

COPY

1 **Lewis Roca Rothgerber Christie LLP**

201 East Washington Street, Suite 1200
Phoenix, Arizona 85004-2595

3 Joel A. Glover (CO Bar No. 20821) (*pro hac vice* pending)
Direct Dial: 303.628.9553
Direct Fax: 303.623.9222
4 Email: jglover@lrrc.com

5 Justin J. Henderson (State Bar No. 026930)
Direct Dial: 602.262.5738
Direct Fax: 602.734.3937
6 E-mail: jhenderson@lrrc.com

7 *Attorneys for Receiver*

8 SUPERIOR COURT OF ARIZONA

9 COUNTY OF MARICOPA

10 STATE OF ARIZONA, *ex rel.*
11 LESLIE R. HESS, Interim Director
of Insurance,

12 Plaintiff,

13 vs.

14 COMPASS COOPERATIVE MUTUAL
HEALTH NETWORK, INC., dba
15 MERITUS MUTUAL HEALTH
PARTNERS, an Arizona corporation; and
16 COMPASS COOPERATIVE HEALTH
PLAN, INC., dba MERITUS HEALTH
17 PARTNERS, an Arizona corporation,

18 Defendants.

No. CV2016-011872

ORDER RE: PETITION NO. 7

**ORDER APPROVING
LIQUIDATION PLAN**

(Assigned to The Honorable
Daniel Martin)

19
20 Leslie R. Hess, Interim Director of Insurance for the Arizona Department of
21 Insurance, as Receiver (hereinafter "Receiver") of Compass Cooperative Mutual Health
22 Network, Inc. doing business as Meritus Mutual Health Partners ("Meritus Mutual") and
23 Compass Cooperative Health Plan, Inc. dba Meritus Health Partners ("MHP"), having
24 filed Petition No. 7 ("Petition No. 7") to Petition for Order Approving Liquidation Plan, a
25 hearing having been held before this Court on March 8, 2017, the Court being fully
26 advised in the premises and good cause appearing therefor, IT IS ORDERED:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. Background Filings and Orders.

a. The Liquidation Plan, dated January 11, 2017, was filed by the Receiver.

b. Also dated January 11, 2017, the Receiver filed Petition No. 8 – Petition to Set Hearing and Approve Notice of Hearing for Petition No. 7 – Petition for Order Approving Liquidation Plan.

c. Dated January 26, 2017, this Court entered its Order regarding Petition No. 8, the Order Approving Petition to Set Hearing and To Approve Notice of Hearing for Petition No. 8 – Petition for Order Approving Liquidation Plan.

d. Dated February 6, 2017, the Receiver filed its Certificate of Providing Notice of Hearing Regarding Petition for Order Approving Liquidation Plan confirming the method and dates by which notice of the hearing was provided.

e. The hearing regarding the Liquidation Plan took place on March 8, 2017. No objections to the Liquidation Plan were filed with this Court prior to the hearing. Likewise, no objections to the Liquidation Plan were made at the hearing.

f. At the hearing, counsel for the Receiver addressed the Liquidation Plan, the relief requested thereby and the basis for the Liquidation Plan.

2. Approval of the Liquidation Plan. The Liquidation Plan submitted by the Receiver is hereby approved. The Receiver is directed to implement the Liquidation Plan and to take all steps as reasonably necessary and/or appropriate to do so. As set forth more fully herein: (1) the Receiver shall coordinate Meritus Mutual claims' coverage from the Arizona Life and Disability Insurance Guaranty Fund ("AZ Guaranty Fund")

1 subject to and in accordance with the Service Agreement previously approved by this
2 Court; (2) the Receiver shall determine MHP claim amounts, taking into account in-
3 network, out-of-network and network exception distinctions; (3) a temporary restraining
4 order is entered prohibiting collections from enrollees and insureds unless and until an
5 Explanation of Benefits (“EOB”) notice (or similar documentation) has been issued by
6 the Receiver; and (4) a proof of claim process is established that includes a claims bar
7 deadline for non-Providers while allowing for Provider claims to be adjudicated and
8 determined generally in accordance with the Meritus Companies’ procedures.

9
10 3. Coordination of Coverage for Meritus Mutual Benefits.

11 a. In accordance with the Service Agreement previously approved by
12 this Court, the Receiver and the AZ Guaranty Fund shall coordinate with the Providers
13 having claims against Meritus Mutual to confirm the appropriate claim amount using
14 the applicable effective date. After confirmation of the claim amounts, EOB notices (or
15 similar documentation) will be sent to the applicable insureds and Providers. Among
16 other things, the EOB notices will identify for the insured the correct amounts of any
17 deductibles and/or copays from the insured to the Provider, whether paid or unpaid.

18
19 b. Benefits shall be provided by the AZ Guaranty Fund, subject to and
20 in accordance with provisions and limitations provided for in the Arizona Life and
21 Disability Insurance Guaranty Fund Act, A.R.S. 20-681, *et seq.*

22
23 c. To the extent there are any disputes regarding the claim amounts
24 and/or the EOB notices and related calculations (including consideration of offsets
25 and/or other amounts due from the Provider to Meritus Mutual), this Court shall have
26 the sole and exclusive jurisdiction to resolve such disputes.

1 4. Adjudication of Claims Related to MHP Benefits.

2
3 a. Claims for benefits associated with MHP policies are not subject to
4 coverage by the AZ Guaranty Fund. The Receiver shall coordinate with the Providers
5 having claims against MHP initially to confirm the appropriate claim amount using the
6 applicable effective date. After confirmation of the claim amounts, EOB notices (or
7 similar documentation) will be sent to the applicable insureds and Providers. Among
8 other things, the EOB notices will identify for the insured the correct amounts of any
9 deductibles and/or copays from the insured to the Provider, whether paid or unpaid.

10 b. While the claims shall be adjudicated, the Receiver shall not make
11 any payments of any claims to or for the benefit of MHP Providers without additional
12 notice, hearing and order of this Court in order for the Court to take into account,
13 among other things, the statutory priority system (A.R.S. § 20-629) .

14
15 c. To the extent there are any disputes regarding the claim amounts
16 and/or the EOB notices and related calculations (including consideration of offsets
17 and/or other amounts due from the Provider to MHP), this Court shall have the sole and
18 exclusive jurisdiction to resolve such disputes.

19
20 5. Claims Bar Deadline and Proof of Claim Process.

21 a. Pursuant to A.R.S. §§ 20-640 and 20-628, the Court establishes May
22 15, 2017 as the proof of claims bar deadline.

23
24 b. The Receiver shall notify all persons who may have claims against
25 Meritus Mutual and/or MHP (other than Providers as specified below) by publishing on
26 the web site maintained for Meritus Mutual and MHP the Proof of Claims Notice and

1 instructions in substantially the same form as was attached as Exhibit A to the Petition
2 No. 7 – Petition for Order Approving Liquidation Plan (“Exhibit A to the Petition”) and
3 by sending a copy of the Proof of Claims Notice via regular mail using the books and
4 records of Meritus Mutual and/or MHP for the most recent and complete mailing
5 addresses of such person. The Receiver shall file proof of publication and mailing after
6 it has provided notice of Exhibit A to the Petition in the manner provided for herein.

7
8 c. Any and all persons (other than Providers as specified below) with
9 claims against Meritus Mutual and/or MHP shall file the Proof of Claim form of
10 Exhibit A to the Petition on or before May 15, 2017 or such claims shall be forever
11 barred to the extent each does not otherwise qualify as a late-filed claim under the
12 Arizona Insurer Receivership Act.

13 d. In the Receiver’s discretion:

14
15 i. the Receiver may notify one or more creditors of a proposed deemed
16 claim amount based on the books and records of Meritus Mutual and/or MHP which the
17 creditor may dispute by means of submission of a separate Proof of Claim Form; and

18
19 ii. the Receiver may seek an extension of the Proof of Claims Bar Date
20 under the circumstances and subject to this Court approval.

21 e. Providers are not required to use the Proof of Claim Form to submit
22 a claim. Instead, Providers with claims for health care services provided must submit
23 the claims to Meritus Mutual and/or MHP in the usual manner used in the normal
24 course of business for processing and adjudicating claims. In addition: (1) the
25 Receiver will communicate to each Provider a Notice of Claim Amount determined in
26 accordance with the Arizona Insurer Receivership Act; (2) if a Provider objects to the

1 claim amount in the Notice, that Provider must file a written notice of objection with
2 the Receiver within thirty (30) days after the date of the Notice; (3) the Receiver will
3 file with the Court notice of the Provider's objection to the claim amount, along with
4 the Receiver's recommendation; and (4) any such disputed claim will be resolved by
5 this Court subject to and in accordance with the Arizona Insurer Receivership Act.
6 Providers whose claims have already been submitted to Meritus Mutual and/or MHP do
7 not need to submit a duplicate claims and should not do so.

8
9 6. Temporary Restraining Order - Balance Billing and Enrollee Collections .


10 a. The Court hereby finds that the practice whereby Providers with
11 unpaid claims for services provided under insurance policies issued by Meritus Mutual
12 and/or MHP (including the Provider's agents, affiliates, and/or any others acting on
13 their behalf, including but not limited to collection agencies) seek to recover balances
14 due directly from enrollees and/or insureds of Merits Mutual or MHP ("Balance Billing
15 and Enrollee Collections") interferes with the Receivership and creates the potential for
16 improper preferences, judgments, attachments and liens.

17 b. The Court hereby imposes a Temporary Restraining Order enjoining
18 Balance Billing and Enrollee Collections and prohibiting Providers with unpaid claims
19 for services provided under insurance policies issued by Meritus Mutual and/or MHP
20 (including the Provider's agents, affiliates, and/or any others acting on their behalf,
21 including but not limited to collection agencies) from seeking to recover balances due
22 directly from enrollees and/or insureds of Merits Mutual or MHP.

23 c. The Temporary Restraining Order will remain in full force and
24 effect unless and until an EOB notice (or similar documentation) is produced and issued
25 by the Receiver as part of the claim process subject to and in accordance with this
26 Liquidation Plan. Additionally, at any time, a Provider may petition this Court for
relief from the Temporary Restraining Order before issuance of an EOB notice (or

1 similar documentation) for good cause shown, taking into account, among other things,
2 alleged hardship that would be suffered by the Provider as compared to the potential for
3 interference with the Receiver, interference with the proceeding and the obtaining of
4 preferences in violation of A.R.S. § 20-614, and potential hardship to the enrollees.
5 Before filing such petition, the Provider must confer with the Receiver to determine
6 whether or to what extent the Receiver opposes the requested relief.

7
8 ENTERED this 8th day of March, 2017.

9
10
11 
12 _____
13 The Honorable Daniel Martin
14 Maricopa County Superior Court Judge

201 East Washington Street, Suite 1200
Phoenix, Arizona 85004-2595

Lewis Roca
ROTHGERBER CHRISTIE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26