

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	DATE FILED December 13, 2024 11:55 AM FILING ID: DFE7900B76F75 CASE NUMBER: 2015CV33680
PETITIONER MICHAEL CONWAY, in his official capacity as the Commissioner of Insurance of the State of Colorado, v. RESPONDENT COLORADO HEALTH CO-OP, a Colorado Domestic Insurance Company.	^ COURT USE ONLY ^
PHILIP J. WEISER, Attorney General HEATHER FLANNERY, First Assistant Attorney General, 37795* PHILLIP M. KHALIFE, Assistant Attorney General, 46333* Attorneys for the Division of Insurance Ralph L. Carr Colorado Judicial Center 1300 Broadway, 8th Floor Denver, CO 80203 Telephone: 720-508-6387 (Flannery) 720-508-6388 (Khalife) E-Mail: heather.flannery@coag.gov phillip.khalife@coag.gov *Counsel of Record	Case No. 2015CV33680
PETITIONER'S MOTION FOR COURT APPROVAL FOR SEVENTH DISBURSEMENT OF CO-OP ASSETS PURSUANT TO § 10-3-543, C.R.S.	

Petitioner Michael Conway, Commissioner of Insurance for the State of Colorado (“Commissioner”), pursuant to § 10-3-543, C.R.S., and this Court’s Liquidation Order, hereby moves this Court to approve a Seventh

Disbursement of Colorado Health Insurance Cooperative, Inc. (“CO-OP”) assets to class 2 claimants, and as grounds therefor, states as follows:

A. Procedural Background of Colorado Health CO-OP Liquidation Action

1. On January 4, 2016, this Court appointed the Commissioner, at the time Marguerite Salazar, to serve as Liquidator of the CO-OP pursuant to section 10-3-517(1), C.R.S.

2. On September 4, 2018, the Court approved the substitution of Insurance Commissioner Michael Conway as the Liquidator of the CO-OP.

3. The Liquidator was granted the authority to employ Joseph B. Holloway, acting as Receivership Supervisor, to assist in the Liquidation with all the powers of the Liquidator.

4. In addition to other enumerated powers, the Court’s Order granted the Liquidator the authority to assemble and take possession of all the assets of the CO-OP, including any funds or securities held by the Division of Insurance pursuant to section 10-3-201, C.R.S., and to administer them under the general supervision of this Court.

5. Section 10-3-520(1)(m), C.R.S., grants the Liquidator the authority to enter such contracts as are necessary to carry out the Liquidation Order.

6. The CO-OP is a member insurer of the Life and Health Insurance Protection Association (“Association”).

7. The Association provides protection against failure of member insurers to perform their contractual obligations due to insolvency. § 10-20-102(1), C.R.S.

8. Member insurers of the Association are subject to assessments to provide funds to carry out the purpose of Title 10, Article 20. § 10-20-102(2), C.R.S.

9. Pursuant to the State’s priority scheme detailed in section 10-3-541, C.R.S., the Association is a class 2 creditor for claims paid under CO-OP policies.

10. On December 30, 2015, Joseph B. Holloway, as Liquidator¹, and Lori Geadelmann, Chairman of the Association, entered into an Early Access Agreement (“Agreement”). See Early Access Agreement attached hereto as **Exhibit 1**.

11. The Agreement allows the Association to file proof of claims with the Liquidator for CO-OP assets, to the extent assets are available.

¹ The term “Liquidator” is used herein to reference the Commissioner and Joseph B. Holloway.

12. Pursuant to the Agreement, the Liquidator will review the proofs of claim provided by the Association and calculate and pay early access distributions in accordance with § 10-3-533, C.R.S.

13. On May 16, 2016, this Court approved the Liquidator's request to disburse up to \$10,000,000.00 in cash assets to the Association in accordance with the Agreement. *See Order Granting Petitioner's Motion for Court Approval to Disburse CO-OP Assets.*

14. On December 23, 2016, this Court approved the Liquidator's request to disburse up to an additional \$3,000,000.00 in cash assets to the Association in accordance with the Agreement. *See Order Granting Petitioner's Motion for Court Approval for Second Disbursement of CO-OP Assets.*

15. On October 31, 2017, this Court approved the Liquidator's request to disburse up to an additional \$8,500,000.00 in cash assets to the Association in accordance with the Agreement. *See Order Granting Petitioner's Motion for Court Approval for Third Disbursement of CO-OP Assets.*

16. On December 11, 2019, this Court approved the Liquidator's request to disburse up to an additional \$20,000,000.00 in cash assets to the Association in accordance with the Agreement. *See Order Granting*

Petitioner's Motion for Court Approval for Fourth Disbursement CO-OP Assets.

17. On May 1, 2022, this Court approved the Liquidator's request to disburse up to an additional \$20,000,000.00 in cash assets to the Association in accordance with the Agreement. *See* Order Granting Petitioner's Motion for Court Approval for Fifth Disbursement CO-OP Assets.

18. On October 5, 2023, this Court approved the Liquidator's request to disburse up to an additional \$26,000,000.00 in cash assets to the Association in accordance with the Agreement. *See* Order Granting Petitioner's Motion for Court Approval for Sixth Disbursement CO-OP Assets.

B. Request to Disburse Funds to Class 2 claimants

19. Pursuant to section 10-3-543, C.R.S.:

Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

20. The Liquidator requests that this Court approve an additional

\$4,539,729.08 in CO-OP cash assets for disbursement to the Association and to approved Proof of Claim (POC) class 2 claimants, See, Affidavit of Joe Holloway, attached hereto as **Exhibit 2**.

21. Specifically, Petitioner requests the court approve \$4,077,000.30 to be disbursed to the Association and \$462,728.78 to be disbursed to POC class 2 claimants. Ex. 2, ¶17.

22. The Liquidator has conferred with the Association and the approved POC class 2 claimants regarding the disbursement of these funds. Ex. 2, ¶18.

23. The Association and the POC class 2 claimants are the only approved class 2 claimants in the liquidation of the CO-OP. Ex. 2, ¶15.

24. All proofs of claims in the liquidation of the CO-OP were due to be filed with the liquidator by January 2, 2017. Ex. 2, ¶9.

25. The Association's class 2 claim for claims paid under CO-OP policies in the liquidation is \$103,943,900.00. Ex. 2, ¶19. This Court has approved \$87,500,000.00 in early access distributions to the Association, and as of the date of this motion, \$87,081,800.00, has been distributed, or 84% of the Association's class 2 claim. Ex. 2, ¶19.

26. There are five POC class 2 claimants. Ex. 2, ¶14. Each of these

claims is a claim under the policy for the amount above the coverage limits of the Association set forth in section 10-20-104(3)(b)(I)(B), C.R.S. Each POC class 2 claimant is a class 2 policyholder claim. Ex. 2, ¶14; § 10-3-541(1)(b), C.R.S. The total approved claim amount for the POC class 2 claimants is \$527,626.89. Ex. 2, ¶ 14.

27. The Liquidator seeks approval to disburse CO-OP's assets to each of the class 2 claimants, including the Association, to pay 87.7% of their approved claim amount. Ex. 2, ¶19. This includes \$4,077,000.30 to the Association, and \$462,728.78 to the POC class 2 claimants to be distributed pro rata based on their approved claim amount. *See* Ex. 2, ¶19.

28. This distribution provides for the proper recognition of priorities in accordance with section 10-3-543, C.R.S., as each class 2 claimant will receive the same percent distribution.

29. Following the distribution, the CO-OP will have sufficient assets to complete the discharge of the liquidation. Ex. 2, ¶20.

WHEREFORE, pursuant to section 10-3-543, C.R.S., the Liquidator respectfully requests that this Court enter an order granting the Liquidator's request to approve a \$4,539,729.08 disbursement of CO-OP assets, bringing the total disbursed assets to \$92,039,729.08.

DATED this 13th day of December, 2024.

PHILIP J. WEISER
Attorney General

/s/ Heather Flannery

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CERTIFICATE OF SERVICE

This is to certify that I have duly filed the within **PETITIONER'S MOTION FOR COURT APPROVAL FOR SEVENTH DISBURSEMENT OF CO-OP ASSETS PURSUANT TO § 10-3-543, C.R.S.**, via the Colorado Court E-Filing System, this 13th day of December, 2024.

/s/ *Kathy Recchiuti*
Office of the Colorado Attorney General

This is to certify that I have duly served the within **PETITIONER'S MOTION FOR COURT APPROVAL FOR SEVENTH DISBURSEMENT OF CO-OP ASSETS PURSUANT TO § 10-3-543, C.R.S.**, upon all the following interested persons via First-Class US Mail and via electronic mail, this 13th day of December, 2024 to the following recipients:

Colorado Life and Health Insurance Protection Association
201 Robert S. Kerr Ave., Suite 600
Oklahoma City, OK 73102

Cindy Oliver
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/s/ *Kathy Recchiuti*
Office of the Colorado Attorney General