

# EXHIBIT 5

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Sent Via Email and Overnight Delivery

November 16, 2017

Jeffrey Grant ([Jeffrey.grant1@cms.hhs.gov](mailto:Jeffrey.grant1@cms.hhs.gov))

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Office of the General Counsel, Region IX  
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Re: Compass Cooperative Health Plan, Inc. dba Meritus Health Partners,  
in Receivership ("**MHP**")

Notice of Setoff and Claim Determination

Dear Mr. Grant and Ms. Belgrove:

This letter is sent in our capacity as counsel for the Receiver of MHP. It provides notice of a Setoff and Claim Determination and seeks a response on or before Monday, December 18, 2017.

The Proof of Claim (the "Claim") submitted by the U.S. Dept. of Health and Human Services and the Centers for Medicare and Medicaid Services ("CMS") dated May 10, 2017 has been received and adjudicated by the Receiver subject to and in accordance with A.R.S. § 20-601 et seq. (the "Receivership Act") and applicable Court Orders entered by the Superior Court of Arizona in the County of Maricopa in *State of Arizona, ex. rel., Leslie R. Hess, Interim Director of Insurance, vs. Compass Cooperative Mutual Health Network, Inc., dba Meritus Mutual Health Partners, an Arizona corporation; and Compass Cooperative Health Plan, Inc., dba Meritus Health Partners, an Arizona corporation* in action no. CV2016-011826 (the "Receivership Court").

The Receiver's determination of the Claim is as follows:

Setoff – Debts and Obligations Related to the Affordable Care Act

The Receivership Act (A.R.S. § 20-638) expressly provides for setoff of mutual debts under these circumstances and provides as follows:

A. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection B of this section.

B. No offset shall be allowed in favor of any such person where the obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise as provided in section 20-635, entitle him to share as a claimant in the assets of the insurer, \*\*\*

The Claim asserted the following claims related to the Affordable Care Act ("ACA"):

CSR:	\$ 3,899,178.47
PPACA Reinsurance:	\$ 510,975.30
Risk Adjustment:	\$ 46,195,827.78
PPACA Fee:	\$ 44,141.47
Total:	\$ 50,650,123.02

At the same time, a mutual debt is owed to MHP related to the ACA as follows:

Risk Corridor Claims:	\$ 55,513,299
Reinsurance:	\$ 7,171,320
Total:	\$ 62,684,619

After application of the Setoff, the remaining debt owed to MHP is:

\$12,034,495.98

After setoff, this remains as a net amount due to Meritus Mutual and the claim for that amount is being litigated in the pending class action styled as *Health Republic Ins. Co. v. United States*, U.S. Court of Federal Claims, Case No. 16-cv-00259 MMS.

Due to the offset, no further entitlement to interest asserted by Claimant would be considered under the Claim.

Response Opportunity and Hearing Date

On or before Monday, December 18, 2017, please notify the Receiver of your response to the Receiver's determination. To the extent you object to such determinations, please support your position.

A hearing will be scheduled at least 60 days after the date of this letter. We will send you notice of the hearing after it is scheduled. At that hearing, the Receiver will ask the Receivership Court to approve the Receiver's determination.

We look forward to hearing from you.

Sincerely,



Joel A. Glover  
Lewis Roca Rothgerber Christie LLP

JAG

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