

RECEIVERSHIP STATUS REPORT TO THE SPECIAL MASTER

August 2, 2024

R-565 Friday Health Insurance Company

Special Deputy Receiver:	CANTILO & BENNETT, L.L.P.	TX Guaranty Assoc.:	TLHIGA
SDR Responsible Person:	Susan E. Salch	Receiver's Counsel:	David Ashton
SDR's Counsel:	Christopher Fuller and Greg Pierce	Est'd Closing Date:	TBD

SPECIFIC ACCOMPLISHMENTS SINCE LAST STATUS CONFERENCE

- Reached tentative agreement with Excess of Loss (“XOL”) reinsurer on amounts due.
- Negotiated service agreement with subrogation collection company, Phia.
- Initial processing of 674 POCs as of June 30, 2024, resulting in notices to 32 claimants that their submissions failed to comply with the POC instructions.
- Obtained confirmation from the Centers for Medicare and Medicaid Services (“CMS”) that it intends to submit a POC by the September 5, 2024, claims filing deadline.

SPECIFIC ESTATE GOALS TO ACHIEVE IN THE NEXT QUARTER

- File application for approval of Phia as Receivership Service Provider.
- File application for approval of settlement with XOL reinsurer.
- File application for approval of second early access distribution.

Receivership Background

- Date of Permanent Injunction (Liquidation): March 23, 2023
- Date of Appointment of SDR: March 23, 2023
- Claims Filing Deadline: September 5, 2024
- States Where Licensed: Texas
- Lines of Business: Affordable Care Act (“ACA”) individual and small group health insurance plans
- Early Access Distribution: December 2023 - \$25,000,000

Statement of Assets and Liabilities as of June 30, 2024

Total Assets:	\$443,482,211
Cash:	\$169,631,568
Non-Cash Assets:	\$148,617,321
Restricted Assets:	\$125,233,322
Total Liabilities:	\$858,393,284
Negative Equity:	(\$414,911,073)

Asset Recovery Activity

Reinsurance: FHIC has two reinsurance relationships. The first is a quota share agreement with AXA France Vie (“AXA”) with coverage of 60% for 2021, and 80% for 2022. Shortly before receivership, AXA gave notice that it considered the agreement to be terminated as of January 1, 2022. Following regulatory action against the companies of the other states, AXA sent each of them a notice of dispute. The SDR and AXA have communicated regarding the reinsurer’s contentions, and the SDR is preparing to respond to certain requests for information.

AXA owes FHIC approximately \$246 million as of June 30, 2024. Reporting is done quarterly, so the paid loss figure, which includes the ceded risk adjustment obligation reported by CMS in its June 30, 2023, report, will be quantified further in the quarterly reporting, as post-receivership paid losses by TLHIGA and the guaranty associations for the other states’ affiliates are reported.

FHIC has an XOL treaty with Odyssey Reinsurance Company. The treaty terminated on June 30, 2023, but continues to cover losses arising before and reported by June 30, 2023. TLHIGA has provided the SDR with information for claims that both exceed the association’s \$500,000 cap and the same threshold for XOL coverage, which has been reported to the reinsurer. The parties to the agreement are negotiating a final commutation of the agreement.

Subrogation: Before receivership, Phia pursued subrogation recoveries for FHIC even though the only written agreement was between Phia and the Friday Colorado affiliate. Estate counsel notified Phia of the receivership and instructed it that all collections and

communications regarding Texas claims had to go through the SDR. As of June 30, 2024, the SDR has received \$246,377 in subrogation; all on pre-liquidation claim payments.

The SDR expects to submit an application to approve Phia as a receivership service provider in the next quarter. TLHIGA has agreed that the SDR will contract with Phia for the collection of all Texas claims. The SDR will then work with TLHIGA to reconcile which recoveries go to the estate (pre-liquidation claims) and which will be credited to TLHIGA (from their claim processing).

Overpayment Recovery: FHIC's financial records reflect significant overpayments to providers that are owed to the company. The SDR is updating the amounts owed and anticipates beginning collection efforts in the next quarter.

Other Asset Recovery Activity: The SDR and counsel continue to research potential asset recovery claims.

Claims Activity

POC Processing: As of June 30, 2024, 674 POCs were filed: 590 by providers, 3 for agent commissions, 5 for premiums or post-policy termination payments, 43 by members for unpaid claims, 1 by a vendor and 2 by TLHIGA (one for claims, the other for expenses). One provider filed 30 POCs listing the names of members it treated as claimants.

Upon intake, the SDR's claims team identifies POCs that could be covered by TLHIGA, and then checks the association's claims log to see if the claim has already been determined. If not, the claim will be uploaded to the joint Dropbox account shared by the SDR and TLHIGA for its consideration. The SDR has not yet referred any POCs to TLHIGA.

A number of the POCs received to date fail to comply with the Receivership Court-approved instructions. For example, at least three POCs claim in excess of \$100,000 but fail to describe the basis for the claim or attach any documentation. Several POCs were not verified as required by the Receivership Court's order approving the POC form. The SDR's claims subcontractor has been instructed to contact the claimant by mail and request that the omission be cured within thirty days. Failure to do so will result in the denial of the POC. To date, 32 such notices have been issued, and only three claimants have filed corrected POCs.

TLHIGA: As of June 30, 2024, TLHIGA had funded 156,209 claims totaling \$24,643,717. Some of the payments include offsetting the SDR's provider overpayments. The association estimates an additional \$10,572,493 in future claims payments. Through June 30, 2024, TLHIGA reports \$12,425,408 in administrative expenses.

TLHIGA agreed to have claims that are in excess of the association's \$500,000 limit on coverage processed entirely under its agreement with UST. The results are reported to the SDR for reinsurance reporting purposes. The Receivership Court deemed all claims in

excess of TLHIGA's \$500,000 limit in order to protect consumers and facilitate reinsurance reporting.

TLHIGA reports that it has reached an agreement with one provider group and is working to negotiate agreements with five additional providers whose claims represent the vast majority of TLHIGA's remaining obligations. The negotiations with these five providers encompass 20,706 claims for approximately \$24.6 million.

Early Access: The Receivership Court approved the SDR's application for an early access distribution on November 9, 2023. The SDR distributed \$25 million to TLHIGA in December 2023. The SDR is reviewing TLHIGA's backup and documentation for its request for a second early access distribution and expects to seek approval for a second early access distribution in the next quarter.

Risk Adjustment Transfer ("RAT") Liability: The POC notice was served on CMS. The RAT program is a component of the ACA that transfers premiums from insurers that enroll members with relatively lower health risks to insurers that enroll members with relatively higher health risks. CMS issued its 2022 Summary Report on June 30, 2023. It recites that FHIC owes \$634,864,844 in RAT liability for the 2022 plan year. As noted above, CMS has advised the SDR that it will file a POC shortly before the September 5, 2024 deadline to ensure that it captures the most accurate and up-to-date amounts it asserts will be due.

Post-policy expiration payment claims: After the receivership began, FHPMSC inadvertently continued to accept payments from some consumers after the expiration of their insurance policies. The POC notice was sent to all former members, including those consumers who were identified as having made such payments.

General Legal Activity

Delaware Assignment for Benefit of Creditors ("ABC") Proceeding: The Delaware Chancery Court denied the SDR's (and other states' SDRs') Motions to Dismiss or, Alternatively, to Abstain on June 14, 2024. The Vice-Chancellor (the Judge) urged the insolvent insurance company estates to seek injunctive relief from their home courts. Vice Chancellor Fioravanti also ordered the ABC entity not to transfer any funds to its creditor(s) without further order from the court, except to pay for its attorney fees in defending the prospective injunctive relief. He requested status reports in sixty days. The SDR is conferring with representatives from the other states' Receivers to coordinate future activity.

Litigation: There are no pending lawsuits against FHIC. There were a number of arbitrations pending at receivership, consisting of health care providers objecting to the amount paid on particular claims under the Prompt Pay statutes and regulations. All claimants have been notified of the receivership and automatic stay.

Estate Closing Date of Receivership: TBD

Identification of Factors Affecting Closing Date and Final Distribution: TBD