

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Raymond G. Farmer, as Director of the South
Carolina Department of Insurance,

Petitioner,

vs.

South Carolina Health Cooperative, Inc., a
Multiple Employer Self-Insured Health Plan,

Respondent.

Civil Action No. 2014-CP-40-7340

**CONSENT ORDER FOR
COMMENCEMENT OF
REHABILITATION
PROCEEDINGS, INJUNCTION
AND AUTOMATIC STAY OF
PROCEEDINGS**

RICHLAND COUNTY
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CLERK OF COURT

This matter comes before me pursuant to the South Carolina Insurers' Rehabilitation and Liquidation Act, S.C. Code Ann. § 38-27-10 *et seq.* South Carolina Health Cooperative, Inc., was licensed as a multiple employer self-insured health plan in accordance with the requirements of Chapter 41 of Title 38. Petitioner seeks an Order appointing him as Receiver of South Carolina Health Cooperative, Inc., a multiple employer self-insured health plan also known as the South Carolina Health Cooperative Welfare Benefit Plan (hereinafter referred to as the "Plan") for the purposes of rehabilitation. By the signature of its authorized representative below, the Plan acknowledges service of the Petition pursuant to S.C. Code Ann. § 38-27-60 (2002) and has otherwise been informed of Petitioner's intent, and does not oppose rehabilitation as set forth more fully below. The Court, having reviewed the record and otherwise being fully informed in the premises, finds:

1. This Court has jurisdiction over the subject matter and is the proper venue for this proceeding pursuant to S.C. Code Ann. §§ 38-27-60(f) & -310 through -330 (2002).

2. Petitioner is the duly appointed Director for the State of South Carolina Department of Insurance with such powers, duties and responsibilities as are prescribed under the insurance laws of this State to the Director for company licensing, delinquency and receivership matters, and is specifically authorized to file a petition for rehabilitation pursuant to § 38-27-310 (2002).

3. The Petitioner has jurisdiction over the Plan pursuant to, *inter alia*, Chapters 3 and 41 of Title 38 of the South Carolina Code of Laws 1976, as amended.

4. South Carolina Health Cooperative, Inc., (hereinafter referred to as Cooperative) is also the name of a duly formed South Carolina nonprofit corporation, which is registered as a health group cooperative pursuant to the provisions of the Small Employer Health Insurance Availability Act (S.C. Code Ann. § 38-71-1320 et seq.). Cooperative is not a party to this action.

5. On June 15, 2012, Petitioner granted Plan a conditional license to transact business as a multiple employer self-insured health plan in the name under which it applied, South Carolina Health Cooperative, Inc.

6. S.C. Code Ann. § 38-41-110 (2002) provides that if the Director or his designee is of the opinion that a multiple employer self-insured health plan is in an unsound condition, that it has failed to comply with the law or any applicable regulations or orders issued by the Director or his designee, or that it is in a condition which renders its proceedings hazardous to the public or to persons covered under the plan, the Director or his designee may commence delinquency proceedings against the plan and supervise, rehabilitate, or liquidate the plan in accordance with the procedures set forth in Chapter 27 of Title 38 of the Code of Laws of South Carolina 1976, as amended.

7. S.C. Code Ann. § 38-27-310 (2002) sets forth the grounds upon which an insurer may be placed into rehabilitation, including but not limited to an insurer is in such condition that



the further transaction of business would be hazardous, financially, to its policyholders, its creditors and/or the public; or, the board of directors or the holders of a majority of the shares entitled to vote request or consent to rehabilitation.

8. On or about November 24, 2014, Petitioner filed a Petition for an order appointing him as Receiver for South Carolina South Carolina Health Cooperative, Inc. (the Multiple Employer Self-Insured Health Plan), and for other relief.

9. Although the Plan is insolvent, in order to minimize disruption and/or loss to the Plan's members and Plan participants and/or beneficiaries (hereinafter referred to as "beneficiaries"), Petitioner is seeking appointment as Receiver for the purpose of Rehabilitation in order to explore further the potential for one or more insurers providing coverage for existing claims and also providing coverage going forward.

10. The Plan, having been served with a copy of the Petition pursuant to S.C. Code Ann. § 38-27-60 (2012) and other applicable law, does not contest that grounds exist for rehabilitation under Chapter 27 of Title 38, as set forth above, and waives hearing; and, it has advised the petitioner in writing, that, so as to avoid any prejudice to the interests of members, creditors and the public, it does not wish to contest the Petition nor does it object to the immediate entry of an Order of the Court appointing a rehabilitator provided that said waiver by the Plan of its right to a hearing and its consenting to the immediate entry of this Order shall not be deemed to be a waiver by anyone of any other right or defense to any action or cause of action arising in any way from the allegations of the Petition or the findings and consequences of this Order.

11. It is in the best interest of Plan, its member employers, its participants, creditors and the public that the relief requested be granted.

12. The parties agree, and I find, that the caption of this matter should be amended. Respondent is South Carolina Health Cooperative, Inc., a Multiple Employer Self-Insured Health Plan.

IT IS THEREFORE ORDERED THAT:

1. PURSUANT TO S.C. Code Ann. §§ 38-27-310 and 38-27-320 (2002), Petitioner and his successors in office are appointed Receiver for the purposes of rehabilitation of the Plan.

2. PURSUANT TO S.C. Code Ann. § 38-27-320 (2002):

a) The filing or recording of this Order with the Clerk of Court or Register of Deeds of the county in which the principal business of the Plan is conducted or the county in which its principal office or place of business is located imparts the same notice which a deed, bill of sale, or other evidence of title duly filed or recorded with that office would have imparted.

b) By operation of law, title to all assets of South Carolina Health Cooperative Health and Welfare Benefit Plan is vested in the Receiver.

c) The Receiver shall file an accounting with the Court at no less than six-month intervals, the first such accounting to be filed no later than 180 days from the date of entry of this Order, as set forth in S.C. Code Ann. § 38-27-320(b) (2002); and, he shall also ensure that the Plan continues to comply with the quarterly and annual reporting requirements set forth in Chapters 13 of Title 38 of the Code of Laws of South Carolina 1976, as amended, and any other reports prescribed by law or the National Association of Insurance Commissioners (NAIC). Copies of all such reports and filings shall be made available to Plan's Trustees or their representatives.

3. PURSUANT TO S.C. Code Ann. §§ 38-27-320 & -330 (2002), Petitioner and his successors shall have all the powers and responsibilities set forth under those sections to assist him

or his designee as Receiver for Rehabilitation.

4. The Receiver or his designee is authorized to take such remedial measures as he deems necessary to provide relief to member employers, beneficiaries and health care providers, including but not limited to early partial disbursements as funds become available to pay claims.

5. Upon petition by the Receiver stating that further efforts to rehabilitate the Plan would substantially increase the risk of loss to creditors, beneficiaries, or the public, or would be futile, this Court will consider entry of an Order of Liquidation of the Plan in accordance with S.C. Code Ann. § 38-27-350(a) (2002), and such petition shall have the same effect as a petition filed under S.C. Code Ann. § 38-27-360 (2002).

6. The rehabilitation may be otherwise terminated as provided in S.C. Code Ann. § 38-27-350 (2002).

7. Raymond G. Farmer, is hereby appointed as Receiver, and Michael J. FitzGibbons of FitzGibbons and Company, Inc., 8300 N. Hayden Rd., Scottsdale, Arizona 85258 is hereby appointed as Special Deputy Receiver in this matter.

8. From this point forward, the caption of this case shall identify the Respondent as South Carolina Health Cooperative, Inc., a Multiple Employer Self-Insured Health Plan.

NOTICE OF AUTOMATIC STAY

Notice is hereby given that pursuant to S.C. Code Ann. § 38-27-70 (2002), the Court grants an automatic stay applicable to all persons and proceedings, other than the Receiver, which shall be permanent and survive the entry of the Order and which prohibits:

- (1) The transaction of further business;
- (2) The transfer of property;



(3) Interference with the Receiver or with a proceeding under Chapter 27 of Title 38 of the South Carolina Code;

(4) Waste of the Plan's assets;

(5) Dissipation and transfer of Plan bank accounts;

(6) The institution or further prosecution of any actions or proceedings against the Plan, its Trustees, members (including the Cooperative), assets and beneficiaries, and the Cooperative, its member employers and assets, insured employees, and/ or its participants;

(7) The obtaining of preferences, judgments, attachments, garnishments, or liens against the Plan, its Trustees, members (including the Cooperative), assets, and beneficiaries and the Cooperative, its member employers and assets, insured employees, and/ or its participants;

(8) The levying of execution against the Plan, its Trustees, members (including the Cooperative), assets and beneficiaries, and the Cooperative, its member employers and assets, insured employees, and/ or its participants;

(9) The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the Plan;

(10) The withholding from the receiver of books, accounts, documents, or other records relating to the business of the Plan; or

(11) Any other threatened or contemplated action that might lessen the value of the Plan's assets or prejudice the rights of its members (including the Cooperative), beneficiaries or creditors, or the Cooperative or its members, its member employers and assets, insured employees and/ or its participants or creditors, or the administration of any proceeding under Chapter 27 of Title 38 of the South Carolina Code.

A handwritten signature in black ink, appearing to be the initials 'RDL'.

This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time may be necessary and appropriate.

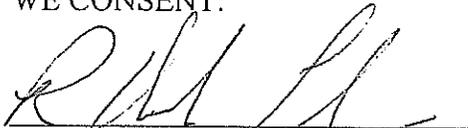
AND IT IS SO ORDERED.



L. Casey Manning
Chief Administrative Judge 12-23-14
Fifth Judicial Circuit

This day of 22 December, 2014
Columbia, South Carolina

WE CONSENT:



Authorized Representative for
South Carolina Health Cooperative, Inc.,
a Multiple Employer Self-Insured Health Plan



Jeffrey A. Jacobs
One of the Attorneys for Petitioner