

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NUMBER: 641 928

SECTION: 26

JAMES J. DONELON  
COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA  
VERSUS  
LOUISIANA HEALTH COOPERATIVE, INC.

STATE

SEP 21 2016

FILED: \_\_\_\_\_

BY: *AG*  
DEPUTY CLERK OF COURT

DEPUTY CLERK

Filed on Behalf of - State of Louisiana - State Pays No Court Costs  
La. R.S. 13:4521 and La. R.S. 22:2019

**MOTION TO SUPPLEMENT, AMEND AND CLARIFY PRIOR COURT ORDERS  
AS TO LAHC CLAIMS AND POTENTIAL LAHC DISTRIBUTIONS**

NOW INTO COURT, through undersigned counsel comes James J. Donelon, Commissioner of Insurance for the State of Louisiana as Rehabilitator of Louisiana Health Cooperative, through the Commissioner's Court-appointed Receiver, Billy Bostick ("LAHC"), who suggests to the Court that all LAHC coverage ended on December 31, 2015 as per the order of this Court on December 14, 2016, a copy of which is attached, and further that developments in the LAHC Rehabilitation since the entry of this Court's Orders of December 14, 2015 (Exhibit A) and January 28, 2016 (Exhibit B) require supplementation, amendment and/or clarification, all as is more fully described in the memorandum in support of this motion, which is attached hereto and incorporated herein.

WHEREFORE, LAHC prays that this Court enter a supplemental order to permit and order that LAHC is authorized and permitted, in LAHC's sole discretion, but is not required, to:

A) As to Medicare Fee Rates, adjudicate LAHC claims, as follows:

- 1) use the most appropriate CMS Medicare Fee Rate for the date of service for determination of the amount and for processing LAHC Class 3 claims for covered benefits, regardless of prior and/or later CMS Medicare Fee Rate Schedules, in accordance with principles established by La. R.S. 22: 254 (G) (3), and in spite of the fact that no order of liquidation has yet been requested or entered in these proceedings, and establish reasonable rates for those covered services for which an amount has not been determined under the federal Medicare program;

and/or

- 2) determine the amounts due to Class 3 LAHC claimants for claims for covered benefits at an as yet undetermined and undeterminable percentage of agreed upon contractual rates (without interest, penalty or contractual acceleration of

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*James J. Donelon  
9-26-16*

charges to billed charges) until additional funds are available and a federal waiver has been granted, and until further order of this Court;

and/or

- 3) because it currently appears likely that there may be sufficient LAHC funds to pay all Class 3 provider claims and the Class 4 member premium refund claims in full and/or in part, and in order to save the continued expense of adjudication of providers claims, particularly in light of the poor and inadequate LAHC data and records, LAHC seeks authority to enter into negotiations with willing LAHC providers for settlement of provider claims subject to the requirement of obtaining a federal waiver and the availability of adequate LAHC funds, thus reducing the expense of continued claims review, processing and adjudication, as well as the costs of potential litigation and discovery;

which selection of a method/s for claims payments shall be selected by LAHC, at LAHC's sole discretion, and as LAHC deems necessary or advisable, in order to implement the foregoing based on the calculation of the impact of each method on LAHC's negative financial condition;

B) As to Medicare rate schedules:

- 1) Determine the appropriate Medicare rate schedules to use for LAHC claims incurred between January 1, 2014 and December 31, 2015;
- 2) Allow and pay reasonable rates where there is no established Medicare rate for a covered service provided to an LAHC member, such rates to be determined by LAHC in its sole discretion based on comparable Medicare rates, or in the absence of comparable Medicare rates at rates deemed reasonable by LAHC;

C) As to the Explanation of Payment forms ("EOPs") prepared by LAHC third party administrator Group Resources, Inc. ("GRI"):

- 1) Authorize and permit LAHC to rely on the Explanation of Payment forms ("EOP"s) sent to LAHC providers (doctors, hospitals, health care providers) by the LAHC third party administrator, Group Resources, Inc. prior to the November 23, 2016 cut-off of payment of those claims and to accept the amounts determined and paid by LAHC before November 23, 2016 as correct and accurate amounts and payments of all such LAHC provider claims, and which determination by LAHC as member responsibility payment is final and binding on LAHC providers;
- 2) Permit LAHC to retrospectively examine the claims determinations made by the LAHC third party administrator, Group Resources, Inc. ("GRI"), as to the claims processing codes used by GRI and/or the GRI determination of member responsibility payments (co-payments, deductibles, co-insurance and the like) due from LAHC members to LAHC providers and/or refunds due to LAHC policyholders, members, enrollees and subscribers, to determine the completeness, correctness and accuracy of such determinations and make appropriate adjustments to the correct amounts owed by and/or to LAHC policyholders, members, enrollees and subscribers.

D) As to claims adjudication, member refunds, and/or member responsibility payments:

- 1) Authorize and permit LAHC where appropriate to prepare and send to LAHC policyholders, members, enrollees and subscribers a Revised

Explanation of Benefit form for selected LAHC claims paid prior to December 31, 2015 (the last day of LAHC coverage) to identify the correct amounts determined by LAHC to be paid by the LAHC policyholder, member, enrollee and/or subscriber as member responsibility (co-payments, deductibles, co-insurance and the like) and/or to be due to the LAHC policyholder, member, enrollee and/or subscriber as a refund of overpayments, as and where applicable;

- 2) Authorize and permit LAHC where appropriate to prepare and send to LAHC policyholders, members, enrollees and subscribers a Revised Explanation of Benefit form and to LAHC medical providers, doctors and hospitals a Revised Explanation of Payment form for all LAHC claims that were not paid by December 31, 2015 (the last date of LAHC coverage) and remain unpaid, which identifies the amounts determined by LAHC to be due to the LAHC provider from LAHC as well as the amount determined by LAHC to be due to the LAHC provider from the LAHC policyholder, member, enrollee and/or subscriber and/or to be due to the LAHC provider, member, enrollee and/or subscriber as a refund of overpayments, as and where applicable, and which determination by LAHC as member responsibility payment is final and binding on LAHC providers for purposes of prohibiting balance billing.
- 3) Require that all LAHC contracted providers bill and collect from LAHC policyholders, members, enrollees, and subscribers only that amount shown by LAHC as a payment due to the provider from the LAHC member on the LAHC Explanation of Payments forms to be sent to LAHC providers upon completion of the LAHC reconciliation of LAHC claims, such member payments identified by LAHC as the total member responsibility for payment to the LAHC provider, including, but not limited to amounts determined to be owed by LAHC policyholders, members, enrollees and subscribers for co-payments, co-insurance, deductibles and the like, which determination by LAHC as member responsibility payment is final and binding on LAHC providers.
- 4) Require that all non-contracted providers with claims for services provided to LAHC policyholders, members, enrollees and subscribers bill and collect from LAHC policyholders, members, enrollees, and subscribers the amount shown on the LAHC Explanation of Benefits as the total billed amount, less the LAHC usual and customary rate for the services provided, plus the amount determined by LAHC to be due to the provider, plus the amount shown by LAHC as a payment due to the provider from the LAHC member on the LAHC Explanation of Payments forms to be sent to non-contracted providers upon completion of the LAHC reconciliation of LAHC claims, such member payments identified by LAHC as the total member responsibility for payment to the LAHC provider, including, but not limited to amounts determined to be owed by LAHC policyholders, members, enrollees and subscribers for co-payments, co-insurance, deductibles and the like, which determination by LAHC as the amount above the LAHC usual and customary rate and the LAHC member responsibility payment is final and binding on LAHC providers.
- 5) Order that LAHC contracted providers be permanently barred from collecting and/or attempting to collect any amounts in excess of the member responsibility payment determined by LAHC to be due to the LAHC provider from the LAHC policyholder, member, enrollee and/or subscriber. See La. R.S. 22:263(C), notwithstanding the provisions of La. R.S. 22:263(D). In other words, and in the terminology understood by medical providers, LAHC requests that the Court PROHIBIT ALL BALANCE BILLING OF LAHC


MEMBERS.

- 6) Authorize LAHC to identify and retain an audit firm to review the LAHC processes and procedures for claims determinations and/or member responsibility payments and/or refunds to ensure that the processes and procedures avoid any preferences for LAHC claims and are fair and accurate and consistently applied.
- 7) Determine that upon determination/payment and/or settlement of the claims of LAHC claimants, as per the relief requested by LAHC above and as permitted by the Court, that the amount of each such claim determination/payment and/or settlement shall constitute the total amount of the claim due to the LAHC claimant and that no further determination/payment and/or amount will be due from LAHC and that payment in the amount determined, based on approval and available funding, will constitute a full satisfaction of LAHC's obligations to the LAHC claimant, unless modified by a settlement agreement, which payment is permitted to be less than the full amount due, based on the availability of a federal waiver and LAHC funds for claims payments.

And for all other appropriate relief.

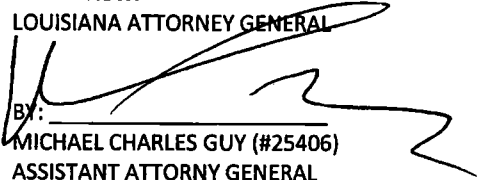
Respectfully Submitted,

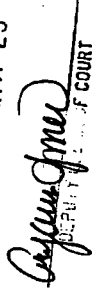
**BURGLASS & TANKERSLEY, LLC**

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2016 SEP 23 AM 11:23  
 EAST BATON ROUGE PARISH, LA  
 CLERK OF COURT  


19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

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VERSUS

LOUISIANA HEALTH COOPERATIVE, INC.

FILED: \_\_\_\_\_

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DEPUTY CLERK

ORDER

Considering the above and foregoing Motion to Supplement, Amend and Clarify Prior Court Orders as to LAHC Claims and Potential LAHC Distributions filed on behalf of James J. Donelon, Commissioner of Insurance for the State of Louisiana as Rehabilitator of Louisiana Health Cooperative, through the Commissioner's Court-appointed Receiver, Billy Bostick ("LAHC"), and the Court finding that mover is entitled to the relief requested,

**IT IS ORDERED** that as to Medicare Fee Rates, LAHC is authorized and permitted, in LAHC's sole discretion, but is not required, to, adjudicate LAHC claims, as follows:

- 1) use the most appropriate CMS Medicare Fee Rate for the date of service for determination of the amount and for processing LAHC Class 3 claims for covered benefits, regardless of prior and/or later CMS Medicare Fee Rate Schedules, in accordance with principles established by La. R.S. 22: 254 (G) (3), and in spite of the fact that no order of liquidation has yet been requested or entered in these proceedings, and establish reasonable rates for those covered services for which an amount has not been determined under the federal Medicare program;

and/or

- 2) determine the amounts due to Class 3 LAHC claimants for claims for covered benefits at an as yet undetermined and undeterminable percentage of agreed upon contractual rates (without interest, penalty or contractual acceleration of charges to billed charges) until additional funds are available and a federal waiver has been granted, and until further order of this Court;

and/or

- 3) because it currently appears likely that there may be sufficient LAHC funds to pay all Class 3 provider claims and the Class 4 member premium refund claims in full and/or in part, and in order to save the continued expense of adjudication of providers claims, particularly in light of the poor and inadequate LAHC data and records, LAHC seeks authority to enter into negotiations with willing LAHC providers for settlement of provider claims subject to the requirement of obtaining a federal waiver and the availability of adequate LAHC funds, thus reducing the expense of continued claims review, processing and adjudication, as well as the costs of potential litigation and discovery;

which selection of a method/s for claims payments shall be selected by LAHC, at LAHC's sole discretion, and as LAHC deems necessary or advisable, in order to implement the foregoing based on the calculation of the impact of each method on LAHC's negative financial condition;

**IT IS FURTHER ORDERED** that as to Medicare rate schedules, LAHC is authorized and permitted, in LAHC's discretion, but is not required to:

- 1) Determine the appropriate Medicare rate schedules to use for LAHC claims incurred between January 1, 2014 and December 31, 2015;
- 2) Allow and pay reasonable rates where there is no established Medicare rate for a covered service provided to an LAHC member, such rates to be determined by LAHC in its sole discretion based on comparable Medicare rates, or in the absence of comparable Medicare rates at rates deemed reasonable by LAHC;

**IT IS FURTHER ORDERED** that as to the Explanation of Payment forms ("EOPs") prepared by LAHC third party administrator Group Resources, Inc. ("GRI"), LAHC is authorized and permitted, in LAHC's sole discretion, but is not required to:

- 1) Rely on the Explanation of Payment forms ("EOP"s) sent to LAHC providers (doctors, hospitals, health care providers) by the LAHC third party administrator, Group Resources, Inc. prior to the November 23, 2016 cut-off of payment of those claims and to accept the amounts determined and paid by LAHC before November 23, 2016 as correct and accurate amounts and payments of all such LAHC provider claims, and which determination by LAHC as member responsibility payment is final and binding on LAHC providers;
- 2) Retrospectively examine the claims determinations made by the LAHC third party administrator, Group Resources, Inc. ("GRI"), as to the claims processing codes used by GRI and/or the GRI determination of member responsibility payments (co-payments, deductibles, co-insurance and the like) due from LAHC members to LAHC providers and/or refunds due to LAHC policyholders, members, enrollees and subscribers, to determine the completeness, correctness and accuracy of such determinations and make appropriate adjustments to the correct amounts owed by and/or to LAHC policyholders, members, enrollees and subscribers.

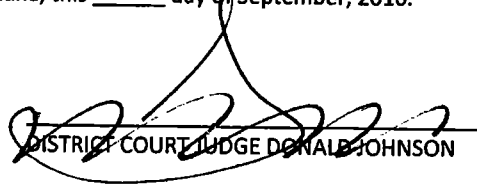
**IT IS FURTHER ORDERED** that as to claims adjudication, member refunds, and/or member responsibility payments, LAHC is authorized and permitted, in LAHC's sole discretion, but is not required to:

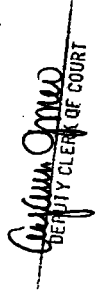
- 1) Where appropriate to prepare and send to LAHC policyholders, members, enrollees and subscribers a Revised Explanation of Benefit form for selected LAHC claims paid prior to December 31, 2015 (the last day of LAHC coverage) to identify the correct amounts determined by LAHC to be paid by the LAHC policyholder, member, enrollee and/or subscriber as member responsibility (co-payments, deductibles, co-insurance and the like) and/or to be due to the LAHC policyholder, member, enrollee and/or subscriber as a refund of overpayments, as and where applicable;

- 2) Where appropriate to prepare and send to LAHC policyholders, members, enrollees and subscribers a Revised Explanation of Benefit form and to LAHC medical providers, doctors and hospitals a Revised Explanation of Payment form for all LAHC claims that were not paid by December 31, 2015 (the last date of LAHC coverage) and remain unpaid, which identifies the amounts determined by LAHC to be due to the LAHC provider from LAHC as well as the amount determined by LAHC to be due to the LAHC provider from the LAHC policyholder, member, enrollee and/or subscriber and/or to be due to the LAHC provider, member, enrollee and/or subscriber as a refund of overpayments, as and where applicable, and which determination by LAHC as member responsibility payment is final and binding on LAHC providers for purposes of prohibiting balance billing.
- 3) Require that all LAHC contracted providers bill and collect from LAHC policyholders, members, enrollees, and subscribers only that amount shown by LAHC as a payment due to the provider from the LAHC member on the LAHC Explanation of Payments forms to be sent to LAHC providers upon completion of the LAHC reconciliation of LAHC claims, such member payments identified by LAHC as the total member responsibility for payment to the LAHC provider, including, but not limited to amounts determined to be owed by LAHC policyholders, members, enrollees and subscribers for co-payments, co-insurance, deductibles and the like, which determination by LAHC as member responsibility payment is final and binding on LAHC providers.
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- 5) Require that LAHC contracted providers be permanently barred from collecting and/or attempting to collect any amounts in excess of the member responsibility payment determined by LAHC to be due to the LAHC provider from the LAHC policyholder, member, enrollee and/or subscriber. See La. R.S. 22:263(C), notwithstanding the provisions of La. R.S. 22:263(D). In other words, and in the terminology understood by medical providers, LAHC requests that the Court PROHIBIT ALL BALANCE BILLING OF LAHC MEMBERS.
- 6) Identify and retain an audit firm to review the LAHC processes and procedures for claims determinations and/or member responsibility payments and/or refunds to ensure that the processes and procedures avoid any preferences for LAHC claims and are fair and accurate and consistently applied.
- 7) Determine that upon determination/payment and/or settlement of the claims of LAHC claimants, as per the relief requested by LAHC above and as permitted by the Court, that the amount of each such claim determination/payment and/or settlement shall constitute the total amount of the claim due to the LAHC claimant and that no further determination/payment and/or amount will be due from LAHC and that payment in the amount determined, based on approval and available

funding, will constitute a full satisfaction of LAHC's obligations to the LAHC claimant, unless modified by a settlement agreement, which payment is permitted to be less than the full amount due, based on the availability of a federal waiver and LAHC funds for claims payments.

Baton Rouge, Louisiana, this 21 day of September, 2016.

  
DISTRICT COURT JUDGE DONALD JOHNSON

EAST BATON ROUGE PARISH, LA  
FILED  
2016 SEP 21 AM 11:24  
  
Cynthia O'Neal  
DEPUTY CLERK OF COURT