



Colorado Health Insurance Cooperative Estate

Regulatory Services Group

For the Period January 1, 2023 through December 31, 2023

Report No. 24-0845-066
June 2024

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Transmitted via e-mail

June 25, 2024

Joseph B. Holloway, Chief Executive Officer
Regulatory Services Group
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Final Report—Colorado Health Insurance Cooperative Estate Financial Statement Review, December 2023

The California Department of Finance, Office of State Audits and Evaluations, has completed its review of the Colorado Health Insurance Cooperative Estate assigned to the Regulatory Services Group (RSG) for the period January 1, 2023 through December 31, 2023.

The enclosed report is for your information and use. We appreciate the assistance and cooperation of RSG. If you have any questions regarding this report, please contact Rick Cervantes, Manager, or Kylie Oltmann, Supervisor, at (916) 322-2985.

Sincerely,

Cheryl L. McCormick, CPA
Chief, Office of State Audits and Evaluations

cc: Regina Alava, Chief Financial Officer, Regulatory Services Group

TABLE OF CONTENTS

INDEPENDENT ACCOUNTANT'S REVIEW REPORT	1
STATEMENT OF NET ASSETS IN LIQUIDATION	3
STATEMENT OF CHANGES IN NET ASSETS IN LIQUIDATION	4
STATEMENT OF CASH FLOWS IN LIQUIDATION	5
NOTES TO THE STATEMENTS	6

INDEPENDENT ACCOUNTANT'S REVIEW REPORT

Joseph B. Holloway, Chief Executive Officer
Regulatory Services Group
100 Pine Street, Suite 725
San Francisco, CA 94111

We have reviewed the accompanying financial statements of the Colorado Health Insurance Cooperative Estate, which comprise the Statement of Net Assets in Liquidation as of December 31, 2023, Statement of Changes in Net Assets in Liquidation, and Statement of Cash Flows in Liquidation for the period then ended; and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of Regulatory Services Group (RSG) management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

RSG's Responsibility for the Financial Statements

RSG, as assigned conservator/liquidator, is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

Accountant's Responsibility

Our responsibility is to conduct the review engagement in accordance with attestation standards contained in the *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial statements for them to be in accordance with accounting principles generally accepted in the United States of America. We believe that the results of our procedures provide a reasonable basis for our conclusion.

We are required to be independent of CLO and to meet our other ethical responsibilities in accordance with relevant ethical requirements related to our review.

Accountant's Conclusion

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements and the related notes to the financial statements of the Colorado Health Insurance Cooperative Estate for the year ended December 31, 2023, in order for them to be in accordance with accounting principles generally accepted in the United States of America.

Restriction on Use

This report is intended solely for the information and use of the Colorado State Insurance Commissioner, RSG, and the courts, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.



Cheryl L. McCormick, CPA
Chief, Office of State Audits and Evaluations

May 21, 2024

STATEMENT OF NET ASSETS IN LIQUIDATION

Colorado Health Insurance Cooperative Estate Statement of Net Assets in Liquidation As of December 31, 2023

	<u>Balance</u>
Assets	
Participation in Pooled Investments, at Market	\$ 8,869,774
Accrued Investment Income	82,305
Recoverable from Reinsurers	1
Premium Receivable	208,003
Property and Equipment	66,810
Other Assets	<u>126,572</u>
Total Assets	<u>\$ 9,353,465</u>
Liabilities	
Secured Claims	\$ 116,926
Claims Against Policies, Including Guaranty Associations (Class 2), before Distributions	103,943,939
Early Access and Other Class 2 Distributions	(87,081,804)
All Other Claims (Class 6 – 8)	<u>100,741,866</u>
Total Liabilities	<u>\$ 117,720,927</u>
Net Assets (Deficiency) in Liquidation	<u>\$ (108,367,462)</u>

The notes are an integral part of the financial statements.

STATEMENT OF CHANGES IN NET ASSETS IN LIQUIDATION

Colorado Health Insurance Cooperative Estate Statement of Changes in Net Assets in Liquidation For the Year Ended December 31, 2023

Net Assets in Liquidation December 31, 2022	\$ (139,553,716)
Revenue	
Miscellaneous Income	\$ 36,373,039
Total Revenue	<u>36,373,039</u>
Expenses	
Legal Expenses	5,530,505
Consultants and Temps	15,578
Office Expenses	1,149
Net Allocated Expenses	<u>31,959</u>
Total Administrative Expenses	5,579,191
Total Expenses	5,579,191
Investments	
Investment Income	378,316
Investment Expenses	(7,087)
Gain (Loss) on Securities	<u>21,177</u>
Net Investment Income	392,406
Changes in Net Assets	31,186,254
Net Assets in Liquidation December 31, 2023	<u>\$ (108,367,462)</u>

The notes are an integral part of the financial statements.

STATEMENT OF CASH FLOWS IN LIQUIDATION

Colorado Health Insurance Cooperative Estate Statement of Cash Flows in Liquidation For the Year Ended December 31, 2023

Cash Flows from Operating Activities

Changes in Net Assets	\$ 31,186,254
Decrease (Increase) in Other Receivables	(1,481)
Increase (Decrease) in Early Access and Other Distributions	<u>(26,000,000)</u>
Net Cash Flows from Operating Activities	5,184,773

Cash Flows from Investing Activities

Decrease (Increase) in Accrued Investment Income, Non-restricted	(69,198)
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Cash Flows from Financing Activities

Net Increase (Decrease) in Cash	<u>0</u> 5,115,575
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Cash, Cash Equivalents, and Restricted Cash at Beginning of Period	<u>3,754,199</u>
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Cash, Cash Equivalents, and Restricted Cash at End of Period	<u>\$ 8,869,774</u>
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The notes are an integral part of the financial statements.

1. Organization

On January 4, 2016, Colorado State Insurance Commissioner (Commissioner) Marguerite Salazar was appointed as the liquidator of the Colorado Health Insurance Cooperative, Inc. by the Denver County District Court (Court). The Court approved the Order of Liquidation and Finding of Insolvency (Liquidation Order), which authorized the Commissioner, as liquidator, to liquidate the business of the Colorado Health Insurance Cooperative, Inc., and to act in all ways and exercise all powers necessary for the purpose of the Liquidation Order and the liquidation provisions of Colorado insurance laws. Commissioner Salazar appointed David E. Wilson of Regulatory Services Group (RSG) as Receivership Manager and Joseph B. Holloway, Jr. of INS Consultants, Inc., as Receivership Supervisor with all of the powers of the liquidator. Joseph B. Holloway, Jr. replaced David E. Wilson as Receivership Manager effective April 1, 2020. The Commissioner is granted the authority to employ such counsel, clerks, and assistants as deemed necessary to assist the Commissioner with conducting the affairs of the liquidation. Michael Conway replaced Commissioner Salazar effective January 1, 2018.

2. Basis of Presentation

The accompanying financial statements of the Colorado Health Insurance Cooperative Estate (Estate) have been prepared on the liquidation basis of accounting in conformity with generally accepted accounting principles.

Under the liquidation basis of accounting, assets are stated at their estimated net realizable values. Liabilities are stated at their ultimate amounts and are subsequently adjusted to settlement amounts upon final distribution. A new cost basis is established as of the date of liquidation.

The valuation of assets and liabilities requires many estimates and assumptions, as there are substantial uncertainties in carrying out the provisions of the liquidation proceedings. The actual value of liquidating distributions will depend upon a variety of factors including, among others, the proceeds from the sale of the Estate's assets and the actual timing of distributions.

RSG does not accrue estimates of future administrative costs because a reasonable basis for the costs cannot be determined until the Court has approved a final distribution order and the Estate is scheduled to be closed within the following twelve months.

3. Summary of Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles, prepared on a liquidation basis of accounting, requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statement and the reported amounts of

revenue and expenses during the reporting period. Actual results could differ from those estimates.

The major estimates recorded include reserves for claims against policyholders, reinsurance recoverable on unpaid losses, and allowances for uncollectible amounts. These estimates are only partially recorded due to the unavailability of reliable or complete information.

Legacy Balances

At the time of conservation or liquidation, RSG obtains the accounting records of the Estate in order to load the account balances (legacy balances) into the general ledger system. During the liquidation process, the legacy balances on the Statement of Net Assets in Liquidation are researched and validated. This process may take several months to several years. Depending on the nature of the item, legacy balances that cannot be validated are either written off or adjusted through the Net Assets in Liquidation account.

Priority of Claims

Colorado Revised Statutes section 10-3-541 prescribes the priority of distribution of claims from the insurer's estate, as follows:

Class 1. The costs and expenses of administration during rehabilitation and liquidation.

Class 2. All claims under policies, including such claims of the federal or any state or local government that include unearned premium claims, third-party claims, and all claims of a guaranty association or foreign guaranty association.

Class 3. Claims of the federal government, except for those described in Class 2.

Class 4. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within the one-year period immediately preceding the filing of the petition for liquidation. Principal Officers and directors shall not be entitled to the benefit of this priority except as otherwise approved by the liquidator and the court. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

Class 5. Claims of any state or local government, except for those described in Class 2.

Class 6 – 8. General creditor and late filed claims (6), surplus or contribution notes (7) and shareholder claims (8).

The probability of a valid claim being paid is dependent on the valuation of the claim, the order of preference of the claim, and the amount of funds remaining after other claims having higher preference have been discharged. Each priority class of claim must be fully paid before any distribution may be made to the next priority class. All members of a class receiving partial payment must receive the same pro-rata amount.

The Estate may not have sufficient assets to pay Class 2 claims in their entirety or any other class of lower priority claims.

ASSETS:

Pooled Investments

All investments, including short-term investments and debt and equity securities, are stated at fair value, which approximates market value. Market values are those provided by the depository trust institution in possession of the securities at the balance sheet date or through brokerage institutions.

Accrued Investment Income

Accrued Investment Income represents monthly estimates of interest and dividends earned on cash and investments held by the Estate.

Recoverable from Reinsurers

Recoverable from Reinsurers includes amounts recoverable from either ceded or retroceded loss and loss adjustment expense payments, as well as any assumed reinsurance premiums and reinsurance commissions due to the Estate.

Reinsurance is the assumption by one insurer (reinsurer) of all or part of a risk originally undertaken by another insurer (cedent insurer). The use of reinsurance agreements does not eliminate the cedent insurer's obligation to pay losses in full. To the extent that a reinsurer is unable to meet its obligations, the insurer is liable for such defaulted amounts. The recoverable from reinsurers balance typically includes amounts related to losses incurred by the Estate when it was an insurer of either direct or assumed business. The balance may also include receivables for assumed reinsurance premiums and commissions due the Estate. (See Note 4)

Other Receivables

Other Receivables consists of settlement or judgment receivables, rent receivables, and all other types of receivables that do not correspond with another receivable category. Allowance amounts are established on an individual basis. (See Note 4)

LIABILITIES:

Secured Claims

Secured Claims represents liabilities of the Estate for which a creditor has perfected a lien against specific estate assets and unclaimed funds payable. Unclaimed funds payable represent funds distributed to claimants, which were returned as undeliverable and/or an accurate address could not be located. Unclaimed funds are eventually escheated to the Colorado State Controller's Office or the State Treasurer of the claimants last known address.

Accrued Administrative Expenses (Class 1)

Accrued Administrative Expenses (Class 1) represents accrued RSG expenses of administration during rehabilitation and liquidation.

Claims Against Policies, Including Guaranty Associations (Class 2)

Claims Against Policies, Including Guaranty Associations consists of all claims of guaranty associations, claims for refund of unearned premiums, and allowable claims not covered by the guaranty associations.

Early Access and Other Class 2 Distributions

Early access distributions are payments made specifically to insurance guaranty associations based on their paid losses. Estate assets may be distributed through an early access distribution, an interim distribution, or a final distribution. All distributions must receive prior approval from the Court. Distributions are made in accordance with the priority scheme described above. On November 22, 2019, the Estate received approval from the Liquidation Court to make its fourth early access distribution in the amount of \$20 million to the Colorado Life and Health Insurance Protection Association. The distribution was made on December 13, 2019. A fifth early access distribution in the amount of \$20 million payable to the Colorado Life and Health Insurance Protection Association was completed on May 25, 2022. A sixth early access distribution in the amount of \$26 million payable to the Colorado Life and Health Insurance Protection Association was completed on October 26, 2023.

All Other Claims (Class 3 – 8)

Accounts payable, reinsurance and premium tax payables are liabilities with lower than Class 2 priorities. Other Class 7 liabilities are amounts due the Centers for Medicare & Medicaid Services (CMS), which are the result of the CMS initial funding of the Estate. The liquidator does not expect that there will be sufficient estate funds to pay any liabilities that have been defined as lower than Class 2.

REVENUES:

Revenue

Revenue primarily consists of recoveries received by the Estate. (See Note 4)

EXPENSES:

Legal and Consulting Expense

Expenses incurred by legal and liquidation consultants employed in the liquidation of the Estate. (See Note 4).

Office Expenses

Include operational expenses incurred during the liquidation of the Estate.

Allocated Expenses

Allocated overhead expenses are expenses incurred by the liquidator that were not directly billed to the Estate.

INVESTMENTS:

Investment Income

Investment Income is comprised of interest and dividends earned on cash and investments held by the Estate.

Investment Expenses

Investment Expenses is comprised of investment and interest expenses related to cash and investments held by the Estate.

Gain (Loss) on Securities

Gain (Loss) on Securities consists of long and short-term gains and losses incurred as part of the investment pool, mark to market adjustments, gains and losses on non-pooled reappraisals of securities, and gains and losses incurred on the transfer of non-pooled securities into the pool. The long and short-term gains and losses and mark to market adjustments are allocated based on the Estate's proportional share in the pool.

Unrealized and realized gains and losses are included as a component of net investment income. The cost of securities sold is based on specific identification and realized gains (losses) are computed based on the securities' original cost. Transfers of non-pooled investments to a pool are a sale resulting in non-pooled realized gains and losses and a non-cash transfer. Transfers from one pool to the other are a sale resulting in pooled realized gains and losses and a non-cash transfer.

4. Litigation

In May 2017, the Estate joined the risk corridor class action litigation in the case of *Health Republic Insurance Company v. the United States of America* to recover risk corridor amounts due to the Estate from CMS. The potential recoverable due to the Estate for the risk corridor is \$111 million. On November 25, 2019, the Estate sold its risk corridor receivable to Juris Capital LLC for an initial non-recourse payment of \$20 million and a potential recovery of additional funds assuming various recovery scenarios (purchase agreement). On April 27, 2020, the Supreme Court of the United States ruled that the federal government was required to pay insurers for amounts owed under the risk corridor portion of the Affordable Care Act. The federal government has asserted certain setoffs to the risk corridor amounts, including interest which the liquidator opposes because it would violate the priority of distribution statutes. On August 19, 2022, the United States Court of Federal Claims ruled that the Estate was entitled to a judgment in the amount of \$111 million. On August 23, 2023, the Estate received a \$105 million payment to satisfy the CMS judgment. The amount collected was net of a 5 percent contingency legal fee for the prosecution and collection of the risk corridor receivable. In accordance with the purchase agreement, RSG subsequently paid Juris Capital LLC \$74.2 million.

The United States Court of Federal Claims also ruled that the federal government was entitled to a judgment against the Estate in the amount of \$44 million. This federal judgment is subordinated in class to the claims of policyholders. There is currently insufficient funds in the Estate to pay all Claims Against Policies (Class 2).

5. Subsequent Events

Regulatory Services Group plans to close the Estate in 2024.