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**SR**

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Commissioner of Insurance,  
as the Permanent Receiver for  
Nevada Health CO-OP*

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

STATE OF NEVADA, EX REL.	)	Case No. A-15-725244-C
COMMISSIONER OF INSURANCE, IN HER	)	
OFFICIAL CAPACITY AS STATUTORY	)	Dept. No. 1
RECEIVER FOR DELINQUENT DOMESTIC	)	
INSURER,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
NEVADA HEALTH CO-OP,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

**SEVENTH STATUS REPORT**

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

**Greenberg Traurig, LLP**  
3773 Howard Hughes Parkway, Ste. 400 N.  
Las Vegas, Nevada 89169

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 Seventh Status Report, of the invoices paid to the SDR and Palomar since the last status  
17 report 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.

25 During the receivership, the Receiver has received reports that some plan members  
26 were reported to collection agencies by healthcare providers. In cases where collection  
27 efforts have taken place in violation of the Permanent Receivership Order, NHC staff  
28 members contact those providers and any related collection agencies to inform them of the

1 Permanent Receivership Order and its moratorium on the payment of health claims. When  
2 necessary, the SDR has also sent letters to such providers to advise them that their direct  
3 collection actions violate the Permanent Receivership Order.

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

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

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

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

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

27 <sup>1</sup> 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>.

28 <sup>2</sup> Available at: [https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC\\_RevisedJune30thReport\\_v2\\_5CR\\_120516.pdf](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/DDC_RevisedJune30thReport_v2_5CR_120516.pdf)

1 In 2016, the reporting related to the CSR Reconciliation program resulted in a net  
2 amount owed by NHC to CMS of \$3,579,359.65 for 2014 and 2015 CSRs. At the beginning  
3 of June 2017, the SDR submitted amended filings to CMS of the 2014 and 2015 CSRs,  
4 resulting in NHC owing an adjusted balance to CMS of \$482,948.54 rather than  
5 \$3,579,359.65—or a reduction in NHC liability of \$3,096,411.11.

6 The 2015 Risk Corridors data submissions were reported by the deadline of August 1,  
7 2016. CMS originally requested a small restatement to one line item in NHC’s submission,  
8 which would have had a small impact upon the amount owed to NHC. However, CMS then  
9 directed NHC not to make any restatement(s) of the 2015 Risk Corridors or Medical Loss  
10 Ratio (“MLR”) data in 2016. Instead, CMS advised that a restatement of Risk Corridors and  
11 MLR data may be filed in 2017. The SDR has decided that it would not be worthwhile to do  
12 further work on making further restatements to Risk Corridors and MLR data; thus, the  
13 balances for these matters should now be final.

14 In regard to the final amount for the 2015 Risk Corridors, CMS confirmed that NHC is  
15 owed \$29.9 million for its individual market and \$3.75M for its small group market.<sup>3</sup> CMS has  
16 previously announced that, based on its preliminary analysis, “. . . all 2015 benefit year  
17 collections will be used towards remaining 2014 benefit year risk corridors payments, and no  
18 funds will be available at this time for 2015 benefit year risk corridors payments.”<sup>4</sup>

19 In addition to balances due for year 2015, the CO-OP is still owed over \$9.5 million for  
20 2014 Risk Corridors payments.<sup>5</sup> CMS stated in its November 18, 2016, Risk Corridors report  
21 that the expected payment towards NHC’s 2014 Risk Corridors amounts is only \$355,443.99.

22  
23 <sup>3</sup> DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES, CCIIO  
24 MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR THE 2015 BENEFIT 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>)

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

27 <sup>5</sup> DEP’T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES, CCIIO  
28 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 However, CMS has also maintained the position that any new monies deemed owed to the  
2 receivership estate are to be set-off against the amounts CMS asserts it is owed pursuant to  
3 its decision to accelerate, and therefore declare presently due, the original funds loaned to  
4 NHC.

5 NHC has made monthly submissions of Advance Premium Tax Credit (“APTC”) billing  
6 data in accordance with CMS reporting requirements. The total of APTC payments received  
7 from CMS is substantially less than what NHC billed CMS for 2015 APTC, and the SDR has  
8 asserted a claim for the shortfall. CMS and NHC currently do not agree on APTC balances  
9 due for years 2014 and 2015. The SDR will advise CMS that NHC may file an amended  
10 APTC for year 2014. Currently, the SDR is working to gather and analyze data for member  
11 enrollments and terminations in calendar year 2014. The APTC balance that may be due  
12 NHC for years 2014 and 2015 is undetermined until the SDR further evaluates 2014  
13 enrollment and termination information for members.

#### 14 **Use of Third-Party Contractors as Part of Business Operations**

15 The Receiver utilizes the services of several third-party contractors that had been  
16 engaged before commencement of the receivership, and some of them were engaged after  
17 the receivership commenced to assist in management of NHC’s affairs.

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

- 19 1. Change Healthcare Solutions, LLC, to perform paper claims scanning services.
- 20 2. Eldorado, a division of Mphasis Corporation, to provide a hosting service for  
21 claims data and information.
- 22 3. The Jacobson Group, to provide claims adjustment and customer service  
23 staffing support.
- 24 4. Redcard, to perform check processing and delivery to health care providers,  
25 and delivery of Explanation of Benefit disclosures to plan members.
- 26 5. Truven Health Analytics, to provide services for the resubmission of CSR  
27 filings with CMS for calendar years 2014 and 2015.
- 28

1           6.       ADP, to provide payroll support and processing for employee compensation  
2 and benefits.

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

4           NHC maintains staff to address calls from interested parties regarding the recently  
5 approved proof of claim (“POC”) process, other claim matters, and the collection of assets for  
6 the receivership. The Receiver also continues to determine and refund premium  
7 overpayments to members since such overpayments were not funds to which NHC was  
8 entitled and are therefore outside the normal claim process. Currently, the receivership  
9 estate has returned approximately \$166,076.67 in premium overpayments to members since  
10 January 1, 2016.

11           The wind down of NHC’s 401(k) retirement plan continues, with the SDR having  
12 submitted to the Internal Revenue Service the Form 5310 for the retirement plan wind down.  
13 The Form 5310 filing seeks a tax determination letter that would permit the distribution of  
14 401(k) assets to employees without the need for an expensive and time-consuming audit.  
15 The Receiver also maintains an office for NHC’s essential office staff<sup>6</sup> in a smaller and less  
16 expensive office space than was used by NHC before, and just after, the receivership. The  
17 Receiver has not yet received disposition of the prior Form 5310 filing from the IRS, and the  
18 IRS has recently requested additional information regarding the 401(k) wind down, which the  
19 SDR will soon provide. The SDR expects to receive a final disposition of this matter by later  
20 this year.

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

22           Previously, the Receiver filed a Motion to Approve Professional Fee Rates on an  
23 Order Shortening Time, seeking from this Court the approval of the professional fee rates for  
24 certain service providers deemed essential to receivership operations, as well as  
25 authorization for the Receiver to include paid invoices with quarterly status reports to this  
26 Court. Following a hearing which took place on January 10, 2017, this Court did enter an  
27

28 <sup>6</sup> Currently, NHC maintains sixteen full-time and two part-time employees.



1 Order dated January 17, 2017, which approved that Motion in all relevant respects. The  
2 Receiver has been working with these professional firms regarding the receivership's affairs.

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

4 The Receiver submits legal and expert consulting firm invoices as Exhibit 2 with this  
5 Status Report filing. These invoices are in the form of summary bills that memorialize the  
6 fees and costs of these legal and expert firms. The detailed time and billing entries of the  
7 legal and expert firms have been submitted separately to the Court for its *in-camera*  
8 review. The Receiver submits these invoices and related documentation for the *in-camera*  
9 inspection by the Court to prevent the inappropriate disclosure of confidential and/or  
10 privileged information. In this connection, courts have held that the bills of legal counsel and  
11 experts may be withheld from legal discovery and are not subject to legal disclosure, as this  
12 information may provide indications or context concerning potential litigation strategy and the  
13 nature of the expert services being provided. See Avnet, Inc. v. Avana Technologies Inc.,  
14 No. 2:13-cv-00929-GMN-PAL, 2014 WL 6882345, at \*1 (D. Nev. Dec. 4, 2014) (finding that  
15 billing entries were privileged because they reveal a party's strategy and the nature of  
16 services provided); Fed. Sav. & Loan Ins. Corp. v. Ferm, 909 F.2d 372, 374-75 (9th Cir.  
17 1990) (considering whether or not fee information revealed counsel's mental impressions  
18 concerning litigation strategy). Other courts that have addressed this issue have recognized  
19 that the "attorney-client privilege embraces attorney time, records and statements to the  
20 extent that they reveal litigation strategy and the nature of the services provided." Real v.  
21 Cont'l Grp., Inc., 116 F.R.D. 211, 213 (N.D. Cal. 1986).

22 The *in-camera* review should apply not only to documentation concerning attorneys'  
23 fees, but it also extends to "details of work revealed in [an] expert's work description [which]  
24 would relate to tasks for which she [or he] was compensated[,]" a situation which is  
25 "analogous to protecting attorney-client privileged information contained in counsel's bills  
26 describing work performed." See DaVita Healthcare Partners, Inc. v. United States, 128 Fed.  
27 Cl. 584, 592-93 (2016); see also Chaudhry v. Gallerizzo, 174 F.3d 394, 402 (4th Cir. 1999)  
28 (recognizing that "correspondence, bills, ledgers, statements, and time records which also



1 reveal the motive of the client in seeking representation, litigation strategy, or the specific  
2 nature of the services provided, such as researching particular areas of law,” are protected  
3 from disclosure) (quoting Clarke v. Am. Commerce Nat'l Bank, 974 F.2d 127, 129 (9th Cir.  
4 1992)).<sup>7</sup>

#### 5 **Recent Motions Filed with the Court**

6 On June 8, 2017, Counsel for the Receiver filed with this Court a “Motion for Order of  
7 Release of Special Deposit and All Accrued Interest Thereon to the Receiver.” If approved  
8 by the Court, the NHC special deposit amount of approximately \$767,823 would be released  
9 to the custody of the Receiver. This motion is set for hearing on July 10, 2017.

10 On June 20, 2017, Counsel for the Receiver filed with this Court a “Motion for  
11 Instructions for ESI Protocol and Protective Order,” regarding management of electronically  
12 stored information and protection from disclosure of private healthcare information. If  
13 approved, the ESI Protocol would govern how records are stored, provided, and protected in  
14 any future receivership litigation. This motion is set for hearing on July 24, 2017.

#### 15 **Commencement of Action against CMS to Settle Questions of Setoff as to Mutual** 16 **Obligations**

17 On March 16, 2017, Counsel for the Receiver filed in the United States District Court  
18 for the District of Nevada a Complaint and Demand for Jury Trial (the "Complaint") against  
19 the United States Department of Health and Human Services, the Centers for Medicare and  
20 Medicaid Services, Thomas E. Price, M.D. in his capacity as the U.S. Secretary of Health and  
21 Human Services, and the United States (the “Defendants”). Through this Complaint, the  
22 Receiver seeks both judicial review of a final agency action made by Defendants and a  
23 declaratory judgment as to Defendants’ right to set-off any monies claimed against NHC  
24 through funds that HHS/CMS is statutorily obligated to pay to NHC. As has been reported to

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25 <sup>7</sup> This outcome is also supported by, among other things, the 2010 Advisory Committee Note to Federal Rules  
26 of Civil Procedure 26, which suggests that the proper focus of permitted discovery into expert compensation  
27 concerns the compensation amount, not the tasks performed that led to compensation; the objective of  
28 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 this Court on several occasions, Defendants (via CMS) have provided notice to the Receiver  
2 of their termination of the underlying Loan Agreement through which the CO-OP received its  
3 funds under the ACA, declaring those loans immediately due and payable. Further, on March  
4 6, 2016, HHS/CMS stated that an “administrative hold” on payables due to NHC had been  
5 implemented at the request of the U.S. Department of Justice. As part of this chain of events,  
6 on September 29, 2016, HHS/CMS claimed that approximately \$7 million had been offset  
7 against funds payable to NHC from the outstanding amount of the start-up loan, and  
8 prospectively asserted its “right” to offset future payables.

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

16 Pursuant to an Order entered on May 18, 2017, the parties agreed to the following  
17 briefing schedule for the United States forthcoming Motion to Dismiss:

- 18 1. Defendants’ Motion to Discuss is to be filed no later than June 29, 2017.
- 19 2. Plaintiff’s Response is to be filed no later than August 14, 2017.
- 20 3. Defendants’ Reply is to be filed no later than September 20, 2017.

21 **Notice of Claim Determination to CMS**

22 In response to a proof of claim filed by CMS against the NHC receivership estate  
23 before expiration of the April 28, 2017, claims filing deadline, a notice of claim determination  
24 was issued by the SDR to CMS on June 14, 2017, making the following claim determinations:

- 25 a. CMS claims are have priority no higher than NRS § 696B.420(1)(d) (“Class D”).
- 26 b. Federal law, including 31 U.S.C. § 3713, does not give CMS a claim priority  
27 higher than Class D with respect to NHC’s assets or in the NHC liquidation  
28 proceeding.

- 1 c. Under federal and state law, including NRS 696B.440, CMS claims may not be  
2 properly set off “against debts owed to NHC by the United States.”
- 3 d. Any set off of amounts claimed by the U.S., if set off against amounts owed to  
4 NHC, would impermissibly elevate the U.S. claims above their statutory priority  
5 level.
- 6 e. Any set off of amounts claimed by the U.S., if set off against amounts owed to  
7 NHC, would violate the NHC permanent receivership order.
- 8 f. The CMS claims are not entitled to secured creditor claim priority to the extent  
9 they are subject to a set off by a claim of NHC against the U.S.
- 10 g. It appears at this time that the receivership estate has insufficient assets to pay  
11 NHC claims with priority lower than Class B. Thus, the Receiver makes no  
12 determination right now as to the following: (1) the merit of the CMS claim, (2)  
13 the amount claimed, or (3) whether the CMS claim would have a Class D or  
14 lower priority.
- 15 h. No claim received after the NHC claims deadline, if not rendered absolute, is  
16 allowed to participate in a share of NHC’s assets. Thus, any later or additional  
17 claim by CMS will be deemed a late filed claim for which NHC is not liable. The  
18 purported claim reservation of the U.S. to assert later determined claims is  
19 therefore ineffective.

20 CMS has not yet provided any response to the aforementioned notice of claim  
21 determination sent on June 14, 2017.

22 **Post-Receiverhsip Hardship Claim Payments Made by the Receiver of NHC**

23 The Receiver has thus far paid approximately \$8.4 million in hardship claim payments  
24 to different health care providers or members for necessary pharmacological, psychological,  
25 and health care services. These hardship claim payments to providers and/or members  
26 concerned emergency services, vital prescription medicines, protection against instances of  
27 balance billing, and medical or financial hardships. The SDR continues to utilize the  
28 procedure developed and provided alongside the Fourth Status Report to adjudicate and

1 process these payments. The Receiver will allow hardship claim payments to continue  
2 pursuant to this Court's prior order.<sup>8</sup>

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

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

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

13 NHC received approximately \$65.9 million of loans from CMS before receivership as  
14 funds for the start-up and solvency of this health insurer. After receivership began, CMS  
15 demanded loan repayment and asserted that such repayment was legally entitled to a super-  
16 priority so that it had to be made before payment of any other claims against NHC other than  
17 costs of administration. The Receiver tried without success to resolve this super-priority  
18 issue with CMS and the United States Department of Justice. Until this issue is resolved,  
19 there is substantial uncertainty about the Receiver's ability to pay non-hardship claims.

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

21 CMS placed "an administrative hold" on all reimbursements due NHC under the  
22 federal receivables programs. The CMS reimbursements due NHC are in the tens of  
23 millions. Approximately \$56 million is due from CMS and the federal government for federal  
24 receivables, not including APTC amounts that are currently in dispute between CMS and  
25 NHC. NHC's unpaid claim liabilities are also in the tens of millions, so federal receivables  
26 from CMS are essential to the ability of the Receiver to make meaningful claims payments.

27 \_\_\_\_\_  
28 <sup>8</sup> 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 However, as discussed above, no payments (not even small ones) may be made on non-  
2 hardship claims without resolution of CMS' assertion of federal super-priority for payment of  
3 its loans before all other claims. According to CMS, the placement of the hold on federal  
4 receivable reimbursements due NHC is because of the above-mentioned loans that are now  
5 claimed due by CMS.

6 **Resolution of Proofs of Claim, Provision of Notices of Claim Determination, Appeals**

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

12 The Claims Filing Deadline was April 28, 2017, and the SDR received 131 POCs. A  
13 large number of these are incomplete or unable to be adjudicated for various other reasons,  
14 and the SDR has notified various claimants of claim deficiencies. The SDR will continue  
15 adjudicating POCs and mailing notices of claim determination ("NCDs").

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

17 It does not appear at this time that there will be sufficient assets to pay claims beyond  
18 those assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has received a  
19 number of POCs that should be assigned to priority classes C through L, pursuant to NRS  
20 696B.420(1)(c)-(l). In such instances, the SDR will send claimants NCDs that determine the  
21 priority of their claims, which determination will be subject to appeal under the Receivership  
22 Appeal Procedure ("RAP"). In order to conserve the assets of the estate, and per  
23 NRS696B.330(4), the SDR of NHC will refrain from reaching the merits of these claims until  
24 such time it appears that assets will be available for distribution to that class. If additional  
25 assets later become available for distribution to these claimants, the SDR will make a second  
26 claim determination as to the merits of each claim and notify the claimants of such  
27 determination.

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

1 Health care providers are not required to use the POC form to submit their claims,  
2 because NHC already has a pre-existing process for receiving and processing such claims,  
3 having thousands of such processed claims already in its claim processing system.  
4 Providers were required to use (and most did use) the pre-existing claims process to submit  
5 their claims before the Claims Filing Deadline.

6 The SDR will be preparing NCDs to send providers for their claims. After reporting  
7 claim determinations to the Court, the SDR will begin mailing providers' NCDs. The provider  
8 NCD will show the amount the SDR has approved to be paid for each claim, along with the  
9 member's responsibility portion of the claim—which the provider may collect from the  
10 member without violating the Permanent Receivership Order. For this reason, the member  
11 will also receive a copy of the NCD. Members and providers may appeal NCDs in  
12 accordance with the RAP.

### 13 **Current Receivership Assets**

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

18 1. Before year-end 2014, the Receiver submitted a reinsurance claim to Partner  
19 Re based on 2015 claims information. In April and May 2017, Partner Re paid the Receiver a  
20 total of \$787,352.41 in satisfaction of NHC's reinsurance claims. The Receiver has submitted  
21 a recent additional claim to Partner Re of approximately \$3,000, and this appears to be the  
22 full amount due from Partner Re at this time. The Receiver will submit further claims to  
23 Partner Re if the attachment point of reinsurance coverage is reached in the future.

24 2. The unrestricted cash assets of the CO-OP have fluctuated with post-  
25 receivership expenses and claim payments, as well as with the Receiver's receipt of member  
26 premiums. The unrestricted cash assets of the CO-OP as of June 27, 2017, were  
27 approximately \$8,107,817. The majority of NHC's currently available and liquid assets have  
28 been invested in a short-term bond mutual fund, with the remainder of such assets invested

1 in bank deposits. This amount does not take into account the \$767,823 (as of June 27, 2017)  
2 in restricted cash assets held in a statutory special deposit account for the benefit of NHC's  
3 creditors.

4 3. The financial information of NHC in this Seventh Status Report provides  
5 estimates. NHC's financials may materially vary depending upon the estate's receipt of the  
6 promised federal receivables payments under the various ACA programs described in this  
7 report. These figures will remain estimates until the estate receives clearer indications from  
8 CMS and the federal government as to the amount and timing of any federal payments, as  
9 well as the outcome of the recent lawsuit filed by the Receiver against CMS concerning the  
10 matter of the administrative hold and asserted rights to setoff. As mentioned, the Receiver  
11 continues work to resolve matters with CMS.

12 4. The Receiver is enclosing, as Exhibit 3 attached hereto, a cash flow report for  
13 NHC for the time period covering the inception of the receivership through May 31, 2017.  
14 This report reflects a summary of disbursements and collections made by NHC during this  
15 period.

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**CONCLUSION**

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

DATED this 6th day of July 2017.

Respectfully submitted:

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

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

Respectfully submitted by:

/s/ Eric W. Swanis

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as the Permanent Receiver for  
Nevada Health CO-OP*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on the 6th day of July 2017, and pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I served this **SEVENTH 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**

**State of Nevada, ex rel Commissioner of Insurance, Plaintiff(s) vs. Nevada Health CO-OP, Defendant(s)**

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