

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.

CSB
COST OK \$ *State*

FILED: _____

DEPUTY CLERK

MAY - 5 2016

DEPUTY CLERK OF COURT

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

**NOTICE OF OFFSET BY THE DEPARTMENT OF HEALTH & HUMAN SERVICES, CENTERS FOR
MEDICARE & MEDICAID SERVICES IN VIOLATION OF THIS COURT'S PERMANENT ORDER OF
REHABILITATION AND INJUNCTIVE RELIEF OF SEPTEMBER 21, 2015**

NOW INTO COURT, through undersigned counsel, comes James Donelon, Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator and Billy Bostick, Court appointed Receiver, of Louisiana Health Cooperative, Inc. in Rehabilitation ("LAHC"), who hereby give notice that by letter dated April 27, 2016, the United States Department of Health & Human Services, Centers for Medicare and Medicaid Services, Center for Consumer Information & Insurance Oversight ("CMS") sent a letter to LAHC, a copy of which is attached as **Exhibit A**, advising LAHC that CMS "has implemented an administrative hold on payables" due from CMS to LAHC and that CMS recovered by "administrative offset" the amount of One Hundred Forty Four Thousand Two Hundred Ninety Nine and 43/100 (\$144,299.43) as of April 27, 2016. CMS further advised that "CMS will continue to hold funds owed to LAHC and exercise its right of offset to recover the remaining principal balance on the Start-up Loan and any additional amounts owed to CMS,"¹ all in violation of this Court's Permanent Order of Rehabilitation and Injunctive Relief of September 21, 2016, which provides in pertinent part:

... IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to La. R.S. 22:2006, any and all persons and entities shall be and hereby are permanently enjoined from obtaining preferences, judgments, attachments or other like liens or the making of any levy against LAHC, its property and assets while in the Commissioner's possession and control. ...

¹ CMS advised that the principal balance of the Start-Up Loan is Thirteen Million Thirty Two Thousand Two Hundred Sixty and 57/100 (\$13,032,260.57) Dollars.

EBR3586267

... No bank, savings and loan association, or other financial institution, person or entity shall freeze or place a hard hold on, or exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court. ...

... IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any bank, savings and loan association, financial institution, and any other person or entity which has on deposit, in its possession, custody or control any funds, accounts and any other assets of LAHC, shall not be permitted to freeze or place a hard hold on, or exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the control of the Commissioner, the Receiver or his appointees without the permission of this Court. ...

... IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all individuals and entities shall be and hereby are permanently enjoined from instituting and/or taking further action in any suits, proceedings, and seizures against LAHC, the Commissioner in his capacity as rehabilitator of LAHC, the Receiver, and any affiliates, subsidiaries, insurers, its officers, directors, employees, managers, trustees, agents, adjustors, accountants, actuaries, attorneys, contractors, consultants, third party administrators, subsidiaries, affiliates, or representatives of same, to prevent any preference, judgment, seizure, levy, attachment, or lien being rendered against LAHC, its estate and assets, and/or its members, subscribers, enrollees, and policyholders, the Commissioner in his capacity as rehabilitator and/or liquidator, the Receiver, any affiliates, subsidiaries, insurers, its officers, directors, employees, managers, trustees, agents, adjustors, accountants, actuaries, attorneys, contractors, consultants, third party administrators of same, and the making of any levy against LAHC, its property or assets. ...

... IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except with the concurrence of the Commissioner or until further written order of this Court, all suits, proceedings, and seizures against LAHC and/or its respective members/enrollees/subscribers shall be and hereby are stayed in order to prevent the obtaining of any preference, judgment, seizure, levy, or lien, and to preserve the property and assets of LAHC, including, but not limited to, suits and proceedings and all litigation where:

- a) LAHC is a party; ...
- f) Any party is seeking to create, perfect or enforce any preference, judgment, attachment, lien or levy against LAHC or its assets or against any member, subscriber, enrollee and/or policyholder of LAHC....

These actions by CMS not only violate the Court's September 21, 2016 Permanent Order of Rehabilitation and Injunctive Relief, but also seek to give CMS claims a preference in payment in direct violation of the schedule of preferences for health maintenance organizations in receivership dictated by La. R.S. 22:254 (G) to the detriment of LAHC policyholders, members, subscribers and enrollees, Louisiana doctors, hospitals and medical providers, and the LAHC estate.

Respectfully Submitted,

BURGLASS & TANKERSLEY, LLC

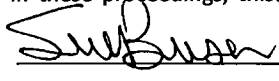
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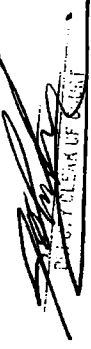
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Attorneys for **JAMES J. DONELON, Commissioner of Insurance for the State of Louisiana
as Rehabilitator of Louisiana Health Cooperative, Inc. in Rehabilitation**

CERTIFICATE OF SERVICE

I hereby certify that I have not served a copy of the foregoing pleading in these proceedings because there are no other parties in these proceedings, this ~~SA~~ day of May, 2016.



FILED
EAST BATON ROUGE PARISH LA
2016 MAY -5 PM 1:52

CLERK OF COURT

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



April 27, 2016

VIA ELECTRONIC MAIL: Billy.bostick@bccg.com

Mr. Billy Bostick

Receiver

Louisiana Health Cooperative, Inc., in Rehabilitation

3445 North Causeway Boulevard

Ste. 800

Metairie, LA 70002

Dear Mr. Bostick:

We appreciate your continued collaboration with the Centers for Medicare and Medicaid Services (CMS) during the process of Louisiana Health Cooperative, Inc. (LAHC) wind-down. As CMS advised you in a letter dated March 8, 2016, because of the wind-down of LAHC, CMS has implemented an administrative hold on payables to LAHC. This letter is to inform you that CMS has now recovered \$144,299.43 through administrative offset toward payment of the outstanding amount owed on the Start-up Loan, dated September 27, 2012, which was terminated effective December 31, 2015. We also note that in light of your loan offset, CMS will not provide a HIX820 or Preliminary Payment Report (PPR) for the April payment cycle. To date, CMS has recovered the following:

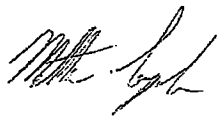
Payee ID	Remittance ID	Date	Payable
A312001	A1603A312001002	March 11, 2016	Advanced Payments of the Premium Tax Credit: \$98,205.50
A312001	C1603A312001002	March 11, 2016	Cost-Sharing Reduction: \$37,002.96
A312001	K1603A312001002	March 11, 2016	Benefit Year Risk Corridors Payment: \$9,090.97

The remaining principal balance on the Start-up Loan is \$13,032,260.57.

In addition to the amount due under the Start-Up Loan, LAHC also owes or may owe CMS additional amounts, potentially including amounts under the cost-sharing reduction reconciliation program (42 U.S.C. § 18071), the transitional reinsurance program (42 U.S.C. § 18061), or the risk adjustment program (42 U.S.C. § 18063). CMS will continue to hold funds owed to LAHC and exercise its right of offset to recover the remaining principal balance on the Start-up Loan and any additional amounts owed to CMS.

CMS remains committed to protecting consumers and tax payer dollars and appreciates the hard work being done during the LAHC wind-down and to protect the consumers of Louisiana. Please contact me if you have any questions or concerns regarding the content of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Lynch', written in a cursive style.

Matthew Lynch
Director, Insurance Programs Group
Center for Consumer Information & Insurance Oversight