

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division**

DISTRICT OF COLUMBIA
Department of Insurance, Securities
and Banking,

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2
Judge: Melvin R. Wright
Calendar No.: 15
Next Scheduled Event: Status Hearing
October 17, 2013, at 9:30 a.m.

PRAECIPE

**NOTICE OF FILING OF SPECIAL DEPUTY TO THE
REHABILITATOR'S EIGHTH STATUS REPORT AND PETITION FOR ORDER TO
DEPOSIT FUNDS IN COURT REGISTRY PURSUANT TO SUPER. CT. R. 67**

D.C. Chartered Health Plan, Inc., acting through its Rehabilitator and his attorneys, files the attached Special Deputy to the Rehabilitator's Eighth Status Report and Petition for Order to Deposit Funds in Court Registry Pursuant to Super. Ct. R. 67.

Dated: October 16, 2013

Respectfully submitted,

By: /s/ Prashant K. Khetan
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Attorneys for the Rehabilitator and the
Special Deputy to the Rehabilitator for
D.C. Chartered Health Plan, Inc.

Certificate of Service

I hereby certify that on this 16th day of October, 2013, a copy of the foregoing *Notice of Filing of Special Deputy to the Rehabilitator's Eighth Status Report and Petition for Order to Deposit Funds in Court Registry Pursuant to Super. Ct. R. 67*, with attachment, was filed and served by email upon:

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**SPECIAL DEPUTY TO THE REHABILITATOR'S EIGHTH STATUS REPORT AND
PETITION FOR ORDER TO DEPOSIT FUNDS IN COURT REGISTRY
PURSUANT TO SUPER. CT. R. 67**

Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. in Rehabilitation (Chartered), files this *Eighth Status Report and Petition for Order to Deposit Funds in Court Registry Pursuant to Super. Ct. R. 67*. As detailed further below, Chartered, through its Rehabilitator, respectfully requests that the Court permit the deposit into the Court's Registry of certain funds from the Chartered-DHCF Settlement to facilitate equitable *pro rata* distribution of payments to all Class 3 providers.

1. **Update From Seventh Status Report**. On September 23, 2013, the Special Deputy filed his Seventh Status Report with the Court. The following information provides an update to the Seventh Status Report.

(a) **Pending Legal Matters.**

- i. Chartered's petition for approval of the Settlement Agreement and Mutual Release with MedStar (MedStar Settlement Agreement), attached as Exhibit 1 to the Seventh Status Report, is pending before the Court.

ii. On October 9, 2013, the District of Columbia Court of Appeals entered an Order granting MedStar's motion for extension of time to file its brief, ordering that the brief would be due November 4, 2013. MedStar will dismiss its appeal, as well as pending litigation and arbitration, if the Court approves the MedStar Settlement Agreement and Chartered satisfies the Agreement's terms and conditions for dismissal.

(b) **Premium Claims.** Paragraph 2, below, discusses payments under the Court-approved settlement agreement between the Rehabilitator and the Department of Health Care Finance (DHCF) settling Chartered's claims for retrospective premium claimed under its previous Medicaid contract (DHCF Settlement Agreement).

(c) **Parent Company and Related Party Issues.**

- i. At a hearing on October 11, 2013, defendants withdrew their Motion to Stay the Proceedings in *D.C. Chartered Health Plan, Inc. v. Thompson*, Civil Action No. 2013 CA 003752 B (D.C. Super. Ct.) (the *Thompson* Action).
- ii. On October 15, 2013, Judge Mott granted defendants' Consent Motion for a Brief Extension of Time to File Opening/Response Brief in Opposition to Plaintiff's Motion for Partial Summary Judgment in the *Thompson* Action. The response is now due on October 23, 2013.

2. **Carrying Out the Plan of Reorganization and Payment of Chartered's Liabilities**

(a) **Proofs of Claim.** The Rehabilitator is continuing to evaluate all proofs of claim for classification priority. As previously reported, and as required by the Plan of Reorganization, the Rehabilitator will consider payment of claims below Class 3 only if all Class 3 claims are paid in full. The Rehabilitator will recommend to the Court a plan for making payments in claims that fall in Class 4 or below if and when the Rehabilitator determines there will be assets available to pay such claims. The Rehabilitator continues

to project that Chartered's ability to pay Class 3 claims in full and to make any payments on claims falling in Class 4 or below depends on amounts the Rehabilitator is able to recover in the *Thompson* Action.

(b) Provider claims and payments.

- i. Chartered distributed all \$18 million of the Part I payments under the DHCF Settlement Agreement.
- ii. As previously reported, DHCF is distributing DHCF Settlement Agreement Part II payments through a DHCF grant program. A third party, The Colbent Corporation, is coordinating and documenting the payment process with Chartered and DHCF.
- iii. Colbent reports that, as of October 15, 2013, it has received 240 grant applications with claims for approximately 90% of the \$30 million in available grant funds. Colbent is working with Chartered and DHCF to affirmatively encourage the remaining providers with claims to submit applications.
- iv. DHCF has extended the grant application deadline until Tuesday, October 31, 2013 at 5pm.
- v. To facilitate the equitable distribution of the proceeds from the DHCF Settlement Agreement, so that all Class 3 providers receive the same *pro rata* share of their claims, Chartered respectfully requests authorization for the deposit of certain DHCF settlement funds in the Court Registry pursuant to Super. Ct. R. 67. Specifically, DHCF would deposit into the Court Registry, after the expiration of the grant application deadline, the difference between the \$30 million Part II settlement amount and the amount distributed to grant applicants. The funds would be deposited for the benefit of Chartered's providers to facilitate equitable *pro rata* distribution of payments pursuant to the

Court-approved Plan of Reorganization. Chartered agrees that the District's obligations under the DHCF Settlement Agreement will be fully satisfied after its deposit into the Court Registry, provided that the amount paid to the grant applicants for Part II settlement payments and to the Court Registry totals \$30 million. DHCF understands that Chartered would later apply to the Court for authorization to withdraw these funds for payment to Class 3 providers who did not receive funds through the DHCF grant program but otherwise would be eligible to apply under the DHCF Settlement Agreement. On DHCF's behalf, the District of Columbia, acting through the Office of the Attorney General for the District of Columbia, consents to the relief requested in this petition.

3. **Rehabilitation Expenses.**

- (a) The Rehabilitator's petition for approval of the Third Submission of Fees and Expense Statements described in the Seventh Status Report is pending before the Court.
- (b) On October 4, 2013, Chartered filed a Notice of Filing by the Special Deputy to the Rehabilitator of the Fourth Submission of Fee and Expense Statements for *In Camera* Review and Petition for Approval of Payment. The Petition is pending before the Court.

RELIEF REQUESTED

WHEREFORE, the Rehabilitator by his Special Deputy petitions the Court to enter the requested Order authorizing DHCF to deposit certain settlement funds into the Court's Registry.

Respectfully submitted,

/s/ Daniel L. Watkins
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ORDER APPROVING PLAN FOR PAYING PROVIDERS

On October 16, 2013, Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. in Rehabilitation (Chartered), filed his *Eighth Status Report and Petition for Order to Deposit Funds in Court Registry Pursuant to Super. Ct. R. 67*. The Petition requested the Court to enter an order permitting the District of Columbia Department of Health Care Finance (“DHCF”), if necessary, to deposit certain funds into the Court Registry for the benefit of Chartered’s providers to facilitate equitable *pro rata* distribution of payments pursuant to the Court-approved Plan of Reorganization.

Upon consideration of the Petition and the entire record herein, it is this ____ day of October, 2013,

1. ORDERED: That DHCF is authorized to deposit into the Court’s Registry the funds described in the Eighth Status Report and Petition;
2. ORDERED: That after making the deposit into the Court’s Registry described above, the District of Columbia’s obligations under the Settlement Agreement between Chartered and DHCF shall be fully satisfied, provided that the amount

paid to the grant applicants for Part II settlement payments and to the Court Registry totals \$30 million;

3. ORDERED: That Chartered may later apply to the Court for authorization to withdraw the funds deposited by DHCF, but the amount withdrawn may be paid only to Class 3 providers who did not receive funds through the DHCF grant program but otherwise would be eligible to apply under the DHCF Settlement Agreement; and
4. This is entered as a final Order.

Melvin R. Wright
Judge, D.C. Superior Court

Copies to:

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