

EAST BATON ROUGE PARISH Filed Oct 16, 2019 10:17 AM Deputy Clerk of Court	<b>C-641928</b> <b>26</b>
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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.

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

\_\_\_\_\_  
DEPUTY CLERK

**MOTION AND INCORPORATED MEMORANDUM TO PERMIT LAHC APPROVAL AND  
IMMEDIATE PAYMENT RELEASE OF THE EARLY PAYMENT AMOUNT OF ALL REMAINING LAHC  
PROVIDER SETTLEMENTS WITH ANTICIPATED TOTAL PAYMENT OVER TWO THOUSAND DOLLARS  
(the "Round Three LAHC Settling Providers")**

NOW INTO COURT, through undersigned counsel comes James J. Donelon, Commissioner of Insurance for the State of Louisiana as Rehabilitator of Louisiana Health Cooperative, Inc. in Rehabilitation, through the Commissioner's Court-approved Receiver, Billy Bostick ("LAHC"), who seeks an order of this Court approving LAHC approval and immediate release of the Early Payment amounts of the claims for the remaining LAHC Providers with an anticipated Total/Final Settlement Payment amount of over Two Thousand (\$2000.00) Dollars who execute the LAHC Settlement agreement documents (the "Round Three LAHC Settling Providers").

**Background**

On September 11, 2019, this Court approved the execution of a federal release with the United States Department of Justice, which permitted LAHC to begin payment of all Class 1, 2, 3, and 4 claims pursuant to La. R.S. 22:254(G).<sup>1</sup> Pursuant to the Court's approval of the federal release, LAHC has begun the process of distributing Early Payments to the 177 LAHC Settling Providers whose LAHC Settlements have been approved by the Court in Round One and Round Two<sup>2</sup>, as well as payments to LAHC members with valid claims for premium refunds and/or claims for covered benefits.

<sup>1</sup> La. R.S. 22:254 (G) provides for the priority of payment of claims of an insolvent HMO, as follows:

- (1) The commissioner's costs and expenses of administration, which are ongoing;
- (2) Compensation owing to employees with nothing outstanding owed;
- (3) Claims for covered benefits (which include the claims of LAHC Providers);
- (4) Claims for unearned premiums (nothing is due as premiums were collected monthly and ended on December 31, 2015) and claims for "other premium refunds" which are generally the claims of LAHC members who overpaid premiums, estimated to be less than \$150,000, which have already been approved by the Court for payment.

Class 5 claims are the claims of LAHC general creditors. The federal Release Agreement permits the United States to collect all money due from LAHC (estimated to exceed \$65 million) in preference to all other LAHC general creditors (such as insurance agents, suppliers, contractors, etc. who performed services prior to January 1, 2016.

<sup>2</sup> The LAHC Settlement Plan previously approved by this Court permits payment to LAHC Settling Providers of an Early Payment upon receipt of a federal release, with a later payment for the entire amount due (the "Residual Payment") on a pro rata basis based on the availability of funds.

On December 3, 2018, this Court approved the LAHC Settlement Plan. Subsequently, on May 20, 2019, this Court approved the claims of eighty-seven (87) LAHC Settling Providers in Round One. On October 2, 2019, this Court approved the LAHC Settlements as the claims of LAHC Settling Providers (88 to 177) in Round Two. A total of one hundred seventy-seven (177) LAHC Provider Settlements have been approved by this Court to date, which accounts for approximately \$20.2 million of the total settlement amount of approximately \$24 million owed by LAHC to Settling LAHC providers. LAHC has begun the process of distributing the Early Payment amounts for these court approved LAHC Settlements for the Round 1 and Round 2 Settling LAHC Providers.

**Settlement and Payment of the Claims of the Remaining LAHC Providers with An Anticipated Total/Final Payment amount Over \$2000 (The Round Three LAHC Settling Providers”).<sup>3</sup>**

**The Group Three LAHC Providers**

The subject of this motion are the claims of approximately 260 LAHC Providers/Provider Groups with outstanding timely filed claims of which, in total, amounts to approximately \$3 million in Total Payments, that have not yet been submitted to the Court for approval (other than the 177 court approved LAHC Settlements in Round One and Round Two), with claims that exceed the Low Dollar Claim threshold of Two Thousand (\$2000.00) Dollars. (the “Round Three LAHC Providers”).

See chart below:

Previous Filings and Proposed Filings		Provider Settlements (Provider / Provider Groups)	Early Payment	Residual Payments	Total Payments	Average Total Payment per Provider Settlement
Round 1 - High Dollar Provider Settlements - Previously Approved by the Court	Round 1	87	\$6,955,451.09	\$12,183,317.75	\$19,138,768.84	\$219,985.85
Round 2 - High Dollar Provider Settlements - Previously Approved by the Court	Round 2	90	\$599,490.94	\$492,734.54	\$1,092,225.48	\$12,135.84
Round 3 - Medium Dollar Provider Settlements - This Motion	Round 3	262	\$1,576,184.38	\$1,491,739.00	\$3,067,923.38	\$11,709.63
Low Dollar Provider Settlements - Motion to Pay in Full - Separate Motion	Low Dollar	947	\$388,998.35	\$80,055.81	\$469,054.16	\$495.31
Provider Settlements with \$0 Due		271	\$0.00	\$0.00	\$0.00	\$0.00
<b>Grand Totals:</b>		<b>1657</b>	<b>\$9,520,124.76</b>	<b>\$14,247,847.10</b>	<b>\$23,767,971.86</b>	<b>\$244,326.62</b>
						<b>Totals</b>
			<b>Rounds 1 &amp; 2 - Approved to Pay:</b>	<b>\$7,554,942.03</b>		<b>\$7,554,942.03</b>
			<b>Rounds 3 &amp; Low Dollar Settlements - Motions to Pay:</b>	<b>\$1,576,184.38</b>	<b>\$469,054.16</b>	<b>\$2,045,238.54</b>
					<b>Round 1 - 4 to Pay:</b>	<b>\$9,600,180.57</b>

<sup>3</sup> There are approximately 950 LAHC Providers/Provider Groups with outstanding timely filed claims with an anticipated Total Payment due that is less than or equal to Two Thousand (\$2000) Dollars each (the “Low Dollar LAHC Provider Settlements”), with total claims of approximately \$470 Thousand (\$470,000) Dollars, which is the subject of another motion.

As to these anticipated 260 Round Three LAHC Providers, LAHC seeks authority to continue to contact each remaining Round Three LAHC provider with Total Payments for outstanding timely filed claims resulting in a Total/Final Settlement Payment amount of over Two Thousand (\$2000.00) Dollars who have not yet executed the LAHC Settlement documents approved by the Court, provide them with the same LAHC Settlement documents provided to the already court approved LAHC Settling Providers in Round One and Round Two, obtain signed LAHC Settlements from each of the still remaining Round Three Settling Providers and put the Round Three LAHC Settling Providers with fully executed LAHC Settlement Agreements accepted by LAHC in line for payment of the Early Payment amounts agreed to, without the necessity of Court approval prior to payment, but with periodic reports to the Court on all such finalized Round Three LAHC Settlements. Payment to these Round Three LAHC Settling Providers of the Early Payment amounts prior to Court approval will permit LAHC to make long overdue payment to these Round Three LAHC Settling Providers on an expedited basis as each such LAHC Settlement is finalized by LAHC.

As before, LAHC requests authority to make agreed upon changes to the LAHC Settlement Plan documents as needed and to enter into such confidentiality and non-disclosure agreements as may be needed and /or prudent.

For all these reasons, LAHC asks the Court to approve the plan to permit LAHC approval and immediate payment release of the Early Payment amount of the claims of the Round Three LAHC Settling Providers with anticipated total payment over Two Thousand (\$2000.00) Dollars who execute the LAHC Settlement Agreement documents without the necessity of prior court approval as a modification to the LAHC Settlement Plan previously approved by the Court.

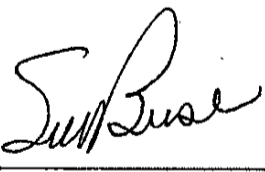
WHEREFORE, LAHC prays for entry of an order granting this motion and ordering same implemented as follows:

- 1) Authorizing and directing LAHC to continue to send the LAHC Settlement documents to the Round Three LAHC Providers with anticipated Total/Final Settlement Payment Amounts over Two Thousand (\$2000.00) Dollars as per the terms of the original LAHC Settlement Plan approved by the Court as well as the settlement documents approved by the Court for participation in the LAHC Settlement Plan;

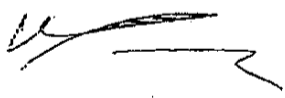
- 2) Obtain signed LAHC Settlements from each of the Round Three Providers and put the Round Three LAHC Settling Providers with fully executed LAHC Settlement Agreements accepted by LAHC and executed by the Receiver in line for immediate payment of the Early Payment amounts, without the necessity of Court approval prior to payment, but with periodic reports to the Court on all such finalized Round Three LAHC Settlements to permit LAHC to make long overdue payment to these Round Three LAHC Settling Providers on an expedited basis as each such Round Three LAHC Settlement is finalized by LAHC;
- 3) As before, LAHC requests authority to make agreed upon changes to the LAHC Settlement Plan documents as needed and to enter into such confidentiality and non-disclosure agreements as may be needed and /or prudent;
- 4) That in all other respects the LAHC Settlement Plan approved by the Court on December 3, 2018 remain in full force and effect as to all LAHC Settling Providers, including any and all Round Three LAHC Providers; and
- 5) That the LAHC Receiver be granted all power and authority to accomplish the task of implementing the LAHC Settlement Plan for the Round Three LAHC Settling Providers and to execute any documents related thereto as the Receiver may deem necessary and advisable in the Receiver's discretion.

Respectfully Submitted,

**BURGLASS & TANKERSLEY, LLC**

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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 on any counsel in these proceedings because there are no other parties in these proceedings, this 10<sup>th</sup> day of October, 2019.



## 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.

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

\_\_\_\_\_  
DEPUTY CLERK**ORDER**

The Court considering the Motion To Permit LAHC Approval and Immediate Payment Release of the Early Payment Amount of All Remaining LAHC Provider Settlements With Anticipated Total Payment Over Two Thousand (\$2000.00) Dollars (the "Round Three LAHC Settling Providers"), and finding that mover is entitled to the relief granted,

**IT IS ORDERED, ADJUDGED AND DECREED** that the Motion for To Permit LAHC Approval and Immediate Payment Release of the Early Payment amount of All Remaining LAHC Provider Settlements With Anticipated Total Payment Over Two Thousand (\$2000.00) Dollars (the "Round Three LAHC Settling Providers") be and same hereby is **GRANTED**.

**IT IS FURTHER ORDERED, ADJUDED AND DECREED** that LAHC be and hereby is authorized and directed to continue to send the LAHC Settlement documents to the Round Three LAHC Providers as per the terms of the original LAHC Settlement Plan approved by the Court as well as the settlement documents approved by the Court for participation in the LAHC Settlement Plan.

**IT IS FURTHER ORDERED, ADJUDED AND DECREED** that LAHC is authorized and directed to obtain signed LAHC Settlements from each of the Round Three LAHC Providers and put the Round Three LAHC Settling Providers with fully executed LAHC Settlement Agreements accepted by LAHC and signed by the Receiver in line for payment of the Early Payment amounts, without the necessity of Court approval prior to payment, but with periodic reports to the Court on all such finalized Round Three LAHC Settlements to permit LAHC to make long overdue payment to these Round Three LAHC Settling Providers on an expedited basis as each such Round Three LAHC Settlement is finalized by LAHC.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LAHC is granted authority to make agreed upon changes to the LAHC Settlement Plan documents as needed and to enter into such confidentiality and non-disclosure agreements as may be needed and /or prudent.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that in all other respects the LAHC Settlement Plan approved by the Court on December 3, 2018 remain in full force and effect as to all LAHC Settling Providers, including any and all Round Three LAHC Providers.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LAHC be and hereby is authorized and directed to make agreed upon changes and to accept electronic signatures to the LAHC Settlement Plan documents as needed and/or requested by LAHC claimants and agreed to by LAHC and to enter into such confidentiality and non-disclosure agreements as may be needed and/or prudent, as deemed by the Receiver to be in the best interest of LAHC.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LAHC be and hereby is authorized and directed to send and receive any and all documents related to the LAHC Settlement Plan by mail, delivery, facsimile and/or electronic transmission (e-mail) and to accept electronic signatures, in the discretion of the Receiver.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all settling and non-settling LAHC providers be and hereby are permanently enjoined from collecting and/or attempting to collect member responsibility payments from LAHC, LAHC insureds, policyholders subscribers, members and enrollees in violation of La. R.S. 22:1874, until written notice is given by LAHC as to the amount owed.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the LAHC Receiver is granted all power and authority to accomplish the task of implementing the LAHC Settlement Plan approved herein and executing any documents related thereto as the Receiver may deem necessary and advisable in the Receiver's discretion.

Baton Rouge, Louisiana, this 21 day of October 2019

  
DISTRICT COURT JUDGE RICHARD "CHIP" MOORE, III

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF THE WRITTEN REASONS FOR JUDGMENT / JUDGMENT / ORDER / COMMISSIONER'S RECOMMENDATION WAS MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED. SEE ATTACHED LETTER FOR LIST OF RECIPIENTS.

DONE AND MAILED ON October 29, 2019

  
DEPUTY CLERK OF COURT