Clerk of the Superior Court
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K. Dyer, Deputy
2/18/2021 3:02:56 PM
Filing ID 12559565

Filing ID 12559565 FAEGRE DRINKER BIDDLE & REATH LLP 1 1144 15th Street, Suite 3400 Denver, Colorado 80202 2 **Joel A. Glover** (State Bar No. 034018) 3 Direct Dial: 303.607.3648 Direct Fax: 303.607.3600 4 Email: Joel.Glover@Faegredrinker.com 5 Attorneys for Receiver 6 7 SUPERIOR COURT OF ARIZONA 8 COUNTY OF MARICOPA 9 10 STATE OF ARIZONA, ex rel. No. CV2016-011872 EVAN G. DANIELS, Director 11 of Insurance. PETITION NO. 43 12 Plaintiff, PETITION TO ACCEPT 13 SEVENTEENTH STATUS REPORT COMPASS COOPERATIVE MUTUAL FOR THE PERIOD ENDING 14 HEALTH NETWORK, INC., dba MERITUS **DECEMBER 31, 2020** MUTUAL HEALTH PARTNERS, an 15 (Assigned to The Honorable Arizona corporation; and COMPASS COOPERATIVE HEALTH Daniel Martin) 16 PLAN, INC., dba MERITUS HEALTH PARTNERS, an Arizona corporation, 17 Defendants. 18 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. 43 to Accept Seventeenth Status Report for the Period Ending December 31, 25 2020 for the reasons set forth herein. 26 In an Order dated August 10, 2016, this Court placed Meritus Mutual and 1. 27 MHP into receivership under orders of liquidation. 28

- 2. On August 24, 2016, this Court entered Order Re Petition No. 1 Petition for Entry of Order Approving Compensation for Special Deputy Receiver and for Legal Counsel.
- a. Pursuant to Paragraph 3(c) of that Order, the Receiver is required to make periodic filings, initially quarterly, of a Petition to Accept Status Report, which filing is required to include amounts paid to the Special Deputy Receiver and to legal counsel during the period along with a brief summary of services and/or tasks performed during the period and other matters as requested by the Court.
- b. In order to provide such report for the prior period, consistent with Paragraph 3(c), the Special Deputy Receiver is submitting this Petition to Accept Seventeenth Status Report for the Period Ending December 31, 2020 ("Petition") after the quarter end of the prior period ending December 31, 2020. Unless the Court otherwise orders, the Special Deputy Receiver anticipates filing these reports effective each calendar quarter end.
- 3. This Petition along with the Status Report included herein is submitted in accordance with those requirements.

Summary of Services/Tasks

- 4. The services and tasks performed during the reporting period (Fourth Quarter of 2020) include the following:
 - a. Litigation.
- i. Risk Corridor Class Action. The Supreme Court's decision in *Maine Cmty. Health Options v. United States*, (2019) (No. 18-1028) entered on April 27, 2020, ruled that the insurance carriers have a right to payment under the "Risk Corridors" program of the Affordable Care Act, Congress did not repeal the obligation of the federal government to pay the carriers, and the carriers can sue for payment under the Tucker Act in the Court of Federal Claims, Case No. 1:16-cv-00259-MMS. After that Order, Meritus was placed in a "Dispute Subclass" comprised of four class members who dispute the amounts due and, in particular, the government's right to offset. On October 30, 2020, the

government filed its amended answer, asserting a counterclaim against Colorado HealthOp and Meritus for breach of statutory and regulatory obligations to make payments under the Affordable Care Act. Meritus filed a motion to dismiss the government's counterclaims on November 20, 2020. The government's response has been filed.

- ii. Reinsurance Claim. As detailed in Petition No. 26 Request for Hearing, Claim Determination and Setoff Related to Claims of the United States, after implementation of the setoff, there is a net amount under the ACA Reinsurance program due to Meritus Mutual and MHP from the Center for Medicare and Medicaid Services ("CMS"). Consistent with the Order Approving Petition No. 26, the Receiver caused to be prepared and filed on September 27, 2019 a Complaint for amounts due related to the Reinsurance. The action was pending in the United States Court of Federal Claims, Case No. 1:19-cv-01499-MCW. On December 2, 2020, the case was reassigned as Case No. 1:19-cv-01499-MMS and stayed pending a ruling on the Motion to Dismiss in the Risk Corridor Class Action.
- b. Proof of Claim ("POC") Process and Provider Payment Process. The Receiver continued to implement the POC process, including considering claim amounts, provider payments, priority levels and potential offsets, depending on the circumstances.
- c. Accounting Services and General Accounting and Administrative. The Receiver continued additional work on the accounting for the Meritus Companies in liquidation, including identifying assets, claims and liabilities on a liquidation basis. As part of the accounting work, the Receiver continued to implement and account for the Receivership Liquidation, the Setoff involving CMS, the Return of Excess Premiums, among other things.

Summary of Payments

5. Legal Counsel. During the reporting period, the total amounts (fees and expenses) that have been paid to Faegre Drinker Biddle & Reath LLP as legal counsel are \$6,644 for Meritus Mutual and \$6,644 for MHP for a combined amount of \$13,288. Work was performed and invoices were submitted for additional services and amounts during the

reporting period but not paid until after December 31, 2020. Because of the timing, those payments will be referenced in the next status report.

- 6. Special Deputy Receiver. During the reporting period, the total amounts (fees and expenses) that have been paid to the Special Deputy Receiver are \$2,560 for Meritus Mutual and \$2,560 for MHP for a combined amount of \$5,120. Work was performed and invoices were submitted for additional services and amounts during the reporting period but not paid until after December 31, 2020. Because of the timing, those payments will be referenced in the next status report.
- 7. Regulatory Services Group. During the reporting period, the total amounts (fees and expenses) that have been paid to the Regulatory Services Group are \$0 for Meritus Mutual and \$0 for MHP for a combined amount of \$0. Work may have been performed and invoices submitted for additional services and amounts during the reporting period but not paid until after December 31, 2020. Because of the timing, those payments, if any, would be referenced in the next status report.

WHEREFORE, the Receiver requests that the Court enter the Order re Petition No. 43 Accepting Seventeenth Status Report for the Period Ending December 31, 2020 in the form lodged concurrently with this Petition after expiration of the objection period.

Dated this 18th day of February, 2021.

FAEGRE DRINKER BIDDLE & REATH LLP

By: /s/ Joel Glover (#034018)
Joel A. Glover
Attorneys for Receiver

COPY of the foregoing mailed this 18th day of February, 2021 to the attached Master Service List

<u>/s/ Tari Rader</u> Tari Rader

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