

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND FOR
LEON COUNTY, FLORIDA**

In Re: The Receivership of

MD Medicare Choice, Inc.,
a Florida Health Maintenance Organization /

CASE NO.: 2008-CA-3191

**DEPARTMENT'S MOTION FOR ORDER APPROVING DISCHARGE ACCOUNTING
STATEMENT, DIRECTING FINAL DISCHARGE, AND AUTHORIZING
DESTRUCTION OF OBSOLETE RECORDS**

COMES NOW, the Florida Department of Financial Services, as Receiver of MD Medicare Choice, Inc. (hereinafter "Department"), by and through the undersigned counsel, and hereby files this *Motion for Order Approving Discharge Accounting Statement, Directing Final Discharge, and Authorizing Destruction of Obsolete Records*, and as good grounds therefor states as follows:

1. MD Medicare Choice, Inc., ("MDMC"), was a corporation authorized in 2005 by the Florida Office of Insurance Regulation pursuant to the Florida Insurance Code to transact business in the state of Florida as a Medicare Advantage health maintenance organization.
2. On September 29, 2008, this Court entered its *Order Appointing the Florida Department of Financial Services as Receiver of MD Medicare Choice, Inc. for Purposes of Liquidation, Injunction, and Notice of Automatic Stay*, effective September 30, 2008 ("Liquidation Order").
3. Pursuant to section 631.021(1), Florida Statutes, this Court has jurisdiction over the Receivership and is authorized to enter all necessary and/or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, sections 631.001 et seq., Florida Statutes.

4. On June 1, 2012, this Court entered an *Order Approving Receiver's First Interim Claims Report and Recommendation on Claims*. The First Interim Claims Report reflects the Department's evaluation and recommendations on claims filed in Class 1 and Class 2.

5. On June 7, 2013, this Court entered an *Order Approving Receiver's Motion for Approval of Claims Distribution Report and Distribution Accounting and Order Authorizing Distribution* to claimants with Class 2 claims. Pursuant to the Order, the Department made a final distribution of \$1,216.68 to all claimants in Class 2, which constitutes 100% of the amount recommended in Class 2.

6. On May 26, 2015, this Court entered an *Order Approving Receiver's Second Interim Claims Report and Recommendation on Claims*. The Second Interim Claims Report reflects the Department's evaluation and recommendations on claims filed in Classes 3-10. There were no claims filed in Classes 3, 7, and 9. Because the limitation of assets in the estate would not allow for a distribution beyond Class 6 claims, claims in Classes 8 and 10 were evaluated for class only.

7. On March 24, 2016, this Court entered an *Order Approving Release Agreement with the United States, Approving Final Claims Report and Claims Distribution Report for Class 4 Claims, Approving Distribution Accounting Statement, and Authorizing Class 4 Distribution*. Pursuant to the Order, the Department made a final distribution of \$5,588,345.84 to all claimants in Class 4, which constitutes 100% of the amount recommended in Class 4.

8. On May 6, 2016, this Court entered an *Order Approving Receiver's Final Claims Report, Claims Distribution Report, and Distribution Accounting and Authorizing Distribution* ("Distribution Order"). The Distribution Order authorized a distribution of estate assets in the

amount of \$14,026,922.99 to all claimants in Classes 5-6, which constitutes 100% of the amount recommended in Class 5 and 18.7196% of the amount recommended in Class 6.

9. A certain number of the final distribution checks were not mailed due either to a bad address or a W-9 issue or were not cashed prior to the expiration date and remain unclaimed. After a diligent search to locate the claimants due these funds, the Department will compile an unclaimed property report pursuant to section 717.117, Florida Statutes. The Department plans to transfer said unclaimed funds to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

10. The Department's Discharge Accounting Statement—Projected as of November 2016, (the "*Discharge Accounting*") is attached hereto and incorporated herein by reference as "**Exhibit A.**"

11. As shown in the *Discharge Accounting*, the estimated value of all assets of the MDMC receivership estate is projected to be \$2,957,354.59. Of that \$2,957,354.59, approximately \$2,906,987.76 will be forwarded by the Department to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

12. As shown in the *Discharge Accounting*, the estimated value of the assets available for "wind up" expenses is \$17,366.83. The Department requests authority to retain \$17,100.00 as a reserve for "wind up" expenses of the receivership.

13. The Department funds the majority of its budget from the assets of the open receiverships it supervises. Additionally, the Department receives an annual budget appropriation from the State of Florida's Insurance Regulatory Trust Fund ("IRTF"), which funds a portion of the Department's costs and expenses of administration. Each receivership is charged a portion of these state funded costs and expenses. Over the course of the MDMC receivership, certain services

and resources funded by the IRTF have been used by MDMC. It is the Department's policy to record these state funded expenditures as Contributed Equity on each receivership financial statement. As shown in the *Discharge Accounting* as of Nov 30, 2016, the projected Contributed Equity balance for the MDMC receivership is \$77,946.51. It is the policy of the Department to reimburse the IRTF for Contributed Equity if the Department determines that there are sufficient assets available at the end of the receivership. The Department requests an order authorizing the Department to remit to the IRTF any surplus expense funds remaining after discharge.

14. Upon approval of the Department's request for final discharge, the records of the MDMC receivership estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. Prior to the actual destruction of these records, the Department will obtain a "Disposal Authorization Certificate" from the Division of Archives, History, and Records Management of the Florida Department of State.

15. Although such recovery is unlikely, the Department requests an order authorizing it to remit to the IRTF any assets which may be recovered following the discharge of this receivership if, in the Department's sole discretion, the value of the recovered assets does not justify the re-opening of this receivership estate.

16. The Department requests an Order that it shall be fully and finally discharged of its responsibilities in this receivership as of 11:59 P.M. on November 30, 2016.

WHEREFORE, the Department respectfully requests this Court enter an Order:

- A. Approving and adopting the Department's Discharge Accounting Statement;
- B. Authorizing and directing the Department to transfer any unclaimed funds to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

C. Authorizing and directing the Department to retain \$17,100.00 as a reserve for “wind up” expenses of the Department;

D. Authorizing the Department to remit any surplus expense funds remaining after discharge to the IRTF;

E. Authorizing the Department, after final discharge, to destroy any obsolete records in the Department’s possession;

F. Directing, without further order of this Court, the final discharge of the Department of its responsibilities in this receivership estate as of 11:59 p.m. on November 30, 2016; and

G. Authorizing the Department to remit to the IRTF any assets which may be recovered following the discharge of this receivership if, in the Department’s sole discretion, the value of the recovered assets does not justify the re-opening of this receivership estate.

Respectfully Submitted on this the 28th day of October 2016.

/s/ Jamila G. Gooden
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EXHIBIT A

MD Medicare Choice, Inc.
Discharge Accounting Statement
Projected for November 2016

ASSETS

	<u>Amount</u>	
Cash	\$ 2,957,354.59	Schedule A
Total Assets	<u><u>\$ 2,957,354.59</u></u>	

LIABILITIES

	<u>Recommended Disbursement</u>	
Outstanding Amounts from Distributions to Unclaimed Property	2,906,987.76	
Estimated Contributed Equity Reimbursement	33,000.00	
Total Liabilities	<u><u>\$ 2,939,987.76</u></u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	17,366.83	
Projected Windup Expenses	<u>(17,100.00)</u>	Schedule D
Balance (Any Remaining Windup Funds to the FL Insurance Regulatory Trust Fund)	<u><u>266.83</u></u>	

Index to Attached Schedules:

- Schedule A - Available Cash Projection
- Schedule B - Allocated State Funds Expensed
- Schedule C - Interest Earnings Projection
- Schedule D - Receiver Windup Expenses
- Schedule E - Contributed Equity and Advances from the Regulatory Trust Fund

MD Medicare Choice, Inc.
Available Cash Projection
Projected for November 2016

	Cash Bal. as of September 30, 2016	Oct-16	Nov-16
Beginning Pooled Cash Balance	\$	3,018,300.75	\$ 2,971,834.59
Check reissue	\$	(30,661.83)	
Direct Receiver Expenses (Actual or Estimated)			
Rent-Storage, Postage, Scanning UCP records		500.00	500.00
Sub-total		500.00	500.00
Allocated Receiver Expenses (Estimated)			
Labor & Benefits		17,930.00	17,930.00
Indirect Expenses		1,050.00	1,050.00
Sub-total		18,980.00	18,980.00
Cash Balance Before Interest Earnings		2,968,158.92	2,952,354.59
Interest Earnings			
Pooled Cash:			
Actual SPIA Earnings for September to be credited on 10/01/2016.		3,675.67	
Estimate based on assume SPIA APR on the previous month's average Pooled Cash balance (Sch. D)			5,000.00
Ending Pooled Cash Balance	\$	3,018,300.75	\$ 2,971,834.59

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

June Actual	16,260.13
July Actual	28,695.29
August Actual	20,511.25
September Actual	6,254.40
Sub-total	<u>71,721.07</u>
4 mth. actual average (rounded)	<u>17,930.00</u>
Doubled for increased activity level	<u>\$ 35,860.00</u>

² Indirect Expenses: This estimate is MDMC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on MDMC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.30%
Estimated Total for the Receiver	\$ <u>175,000.00</u>
Estimated Expense (doubled)	<u>\$ 1,050.00</u>

MD Medicare Choice, Inc.
Allocated State Funds Expensed

Estimated from October 2016 through the Projected Discharge Date of November 2016

THIS STATEMENT INCLUDED FOR INFORMATION PURPOSES ONLY - AMOUNTS NOT PART OF DISTRIBUTION CALCULATION

	<u>October</u>	<u>November</u>	<u>Totals</u>
Accrued Allocated State of Florida Expenses (Estimated)			
Labor & Benefits	\$ -	\$ -	\$ - ¹
Indirect Expenses	78.00	78.00	\$ 156.00 ²
Total	\$ 78.00	\$ 78.00	\$ 156.00 ³

Assumptions for Allocated State of Florida Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average doubled for increased labor activity during the distribution period.

June Actual	-
July Actual	-
August Actual	-
September Actual	-
Sub-total	-
4 mth. actual average (rounded)	<u>\$ -</u>

² Indirect Expenses: This estimate is MDMC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on MDMC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Before Distribution

Estimated Total Asset %	0.30%
Estimated Total for the State	\$ 13,000.00
Estimated Expense (doubled)	<u>\$ 78.00</u>

³ Per current Receiver policies and procedures, these accumulated amounts are recorded contributed equity to the estate.

MD Medicare Choice, Inc.
Interest Earnings Projection - Pooled Cash
Projected for November 2016

Interest accrued for October 2016

Beginning cash balance	3,018,300.75
Ending cash balance	2,971,834.59
Average cash balance	2,995,067.67
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	59,901.35

Accrual for October 2016 **\$** **5,000.00**

Interest accrued for November 2016

Beginning cash balance	2,971,834.59
Ending cash balance	2,957,354.59
Average cash balance	2,964,594.59
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	59,291.89

Accrual for November 2016 **\$** **4,900.00**

**MD Medicare Choice, Inc.
Receiver Discharge Expenses
Projected for November 2016**

Discharge Expenses (Projected for Post 11/30/2016)

Records Storage, Records Destruction, Labor	17,100.00
2016 Final Tax Return Preparation	
Total	<u>\$ 17,100.00</u>

MD Medicare Choice, Inc.
Statement of Contributed Equity from Regulatory Trust Fund Estimated Balances
Projected for Discharge by 11/30/2016

I. Contributed Equity Balance as of 9/30/2016		\$ 77,790.51
	Accrual for October - November (Estimate from Schedule B)	<u>\$ 156.00</u>
Total		<u>\$ 156.00</u>
Projected Contributed Equity Balance as of 11/30/2016		<u><u>\$ 77,946.51</u></u>