

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division**

DISTRICT OF COLUMBIA
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2
Judge: Melvin R. Wright
Calendar No.: 15
Next Scheduled Event: Status Hearing
December 9, 2014, at 9:30 a.m.

PRAECIPE

**NOTICE OF FILING OF SPECIAL DEPUTY TO THE
REHABILITATOR'S FOURTEENTH STATUS REPORT**

D.C. Chartered Health Plan, Inc., acting through its Rehabilitator and his attorneys, files the attached Special Deputy to the Rehabilitator's Fourteenth Status Report.

Dated: December 2, 2014

Respectfully submitted,

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Certificate of Service

I hereby certify that on December 2, 2014, a copy of the foregoing *Notice of Filing of Special Deputy to the Rehabilitator's Fourteenth Status Report*, with exhibits, was filed and served by email upon:

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SPECIAL DEPUTY TO THE REHABILITATOR’S FOURTEENTH STATUS REPORT

Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. in Rehabilitation (“Chartered”), files this *Fourteenth Status Report*.

1. **Update From Thirteenth Status Report.** On September 3, 2014, the Special Deputy filed his Thirteenth Status Report with the Court, and a status conference with the Court was held on September 11, 2014. The following information provides an update to the Thirteenth Status Report.

(a) **Pending Legal Matters.**

i. **Provider Payment Process.** As reported in the Twelfth and Thirteenth Status Reports, the D.C. Department of Health Care Finance (“DHCF”) deposited \$2,072,770.27 in the Court Registry on July 1, 2014 for the benefit of Chartered’s providers to ensure equitable *pro rata* distribution of Part II settlement payments pursuant to the Court-approved Plan of Reorganization. Pursuant to a petition filed on July 30, 2014, and the Court’s Order Approving Petition for Payment from the Court Registry, entered August 5, 2014, the Special Deputy received a check from the Court Registry after which payments to providers were made by

the Colbent Corporation in the amounts listed in *In Camera* Exhibit 1 to the July 30 petition. The Special Deputy continues to answer inquiries from providers about the claims to which those payments apply. Although an Explanation of Benefits (“EOB”) accompanied the Part I payments to providers in September 2013, duplicate EOBs were not included with the Part II payments, which contributed to the number of recent provider questions.

- ii. On October 7, 2014, D.C. Healthcare Systems, Inc. (“DCHSI”), Chartered and the District of Columbia Department of Insurance, Securities and Banking filed a stipulation of voluntary dismissal of DCHSI’s appeals (which concerned the approval of the Asset Purchase Agreement, the denial of a stay of the Asset Purchase Agreement, and approval of the DHCF settlement) in the D.C. Court of Appeals. The Court dismissed the appeals on October 14, 2014, with each party to bear its own costs.

(b) Parent Company and Related Party Issues.

- i. The parties in *D.C. Chartered Health Plan, Inc. v. Jeffrey E. Thompson and D.C. Healthcare Systems, Inc.*, Civil Action No. 2013 CA 003752 B (D.C. Super. Ct.), continue to await rulings from Judge Mott on Chartered’s motion for partial summary judgment and on the defendants’ motion to dismiss three counts in the Rehabilitator’s complaint in that action. Discovery and other pre-trial matters are stayed. On October 17, 2014, the Rehabilitator filed in the *Thompson* action a Notice of D.C. Healthcare Systems, Inc.’s Abandonment of Its Appeal of Orders Entered in Rehabilitation Proceeding, apprising the Court that DCHSI had abandoned its appeal and that the Court of Appeals had entered on October 15,

2014, a *per curiam* Order dismissing the appeals. There is a status hearing scheduled in the *Thompson* action on January 16, 2015.

- ii. As reported in the Tenth through Thirteenth Status Reports, the Rehabilitator is working with tax professionals to determine whether Chartered has any outstanding federal income tax obligations. Previously, DCHSI had filed consolidated returns covering its related corporations, including Chartered. The last consolidated return filed by DCHSI and which included Chartered was for the taxable year ending April, 30, 2010. The Rehabilitator is filing Chartered-only tax returns with the IRS for tax years 2011-14. As previously reported, no additional Class 3 payments to providers beyond the 83.88% pro rata share payments will be proposed by the Rehabilitator for the Court's consideration pending the completion of the Rehabilitator's review of Chartered's federal income tax matters.

The filings of the 2011-2014 Chartered-only returns are intended to satisfy both the Rehabilitator's fiduciary obligations as well as the requirements of IRC Reg. § 1.1502-75(g)(2), which triggers the limitations period applicable to assessments. Greater certainty about Chartered's sole tax liability and the dates on which the applicable limitations period on assessments expire will help promote an eventual wind up of the rehabilitation.

(c) Financial Matters.

- i. On November 12, 2014, Chartered timely filed its third quarter 2014 statutory financial statements with the Department of Insurance, Securities and Banking ("DISB") and the National Association of Insurance Commissioners. That report is attached hereto as **Exhibit 1**. The highlights of the report are as follows:

✓ Chartered reported a year-to-date loss through September 30, 2014 in the amount of \$1,253,209. The results for the third quarter alone were a loss of \$510,699.

✓ The Company showed a small amount of income in the third quarter. It represented a return of premium from a third-party reinsurance carrier in the amount of \$36,771.

✓ Chartered incurred administrative expenses for the first nine months of 2014 of \$1,752,473. Approximately \$544,000 of these expenses were incurred during the third quarter. The primary components were consulting fees (\$249,000), legal fees (\$220,000), and other expenses related to Chartered's information systems and data retention (\$75,000). A significant proportion of the consulting and legal fees in the third quarter were associated with the Rehabilitator's efforts to resolve federal income tax issues.

✓ Cash declined from \$8.5 million to \$8.1 million during the third quarter due to payments for administrative expenses. The Company's liability for unpaid healthcare provider claims was virtually unchanged for the same period at \$10.5 million.

✓ Chartered's September 30, 2014 balance sheet shows a \$12.5 million deficit in its Capital and Surplus account. Assets are composed of \$8.1 million of cash referenced above. Liabilities consist of the aforementioned \$10.5 million of provider claims and various other liabilities totaling \$10.1 million, most of which (\$8.4 million) represented unpaid premium taxes owed to DISB.

ii. The Special Deputy, in collaboration with his legal, financial, and administrative professionals and consultants, including IT systems consultants and others at

AmeriHealth District of Columbia (“AmeriHealth”), has prepared a written agreement concerning preservation of Chartered documents, electronic information, and information systems (the “Preservation Agreement”, attached hereto as **Exhibit 2**).

Chartered has preservation duties arising out of its post-contractual obligations under its now-expired Medicaid contract with DHCF as well as the common law. The Preservation Agreement is the product of extensive, months-long discussions between Chartered and AmeriHealth concerning the parties’ respective roles in preserving this information. In brief, it reflects Chartered’s commitment to bear the cost of maintaining, archiving, and preserving many categories of Chartered documents and document storage systems and reflects AmeriHealth’s commitment to house Chartered’s document storage systems and assist Chartered in maintaining, archiving, and preserving those systems. It also reflects the parties’ mutual commitment to continuously managing the costs of preservation by, among other things, limiting the number of users of certain Chartered systems and databases and implementing archiving for all systems not in use. On December 1, 2014, the Special Deputy and AmeriHealth executed the Preservation Agreement, formalizing cooperation between those parties with respect to preservation of Chartered Documents, data, and information systems.

The Special Deputy will present the Preservation Agreement to the Court for its approval once it has completed the negotiations with DHCF for a related stipulation.

As discussed in Chartered’s Thirteenth Status Report to the Court, in an effort to minimize the long-term costs to Chartered of maintaining, archiving, and

preserving certain of its information, the Special Deputy is negotiating for a stipulation with DHCF to clarify the scope of Chartered's preservation obligations under the expired Chartered-DHCF contract

Finally, separate from its preservation duties under the Chartered-DHCF contract, there is a litigation hold applicable to all Chartered systems and documents due to the pending litigation involving Chartered, including *D.C. Chartered Health Plan, Inc. v. Thompson*, Civil Action No. 13-3752 (D.C. Super. Ct.) and the instant Rehabilitation proceeding. Until the full and final resolution of each of these litigation matters, the litigation hold supersedes all other preservation obligations, including those set forth in the Chartered-DHCF stipulation.

2. **Carrying Out the Plan of Reorganization and Payment of Chartered's Liabilities.**

(a) **Proofs of Claim Process.** The status of the proof of claim process remains unchanged since the last status report. In brief, the Special Deputy received 65 proofs of claim totaling approximately \$14 million, with a few unquantified claims including one for indemnification from Jeff Thompson. The Rehabilitator has mailed Notices of Determination to all but 3 claimants who filed proofs of claim, as described in the spreadsheet and summary narrative attached to the Twelfth Status Report. There currently are no unresolved objections to these Determinations. Notice of Determinations on the 3 remaining proofs of claim will be sent to those claimants as reviews are completed.

(b) **Provider Claims and Payments.**

i. As previously reported, Chartered paid healthcare providers \$18 million for Part I payments under the DHCF Settlement Agreement, and DHCF distributed

approximately \$28 million for Part II payments through its grant program. The approximately \$2 million outstanding balance of unpaid Part II settlement payments was made to providers as described in paragraph 1(a)(i) above.

(Together, the Part I and Part II payments for each approved provider claim constitute the 83.88% pro rata share mentioned herein.)

- ii. As previously reported, Chartered has also paid with estate assets 83.88% of the (a) \$8.4 million settlement with MedStar; and (b) approximately \$1.14 million in claim appeals approved through July, 2014.
- (c) **Claim Appeals.** The status of claim appeals remains unchanged since the last report. In brief, Chartered has made approximately \$1,137,000 in court-approved payments for claim appeals.
3. **Rehabilitation Expenses.** The Court has approved all of the Rehabilitator's petitions for approval of Submissions of Fees and Expenses through the Thirteenth Submission filed on September 18, 2014. Chartered is currently preparing a submission of its fees for September and October, 2014.
 4. **Chartered Assets.** Chartered has cash assets of approximately \$8 million after the July and August invoices approved by the Court were paid.

Respectfully submitted,

/s/ Daniel L. Watkins
DANIEL L. WATKINS
Special Deputy to the Rehabilitator for
D.C. Chartered Health Plan, Inc.