

1 MOT

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17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 SCOTT J. KIPPER, COMMISSIONER OF
20 INSURANCE, STATE OF NEVADA,

21 CASE NO. A-23-871639-C
22 DEPARTMENT 18

23 Petitioner,

24 vs.

25 FRIDAY HEALTH PLANS OF NEVADA, INC.,

26 [HEARING REQUESTED]

27 Defendant.

28 **MOTION FOR ORDER TO SHOW CAUSE WHY FHP PARENT ENTITIES
SHOULD NOT BE HELD IN CONTEMPT**

29 Petitioner, the COMMISSIONER OF INSURANCE, STATE OF NEVADA¹ as Receiver
30 (“Commissioner” or “Receiver”) for FRIDAY HEALTH PLANS OF NEVADA, INC. (“Friday
31 Health NV” or the “Company”), by and through its undersigned counsel of record, submits this
32 Motion for Order To Show Cause Why Friday Health Plans Management Services Company,
33 Inc. (“FHP MSC”), Friday Health Plans, Inc. (“FHPINC”) and FHP ABC, LLC a Delaware Limited

34 ¹ Ned Gaines was appointed as the Nevada Commissioner of Insurance effective October 6, 2025. Pursuant
35 to NRCP 25(d), when a public officer stops holding office while an action is pending, “[t]he officer’s
36 successor is automatically substituted as a party.”

1 Liability Company (“FHP ABC”) (collectively FHP Parent Entities”) should not be held in
2 contempt for violating this Court’s Order June 12, 2023 Order which appointed a receiver over
3 Friday Health NV and enjoined the FHP Parent Entities from disposing of Friday Health NV assets
4 and obtaining any preferences, judgments or other liens as to any Friday Health NV property
5 (“Receivership Order”).

6 This Motion is based upon the following Memorandum of Points and Authorities, the
7 Declaration of Darren Ellingson attached hereto, the papers and pleadings on file, and any oral
8 arguments this Court may entertain.

9 DATED this 23rd day of December, 2025

10 GREENBERG TRAURIG, LLP

11 */s/ Kara B. Hendricks*

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21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. INTRODUCTION**

23 After Friday Health NV was placed into receivership and ordered liquidated, its parent
24 companies, FHP MSC and FHPINC, knowingly and willfully violated orders of this court and
25 diverted funds belonging to Friday Health NV to a newly formed Delaware entity, FHP ABC.
26 (FHP MSC, FHP INC and FHP ABC will be referred to collectively as the FHP Parent Entities).
27 Not only were the transfers in blatant disregard for this Court’s orders, but FHP ABC recently filed
28 a verified complaint in the Delaware Chancery Court (the second declaratory relief action filed by
FHP ABC), which infringes on the rights and assets of Friday Health NV.² Although efforts were

27 ² The complaint was filed on October 10, 2025, as Case No. 2025-1157 against Leadenhall Capital Partners
28 LLP and Leadenhall Life SMA III ICAV (“Second Delaware Dec Action”). As detailed below, the Second
Delaware Dec Action is substantially similar to a previously filed action that was dismissed after Friday

1 made to address concerns directly with the FHP Parent Entities, on December 12, 2025, the
2 defendants in the Second Delaware Dec Action filed a motion for summary judgment therein and
3 appear to be taking the position that absent action by this Receivership Court, they are entitled to
4 assets belonging to Friday Health NV.

5 Not only is the Second Delaware Dec Action a violation of the Receivership Order, but
6 Nevada law allows the Receiver to recover the funds transferred to FHP ABC, LLC wherever such
7 assets are located pursuant to NRS 696B.410(4).

8 This Motion seeks and Order to Show cause why the FHP Parents Entities should not be
9 held in contempt for conspiring to deprive the Receiver of assets of Friday Health NV and in
10 contempt of court for knowingly violating orders of this Court prohibiting transfer of the Friday
11 Health's assets by filing of the Second Delaware Dec Action. Additionally, the Court should order
12 the FHP Parent entities to immediately turn-over funds rightfully due to Friday Health NV. Without
13 action by this Court, the FHP Parent Entities will continue to dissipate and dispose of Friday Health
14 NV assets and action is needed to preserve the same.

15 **II. RELEVANT FACTUAL BACKGROUND**

16 **A. Procedural Background of Friday Health NV Insolvency.**

17 As the Court is aware, Friday Health NV offered life and health products and health
18 insurance. In 2022, the Nevada Division of Insurance (“Division”) required Friday Health NV to
19 infuse funds to increase its total capital and surplus because its finances suggested that it was
20 approaching a dangerous financial condition.³ Despite the infusion, Friday Health NV’s financial
21 filings with the Division suggested that it had insufficient capital, and it was in financial distress.
22 The Commissioner of Insurance thus filed a petition for appointment of a receiver, temporary
23 injunction and other permanent relief (“Receivership Petition”). The Receivership Petition was
24 filed with the consent of the Board of FHPINC and the Board of Friday Health NV. Both entities
25 agreed to the proposed injunctive relief for the purpose of Friday Health NV’s conservation and
26

27

Health NV and similarly situation Friday Health entities in other states threatened contempt proceedings.

28 ³ Friday Health NV is one of several related companies scattered across the United States offering health
insurance, all of which are also in pending receiverships due to financial inadequacy.

1 rehabilitation.

2 On June 12, 2023, the Court authorized the Receiver to assume control over Friday Health
3 NV and attempt rehabilitation and permanently enjoined all persons other than the Receiver “from
4 disbursing, committing, transferring, substituting, or withdrawing any funds from FRIDAY
5 HEALTH’s accounts, or removing other property from, controlled, or owned by FRIDAY
6 HEALTH except as expressly direct or approved by the Receiver” (“Receivership Order”). After
7 the Commissioner was appointed as Receiver, he designated Ellingson & Associates, LLC, as the
8 Special Deputy Receiver (“SDR”) (the Receiver and SDR will be referred to jointly herein as
9 “Receiver”). *See*, Declaration of Darren Ellingson attached hereto as **Exhibit A**.

10 In furtherance of the Receivership Order, the Receiver obtained various Friday Health NV
11 records, including information related to policyholders, claims status, and the company’s financial
12 records. *Ex. A* at 6. The Receiver concluded, after reviewing the records, that Friday Health NV
13 could not be rehabilitated as it could not meet financial obligations as they became due and
14 continuing operations would deplete the limited remaining assets at the detriment of the company,
15 policyholders, creditors, and public. *Id.* at 7. As a result of the same, the Commissioner determined
16 that the continuation of Friday Health NV’s business would jeopardize the insurer’s solvency and
17 notice was provided to policyholders that all policies would terminate at the end of the day on
18 August 31, 2023. Thereafter, this Court found Friday Health to be insolvent and placed Friday
19 Health into liquidation as of September 1, 2023, *via* the “Liquidation Order”.

20 **B. Background Regarding Relationship Between Friday Health NV and FHP
21 Parent Entities.**

22 Friday Health NV had no employees. *Ex. A* at 8. Its Nevada insureds were served pursuant
23 to a Management Services Agreement (“Management Agreement”) with FHP MSC. *See, Id.* and
24 Management Agreement, attached hereto as **Exhibit B**. FHP MSC was a wholly owned subsidiary
25 FHPINC, which controlled Friday Health NV’s financial assets and did all the actual work of the
26 Company. *See, Exhibit C*, Friday Health Plans Organizational Chart⁴.

27 ⁴ Friday Health NV was one of six insurance companies managed and controlled by the same parent
28 companies. Each of these companies has been placed into receivership in their respective states and will be
referred to herein as “State Receivership Entities”.

1 At all times relevant to this Motion, Friday Health NV, FHP MSC, and FHPINC, were each
2 subject to regulation pursuant to NRS 680A *et seq.* The Management Agreement provided that
3 FHP MSC conducted banking, collections, payments and related activities, legal and regulatory
4 affairs, real estate, office equipment and supplies, treasury and investments, and general
5 administration, including tax, insurance and support. *See, Ex. B.* When FHP MSC received
6 insurance charges or premiums on the Company's behalf they were held by FHP MSC in a fiduciary
7 capacity for Friday Health NV. *See, Id.* and Ex. 1 thereto. Friday Health NV paid FHP MSC actual
8 costs, plus an administrative fee of 5%.⁵ *See, Ex. A* at ¶ 10. For the period of July 2022 to
9 May 2023, FHP MSC was paid \$4,573,441.10 by Friday Health NV.⁶ *Id.* at ¶ 11.

10 After Friday Health NV was placed into receivership, FHP ABC was created for the purpose
11 of receiving the assets of FHPINC and FHP MSC and as detailed below provided a vehicle to
12 transfer and/or siphon assets belonging to Friday Health NV.

13 **1. Violations of Receivership Order and Intentional Transfer of Friday Health
14 NV Assets.**

15 Just weeks after reviewing the Petition for Appointment of Receiver⁷ which included a
16 request for injunctive relief, and with full knowledge of this Court's June 12, 2023 Receivership
17 Order, FHPINC and FHP MSC began efforts to transfer and/or assign Friday Health NV assets to
18 FHP ABC. *Id.* at 12. FHPINC and FHP MSC were fully aware that cash to be assigned to FHP
19 ABC belonged to Friday Health NV and that the funds were required to be turned over to the
20 Receiver of Friday Health NV. Notably, around this same time a number receivers were appointed
21 in other states wherein FHPINC had established substantially similar state insurance companies
22 with substantially similar management agreements with FHP MSC.

23
24 ⁵ *See, Ex. B* (Management Services Agreement at Exhibit 3 thereto.)

25 ⁶ Management fees paid by Friday Health NV include: \$2,696,758.73 on July 1, 2022; \$768,616.47 on
26 January 5, 2023; \$29,792.00 on March 8, 2023; \$522,884.50 on April 3, 2023; and \$555,389.40 on May 25,
27 2023. Such fees amounts are recoverable pursuant to NRS 696B.412.

28 ⁷ On June 1, 2023 a petition for Appointment of Commissioner as Receiver Temporary Injunction, and
29 Other Permanent Relief ("Petition for Appointment of Receiver") was filed herein. Attached as Exhibit 1
30 thereto is written Consent of the Board of FHPINC which indicates that on May 30, 2023, the FHPINC
31 Board reviewed the Petition for Appointment of Receiver and unanimously determined that it was in the
32 best interest of Friday Health Nevada to consent to receivership.

1 The FHP Parent Entities simply ignored the Receivership Order (and similar orders issued
2 by other state courts) and refused requests to turn over such assets made by counsel jointly
3 representing the various State Receivership Entities. **Ex. A** at 13. With full knowledge of that
4 state court receivers were tasked with marshalling assets for FHP related entities, FHPINC and FHP
5 MSC concocted a scheme to move assets into a newly formed entity, FHP ABC.

6 The following emails show the deliberate efforts to assign funds to FHP ABC that belonged
7 to Friday Health NV:

8 June 23, 2023 - Email from Chris Arnett, Managing Director of Alvarez and
9 Marsal North America, LLC, and Beth Bierbower, CEO of FHP stating: “And
10 finally, settling interco would drain most of the cash, which would jeopardize
11 the ABC and put a ch 7 on the table. Since not many assets here a ch 7 trustee
12 would certainly explore recovery against the D&Os here.”

13 June 27, 2023 - Email from Chris Arnett, Managing Director of Alvarez and
14 Marsal North America, LLC, and Beth Bierbower, CEO of FHP stating: “Hi
15 Beth – I’ve heard Rhonda [FHP CFO] is having her team focus heavily on
16 interco reconciliations with the various states. Given our call with counsel this
17 evening, I’m not sure this is the course of action we need now. [,,] **The last**
18 **thing we need is for Rhonda (or anyone else) to settle amounts prior to the**
19 **assignment** without the full buy in of yourself and the collective advisor
20 teams.” (emphasis added)

21 June 29, 2023 – Email from Rhonda Bagby, CFO of FHP, to Chris Arnett,
22 Managing Director of Alvarez and Marsal North America, LLC, Beth
23 Bierbower, CEO of FHP stating in relevant part: “I am showing we billed
24 \$8,290,787 in management fees for May [2023]. Based on the gap between
25 billed and actual, that makes \$4,534,449 due back to the state unless there are
26 missed accruals.”

27 June 29, 2023 – Email from Randye Soref, attorney for FHP ABC, to Chris
28 Arnett, Managing Director of Alvarez and Marsal North America, LLC, Beth
Bierbower, CEO of FHP and Steven Victor, agent of ABC Consultant
(executive manager of FHP ABC) stating: “Chris, [w]e have said that if the
states take action to force a transfer of the intercompany
receivable/payables, the employees [... FHPMSC] goes dark and it does not
matter whether there is an ABC or not as there is no funding. That said as you
know, **these funds [i.e., Friday Health NV assets] will not be paid out prior**
to the ABC and will be assigned to the Assignee [i.e., FHPABC]. [...]
(emphasis added).

1 *See*, email compilation at **Exhibit D**.

2 Not only does the email traffic demonstrate knowledge of monies owed to state receivers
3 which include the Receiver of Friday Health NV, but the FHP Parent Entities took concerted steps
4 to divert funds. Specifically, on June 28, 2023, FHP MSC converted from a Colorado corporation
5 to a Delaware corporation to take advantage of Delaware's ABC statute. On July 21, 2023, FHP
6 MSC and FHPINC executed a General Assignment for the Benefit of Creditors (the "General
7 Assignment") assigning all of FHP MSC and FHPINC's rights, titles, and interests in all remaining
8 assets (except as noted within the General Assignment) to the Assignee [FHP ABC] for the benefit
9 of the Assignors' creditors. *See, Exhibit E*. This was done over the objection of the Friday Health
10 NV that joined with other states to contest the same. *See, Ex. A* at 15.

11 Thereafter, on July 24, 2023, FHP ABC filed a Verified Petition for Assignment for the
12 Benefit of Creditors with the Chancery Court ("Delaware ABC Proceeding").⁸ On August 3, 2023,
13 the Court in the Delaware ABC Proceeding entered an Order Governing the Assignment for the
14 Benefit of Creditors. On August 11, 2023, Cantilo & Bennett, L.L.P., the special deputy receiver
15 for the Texas receivership filed a motion to dismiss that was joined by the FHPINC and the receivers
16 for Colorado, Georgia, Nevada and Oklahoma (the State Receivership Entities). The Motion to
17 Dismiss and joinders argued *inter alia* that the Delaware ABC Action should be dismissed because
18 the General Assignment itself violated six orders entered by other courts (including this one) and
19 that the Assignee was in possession of property of the Joining States. In addition to initiating
20 litigation, on August 29, 2023, FHP ABC entered into the Deposit Account Control Agreement
21 ("DACA"), which granted the purported secured creditor (and investors) control over assets that
22 were required to be held in trust by the Assignee/FHP ABC.⁹

23 The Chancery Court in the Delaware ABC Proceeding denied the Motion to Dismiss but
24 noted the Joining States were free to seek redress against the Assignee in the State courts that issued
25

26 ⁸ Case No. 2023-0751, in the Court of Chancery of the State of Delaware.

27 ⁹ On August 29, 2023, FHP ABC executed the DACA granting Leadenhall effective control over the funds
28 that were required to be held by FHP ABC in trust maintained by FHP ABC for the benefit of creditors. *See*
Exhibit F. However, these funds were in fact not in held trust and as FHP ABC later admitted Leadenhall
used its authority granted to it by FHP ABC via the execution of the DACA to distribute itself the
approximate \$3.5 million then held in the DACA on April 9, 2025.

1 the receivership orders and ordered that further cash not be transferred by FHP ABC until further
2 order of the Chancery Court.¹⁰ **Ex. A**, at 18.

3 Friday Health NV, has continued to monitor the actions of FHP ABC and through counsel
4 attempt to get assets belonging to the Nevada entity returned or at least secured without the need to
5 seek additional relief herein. ***Id.*** at 19. However, recent developments in newly filed lawsuit have
6 necessitated this Motion as further detailed below. ***Id.***

7 On April 9, 2025, the purportedly secured lender/investor in the ABC Parent Entities,
8 Leadenhall Capital Partners LLP and Leadenhall Life SMA III ICAV (collectively “Leadenhall”),
9 gave notice that it intended to pull the funds in the DACA on April 21, 2025 and then proceeded to
10 do so. ***Id.*** at 20. On July 2, 2025, the Receiver filed a Motion in the Delaware ABC Action to
11 remove FHP ABC based upon its violations of the Chancery Court’s order in distributing assets to
12 Leadenhall without obtaining Chancery Court approval and in defiance of the standing Delaware
13 ABC Proceeding order to not make any distributions.¹¹ ***Id.*** at 21.

14 Additionally, the FHP Parent Entities have continued to employ various other tactics to
15 avoid returning funds to Friday Health NV and other state court receivers. On June 18, 2025,
16 FHP ABC filed a Verified Complaint naming Friday Health NV along with all other FHP Receivers
17 in the Court of Chancery of the State of Delaware seeking a declaration that FHP ABC’s distribution
18 of assets assigned to it was lawful (“FHP Declaratory Relief Action”).¹² ***Id.*** at 22. When the FHP
19 Declaratory Relief Action was challenged by the State Receivership Entities, FHP ABC quickly
20 abandoned this legal tactic by voluntarily dismissing the declaratory action so as to avoid contempt
21 motions for filing a civil action in violation of multiple States’ laws and court orders. ***Id.***

22

23 ¹⁰ To that end, on January 13, 2025, the Chancery Court entered an Order requiring the secured bond in the
24 amount of \$15,384,579.57 as requested by the State Receivership Entities. The Chancery Court required
FHP ABC to post a bond to cover instances where the assignee, which is FHP ABC, wrongfully distributes
25 assets assigned to it and aggrieved parties may proceed against the bond for such wrongful distributions.

26 ¹¹ A Briefing Schedule for the Motion was approved on August 20, 2025 which was amended and granted
27 on December 10, 2025. Depositions will be held at the end of January 2026.

28 ¹² FHP ABC took the position in the declaratory action that a secured creditor had a “superior interest in the
assets” assigned to FHP ABC. In other words, FHP ABC concedes, as the emails cited demonstrate, that
Friday Health NV has an interest in all of the cash assets assigned to FHP ABC, which is decisive given that
the cash belonged to Friday Health NV and the determination of secured status, if any, resides exclusively
in this Court.

1 Undeterred and in a blatant effort to avoid its obligations to the State Receivership Entities,
2 FHP ABC filed a new declaratory action on October 10, 2025 which is substantially similar to FHP
3 Declaratory Relief Action, but without naming Friday Health NV or the other FHP Receivers as
4 parties in the action. (“Second Declaratory Action”). ***Id.*** and **Exhibit G**¹³. The Second Declaratory
5 Action is a remarkably brazen act of defiance by FHP ABC. Indeed, it appears that FHP ABC does
6 not like the way things are proceeding before the Chancery Court in the Delaware ABC Proceeding,
7 so they filed the Second Delaware Dec Action, before a different Chancery Court judge, to try
8 resolve the dispute over assets under different laws. This is a bad faith filing under Delaware law,
9 and is being challenged as such. **Ex. A** at 24. Additionally, the filing of the Second Declaratory
10 Action violates this Court’s order and FHP ABC’s actions in filing and maintaining the proceeding
11 warrants an Order to Show Cause why they should not be held in contempt.

12 Friday Health NV together with the State Receivership Entities also filed a motion to
13 remove the Assignee (i.e., FHP ABC) as the fiduciary/assignee of the Delaware ABC Proceeding
14 based upon its blatant violation of the Chancery Court order to refrain from distributing the cash
15 proceeds held by FHP ABC until further order of the Chancery Court. ***Id.*** at 25. The Second
16 Delaware Dec Action appears to be a blatant attempt to avoid the outcome of the Motion to Remove
17 the Assignee Consultants from the Delaware ABC Matter and circumvent the jurisdiction of this
18 Court (and the other FHP Receivership courts).

19 What is more, on December 12, 2025, the defendants in the Second Delaware Dec Action
20 filed a motion for summary judgment in an attempt to get a court unfamiliar with the history of
21 this matter to belated approve their retention of funds belonging to the State Receivership Entities.
22 Counsel for Friday Health NV and the other State Receivership Entities have advised the court
23 therein of the gamesmanship at play. **Ex. A** at 26 and **Exhibit H**. However, in response to the
24 same, the Leadenhall parties appear to be taking the position that absent action state receivership
25 courts, they are entitled to retain funds including those belonging to Friday Health NV going as far
26 as to suggest that the State Receivership Entities have no basis to challenge the conduct. **Ex. A**

27
28 ¹³ A copy of the complaint (without exhibits), filed in the Second Delaware Dec Action is attached to this Motion.

1 at 27 and **Exhibit I.**

2 Based on the foregoing, action from this Court is necessary to protect Friday Health NV.
3 Indeed, it appears the FHP Parent Entities have no interest and/or desire to dismiss the wrongfully
4 filed Second Delaware Dec Action and with the assistance of Leadenhall, will continue to dissipate
5 and dispose of Friday Health NV in contravention of this Court's Receivership Order.

6 This Motion is brought to protect the interests of Nevada claimants given the ongoing
7 obstruction caused by the FHP Parent Entities and the clear violation of this Court's Receivership
8 Order and an order to show cause is warranted.¹⁴

9 **III. LEGAL ARGUMENT**

10 The Court should issue an order for FHP Parent Entities to show cause why they should not
11 be held in contempt. Civil contempt "consists of a party's disobedience to a specific and definite
12 court order *by failure to take all reasonable steps* within the party's power to comply." *Reno Air*
13 *Racing Ass'n v. McCord*, 452 F.3d 1126, 1130 (9th Cir. 2006) (emphasis added). Disobedience or
14 resistance to any order constitutes a civil contempt of court. NRS 22.010; *Phillips v. Welch*, 12
15 Nev. 158 (1877); *Lamb v. Lamb*, 83 Nev. 425, 428, 433 P.2d 265, 267 (1967) ("The power of courts
16 to punish for contempt . . . is inherent"). Here, FHP MSC, FHPINC have each violated the
17 Receivership Order enjoining wasting and disposing of Friday Health NV assets by assigning
18 Friday Health NV's assets to FHP ABC which willing took the same and refuses to provide them
19 to the Receiver. Violations of this Court's receivership order include:

- 20 • FHP MSC and FHPINC have each violated the Receivership Order by
21 their failure to turn over all assets of Friday Health NV to the Receiver
and instead assigning those assets to the FHP ABC.
- 22 • FHP ABC has violated the Receivership Order by executing the DACA
23 granting authority over assets assigned by FHPINC and FHP MSC to FHP
ABC
- 24 • FHP MSC, FHPINC and FHP ABC have each violated the Receivership
25 Order by entering into the General Assignment and filing the Delaware
ABC in an effort to avoid the exclusive jurisdiction of this Court over
determinations of the disposition of assets belonging to Friday Health NV.

27
28 ¹⁴ Similarly situated states are also seeking relief from the respective courts overseeing the state court
receiverships.

1 • FHP ABC has violated the Receivership Order by filing the Second
2 Declaratory Action and the actions of Leadenhall therein appears to be an
3 attempt to retain funds rightfully belonging to Friday Health NV.

4 Each of the actions described herein is a knowing violation of the Receivership Order and
5 thus entering an Order to Show Cause why the FHP Parent Entities should not be held in contempt
6 is warranted.

7 **IV. CONCLUSION**

8 Based on the foregoing, the Receiver respectfully requests this Court issue and Order to
9 Show Cause why FHPINC, FHP MSC and FHP ABC should not be held in contempt and take any
10 further action deemed necessary to prohibit the FHP Parent Entities from continuing to pursue
11 claims in the Second Delaware Dec Action and order the return funds to Friday Health NV.

12 DATED this 23rd day of December, 2025

13 GREENBERG TRAURIG, LLP

14

/s/ Kara B. Hendricks

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23 *Counsel for Petitioner*

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on **December 23, 2025**, I caused a true and correct copy of the foregoing **MOTION FOR ORDER TO SHOW CAUSE WHY FHP PARENT ENTITIES SHOULD NOT BE HELD IN CONTEMPT** to be filed with the Clerk of Court using the Odyssey e-FileNV Electronic Service system and served on all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

Additionally, a copy of this Motion was sent via United States mail to:

Friday Health Plans, Inc.,
FRIDAY HEALTH PLANS MANAGEMENT SERVICES COMPANY, INC.
700 Main Street
Alamosa, Colorado 81101

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/s/ Evelyn Escobar-Gaddi
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