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6 Attorneys for Receiver

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8 SUPERIOR COURT OF ARIZONA  
9 COUNTY OF MARICOPA

10 STATE OF ARIZONA, *ex rel.*  
11 EVAN G. DANIELS, Director  
of Insurance,

12 Plaintiff,

13 vs.

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

17 Defendants.  
18

No. CV2016-011872

**PETITION NO. 42**

**PETITION TO ACCEPT SIXTEENTH  
STATUS REPORT FOR THE  
PERIOD ENDING SEPTEMBER 30,  
2020**

(Assigned to The Honorable  
Daniel Martin)

19 Darren Ellingson, in his capacity as the Special Deputy Receiver of Compass  
20 Cooperative Mutual Health Network, Inc. doing business as Meritus Mutual Health  
21 Partners (“Meritus Mutual”) and Compass Cooperative Health Plan, Inc. dba Meritus  
22 Health Partners (“MHP”) (collectively referred to as the “Meritus Companies”), appointed  
23 pursuant to A.R.S. § 20-611, *et seq.*, hereby petitions the Court for entry of the Order re  
24 Petition No. 42 to Accept Sixteenth Status Report for the Period Ending September 30,  
25 2020 for the reasons set forth herein.

26 1. In an Order dated August 10, 2016, this Court placed Meritus Mutual and  
27 MHP into receivership under orders of liquidation.  
28

1           2.     On August 24, 2016, this Court entered Order Re Petition No. 1 – Petition  
2 for Entry of Order Approving Compensation for Special Deputy Receiver and for Legal  
3 Counsel.

4           a.     Pursuant to Paragraph 3(c) of that Order, the Receiver is required to  
5 make periodic filings, initially quarterly, of a Petition to Accept Status Report, which filing  
6 is required to include amounts paid to the Special Deputy Receiver and to legal counsel  
7 during the period along with a brief summary of services and/or tasks performed during the  
8 period and other matters as requested by the Court.

9           b.     In order to provide such report for the prior period, consistent with  
10 Paragraph 3(c), the Special Deputy Receiver is submitting this Petition to Accept Sixteenth  
11 Status Report for the Period Ending September 30, 2020 (“Petition”) after the quarter end  
12 of the prior period ending September 30, 2020. Unless the Court otherwise orders, the  
13 Special Deputy Receiver anticipates filing these reports effective each calendar quarter  
14 end.

15           3.     This Petition along with the Status Report included herein is submitted in  
16 accordance with those requirements.

17   **Summary of Services/Tasks**

18           4.     The services and tasks performed during the reporting period (First Quarter  
19 of 2020) include the following:

20           a.     Litigation.

21           i.     Risk Corridor Class Action. The Supreme Court’s decision in *Maine*  
22 *Cnty. Health Options v. United States*, (2019) (No. 18-1028) entered on April 27, 2020,  
23 ruled that the insurance carriers have a right to payment under the “Risk Corridors”  
24 program of the Affordable Care Act, Congress did not repeal the obligation of the federal  
25 government to pay the carriers, and the carriers can sue for payment under the Tucker Act  
26 in the Court of Federal Claims. After that Order, Meritus was placed in a “Dispute  
27 Subclass” comprised of four class members who dispute the amounts due and, in  
28 particular, the government’s right to offset. On September 30, 2020, the United States

1 Court of Federal Claims granted the government’s request for leave to amend its prior  
2 answer and assert counterclaims for setoff. The Government’s amended pleading is due on  
3 Friday, October 30, 2020.

4 ii. Reinsurance Claim. As detailed in Petition No. 26 Request for  
5 Hearing, Claim Determination and Setoff Related to Claims of the United States, after  
6 implementation of the setoff, there is a net amount under the ACA Reinsurance program  
7 due to Meritus Mutual and MHP from the Center for Medicare and Medicaid Services  
8 (“CMS”). Consistent with the Order Approving Petition No. 26, the Receiver caused to be  
9 prepared and filed on September 27, 2019 a Complaint for amounts due related to the  
10 Reinsurance. The action is pending in the United States Court of Federal Claims, Case No.  
11 1:19-cv-01499-MCW. On December 5, 2019, the United States filed a Motion to Stay  
12 Proceedings until the Supreme Court issues a decision in *Maine Cmty. Health Options v.*  
13 *United States*, (2019) (No. 18-1028) because it believes the legal issues presented in this  
14 case will be affected by the Supreme Court’s ruling. The Court granted the Motion to Stay  
15 on that day, December 5, 2019. In light of the Supreme Court’s decision, the Stay has  
16 been lifted though, to date, there have only been status reports filed which reference the  
17 ongoing Risk Corridor action.

18 b. Proof of Claim (“POC”) Process and Provider Payment Process. The  
19 Receiver continued to implement the POC process, including considering claim amounts,  
20 provider payments, priority levels and potential offsets, depending on the circumstances.

21 c. Accounting Services and General Accounting and Administrative.  
22 The Receiver continued additional work on the accounting for the Meritus Companies in  
23 liquidation, including identifying assets, claims and liabilities on a liquidation basis. As  
24 part of the accounting work, the Receiver continued to implement and account for the  
25 Receivership Liquidation, the Setoff involving CMS, the Return of Excess Premiums,  
26 among other things.

1 **Summary of Payments**

2 5. Legal Counsel. During the reporting period, the total amounts (fees and  
3 expenses) that have been paid to Faegre Drinker Biddle & Reath LLP as legal counsel are  
4 \$28,890.00 for Meritus Mutual and \$28,890.00 for MHP for a combined amount of  
5 \$57,780.00. Work was performed and invoices were submitted for additional services and  
6 amounts during the reporting period but not paid until after September 30, 2020. Because  
7 of the timing, those payments will be referenced in the next status report.

8 6. Special Deputy Receiver. During the reporting period, the total amounts  
9 (fees and expenses) that have been paid to the Special Deputy Receiver are \$7,600 for  
10 Meritus Mutual and \$7,280 for MHP for a combined amount of \$14,880. Work was  
11 performed and invoices were submitted for additional services and amounts during the  
12 reporting period but not paid until after September 30, 2020. Because of the timing, those  
13 payments will be referenced in the next status report.

14 7. Regulatory Services Group. During the reporting period, the total amounts  
15 (fees and expenses) that have been paid to the Regulatory Services Group are \$0 for  
16 Meritus Mutual and \$0 for MHP for a combined amount of \$0. Work may have been  
17 performed and invoices submitted for additional services and amounts during the reporting  
18 period but not paid until after September 30, 2020. Because of the timing, those payments,  
19 if any, would be referenced in the next status report.

20 WHEREFORE, the Receiver requests that the Court enter the Order re Petition  
21 No. 42 Accepting Sixteenth Status Report for the Period Ending September 30, 2020 in the  
22 form lodged concurrently with this Petition after expiration of the objection period.

23 Dated this 21<sup>st</sup> day of October, 2020.

24 **FAEGRE DRINKER BIDDLE & REATH LLP**

25 By: /s/ Joel Glover (#034018)  
26 Joel A. Glover  
27 *Attorneys for Receiver*  
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COPY of the foregoing mailed this  
21<sup>st</sup> day of October, 2020 to the  
attached Master Service List

/s/ Tari Rader  
Tari Rader

1 SUPERIOR COURT OF ARIZONA

2 COUNTY OF MARICOPA

3  
4 No. CV2016-011872 (Assigned to The Honorable Daniel Martin)

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