

## Report for Special Master’s Status Conference

May 3, 2024

### R-566 Bright Healthcare Insurance Company of Texas (“BHICOT”)

SDR: CANTILO & BENNETT, L.L.P.

Primary Responsible Person: Michael Marcin

Estate Counsel: Christopher Fuller and Greg Pierce

Receiver’s Counsel: Sandra Salazar

RLO Analyst: Edwin Hartsfield

#### I. Background on Receivership

- Date of Permanent Injunction (Liquidation): November 29, 2023
- Date of Appointment of SDR: November 29, 2023
- Claims Filing Deadline: Pending Court approval of Proof-of-Claim (“POC”) application
- States Where Licensed: Texas
- Lines of Business: BHICOT offered Affordable Care Act (“ACA”) individual policies (licensed under Texas Insurance Code Chapters 801, 841, and 843)
- Texas Guaranty Association Triggered: Texas Life and Health Insurance Guaranty Association (“TLHIGA”)
- Early Access Distributions: None

#### II. Statement of Assets and Liabilities as of March 31, 2024

Total Assets:	\$62,452,858
Cash & Invested Assets:	\$62,452,858
Non-Cash Assets:	\$ 0
Restricted Assets:	\$ 0
Total Liabilities:	\$97,007,245
Negative Equity:	(\$34,554,387)

#### III. Status and Activity Since Last Status Conference

**Financial Institutions:** The SDR transferred all estate funds held in financial institutions at receivership to the Texas Treasury account. The original accounts have been kept open to allow for the deposit of any funds owed but have zero balances. Any deposits are transferred to the treasury account. Maintaining these accounts enables the SDR to access historical bank records.

**Business Records:** BHICOT did not control or manage its IT or data. Instead, Bright Health Management (“BHM”) employees managed BHICOT data on BHM’s equipment and cloud storage. The SDR has obtained financial records, claims records, provider contracts, and a small number of e-mails. BHM restricted the production of BHICOT officer e-mails to narrow categories of topics and did not produce e-mails from other employees. The issue is under review.

The SDR has continued recovery of BHICOT business records from Evolent, ClearHealth, MPX and SDS, all third-party vendors who played a role in the claims process.

**Minnesota Counsel:** The Receivership Court granted the SDR’s Supplement to the Fee and Expense application authorizing the SDR to retain Minnesota-based counsel. The new counsel will domesticate the Permanent Injunction and advise the SDR on Minnesota legal matters.

**Corporate Re-branding:** BHICOT’s ultimate parent entity, NYSE traded Bright Health Group, Inc., changed its name to “NeueHealth, Inc., adopted “NeueHealth” as its corporate brand name and moved its headquarters to Florida.

**Litigation:** The one pre-receivership lawsuit and several pending arbitration proceedings are all stayed.

#### **A. Claims Activity**

**Proof of Claim Application:** The SDR filed its Application for Approval of Claim Filing Deadline, Notice to Creditors, and Procedures for Processing Claims with the Special Master on April 15, 2024. The application requests that the POC filing deadline be set at nine (9) months from the date the Court enters an order granting the application.

**Guaranty Associations:** TLHIGA is the only guaranty association involved in this receivership. TLHIGA contracted with BHICOT’s pre-receivership claims administrator, Evolent, to process the remaining claims. The association expects to begin paying covered claims in the near future.

**Early Access:** On March 21, 2024, the SDR filed an early access report under § 443.303(c) explaining why it cannot make an early access distribution at this time. The SDR expects to file an application to make an early access distribution to TLHIGA in the next quarter.

**Risk Adjustment Transfer (“RAT”) Liability:** 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, that stated BHICOT owed \$718,539,366 in RAT liability for the 2022 plan year, which was BHICOT’s first and only year of Texas business. RAT payments are calculated annually, and the 2022 assessment payment was due in August 2023. On September 15, 2023, BHICOT made a payment of \$630,000,000 to the Centers for Medicare & Medicaid Services (“CMS”) for its 2022 RAT liability and executed a promissory note for the difference - \$89,637,573. The note was for 18 months at a statutory rate of 11.5% payable at interest only for 17 months with a balloon payment of all principal due. BHICOT made its October 2023 payment but did not make any other payments. CMS declared the note to be in default. The SDR considers the note to be a

Class 3 liability, federal government obligations. CMS will be sent the POC notice once the SDR's application is approved by the Court.

## **B. Asset Recovery Activity**

**Reinsurance:** BHICOT has only one reinsurance agreement, an Excess of Loss contract with Swiss Re. Reporting is up to date. There is no quota share reinsurance coverage.

**Provider Overpayment Recovery/Rebates:** As of receivership, BHICOT's books reflected approximately \$10 million in provider overpayments. TLHIGA is not offsetting its obligations against the overpayments.

The SDR identified a number of pre-receivership settlements with providers that do not appear to have been reflected in the books and records of BHM or Evolent. The accounts are being reconciled with the settlement information and once completed, the SDR expects to begin collection efforts.

**NeueHealth:** At receivership, BHICOT showed a \$124 million accounts receivable ("AR") from NeueHealth Partners Texas RBE, LLC (NeueHealth-TX). The AR arises from the Delegated Network Agreement Between Bright Healthcare Insurance Company of Texas and NeueHealth-TX. BHICOT's fiduciary, BHM, claims that NeueHealth-TX has no cash and no bank accounts. The companies share certain officers and directors.

At this time, the SDR has fully reserved this debt on the estate's balance sheets pending further review of its origins and collectability. However, the SDR intends to investigate thoroughly the circumstances leading up to the creation of the debt and pursue all remedies to collect the amount owed.

## **IV. Summary of Major Achievements:**

- Filed POC application;
- Filed early access report; and
- Retained Minnesota counsel.

## **V. Estate Goals to Achieve Prior to Next Status Conference:**

- Continue to pursue recovery of business records;
- Continue coordinating with TLHIGA;
- Following approval of POC application, issue Liquidation and POC notices;
- File early access application;
- Complete the reconciliation of overpayment data; and
- Review potential asset recovery activity.

**VI. Estate Closing Date of Receivership:** This estate is approximately 5 months old. The SDR is currently unable to estimate a closing date.

**VII. Identification of Factors Affecting Closing Date and Final Distribution: TBD**