

1 **FAEGRE DRINKER BIDDLE & REATH LLP**
1144 15th Street, Suite 3400
2 Denver, Colorado 80202

3 **Joel A. Glover** (State Bar No. 034018)
Direct Dial: 303.607.3648
4 Direct Fax: 303.607.3600
Email: Joel.Glover@Faegredrinker.com

5
6 Attorneys for Receiver

7
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. 44

**PETITION TO ACCEPT
EIGHTEENTH STATUS REPORT
FOR THE PERIOD ENDING MARCH
31, 2021**

(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. 44 to Accept Eighteenth Status Report for the Period Ending March 31, 2021
25 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
11 Eighteenth Status Report for the Period Ending March 31, 2021 (“Petition”) after the
12 quarter end of the prior period ending March 31, 2021. Unless the Court otherwise orders,
13 the 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 2021) 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, Case No. 1:16-cv-00259-MMS. After that Order, Meritus
27 was placed in a “Dispute Subclass” comprised of four class members who dispute the
28 amounts due and, in particular, the government’s right to offset. On October 30, 2020, the

1 government filed its amended answer, asserting a counterclaim against Colorado HealthOp
2 and Meritus for breach of statutory and regulatory obligations to make payments under the
3 Affordable Care Act. Meritus filed a motion to dismiss the government’s counterclaims on
4 November 20, 2020. The government filed its Opposition to the Motion to Dismiss the
5 United States’ Counterclaim on January 22, 2021. The Dispute Subclass, including
6 Meritus, filed its Reply in Further Support of its Motion to Dismiss the United States’
7 Counterclaim.

8 ii. Reinsurance Claim. As detailed in Petition No. 26 Request for
9 Hearing, Claim Determination and Setoff Related to Claims of the United States, after
10 implementation of the setoff, there is a net amount under the ACA Reinsurance program
11 due to Meritus Mutual and MHP from the Center for Medicare and Medicaid Services
12 (“CMS”). Consistent with the Order Approving Petition No. 26, the Receiver caused to be
13 prepared and filed on September 27, 2019 a Complaint for amounts due related to the
14 Reinsurance. The action was pending in the United States Court of Federal Claims, Case
15 No. 1:19-cv-01499-MCW. On December 2, 2020, the case was reassigned as Case No.
16 1:19-cv-01499-MMS and stayed pending a ruling on the Motion to Dismiss in the Risk
17 Corridor Class Action. There has been no change to the status of the Reinsurance Claim
18 since it was stayed.

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

22 c. Accounting Services and General Accounting and Administrative.
23 The Receiver continued additional work on the accounting for the Meritus Companies in
24 liquidation, including identifying assets, claims and liabilities on a liquidation basis. As
25 part of the accounting work, the Receiver continued to implement and account for the
26 Receivership Liquidation, the Setoff involving CMS, the Return of Excess Premiums,
27 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 \$6,830 for Meritus Mutual and \$6,830 for MHP for a combined amount of \$13,660. Work
5 was performed and invoices were submitted for additional services and amounts during the
6 reporting period but not paid until after March 31, 2021. Because of the timing, those
7 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 \$9,715 for
10 Meritus Mutual and \$9,515 for MHP for a combined amount of \$19,230. Work was
11 performed and invoices were submitted for additional services and amounts during the
12 reporting period but not paid until after March 31, 2021. 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 \$1,430 for
16 Meritus Mutual and \$1,430 for MHP for a combined amount of \$2,860. Work may have
17 been performed and invoices submitted for additional services and amounts during the
18 reporting period but not paid until after March 31, 2021. Because of the timing, those
19 payments, 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. 44 Accepting Eighteenth Status Report for the Period Ending March 31, 2021 in the
22 form lodged concurrently with this Petition after expiration of the objection period.

23 Dated this 21st day of April, 2021.

24 **FAEGRE DRINKER BIDDLE & REATH LLP**

25 By: /s/ Joel Glover (#034018)
26 Joel A. Glover
27 *Attorneys for Receiver*
28

1 COPY of the foregoing mailed this
2 21st day of April, 2021 to the
3 attached Master Service List

4 /s/ Tari Rader

5 Tari Rader

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 SUPERIOR COURT OF ARIZONA

2 COUNTY OF MARICOPA

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

5 **MASTER SERVICE LIST**

6 Director Evan G. Daniels
7 Receiver
8 Arizona Department of Insurance and Financial Institutions
9 100 North 15th Avenue, #102
10 Phoenix, Arizona 85007

11 Liane Kido, Deputy Receiver
12 Arizona Department of Insurance and Financial Institutions
13 100 North 15th Avenue, #102
14 Phoenix, Arizona 85007

15 Lynette Evans
16 Public Law Section
17 Office of the Attorney General
18 2005 N. Central Avenue
19 Phoenix, AZ 85004
20 *Attorneys for Arizona Department of Insurance and Financial Institutions*

21 Richard G. Erickson
22 Robert F. Kethcart
23 Snell & Wilmer L.L.P.
24 One Arizona Center
25 400 East Van Buren
26 Phoenix, Arizona 85004
27 *Attorneys for Defendants*

28 Larry Aldrich, Executive Chairman
Employers Health Alliance of Arizona
7520 East McLellan Lane
Scottsdale, Arizona 85250

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
27
28

Christophe Burusco
Sidley Austin LLP
555 West 5th Street, 40th Floor
Los Angeles, California 90013
Attorneys for Care1st Health Plan Administrative Services, Inc.

Matthew A. Clemente
Sidley Austin LLP
One South Dearborn
Chicago, Illinois 60603
Attorneys for Care1st Health Plan Administrative Services, Inc.

Lori Nestor, Executive Director
Arizona Life & Disability
Insurance Guaranty Fund
100 N. 15th Avenue, Suite 261
Phoenix, AZ 85007

Darren Ellingson
Special Deputy Receiver
6835 E Camelback Road #3016
Scottsdale, AZ 85251

Banner Health
Patient Financial Services
Attn: Anna Rosalez, Manager
525 West Brown Road, Third Floor
Mesa, Arizona 85201

S. David Childers
Kutak Rock LLP
8601 North Scottsdale Road, Suite 300
Scottsdale, Arizona 85253

Debbie Bailey
Cactus Children's Clinic, PC
5940 West Union Hills Drive
Suite D100
Glendale, Arizona 85308

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
27
28

Monica Gaspari
Billing Office Supervisor
Pima Heart Physicians
3709 North Campbell Avenue
Suite 201
Tucson, Arizona 85719

United States Department of Justice
40 North Central Avenue, #1800
Phoenix, Arizona 85004

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Sinead Baldwin
1200 Brickell Avenue
PH 2000
Miami, Florida 33131
Attorneys for HealthSouth Rehabilitation Hospital

Jill Wright
Parallon
1100 Charlotte Avenue
Suite 1600
Nashville, Tennessee 37203

Susan Sweat
Ambulance Billing Office Supervisor
Bullhead City Fire Department
1260 Hancock Road
Bullhead City, Arizona 86442