

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.

COST OK Amt. *State*

MAY 23 2018

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

BY \_\_\_\_\_  
DEPUTY CLERK BY CLERK OF COURT

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

**NOTICE OF NINTH CMS OFFSET OF May 15, 2018 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**

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/email dated May 15, 2018, the United States Department of Health & Human Services, Centers for Medicare and Medicaid Services, Center for Consumer Information & Insurance Oversight ("CMS"), sent an electronic transmission to LAHC (CMS I820 file), advising LAHC that CMS offset Sixteen Thousand One Hundred Twenty Two and 40/100 (\$16,122.40) Dollars against payments CMS claims are due to LAHC under the 2014 Risk Corridor program, which amounts are due to LAHC from CMS for LAHC operations as a Qualified Health Plan under the Affordable Care Act.

To date, CMS has provided LAHC with nine (9) offset letters which indicated that CMS is holding, and using as an offset, funds owed to LAHC for various LAHC programs, as follows:

The CMS offsets and recoupments in the total amount of Seven Million One Hundred Fifteen Thousand Three Hundred Thirteen and 87/100 (\$7,115,313.87) Dollars from April 2016 through May 2018 are shown on attached **Exhibit A**.

**TOTAL OFFSET TO DATE      \$7,115,313.87**

This action by CMS continues in violation of this Court's Permanent Order of Rehabilitation and Injunctive Relief of September 21, 2015, 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

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other like liens or the making of any levy against LAHC, its property and assets while in the Commissioner's possession and control. ...

... 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 1, 2015 Order of Rehabilitation and Injunctive Relief and the September 21, 2015 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) and other applicable Louisiana law to the detriment of LAHC policyholders, members, subscribers and enrollees, Louisiana doctors, hospitals and medical providers, and the LAHC estate, particularly as CMS is holding over \$50 million due to LAHC under the Risk Corridor program.

Respectfully Submitted,

BURGLASS & TANKERSLEY, LLC

BY: Sue Buser

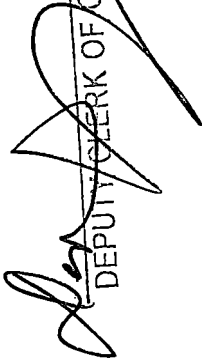
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Attorneys for **JAMES J. DONELON, Commissioner of Insurance for the State of Louisiana  
as Rehabilitator of Louisiana Health Cooperative, Inc. in Rehabilitation**

**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 22nd day of May, 2018.

Sue Buser

**FILED**  
MAY 23 2018  
  
DEPUTY CLERK OF COURT