SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA, Department of Insurance, Securities and Banking, Petitioner, v. DC CHARTERED HEALTH PLAN, INC., Respondent.	Civil Action No.: 2012 CA 008227 2 Judge: Melvin R. Wright Calendar No.: 15 Next Event: Status – 5/30/13 at 9:30

SPECIAL DEPUTY TO THE REHABILITATOR'S THIRD STATUS REPORT

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

1. **Update From Second Status Report**. On February 22, 2013, the Special Deputy filed his Second Status Report with the Court. The Court held a status conference on March 1, 2013, and entered that day the Order Approving the Asset Purchase Agreement, Plan of Reorganization and Related Matters (Plan Approval Order). The following information provides an update to the Second Status Report.

   (a) **12/31/12 Financial Statements.** Attached hereto as Exhibit 1 are the financial statements for Chartered as of December 31, 2012, that have been filed with the Department of Insurance, Securities and Banking; those statements update the summary of the financial statements as of September 30, 2012, attached to the Second Status Report as Exhibit 1. Attached as Exhibit 2 is a summary of Chartered's 2012 and 2011 annual financial results. Chartered recorded approximately $20 million in losses in the

4th Quarter of 2012, primarily due to (a) processing and paying a higher volume of claims than in previous quarters and (b) the establishment of a $5 million premium deficiency reserve.[1] Capital and Surplus is negative by $9.6 million, which includes a retrospective premium receivable totaling $32 million[2] and over $13 million in assets pledged with Cardinal Bank. As noted in the First and Second Status Reports, the premium receivable and the pledged assets are not currently available to pay provider or other priority claims.

(b) **Operational Matters.** The Rehabilitator has continued to rely on Chartered's employees, counsel and advisors in conducting Chartered's business pursuant to the October 19, 2012 Emergency Consent Order of Rehabilitation and the March 1, 2013 Plan Approval Order.

(c) **Legal Matters.** The MedStar litigation (Case No. 20122 CA 009510 B) described in paragraph 1(c) of the Second Status Report is stayed by agreement of the parties while the disputed matters are arbitrated. On April 4, 2013, MedStar filed a motion to intervene in this proceeding and is seeking other relief. Chartered's response to the motion to intervene is due April 22, 2013. The Contract Appeals Board matter, Case No. P-0930, also described in paragraph 1(c), was dismissed on February 27, 2013. As to the Plan Approval Order, this Court on April 2, 2013, entered an Order denying a request by the shareholder of Chartered for a stay and other injunctive relief. On April 1, 2013, the shareholder filed a notice of appeal of the Plan Approval Order and on April 4, 2013,

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[1] A premium deficiency reserve (PDR) is an insurance accounting mechanism for recognizing expected losses before those losses are incurred; it does not impact an insurer's actual liabilities. On the advice of its outside actuary, Chartered pre-booked its anticipated 2013 losses in its 2012 year-end financial statement as a PDR.

[2] To comply with statutory accounting rules, the retrospective premium receivable has been booked at less than the full amount of the claims against the Department of Health Care Finance (DHCF) set forth in paragraph 1(d). Chartered filed two additional retrospective premium claims with the DHCF in January and February of 2013, totaling over $10 million. These claims, which could add over $6 million to Chartered’s Capital and Surplus, were not booked at 12/31/12.

filed an amended notice of appeal to include the Court's April 2 Order. On April 15, 2013, the shareholder filed a motion to consolidate and expedite these appeals. Chartered consented to the consolidation of the appeals.

(d) **Premium Claims.** The First and Second Status Reports, paragraphs 4(c) and 4(d) respectively, noted that a significant portion of Chartered's assets relate to Chartered's claims for $60 million in retrospective premium owed under its existing Medicaid contract and that fair value needs to be realized on those claims in order for Chartered to satisfy its liabilities. The Rehabilitator continues to vigorously pursue the claims. The Rehabilitator has (1) retained a consulting actuary to help prosecute the claims, (2) submitted revised claims to DHCF, seeking a greater recovery than Chartered had sought prior to Rehabilitation, (3) met with DHCF to discuss Chartered's claims and their possible resolution, (4) informed the Centers for Medicare & Medicaid Services, which funds 70% of the District's Medicaid program, about the claims, and (5) briefed the D.C. Council about the claims and their impact on Chartered and providers. On April 2, 2013, the shareholder filed its Party-in-Interest D.C. Healthcare System, Inc.'s (DCHSI) Motion to Compel Rehabilitator to Pursue Chartered Claim Against the District of Columbia and Request for an Expedited Status Conference on or Before April 16, 2013. The Rehabilitator is filing his Opposition to the Motion to Compel concurrently with the filing of this *Third Status Report*.

(e) **Parent Company and Related Party Issues.** The First and Second Status Reports, paragraph 7(b) and 7(c), respectively, discussed the Rehabilitator's demands to Chartered's shareholder for certain payments and appropriate documentation. The Rehabilitator will seek recovery of amounts determined to be due Chartered from the shareholder and Jeffrey Thompson.

2. **<u>Closing the Asset Purchase Agreement with AmeriHealth and Carrying Out the Plan of Reorganization Approved by the Court.</u>** The Rehabilitator has been working diligently to carry out the Plan of Reorganization to ensure a seamless transition of care for Chartered's 100,000 Medicaid and DC Alliance enrollees, the continued handling of claims of providers and other creditors, addressing the interests of Chartered's employees and the preservation of residual value, if any, for Chartered's shareholder. Some key events since the Plan Approval Order include:

(a) The DHCF announced on March 27, 2013, that the Office of Contracting and Procurement would submit to the Council of the District of Columbia a notice of intent to award the District's three managed care contracts to AmeriHealth, MedStar Family Choice, and Thrive Health Plan, Inc. Chartered anticipates closing the Asset Purchase Agreement (Agreement) with AmeriHealth on or before April 30, 2013.

(b) Transition planning for enrollees, providers, employees and others continues as AmeriHealth and Chartered plan for the closing and transfer of enrollees on or before April 30, 2013, and work to satisfy the closing conditions in the Agreement as described in paragraph 2(d) of the Second Status Report. The Rehabilitator followed the opt-out procedure regarding the assignment of provider contracts to AmeriHealth that was approved by the Plan Approval Order. Only two providers opted-out during the fifteen (15) day notice period, and all other providers are deemed to have consented to the assignment. As required by the Agreement, Chartered and AmeriHealth are finalizing a novation agreement with the District of Columbia to transfer certain rights and obligations to AmeriHealth under Chartered's existing Medicaid contract.

(c) AmeriHealth will provide post-closing transition services to the Rehabilitator at no cost to Chartered, as discussed in paragraph 2(b) of the Second Status Report. The parties continue to work on the operational details of those transition services.

(d) Assuming the Agreement's closing and transfer of Chartered's enrollees to AmeriHealth occurs on or before April 30, 2013, Chartered has received its last payment under its existing Medicaid contract.

3. **<u>Payments of Chartered's Liabilities</u>**. The Plan Approval Order approved the Plan of Reorganization of Chartered, including the order of payment of Chartered's liabilities listed in paragraphs 3(c) and (d) of the Second Status Report. Under the Plan Approval Order, Chartered's assets must be applied first to the Class 1 administrative costs of the rehabilitation, then to Class 3 provider claims.[3] If there are insufficient funds to pay all Class 3 claims in full, providers having allowed claims will share in the available assets on a pro rata basis. Given the limited amount of Chartered's remaining liquid assets, the Rehabilitator is suspending Class 3 payments to providers as of April 19, 2013. The Rehabilitator will present to the Court a recommended date by which all claims must be submitted to the Rehabilitator and a plan for making further Class 3 payments as additional assets are marshaled. Any recommendation to make further Class 3 payments before the total amount of Chartered's liabilities is determined will take into account contingent liabilities.

[3] The Rehabilitator does not anticipate that there will be any Class 2 claims (claims of enrollees or enrollees' beneficiaries).

(a) As of April 30, 2013, Chartered's potential Class 3 claims will consist of up to $10 million in claims processed but not paid in April, approximately $50 million in incurred but not reported claims,[4] plus up to $25 million in contingent liabilities.

(b) As of April 30, 2013, Chartered will have cash on hand of approximately $8 million. In addition, Chartered anticipates receiving (1) $5 million when the transaction with AmeriHealth closes, and (2) final obstetrical and enrollment adjustment payments from the DHCF totaling approximately $2-3 million.

(c) Chartered's success, or lack of it, in pursuing the recovery or release of nearly $80 million of illiquid assets[5] will determine the amounts available to pay what could be up to $85 million of Class 3 claims. The critical elements in determining Chartered's ability to pay outstanding Class 3 claims are resolution of its premium claim with DHCF discussed in paragraph 1(d) above and release and recovery of amounts due from DCHSI and its shareholder. Until these claims are resolved, the Rehabilitator has no choice but to suspend Class 3 payments.

Respectfully submitted,

/s/ Daniel L. Watkins________
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[4]After the closing of the Agreement, AmeriHealth will receive provider claims incurred prior to the closing for processing, so that payments on the claims can eventually be determined when there are sufficient assets in the Chartered estate to do so.

[5] Illiquid assets include $60 million in claims with DHCF, approximately $13 million related to collateral held by Cardinal Bank, and claims against other third parties, including unpaid income tax refunds due from DCHSI and potential claims against DCHSI and Thompson for breach of fiduciary duty and conversion.