form 5310 filing seeks a tax determination letter that would permit the distribution of
28 401(k) assets to employees without the need for an expensive and time-consuming audit.

1 The Receiver also maintains an office for NHC’s essential office staff⁶ in a smaller and less
2 expensive office space than was used by NHC before, and just after, the receivership. The
3 Receiver has not yet received disposition of the prior Form 5310 filing from the IRS, but such
4 determinations are not typically made until several months following a filing. The SDR
5 expects to receive a final disposition of this matter by later this year.

6 **Authorization from this Court to Hire Consultants for Various Purposes**

7 Previously, the Receiver filed a Motion to Approve Professional Fee Rates on an
8 Order Shortening Time, seeking from this Court the approval of the professional fee rates for
9 certain service providers deemed essential to receivership operations, as well as
10 authorization for the Receiver to include paid invoices with quarterly status reports to this
11 Court. Following a hearing which took place on January 10, 2017, this Court did enter an
12 Order dated January 17, 2017, which approved that Motion in all relevant respects. The
13 Receiver has been working with these professional firms regarding the receivership’s affairs.

14 **Submission of Fees for *In-Camera* Review, Legal Authority Supporting Same**

15 The Receiver submits legal and expert consulting firm invoices as Exhibit 2 with this
16 Status Report filing. These invoices are in the form of summary bills that memorialize the
17 fees and costs of these legal and expert firms. The detailed time and billing entries of the
18 legal and expert firms have been submitted separately to the Court for its *in-camera*
19 review. The Receiver submits these invoices and related documentation for the *in-camera*
20 inspection by the Court to prevent the inappropriate disclosure of confidential and/or
21 privileged information. In this connection, courts have held that the bills of legal counsel and
22 experts may be withheld from legal discovery and are not subject to legal disclosure, as this
23 information may provide indications or context concerning potential litigation strategy and the
24 nature of the expert services being provided. See *Avnet, Inc. v. Avana Technologies Inc.*,
25 No. 2:13–cv–00929–GMN–PAL, 2014 WL 6882345, at *1 (D. Nev. Dec. 4, 2014) (finding that
26 billing entries were privileged because they reveal a party’s strategy and the nature of
27

28 ⁶ Currently, NHC maintains sixteen full-time and two part-time employees.

1 services provided); Fed. Sav. & Loan Ins. Corp. v. Ferm, 909 F.2d 372, 374-75 (9th Cir.
2 1990) (considering whether or not fee information revealed counsel’s mental impressions
3 concerning litigation strategy). Other courts that have addressed this issue have recognized
4 that the “attorney-client privilege embraces attorney time, records and statements to the
5 extent that they reveal litigation strategy and the nature of the services provided.” Real v.
6 Cont’l Grp., Inc., 116 F.R.D. 211, 213 (N.D. Cal. 1986).

7 The *in-camera* review should apply not only to documentation concerning attorneys’
8 fees, but it also extends to “details of work revealed in [an] expert’s work description [which]
9 would relate to tasks for which she [or he] was compensated[,]” a situation which is
10 “analogous to protecting attorney-client privileged information contained in counsel’s bills
11 describing work performed.” See DaVita Healthcare Partners, Inc. v. United States, 128 Fed.
12 Cl. 584, 592-93 (2016); see also Chaudhry v. Gallerizzo, 174 F.3d 394, 402 (4th Cir. 1999)
13 (recognizing that “correspondence, bills, ledgers, statements, and time records which also
14 reveal the motive of the client in seeking representation, litigation strategy, or the specific
15 nature of the services provided, such as researching particular areas of law,” are protected
16 from disclosure) (quoting Clarke v. Am. Commerce Nat’l Bank, 974 F.2d 127, 129 (9th Cir.
17 1992)).⁷

18 **Commencement of Action against CMS to Settle Questions of Setoff as to**
19 **Mutual Obligations**

20 On March 16, 2017, Counsel for the Receiver filed in the United States District Court
21 for the District of Nevada a Complaint and Demand for Jury Trial (the "Complaint") against
22 the United States Department of Health and Human Services, the Centers for Medicare and
23 Medicaid Services, Thomas E. Price, M.D. in his capacity as the U.S. Secretary of Health and
24

25 ⁷ This outcome is also supported by, among other things, the 2010 Advisory Committee Note to
26 Federal Rules of Civil Procedure 26, which suggests that the proper focus of permitted discovery into expert
27 compensation concerns the compensation amount, not the tasks performed that led to compensation; the
28 objective of discovery into expert compensation “is to permit full inquiry into such potential source of bias” – not
a roving inquiry into litigation strategy as documented in invoices. Fed. R. Civ. P. 26, Advisory Committee Notes
on 2010 Amendment, ¶ 15 (noting that any “benefits to the expert” are discoverable).

1 Human Services, and the United States (the “Defendants”). Through this Complaint, the
2 Receiver seeks both judicial review of a final agency action made by Defendants and a
3 declaratory judgment as to Defendants’ right to set-off any monies claimed against NHC
4 through funds that HHS/CMS is statutorily obligated to pay to NHC. As has been reported to
5 this Court on several occasions, Defendants (via CMS) have provided notice to the Receiver
6 of their termination of the underlying Loan Agreement through which the CO-OP received its
7 funds under the ACA, declaring those loans immediately due and payable. Further, on March
8 6, 2016, HHS/CMS stated that an “administrative hold” on payables due to NHC had been
9 implemented at the request of the U.S. Department of Justice. As part of this chain of events,
10 on September 29, 2016, HHS/CMS claimed that approximately \$7 million had been offset
11 against funds payable to NHC from the outstanding amount of the start-up loan, and
12 prospectively asserted its “right” to offset future payables.

13 The Complaint therefore seeks relief in the form of a declaratory judgment which holds
14 that the federal government’s setoffs and prospective setoffs are unlawful under Nevada
15 state reserve requirements, solvency regulations, requisite surplus note requirements, and
16 other similar laws. As well, the Receiver seeks a declaration that both the start-up and
17 solvency loans given to NHC are subordinated to the claims of NHC’s policyholders and
18 subscriber members, that the debts the Defendants seek to set-off lack the requirement of
19 mutuality necessary to permit such a setoff, and that any such setoffs were and are improper.

20 **Post-Receivership Hardship Claim Payments Made by the Receiver of NHC**

21 The Receiver has thus far paid approximately \$8.4 million in hardship claim payments
22 to different health care providers or members for necessary pharmacological, psychological,
23 and health care services. These hardship claim payments to providers and/or members
24 concerned emergency services, vital prescription medicines, protection against instances of
25 balance billing, and medical or financial hardships. The SDR continues to utilize the
26 procedure developed and provided alongside the Fourth Status Report to adjudicate and
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1 process these payments. The Receiver will allow hardship claim payments to continue
2 pursuant to this Court's prior order.⁸

3
4 **Post-Receivership Non-hardship Claim Payments to be Made by the Receiver of
NHC**

5
6 Certain members and other providers have contacted receivership staff to inquire as to
7 when non-hardship claim payments will be made, and when the suspension on claims and
8 other general creditor payments will be lifted. There are two reasons why non-hardship claim
9 payments are now suspended and delayed from being paid by NHC. Both of these reasons
10 are because of CMS actions and delays that have had a substantial and harmful impact on
11 NHC's ability to pay claims. The Receiver of NHC would be paying non-hardship claim
12 payments (as currently authorized—or as may be further authorized by this Court) if it were
13 not for these CMS actions.

14 ***Reason Number 1 for Suspension and Claims Payment Delay***

15 NHC received approximately \$65.9 million of loans from CMS before receivership as
16 funds for the start-up and solvency of this health insurer. After receivership began, CMS
17 demanded loan repayment and asserted that such repayment was legally entitled to a super-
18 priority so that it had to be made before payment of any other claims against NHC other than
19 costs of administration. The Receiver is working to resolve this super-priority issue with CMS
20 and the United States Department of Justice. Unless this issue is resolved satisfactorily,
21 there is substantial uncertainty about the Receiver's ability to pay non-hardship claims.

22 ***Reason Number 2 for Suspension and Claims Payment Delay***

23 CMS placed "an administrative hold" on all reimbursements due NHC under the
24 federal receivables programs. The CMS reimbursements due NHC are in the tens of
25 millions. There is more than \$52.9 million due from CMS and the federal government for
26 federal receivables, not including APTC amounts, or at least \$57.7 million is due from CMS

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28 ⁸ On February 24, 2016, this Court entered its Order Granting Special Deputy Receiver, Cantilo & Bennett, L.L.P.'s First Motion, on Order Shortening Time, for Order Authorizing Payments, and this Court Order authorized hardship claim payments by the Special Deputy Receiver.

1 when APTC is included. NHC's claim liabilities are also in the tens of millions, so federal
2 receivables from CMS are essential to the ability of the Receiver to make meaningful claims
3 payments. However, as discussed above, no payments (not even small ones) may be made
4 on non-hardship claims without resolution of CMS' assertion of federal super-priority for
5 payment of its loans before all other claims. According to CMS, the placement of the hold on
6 federal receivable reimbursements due NHC is because of the above-mentioned loans that
7 are now claimed due by CMS.

8 **Resolution of Proofs of Claim, Provision of Notices of Claim Determination,**
9 **Appeals**

10 The Receiver has implemented the POC process approved by this Court in its Final
11 Order Granting Other Relief Related to Receiver's Motion for Final Order Finding and
12 Declaring Nevada Health CO-OP to be Insolvent and Placing Nevada Health CO-OP into
13 Liquidation, and has already conducted general mailings and publication of necessary notices
14 to claimants and other interested parties.

15 The Claims Filing Deadline is April 28, 2017, and the SDR has so far received eighty-
16 eight POCs. A large number of these are incomplete or unable to be adjudicated for various
17 other reasons. The SDR has written to such claimants to inform them that their POCs cannot
18 be processed as submitted and, unless supplemented or amended by April 28, 2017, will be
19 denied and barred. The SDR will proceed with adjudicating POCs and mailing Notices of
20 Claim Determination ("NCDs") after the Claims Filing Deadline has passed.

21 **Claims for Which There Are Currently Insufficient Assets to Pay**

22 It does not appear at this time that there will be sufficient assets to pay claims beyond
23 those assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has received a
24 number of POCs that should be assigned to priority classes C through L, pursuant to NRS
25 696B.420(1)(c)-(l). The SDR will send such claimants NCDs that determine the priority of
26 their claims, which determination will be subject to appeal under the Receivership Appeal
27 Procedure ("RAP"). In order to conserve the assets of the estate, and per NRS696B.330(4),
28 the SDR of NHC will refrain from reaching the merits of these claims until such time it

1 appears that assets will be available for distribution to that class. If additional assets later
2 become available for distribution to these claimants, the SDR will make a second claim
3 determination as to the merits of each claim and notify the claimants of such determination.
4
5

6 **Claims Asserted Against the Estate by Providers**

7 Health care providers are not required to use the POC form to submit their claims,
8 because NHC already has an existing process for receiving and processing such claims and
9 already has thousands of processed claims in its claim processing system. Providers are
10 required to have submitted all of their claims by the Claims Filing Deadline in the manner they
11 have previously submitted claims to NHC. Providers have been notified that they may
12 request a claim submission report from NHC to confirm that their claims are all present and
13 accounted for in NHC's claim processing database. NHC has provided a number of such
14 reports to providers. The pre-established procedures for processing claims in the normal
15 course of business of NHC still apply. For instance, claims filed for the first time more than
16 twelve (12) months after the date of service are considered late-filed claims by NHC and will
17 be denied unless the provider can show proof of timely filing. Thus, providers who file claims
18 between now and the April 28, 2017, Claims Filing Deadline will most likely be denied unless
19 the provider can show proof that they originally submitted the claim within NHC's timely-filing
20 window.

21 After the Claims Filing Deadline has passed, the SDR will prepare to send NCDs for
22 the provider claims. The SDR should begin reporting specific provider claim determinations
23 in the Seventh Status Report. After reporting claim determinations to the Court, the SDR will
24 begin mailing providers' NCDs. The provider NCD will show the amount the SDR has
25 approved to be paid for each claim, along with the member's responsibility portion of the
26 claim—which the provider may collect from the member without violating the Permanent
27 Receivership Order. For this reason, the member will also receive a copy of the NCD. When
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1 issuing NCDs, the member and provider will be notified that they may appeal the
2 determination, with a copy of the RAP provided to each of them.

3 **Current Receivership Assets**

4 The Receiver's evaluation of the assets and liabilities of the CO-OP is ongoing, and
5 adjusted periodically to accommodate new authorized payments, receipts, and transfers.
6 Below is an overview of some key asset matters thus far identified by the Receiver (other
7 than those already mentioned herein):

8 1. The potential amount due from NHC's reinsurer will depend on claim approvals
9 by the Receiver that meet reinsurance coverage. The Receiver believes that substantial
10 amounts are due the CO-OP from PartnerRe America Insurance Company ("PartnerRe"), its
11 private reinsurer, with a portion of these claims now becoming due in light of the Order
12 placing NHC into liquidation. NHC has received a refund of \$374,513 for certain premiums
13 previously paid in 2014 under the PartnerRe reinsurance arrangement. The SDR has
14 coordinated with PartnerRe claims staff to make filings of reinsurance reimbursement claims
15 incurred in plan years 2014 and 2015 that are below or exceed the applicable triggering point
16 for reinsurance coverage, having completed that submission by year-end 2016. The SDR
17 has not yet received a response from PartnerRe concerning the reinsurance reimbursement.

18 2. The unrestricted cash assets of the CO-OP have fluctuated with post-
19 receivership expenses and claim payments, as well as with the Receiver's receipt of member
20 premiums. The unrestricted cash assets of the CO-OP as of February 28, 2017, were
21 approximately \$9,136,347. The majority of NHC's currently available and liquid assets have
22 been invested in a short-term bond mutual fund, with the remainder of such assets invested
23 in bank deposits. This amount does not take into account the \$766,978 (as of February 28,
24 2017) in restricted cash assets held in a statutory special deposit account for the benefit of
25 NHC's creditors.

26 3. The financial information of NHC in this Sixth Status Report provides estimates.
27 NHC's financials may materially vary depending upon the estate's receipt of the promised
28 federal receivables payments under the various ACA programs described in this report.

1 These figures will remain estimates until the estate receives clearer indications from CMS
2 and the federal government as to the amount and timing of any federal payments, as well as
3 the outcome of the recent lawsuit filed by the Receiver against CMS concerning the matter of
4 the administrative hold and asserted rights to setoff. As mentioned, the Receiver continues
5 work to resolve matters with CMS.

6 4. The Receiver is enclosing, as Exhibit 3 attached hereto, a cash flow report for
7 NHC for the time period covering the inception of the receivership through February 28, 2017.
8 This report reflects a summary of disbursements and collections made by NHC during this
9 period.

10 **CONCLUSION**

11 The Receiver has submitted this report in compliance with the Receivership Court's
12 instructions for a status report on NHC. The Receiver requests that the Court approve this
13 Sixth Status Report and the actions taken by the Receiver.

14 DATED this 5th day of April 2017.

15 Respectfully submitted:

16 Barbara D. Richardson, Commissioner of
17 Insurance of the State of Nevada, in her
18 Official Capacity as Statutory Receiver of
19 Delinquent Domestic Insurer

20 By: /s/ CANTILO & BENNETT, L.L.P.
21 Special Deputy Receiver
22 By Its Authorized Representative
23 Patrick H. Cantilo

24 Respectfully submitted by:

25 /s/ ERIC W. SWANIS
26 MARK E. FERRARIO, ESQ. (BAR NO. 1625)
27 ERIC W. SWANIS, ESQ. (BAR NO. 6840)
28 GREENBERG TRAUIG, LLP
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*Counsel for Barbara D. Richardson,
Commissioner of Insurance,
as the Permanent Receiver for
Nevada Health CO-OP*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 5th day of April 2017, and pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I served this **SIXTH STATUS REPORT** on all parties receiving service in this action through electronic transmission via this Court's electronic filing system to:

**E-Service Master List
For Case**

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