

No. D-1-GV-13-000384

THE STATE OF TEXAS,

Plaintiff,

v.

UNIVERSAL HMO OF TEXAS, Inc.,

Defendant.

IN THE DISTRICT COURT
IN TRAVIS COUNTY, TEXAS
345TH JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S
APPLICATION TO APPROVE NOTICE AND
SET DEADLINE TO MAKE CLAIMS FINAL**

To the Honorable Judge of Said Court:

Jean Johnson, Special Deputy Receiver of Universal HMO of Texas, Inc., hereby respectfully submits this Application to Approve Notice and Set Deadline to Make Claims Final and shows:

Introduction

1. Through this *Application to Approve Notice and Set Deadline to Make Claims Final (Application)* Jean G. Johnson as Special Deputy Receiver (*SDR*) of Universal HMO of Texas, Inc. (*Universal-TX*) requests authority to provide notice to all interested persons and to establish a deadline by which all late-filed claims must be submitted and made final (*Claims Finalization Deadline*) as provided by Tex. Ins. Code 443.255(c).
2. On April 18, 2013, the Court entered its *Order Appointing Rehabilitator and Permanent Injunction*, appointing the Texas Commissioner of Insurance as Rehabilitator of Universal-TX. Effective that date, the Rehabilitator appointed Jean Johnson as Special Deputy Receiver.

3. On May 17, 2013, the Court entered its *Order Appointing Liquidator and Permanent Injunction*, placing Universal-TX in liquidation and appointing the Commissioner as Liquidator.
4. On September 17, 2013, the Court entered its *Order Granting SDR's Application to Approve Notice and Set Claims Filing Deadline*. The Court established June 30, 2014 at 11:59 p.m. as the deadline to submit claims to the SDR.
5. This Court has exclusive jurisdiction of the subject matter of this Application under Tex. Ins. Code § 443.005.
6. The Application is subject to the *Order of Reference to Master* the Court issued May 22, 2013, and the Notice regarding submission to the Master is attached to the Application and made a part of it.

The Grounds for the Application

7. Tex. Ins. Code § 443.155 authorizes the SDR to submit this Application to provide notice of the liquidation, and § 443.255(c) provides the requirements for finalizing claims. The SDR does not seek to change the existing June 30, 2014, claims filing deadline. Rather, this Application seeks to establish the deadline by which a claim, whether timely filed or late filed, must be made final such that it is not contingent or unliquidated in amount.

The SDR's Proposal for Notice

A. Statutory Requirements

8. The categories of persons who must receive notice of liquidation are identified in Tex. Ins. Code § 443.155. The SDR previously provided notice required by the statute and the Court's September 17, 2013 Order. For the notice of the deadline to make claims final, the SDR proposes to disseminate substantially the same notice postcard, publication and Internet

notice previously approved by the Court to the persons and in the manner authorized by Tex. Ins. Code § 443.155, which requires in part:

(1) Notice by first class mail or electronic communication to:

(A) any guaranty association that is or may become obligated as a result of the liquidation and any national association of guaranty associations;

(B) all the insurer's agents, brokers, or producers of record with current appointments or current licenses to represent the insurer and all other agents, brokers or producers as the liquidator deems appropriate at their last known address; and

(C) all persons or entities known or reasonably expected to have claims against the insurer, at their last known address as indicated by the records of the insurer, and all state and federal agencies with an interest in the proceeding; and

(2) Notice by publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in any other locations as the liquidator deems appropriate.

9. Consistent with Tex. Ins. Code section 443.155(b) the SDR proposes to notify such persons of the following information:

(1) a statement that the insurer has been placed in liquidation;

(2) a statement that certain acts are stayed under section 443.008 and a statement describing any additional injunctive relief ordered by the receivership court;

(3) a statement of the deadline for filing claims, if established, and the requirements for filing a proof of claim, pursuant to Section 443,251 on or before that date;

(4) any other information, the liquidator or the receivership court deems appropriate. [That being the deadline by which claims must be made final and submitted to the SDR].

B. Implementing the Statutory Requirements

10. The SDR proposes to give notice of the Liquidation and the Claims Finalization Deadline to the persons identified below by first class mail, where possible, as well as by notice in publications of general circulation. Notice will be provided by email to persons who have provided their email address. The last known address in the records of Universal-TX will be the information used for notice, as provided by Tex. Ins. Code § 443.155(d).
- a) Before receivership, Universal-TX used a third party based in India to process claims. The processed claims were then paid by a different third party. Both entities were supervised by American Managed Care (AMC), an affiliate of Universal-TX acting as a Third Party Administrator. Universal-TX had no employees handling claims. AMC, together with its parent (and the parent of Universal-TX) are in bankruptcy in Florida. The SDR has access to, but not custody of most records. The records, though, are not easily segregated by company. Therefore, it is difficult to establish who may be a member, provider or beneficiary.
 - b) The problem is compounded by the fact that affiliates of Universal-TX are in liquidation. Florida placed into liquidation an HMO and a life insurance company. Nevada placed into receivership an affiliate HMO. Sorting the electronic records of the companies is difficult.
 - c) Providing notice in the manner sought by the SDR is the best notice under the circumstances, and the SDR requests a finding to that effect.

1. Postcard Notice

11. The SDR has attached as Exhibit 1A the form of the notice she proposes to distribute by means of a postcard mailed through the United States Postal Service (*Liquidation Notice Postcard*). The SDR anticipates mailing approximately 30,000 postcards.
12. The SDR will provide the Liquidation Notice Postcard to the following parties:

- a) All persons identified as a member on the date of receivership;
- b) All persons, other than members, for whom the SDR has an address, who in the two (2) years preceding receivership had contact with Universal-TX;
- c) All persons identified as having submitted a claim to Universal-TX that had not been paid on the date of receivership;
- d) All persons who submitted a claim to the SDR by the claim filing deadline;
- e) All present and former agents, brokers, and reinsurers of the company the SDR is able to identify;
- f) All persons identified by the SDR as an existing network or non-network provider on the date of receivership;
- g) General creditors, including vendors;
- h) Government agencies including the Internal Revenue Service, The Center for Medicare and Medicaid, The United States Justice Department, and the Office of the Attorney General for the State of Texas;
- i) The Chapter 11 Trustee of Universal Health Care Group, Inc., the sole shareholder of Universal-TX who is also responsible for American Managed Care;
- j) Former officers and directors of Universal-TX;
- k) Financial institutions in which Universal-TX maintained accounts;
- l) Entities with reinsurance treaties with Universal-TX; and
- m) Any other person who requests in writing either notice of this proceeding or an opportunity to file a claim.

13. The SDR does not propose notice to former members falling outside the categories described in paragraph 12. Notice by mail to the categories identified in paragraph 12, together with

the Publication Notice described below, is reasonably calculated to inform all persons in interest.

14. The SDR requests the Court approve the manner of notice and the categories of persons to receive notice as set forth in this Application. The SDR further requests that the Court find that the mailing or emailing of notice, together with notice in publications of general circulation as provided in the Insurance Code, constitute *prima facie* evidence of receipt by the party to whom the notice is addressed, upon certification by the SDR that the notice was deposited, postage prepaid, with the United States Postal Service, or that the notice was electronically transmitted and that the notice was published as set forth in this Application.

2. The Publication Notice

15. The SDR proposes to publish notice of the Liquidation, plan cancellation, Claims filing deadline and the Claims Finalization Deadline, and provide directions for obtaining information about the claims finalization process and other matters regarding the Liquidation (*Publication Notice*). Because Universal-TX operated solely in Texas, the SDR proposes publication in Houston, Dallas, San Antonio and Austin. These cities are appropriate because Universal-TX benefit plans were based in the following counties: Bexar, Collin, Dallas, Denton, Galveston, Harris, Montgomery and Tarrant. Notice will be published also in St. Petersburg, Florida where Universal-TX had its principal place of business. Such publication gives unknown creditors notice of the liquidation, an opportunity to file a late claim with the SDR, and the deadline to finalize a claim. Under Tex. Ins. Code § 443.155(d) such Publication Notice is sufficient notice to a person if that person's address is not found in Universal-TX records or if the mailed notice is returned undeliverable. The Publication Notice is attached as Exhibit 1B. The SDR requests that the Court find that the Publication Notice complies with the law and approve the form so that it may be utilized by the SDR.

3. The Internet Notice

16. To provide a further opportunity for notice, and to enable communication with claimants and other persons, the SDR proposes posting all notices, claims filing information, Proof of Claim forms and other relevant information on her website, which is www.universalmotexasreceiver.com. The Texas Department of Insurance website includes a link to this site.
- a) The website is already online and may be located using principal search engines. The website contains a Frequently Asked Questions section. This section contains the same information required to be included in the notice of liquidation order, including information that there would be a proof of claim requirement and a claims filing deadline.
 - b) The website will be updated as the liquidation proceeds, including information and documents filed with the Court.
 - c) Spanish language versions of the Notice of Liquidation, Instructions for Proof of Claim form and Proof of Claim form will be maintained on the website.
17. The SDR believes that providing notice in the manner set forth in this Application comports with the statute and due process of law, and requests a finding that upon complying with the Order establishing notice procedures regarding the finalization of claims and the distribution of property of Universal-TX is conclusive with respect to all claimants, whether or not they received notice. Tex. Ins. Code § 443.155(c).

The Claims Process

A. The Claims Filing Period

18. Texas Insurance Code § 443.251 requires the Court to specify a period of time within which all Proofs of Claims must be filed. The Court set a Claims Filing Deadline of 11:59 p.m., Central Time on June 30, 2014, in its September 17, 2013 Order. All plans were cancelled effective May 1, 2013, prior to liquidation. Tex. Ins. Code § 443.151(b) provides that, with

some exceptions, all rights are fixed as of the date of the entry of the order of liquidation, unless otherwise fixed by the court. The SDR requested and the Court fixed the rights on all claims for benefits under the plans issued by Universal-TX so that there are no claims arising under these plans as of May 1, 2013.

19. If a person fails to timely file a claim, the SDR is authorized under Tex. Ins. Code § 443.251(b) to treat a late filed claim as if it was not filed late under certain enumerated circumstances. The SDR proposed and the Court required a claimant filing a late claim to submit an affidavit verifying eligibility under Tex. Ins. Code § 443.251(b). If a late filed Proof Of Claim is not eligible for treatment as timely filed under this statute, the SDR will classify it as a Class 8 claim under Tex. Ins. Code § 443.301(h). By this Motion the SDR requests under Tex. Ins. Code § 443.251(c) that the Court set October 31, 2015 at 11:59 p.m., Central Time, as the time by which late claims must be filed to be considered as a Class 8 claim and that the same time be set as the time by which all claims, timely and late, be finalized, as allowed by Tex. Ins. Code § 443.255. A finalized claim is a liquidated claim one that is not contingent.
20. As health maintenance organizations in Texas are not members of any guaranty association, there is no guaranty fund coverage for claims against Universal-TX.

Evidentiary Support

21. This Application is verified by the affidavit of Jean G. Johnson, SDR under Tex. Ins. Code § 443.017(b) that is attached as Exhibit 2, and incorporated by reference.

Request

22. The SDR requests that the Court:
- a) Grant this Application;
 - b) Approve notice to the persons described in this Application, and find that such notice complies with the requirements of Tex. Ins. Code § 443.155(a) and due process;

- c) Approve the Postcard Notice and Publication Notice attached as Exhibits 1A and 1B, and find that notices substantially similar to such exhibits comply with Tex. Ins. Code § 443.155(b);
- d) Set 11:59 p.m., central time on October 31, 2015 as the deadline to make claims final; requiring that all claims, timely and late, be submitted to the SDR, be final and not contingent or unliquidated; and
- e) Grant the SDR such other and further relief to which she is entitled.

Respectfully submitted,

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*Attorneys for Jean Johnson,
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Certificate of Service

One copy of the foregoing document was sent to the persons on the attached service list by email on July 24, 2015.

Michael C. Roth

Michael C. Roth

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EXHIBIT 1A

Universal HMO of Texas, Inc., in Receivership

FINAL NOTICE OF LIQUIDATION AND CLAIMS LATE FILING DEADLINE

The 345th District Court, Travis County, Texas placed Universal HMO of Texas, Inc. ("Universal") in receivership in 2013. All of Universal's plans were terminated effective May 1, 2013.

The original claim filing deadline ended June 30, 2014. If you have not yet filed a claim, you can make a claim at this time for any amount that is owed by Universal by submitting a late proof of claim. A proof of claim form may be downloaded at www.universalhmotexasreceiver.com. This website also contains claim filing instructions and important information about the receivership. You can contact the SDR's office at (888) 907-1212.

If you do not have access to the internet, return this Notice in a separate envelope to 11700 Preston Road, Suite 660-364, Dallas, Texas 75230. You will be sent the Proof of Claim form and instructions for filing a claim. Be sure to correct your mailing address if it is not correct on this Notice.

Please ensure that the completed proof of claim is postmarked or delivered by the claims LATE filing deadline of October 31, 2015. 11:59 p.m., Central Time. Late proof of claims will be subject to the priority set forth in the Texas Insurance Code.

Exhibit 1B

UNIVERSAL HMO OF TEXAS, INC. NOTICE OF LIQUIDATION AND CLAIMS FINALIZATION DEADLINE

The 345th District Court, Travis County, Texas placed Universal HMO of Texas, Inc. ("Universal-TX") in receivership in 2013. All Universal-TX plans were terminated effective May 1, 2013. **The original claims filing deadline was June 30, 2014. 11:59 p.m., Central Time.** To make a claim for any amount owed by Universal-TX, you must file a completed proof of claim. A proof of claim form may be downloaded from www.universalmotexasreceiver.com. This website contains claim filing instructions and important information about the receivership. If you do not have access to the internet, you can obtain a proof of claim form by calling (888) 907-1212 or writing to 3767 Forest Lane, #124-425, Dallas, TX 75244. **The deadline to make all claims final so the claim is neither contingent nor unliquidated is October 31, 2015 at 11:59 p.m, Central Time.**

Exhibit 2

STATE OF TEXAS
COUNTY OF DALLAS

SPECIAL DEPUTY RECEIVER'S
CERTIFICATION UNDER
TEX. INS. CODE § 443.017(b)

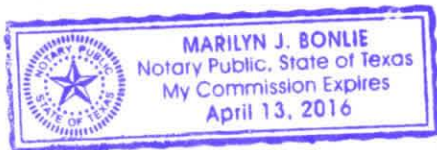
BEFORE ME, the undersigned authority, on this day appeared Jean G. Johnson, who after being duly sworn, stated the following on her oath:

1. "My name is Jean G. Johnson. I do not suffer from any mental or physical infirmities that affect my ability to recall facts or communicate them to others. Each statement in this affidavit is within my personal knowledge and is true and correct."
2. "I am the Special Deputy Receiver of Universal HMO of Texas, Inc. I am duly authorized to make this certification and affidavit as the Special Deputy Receiver."
3. "I have read the foregoing Application and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with my staff and sub-contractors."

original signed by

Jean G. Johnson

SUBSCRIBED AND SWORN TO BEFORE ME, on July 22, 2015, by Jean G. Johnson, as Special Deputy Receiver of Universal HMO of Texas, Inc., to certify which witness my hand and official seal.



original signed by

Notary Public in and for
The State of Texas