

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT
CAUSE NO. 49C01-0811-MI-053358

JIM ATTERHOLT, as the Insurance)
Commissioner of the Department of Insurance)
of the State of Indiana,)
)
Petitioner,)
)
v.)
)
MEDICAL SAVINGS INSURANCE COMPANY,)
)
Respondent.)

FILED

228 FEB 26 2009

Elizabeth D. White
CLERK OF THE MARION CIRCUIT COURT

**ORDER APPROVING REHABILITATOR'S RECOMMENDATIONS
CONCERNING LIQUIDATION PROCEDURES, CLAIMS AND NOTICES**

This matter came before the Court on the Recommendations Concerning Liquidation Procedures, Claims and Notices ("Liquidation Procedures") filed January 23, 2009 by Indiana Insurance Commissioner Jim Atterholt, as Rehabilitator of Medical Savings Insurance Company ("MSIC"). Pursuant to the Court's Order of January 23, 2009, a hearing on the Liquidation Procedures was scheduled for and held on February 25, 2009.

Written and published notice of the filing of the Liquidation Procedures and the scheduled hearing thereon was given to interested persons, as shown by the Certificate of Compliance filed by the Rehabilitator on February 24, 2009.

Having considered the Liquidation Procedures, all evidence and arguments presented at the hearing and being fully advised, the Court find that:

a) Pursuant to Ind. Code 27-1-1-2, Jim Atterholt is the duly appointed Insurance Commissioner ("Commissioner") of the Department of Insurance of the State of Indiana.

b) MSIC is an Indiana domestic stock life insurance company.

c) MSIC is a wholly owned subsidiary of Medial Savings Investment, Inc. ("MSII").

d) This Court has both subject matter and personal jurisdiction under the laws of the State of Indiana, including but not limited to Ind. Code 27-9-1-3.

e) The Court is entering contemporaneously herewith an Order of Liquidation which, in part, appoints the Commissioner as Liquidator of MSIC, bestows upon the Commissioner all powers and authority of a Liquidator granted pursuant to Ind. Code 27-9-3 and directs the Liquidator to take possession and control of all the assets and property of MSIC and to administer such assets and property and to liquidate MSIC in accordance with Ind. Code 27-9-3 and under the general supervision of the Court.

f) The notice by mailings and publication, as recommended in Section II of the Liquidation Procedures, is appropriate and consistent with the requirements of Ind. Code 27-9-3-10 and constitutes the best notice practical regarding the Court's entry of the Order of Liquidation and approval of the Liquidation Procedures and, consistent with the rights of interested persons with respect thereto, meets the requirements of due process concerning such notice.

g) The procedures for addressing claims arising out of MSIC Policies, as recommended in Section III of the Liquidation Procedures, are appropriate, consistent with authority granted to this Court under Ind. Code 27-9 and in the best interests of the MSIC estate, its policyholders and creditors.

h) The establishment of the Bar Date, Proof of Claim form and Claims Procedures, as recommended in Sections IV and V of the Liquidation Procedures, are appropriate, consistent

with the claim process set forth in Ind. Code 27-9-3 and in the best interests of the MSIC estate, its policyholders and creditors.

i) The recommendations as to Reinsurance and Miscellaneous Matters, as set forth in Sections VI and VII of the Liquidation Procedures, are appropriate, consistent with the requirements of Ind. Code 27-9-3 and are in the best interests of the MSIC estate, its policyholders and creditors.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED THAT:

(1) The Liquidation Procedures, as clarified during the hearing in open Court, are hereby approved in all respects, including, but not limited to, the specific directives, orders and approvals of the Court as set forth below.

(2) The Liquidator is directed to provide notice, both by mailings and publication, of the entry of this Order and the Order of Liquidation, consistent with the recommendations set forth in Section II of the Liquidation Procedures.

(3) The Court approves in all respects the recommended procedures for addressing claims arising out of MSIC Policies, as set forth in Section III of the Liquidation Procedures, including:

- (a) The Liquidator (with respect to claims not covered by a Guaranty Association) is hereby authorized and directed to work in coordination with the guaranty associations (with respect to covered claims), to investigate all outstanding claims arising under the MSIC Policies and to pursue and/or continue discussions with the Providers as to possible resolution of such claims;
- (b) The Liquidator, in conjunction with the guaranty associations, shall endeavor during the six (6) month period following the entry of this Order to have discussions with all, or the great majority of, the Providers who have outstanding claims for health care services rendered to MSIC Insureds as to the possible resolution of such claims;

- (c) If certain claims are resolved under the procedures set forth above, such settlements shall be submitted to this Court for review and approval;
- (d) To the extent claims are not settled under the procedure set forth above, then all remaining claims as against MSIC shall thereafter be formally submitted by the filing of a Proof of Claim (consistent with the procedures approved below) and this Court shall have sole and exclusive jurisdiction to hear and decide all claims against MSIC and sole and exclusive jurisdiction to hear and decide the calculation of benefits owed under an MSIC Policy;
- (e) Consistent with Ind. Code 27-9-3-34(d), this Court need not consider as evidence of liability or the measure of damages any judgment or order entered by another court or tribunal, including, but not limited to, a judgment or order as to the calculation of benefits owed under an MSIC Policy: (i) to the extent such judgment or order is entered after the Liquidation Petition was filed January 23, 2009; (ii) to the extent such judgment or order is entered by default or conclusion; or (iii) to the extent such judgment or order is entered not more than four (4) months before the January 23, 2009 filing of the Liquidation Petition;
- (f) In order to avoid interference with the Liquidator and the liquidation proceeding while discussions are ongoing with Providers under the procedures set forth above and to avoid actions which might lessen the value of MSIC's assets or prejudice the rights of MSIC's insureds during this period, the Court hereby STAYS AND ENJOINS for a period of six (6) months following the entry of this Order:
- all lawsuits, arbitrations and collection efforts against MSIC Insureds (including contacting the MSIC Insureds, credit reporting agencies or any third party regarding or relating to the claims to be addressed under the procedures set forth above and all practices listed in 15 U.S.C. § 1692(f)), whether brought or initiated by Providers, their employees, counsel, bill collection agencies or other Provider representatives;
 - the obtaining of any preference, judgment, attachment, garnishment or lien as against any MSIC Insured or their property or assets; and
 - the levying of execution against any MSIC Insured or their property or assets.

Notwithstanding the above, if the statute of limitation applicable to a Provider's claim against an MSIC Insured will expire during the six (6)

month period in which the stay or injunction is imposed, the Provider may file and serve a lawsuit against the MSIC Insured prior to the expiration of that statute so as to preserve its rights, but all further actions and proceedings regarding that lawsuit, once filed, shall be stayed and enjoined, as set forth above, for the remainder of the six (6) month period. To the extent that a claim must be asserted against an MSIC Insured in order to satisfy conditions for coverage from a guaranty association, this stay and injunction does not preclude the assertion of such claim, subject to the above restrictions. Imposition of this six (6) month stay will not otherwise prejudice or impair the rights of the Providers or the MSIC Insureds to the extent of separate contracts which may exist between the Providers and the MSIC Insureds. Nothing in this Order shall in any way limit or impair the rights and/or ability of a guaranty association or an insurer to bill for and collect premiums due for insurance coverage.

(4) The Liquidator shall, no later than seven (7) months from the entry of this Order, file for the Court's review and approval a recommended Proof of Claim form, the recommended Bar Date for the submittal of Proofs of Claim against MSIC (which Bar Date shall be no earlier twelve (12) months after the filing of that petition) and the recommended procedure for providing notice of the Proof of Claim form and Bar Date to all interested parties, consistent with the recommendation set forth in Section IV of the Liquidation Procedures.

(5) The Liquidator is authorized and directed to proceed in accordance with the recommended Claim Procedures as set forth in Section V of the Liquidation Procedures.

(6) The Liquidator is authorized and directed to proceed in accordance with the recommendations regarding Reinsurance and Miscellaneous Matters as set forth in Sections VI and VII of the Liquidation Procedures.

Dated: 2/26/09



JUDGE, Marion Circuit Court

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