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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.)	
)	
)	
)	

NINTH 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 Ninth Status Report in the above-captioned receivership.

Greenberg Traurig, LLP
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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 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 Ninth 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 Claims Solidification***

20 NHC’s staff continues the process of claims adjudications. At this point, new claims
21 are only accepted for review if the claimant can show proof of timely filing (*i.e.*, proof that the
22 claim was previously submitted in advance of the Receiver’s Claims Filing Deadline).

23 The Receiver continues to coordinate with those plan members who were reported to
24 collection agencies by healthcare providers and facilities, or who are currently being sought
25 for payment based on the receivership estate’s obligations. In cases where collection efforts
26 have taken place in violation of the Permanent Receivership Order, NHC staff members
27 contact those providers and any related collection agencies to inform them of the Permanent
28 Receivership Order and its moratorium on the payment of health claims. When necessary,

1 the SDR has also sent letters to such providers to advise them that their direct collection
2 actions violate the Permanent Receivership Order, and may justify receivership remedies
3 against them.

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

5 As explained in prior status reports, the Receiver and SDR have submitted essential
6 data for the various regulatory reporting processes required for CO-OPs under the ACA, and
7 NHC fulfills ongoing requirements as may be applicable. The Receiver is working to resolve
8 CMS matters so that the maximum amounts are collected under the various federal
9 receivables programs.

10 NHC is owed payments relating to several such programs, including: Cost Sharing
11 Reduction (“CSR”) Reconciliation, Federal Transitional Reinsurance, Risk Adjustment, and
12 Risk Corridors. The expected receipt of these federal receivables is a key part of any future
13 claim payments by NHC. The non-receipt of substantially all federal accounts payable for
14 plan year 2015, and a material portion of accounts payable for plan year 2014, has greatly
15 diminished NHC’s assets and, therefore, its claims-paying ability.

16 CMS has maintained the position that any monies deemed owed to NHC (*i.e.*, the
17 receivership estate) are to be set off against the amounts CMS asserts it is owed under the
18 start-up loan to NHC. CMS has so far made offsets against accounts payable to NHC for the
19 outstanding balance of the start-up loan. The SDR sent a letter to CMS to request a detailed,
20 cumulative accounting of all offsets applied to date so that the SDR can review CMS’
21 accounting of charges and offsets applied to NHC’s accounts payable. The SDR has
22 received such an accounting and is currently reviewing it in detail.

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

24 NHC Risk Adjustment and Federal Transitional Reinsurance data was submitted to
25 CMS on May 2, 2016. On June 30, 2016, CMS released its Summary Report on
26 Transactional Reinsurance and Permanent Risk Adjustment Transfers for the 2015 Benefit
27 Year.¹ Per the report, for coverage year 2015, the CO-OP is owed a Federal Transitional
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 payment of \$8,842,009.69 and net Risk Adjustment transfer of \$4,532,560.29.
2 The 2015 Federal Transitional Reinsurance payment amount increased by \$4,601.65 to
3 \$8,846,611.34 in the December 6, 2016, Amendment to the Summary Report on Transitional
4 Reinsurance Payments and Permanent Risk Adjustment Transfers for the 2015 Benefit
5 Year.²

6 In 2016, the reporting related to the CSR Reconciliation program resulted in a net
7 amount owed by NHC to CMS of \$3,579,359.65 for 2014 and 2015 CSRs. At the beginning
8 of June 2017, the SDR submitted amended filings to CMS of the 2014 and 2015 CSRs,
9 resulting in NHC owing an adjusted balance to CMS of \$482,948.54 rather than
10 \$3,579,359.65—or a reduction in NHC liability of \$3,096,411.11. CMS has accepted this
11 adjustment.

12 Regarding the 2015 Risk Corridors, CMS has confirmed that NHC is owed \$29.9
13 million for its individual market and \$3.75 million for its small group market.³ However, CMS
14 claims to have no funds available to pay 2015 Risk Corridors at this time, and it has
15 announced that all 2015 and 2016 benefit year collections will be used towards remaining
16 2014 benefit year risk corridors balances.⁴ Due to a shortfall in risk corridor collections, CMS
17 was initially able to pay only a prorated 12.6% of all 2014 Risk Corridors payments due to
18 issuers. In November 2016, CMS announced an additional expected payment toward NHC's
19 2014 Risk Corridor of \$355,443.99. Likewise, in November 2017, CMS announced an
20 additional expected payment toward NHC's 2014 Risk Corridor of \$93,079.06. The CO-OP is
21 still owed over \$9.4 million for unpaid 2014 Risk Corridors.

22 The SDR has previously disputed with CMS the balance due NHC for Advance
23 Premium Tax Credits ("APTC"). CMS recently provided clarification and detailed materials in
24 support of its position, which the SDR is still reviewing.

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

26 ³ DEP'T OF HEALTH & HUMAN SERVICES & CENTERS FOR MEDICARE & MEDICAID SERVICES ("CMS"),
27 CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR THE 2015 BENEFIT
28 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>).

⁴ *Id.*; CMS, CCIIO MEMORANDUM, RISK CORRIDORS PAYMENT AND CHARGE AMOUNTS FOR THE 2016
BENEFIT YEAR (November 15, 2017) (available at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/Risk-Corridors-Amounts-2016.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 some of them were engaged after
4 the 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. Eldorado, a division of Mphasis Corporation, to provide a hosting service for
7 claims data and information.
- 8 2. The Jacobson Group, to provide claims adjustment and customer service
9 staffing support.
- 10 3. Redcard, to perform check processing and delivery to health care providers,
11 and delivery of Explanation of Benefit disclosures to providers and plan members.
- 12 4. ADP, to provide payroll support and processing for employee compensation
13 and benefits.

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

15 NHC maintains staff to address calls from interested parties regarding the proof of
16 claim (“POC”) process, other claim matters, and the collection of assets for the receivership.
17 The Receiver has refunded premium overpayments to members since such overpayments
18 were not funds to which NHC was entitled and are therefore outside the normal claim
19 process. The Receiver believes that substantially all premium refunds have been processed
20 and paid.

21 The wind down of NHC’s 401(k) retirement plan continues, with the SDR having
22 submitted to the Internal Revenue Service the Form 5310 for the retirement plan wind down.
23 The Form 5310 filing sought a tax determination letter that would permit the distribution of
24 401(k) assets to employees without the need for an expensive and time-consuming audit. On
25 September 21, 2017, the SDR received notice from the IRS via a letter dated September 14,
26 2017, that the termination of the 401(k) “doesn’t affect its qualification for federal tax
27 purposes.” This favorable determination having been obtained, the SDR has instructed its
28 401(k) third-party administrator to coordinate with the investment company in custody of the

1 retirement plan assets to begin the process of de-conversion as part of the wind down,
2 making sure that all employee terminations which occurred within and subsequent to 2015 be
3 treated as events which vest 401(k) participants fully in the amounts held on their accounts.
4 All former retirement plan participants shall receive notices from the investment company with
5 mandatory disclosures concerning their funds, and instructions for effecting a transfer to an
6 alternate company.

7 The Receiver also maintains an office for NHC's essential office staff.⁵

8 **Commencement of Action Against Various Professionals and Other Firms Who**
9 **Performed Services for and on Behalf of NHC**

10 On August 25, 2017, Counsel for the Receiver filed in Clark County District Court a
11 complaint (Case No. A-17-760558-C in Department No. 18) against various persons, third-
12 party vendors, and professional service firms which are alleged to have contributed to NHC's
13 current hazardous financial condition by, among other things, failing to adhere to applicable
14 standards of professional care and requirements imposed by law, misrepresentation
15 concerning quality and standard of care for services performed, and breaches of contract,
16 duty, and implied covenants of good faith and fair dealing.

17 The complaint names, among others, NHC's former actuaries, accountants, auditors,
18 and providers of certain business operations and utilization review services, as well as those
19 individuals who specifically performed, or who were in the role of supervising the
20 performance of, those services. The Complaint also names several of NHC's former
21 directors and executive management.

22 On September 14, 2017, Counsel for the Receiver filed with this Court a Motion to
23 Coordinate Cases, seeking a coordination of that case and the overarching receivership
24 action being supervised by this Court on grounds that the case constitutes an asset recovery
25 action, an integral part of the resolution of the receivership that merits continued supervision
26 by this Court. This motion was set for in chambers hearing on October 19, 2017, but was
27 continued to November 7, 2017. An opposition to the Motion to Coordinate Cases was filed
28 _____

⁵ Currently, NHC maintains fifteen full-time and two part-time employees.

1 by Milliman, and subsequently joined by Nevada Health Solutions, InsureMonkey, Larson,
2 and many of the former directors and officers of NHC. By an order dated December 8, 2017,
3 this Court denied Plaintiff's Motion to Coordinate Cases.

4 A request to reassign this case to the Business Court on the grounds that the action
5 involves the alleged commission of torts related to business was filed September 28, 2017,
6 and Judge Nancy Alf was assigned. Judge Kathleen Delaney has now been assigned the
7 case subsequent to Judge Alf being subject to a peremptory challenge dated November 9,
8 2017.

9 Milliman filed its Motion to Compel Arbitration on November 6, 2017, a motion which
10 was challenged by the December 11, 2017, filing of Plaintiff's Opposition to Milliman's Motion
11 to Compel Arbitration. The hearing to address this issue was scheduled for December 12,
12 2017, but it has now been reset for a hearing on January 9, 2018.

13 Millennium filed a Motion to Dismiss on October 26, 2017, and an opposition to such
14 motion was filed by the Receiver on December 18, 2017. The hearing on that Motion to
15 Dismiss was scheduled for December 12, 2017, but this was later rescheduled to January 9,
16 2018, on stipulation of the parties.

17 **Commencement of Action Against CMS to Settle Questions of Setoff as to Mutual**
18 **Obligations**

19 On March 16, 2017, Counsel for the Receiver filed in the United States District Court
20 for the District of Nevada a Complaint and Demand for Jury Trial (the "Complaint") against
21 the United States Department of Health and Human Services, the Centers for Medicare and
22 Medicaid Services, Thomas E. Price, M.D. in his capacity as the U.S. Secretary of Health and
23 Human Services, and the United States (the "Defendants"). Through this Complaint, the
24 Receiver seeks both judicial review of a final agency action made by Defendants and a
25 declaratory judgment as to Defendants' right to set off any monies claimed against NHC
26 through funds that HHS/CMS is statutorily obligated to pay to NHC. As has been reported to
27 this Court on several occasions, Defendants (via CMS) have provided notice to the Receiver
28 of their termination of the underlying Loan Agreement through which the CO-OP received its
funds under the ACA, declaring those loans immediately due and payable. Further, on March

1 6, 2016, HHS/CMS stated that an “administrative hold” on payables due to NHC had been
2 implemented at the request of the U.S. Department of Justice. As part of this chain of events,
3 on September 29, 2016, HHS/CMS claimed that approximately \$7 million had been offset
4 against funds payable to NHC from the outstanding amount of the start-up loan, and
5 prospectively asserted its “right” to offset future payables. As noted above, CMS has since
6 notified the SDR on several occasions of additional offsets, and the SDR has determined
7 certain discrepancies in CMS’ accounting. Consequently, the SDR has requested, in writing,
8 that CMS provide a cumulative accounting of all offsets and charges applied to NHC’s
9 accounts payable to date, which CMS has provided and which is now under review.

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

17 Defendants’ Motion to Dismiss was filed in that case on June 29, 2017, asserting that
18 the Receiver’s claim for declaratory relief fails both for lack of jurisdiction and on the merits.

19 A Stipulation and Order to Extend Briefing Schedule regarding that Motion to Dismiss
20 was filed with the United States District Court for the State of Nevada, with the consent of
21 counsel for both plaintiff and defendants, on August 8, 2017. This stipulation provides that
22 the Receiver shall have up to and including August 28, 2017, to respond to HHS/CMS’
23 motion to dismiss, and HHS/CMS shall have up to and including October 4, 2017, to submit a
24 reply brief. This Stipulation was approved via an order entered August 10, 2017.

25 The Receiver filed her Opposition to Motion to Dismiss on August 28, 2017. The
26 Opposition to Motion to Dismiss, *inter alia*, asserts that not only does the Administrative
27 Procedure Act provide a waiver of sovereign immunity which applies to this action, but that
28 the CMS Loan Agreement contains an express waiver of sovereign immunity under its own

1 terms, insofar as that agreement specifically declares that both parties (HHS/CMS and NHC)
2 consent to the jurisdiction of the federal courts located within Nevada, and courts of appeal
3 therefrom. On October 4, 2017, HHS/CMS filed its Reply in Support of Motion to Dismiss the
4 Complaint, wherein the Court of Federal Claims was again argued to be sole jurisdiction
5 under which the suit may be adjudicated, that any monetary relief provided by that court
6 would adequately address the agency actions NHC complains of, and that sovereign
7 immunity had not been waived under the terms of the CMS Loan Agreement.

8 On December 6, 2017, Plaintiff filed its Initial Case Management Statement and
9 Scheduling Order, proposing a plan and schedule for discovery to be conducted in that case.
10 The same day, Defendants filed their Motion to Deny Plaintiff's Proposed Scheduling Order,
11 and a hearing on that motion is expected to be heard on January 22, 2018.

12 **Notice of Claim Determination to CMS**

13 In response to a POC filed by CMS against the NHC receivership estate before
14 expiration of the April 28, 2017, claims filing deadline, a notice of claim determination ("NCD")
15 was issued by the SDR to CMS on June 14, 2017, making the following claim determinations:

- 16 a. CMS claims have priority no higher than NRS § 696B.420(1)(d) ("Class D").
- 17 b. Federal law, including 31 U.S.C. § 3713, does not give CMS a claim priority
18 higher than Class D with respect to NHC's assets or in the NHC liquidation
19 proceeding.
- 20 c. Under federal and state law, including NRS 696B.440, CMS claims may not be
21 properly set off "against debts owed to NHC by the United States."
- 22 d. Any setoff of amounts claimed by the U.S., if set off against amounts owed to
23 NHC, would impermissibly elevate the U.S. claims above their statutory priority
24 level.
- 25 e. Any setoff of amounts claimed by the U.S., if set off against amounts owed to
26 NHC, would violate the NHC permanent receivership order.
- 27 f. The CMS claims are not entitled to secured creditor claim priority to the extent
28 they are subject to a set off by a claim of NHC against the United States.

1 g. It appears that the receivership estate has insufficient assets to pay NHC claims
2 with priority lower than Class B. Thus, the Receiver makes no determination
3 right now as to the following: (1) the merit of the CMS claim, (2) the amount
4 claimed, or (3) whether the CMS claim would have a Class D or lower priority.

5 h. No claim received after the NHC claims deadline, if not rendered absolute, can
6 participate in a share of NHC's assets. Thus, any later or additional claim by
7 CMS will be deemed a late-filed claim for which NHC is not liable. The
8 purported claim reservation of the United States to assert later determined
9 claims is therefore ineffective.

10 CMS was notified in the June 14, 2017, NCD that its appeal, if any, was due to be filed
11 within sixty (60) days of the notice (*i.e.*, by August 13, 2017). To date, CMS has not provided
12 any responsive appeal. Therefore, pursuant to the Receivership Appeal Procedure ("RAP"),
13 the SDR's June 14, 2017, determination is final and non-appealable.

14 **Filing in Small Claims Court by Former Member**

15 NHC was made party to an action in the Justice Court for Las Vegas Township via an
16 April 17, 2017, small claims complaint filed by a former member, Mr. Yiming Wu, regarding
17 \$4,727.74 that he claims he is owed by NHC for the CO-OP's allegedly reporting to the IRS
18 incorrect information concerning his coverage, resulting in the assessment of a penalty. The
19 complainant was advised via a letter from the receivership dated April 24, 2017, of the
20 necessity of filing a POC against the CO-OP to protect his rights against estate assets, but to
21 date such a POC has not been received. Counsel for the Receiver had filed a Motion to
22 Dismiss on jurisdictional grounds, among others, asserting that this action must be before the
23 Receivership Court to the exclusion of any other forum. Via an Order to Transfer Case filed
24 September 13, 2017, the Las Vegas Justice Court transferred the case to the Receivership
25 Court for further proceedings, pending the payment of transfer fees by the Plaintiff. As of the
26 date of filing of this Status Report, no such transfer fees have been paid by the Plaintiff. The
27 action cannot commence in the receivership court without the payment of such fees, and thus
28

1 the case remains abated until that requirement is satisfied. Efforts to reach out to Mr. Wu via
2 telephone have not been successful.

3 **IRS Penalties Assessed for Data Inaccuracies in Information Filings**

4 The SDR received a notice from the IRS dated October 2, 2017, regarding an unpaid
5 amount of \$491.98 and relating to the Form 720 (quarterly federal excise tax return). The
6 notice threatened to seize NHC's property to satisfy the amount due. The SDR has
7 contacted the IRS regarding this notice and been informed that the notice relates to interest
8 due on NHC's Patient-Centered Outcomes Research Institute ("PCORI") fees. The IRS has
9 filed a POC for this amount, and is aware that NHC is in liquidation. An IRS bankruptcy
10 specialist informed the SDR that a receivership "freeze" will be placed on this item, no seizure
11 of assets is in progress, and no additional notices should be received on this matter.

12 The SDR has received other notices from the IRS seeking to compel the payment of
13 penalties assessed against NHC regarding the submission of erroneous Form 1099 and Tax
14 Information Number data for tax years 2014 and 2015. The Receiver has written separately
15 regarding both tax years, to explain that reasonable cause to withhold the penalty exists and
16 that Treasury regulations insulate assets administered by a receivership court from seizure
17 and levy by the IRS. Regarding the 2014 penalty, the IRS requested additional documents to
18 support the SDR's request. The SDR has responded with the requested documentation and
19 awaits a decision from the IRS. Regarding the 2015 penalty, the SDR awaits a response
20 from the IRS.

21 **Resolution of POCs, Provision of NCDs, Appeals**

22 The Receiver has implemented the POC process approved by this Court in its Final
23 Order, and has already conducted general mailings and publication of necessary notices to
24 claimants and other interested parties.

25 The Claims Filing Deadline was April 28, 2017, and the SDR received 141 POCs.
26 Many of these are incomplete or unable to be adjudicated for various other reasons, and the
27 SDR has notified various claimants of claim deficiencies. The SDR will continue adjudicating
28

1 POCs and developing NCDs in expectation of mailing such determinations after obtaining the
2 necessary approval from this Court.

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

4 It does not appear now that there will be sufficient assets to pay claims beyond those
5 assigned a Class B priority pursuant to NRS 696B.420(1)(b). The SDR has received several
6 POCs that should be assigned to priority classes C through L, pursuant to NRS
7 696B.420(1)(c)-(l). In such instances, the SDR proposes to send claimants NCDs that
8 determine the priority of their claims, which determination will be subject to appeal under the
9 Receivership Appeal Procedure (“RAP”). To conserve the assets of the estate, and per
10 NRS696B.330(4), the SDR of NHC will refrain from reaching the merits of these claims until
11 such time it appears that assets will be available for distribution to that class. If additional
12 assets later become available for distribution to these claimants, the SDR will make a second
13 claim determination as to the merits of each claim and notify the claimants of such
14 determination.

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

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

21 The SDR will be preparing NCDs to send providers for their claims. After reporting
22 claim determinations to the Court, the SDR will begin mailing providers’ NCDs. The provider
23 NCD will show the amount the SDR has approved to be paid for each claim, along with the
24 member’s responsibility portion of the claim—which the provider may collect from the
25 member without violating the Permanent Receivership Order. For this reason, the member
26 will also receive a copy of the NCD. Members and providers may appeal NCDs in
27 accordance with the RAP.
28

1 **Current Receivership Assets**

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

6 1. Before year-end 2016, the Receiver submitted a reinsurance claim to Partner
7 Re based on 2015 claims information. In April and May 2017, Partner Re paid the Receiver a
8 total of \$787,352.41 in satisfaction of NHC's reinsurance claims, but ultimately adjusted this
9 amount by \$2,196.11 in Partner Re's favor.

10 2. The unrestricted cash assets of the CO-OP have fluctuated with post-
11 receivership expenses and claim payments, as well as with the Receiver's receipt of member
12 premiums. The currently-available, unrestricted cash assets of the CO-OP as of November
13 30, 2017, were approximately \$6,697,978. The majority of NHC's currently available and
14 liquid assets have been invested in a short-term bond mutual fund, with the remainder of
15 such assets held in bank deposits.

16 3. The financial information of NHC in this Ninth Status Report provides estimates.
17 NHC's financials may materially vary depending upon the estate's receipt of the promised
18 federal receivables payments under the various ACA programs described in this report and
19 future litigation recoverables. These figures will remain estimates until the estate receives
20 clearer indications from CMS and the federal government as to the amount and timing of any
21 federal payments, as well as the outcome of the recent lawsuit filed by the Receiver against
22 CMS regarding the administrative hold and asserted rights to setoff. As mentioned, the
23 Receiver continues work to resolve matters with CMS.

24 4. The Receiver is enclosing, as Exhibit 2 attached hereto, a cash flow report for
25 NHC for the period covering the inception of the receivership through November 30, 2017.
26 This report reflects a summary of disbursements and collections made by NHC during this
27 period.
28

1 **CONCLUSION**

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

5 DATED this 5th day of January 2018.

6
7 Respectfully submitted:

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

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

16 Respectfully submitted by:

17 /s/ Eric W. Swanis

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*Counsel for Barbara D. Richardson,
Commissioner of Insurance,
as the Permanent Receiver for
Nevada Health CO-OP*

CERTIFICATE OF SERVICE

1
2 I HEREBY CERTIFY that, on the 5th day of January 2018, and pursuant to NEFCR 9,
3 NRCP 5(b), and EDCR 7.26, a true and correct copy of the foregoing **NINTH STATUS**
4 **REPORT** was filed with the Clerk of the Court using the Odyssey eFileNV Electronic Service
5 system and served on all parties with an email-address on record, pursuant to Administrative
6 Order 14-2 and Rule 9 of the N.E.F.C.R.

7 The date and time of the electronic proof of service is in place of the date and place of
8 deposit in the U.S. Mail.

9
10 /s/ Joyce Heilich
An employee of Greenberg Traurig, LLP