

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Harold T. Duryee, Superintendent
of Insurance,

Plaintiff,

v.

Medcare Health Plan, Inc.,

Defendant.

Case No. 88CV-12-8519
Judge Crawford

TERMINATED 11/18
BY *ru*

ORDER TERMINATING THE LIQUIDATION ESTATE, DISCHARGING AND
RELEASING LIQUIDATOR, APPROVING THE REPORT OF DISALLOWED CLAIMS
APPROVING THE FINAL ACCOUNT OF THE LIQUIDATOR
AND DIRECTING THE DESTRUCTION OF ALL DOCUMENTS OF MEDCARE
HEALTH PLAN, INC., SEVEN YEARS AFTER THE DISCHARGE AND
RELEASE OF THE LIQUIDATOR

FILED
COMMON PLEAS COURT
93008
FRANKLIN COUNTY
THOMAS
CLERK
NOV 16 1988
4:29

This matter came on before the Court upon the Application of Harold T. Duryee, Liquidator of Medcare Health Plan, Inc. for Termination of the Liquidation Estate, Discharge and Release of Liquidator, Approval of the Report of Disallowed Claims, Approval of the Liquidator's Final Account, and Order Directing the Destruction of All Records of Medcare Health Plan, Inc. Seven Years After The Discharge and Release of the Liquidator.

Upon consideration of the Liquidator's Application and Memorandum in Support, the Court finds the applications are well taken and it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The Court finds that all assets justifying the expense of collection and distribution have been collected and distributed under Sections 3903.01 to 3903.59 of the Revised Code and, therefore, the liquidation estate of Medcare Health Plan, Inc., is hereby terminated; and

2. The Liquidator, his predecessors, successors, assigns, and any and all deputies, agents, and/or employees of the Office of the Ohio Insurance Liquidator, including employees of the Ohio Department of Insurance are hereby discharged and released of any and all responsibility and liability in connection with the liquidation of Medicare Health Plan, Inc.; and

3. The Report of Disallowed Claims, attached to the Liquidator's Application as Exhibit "A" is approved and the Liquidator shall have no further obligation to the claimants; and

4. The Final Account of the Liquidator, attached to the Liquidator's Application as Exhibit "B" and all actions of the Liquidator reflected therein are hereby approved; and

5. The Liquidator is directed to destroy all documents of Medicare Health Plan, Inc., seven years after the date of this Order discharging and releasing the Liquidator.

Date: _____

Judge Crawford

Approved by:

LEE FISHER
Attorney General

By 
Alan F. Berliner
Supreme Court No. 0012240
Jan E. Hensel
Supreme Court No. 0040785
Special Counsel to the Attorney
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366 East Broad Street
Columbus, Ohio 43215
Tele: (614) 228-6135
Fax : (614) 221-0216
Attorneys for Harold T. Duryee
Liquidator of Medicare Health Plan, Inc.

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Harold T. Duryee, Superintendent
of Insurance,

Plaintiff,

v.

Medcare Health Plan, Inc.,

Defendant.

Case No. 88CV-51
Judge Crawford

FILED
COMMON PLEAS COURT
93 OCT 26 AM 11:56
OF FRANKLIN COUNTY, OHIO
THOMAS J. ENRIGHT
CLERK OF COURTS

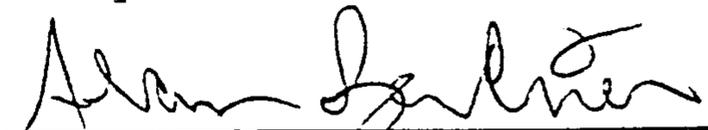
APPLICATION OF THE LIQUIDATOR FOR TERMINATION
OF LIQUIDATION ESTATE, DISCHARGE AND RELEASE OF THE LIQUIDATOR,
APPROVAL OF THE REPORT OF DISALLOWED CLAIMS,
APPROVAL OF FINAL ACCOUNT OF LIQUIDATOR AND ORDER
DIRECTING THE DESTRUCTION OF ALL RECORDS OF MEDCARE HEALTH
PLAN, INC., SEVEN YEARS AFTER THE DISCHARGE AND
RELEASE OF THE LIQUIDATOR

Harold T. Duryee, Superintendent of Insurance for the State of Ohio, as Liquidator herein, hereby moves this Court for an Order: (1) terminating the liquidation of Medcare Health Plan, Inc.; (2) discharging and releasing the Liquidator, his predecessors, successors, assigns and any and all deputies, agents, and or employees of the Office of the Ohio Insurance Liquidator, including employees of the Ohio Department of Insurance, of all responsibility and liability; (3) approving the Report of Disallowed Claims attached hereto as Exhibit "A," (4) approving the Liquidator's Final Account, attached hereto as Exhibit "B," and (5) directing the destruction of all records of Medcare Health Plan, Inc., seven years after the discharge and release of the Liquidator.

The reasons supporting this Application are set forth in the Memorandum in Support attached hereto and incorporated herein by reference.

Respectfully submitted,

LEE FISHER
Attorney General

By 

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Attorneys for Harold T. Duryee
Liquidator of Medicare Health
Plan, Inc.

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Medicare Health Plan, Inc. ("Medcare") was placed in rehabilitation by Order of this Court on December 19, 1988. Medicare was placed into liquidation and substantially all of its assets sold by Court Order dated July 25, 1989.

Pursuant to Ohio Revised Code §3903.42, the Liquidator classified each claim filed. The Liquidator reviewed each claim pursuant to Ohio Revised Code §3903.43, and determined the amount allowed on each claim.

The Class 1, Class 2 and Class 3 claims have been paid in full. The Class 4 Claimants were paid a pro rata distribution of 37.25% of their claims. Those Claimants having Class 5 claims and lower have been notified that they would not receive any payment on their claim, as it was anticipated there would be insufficient funds remaining in the Liquidation Estate to pay such claims.

The Liquidator requests the Court to authorize and approve the Final Accounting of Liquidator, including the final disbursements from the Medicare Liquidation Estate as set forth in the attached Exhibit "B." After payment to the Class 4 Claimants and payment of the final administrative expenses incurred and accrued through the closing date of the estate, there are no funds remaining in the Medicare Liquidation Estate.

II. REPORT OF DISALLOWED CLAIMS

Pursuant to the Order of this Court dated August 17, 1993, the Liquidator hereby files his report of those claims which automatically became disallowed sixty (60) days after the checks were issued because of failure of the Claimant to cash the distribution check. Said disallowed claims are listed in Exhibit "A" attached hereto.

III. APPROVAL OF FINAL ACCOUNT

The Liquidator hereby moves this Court for an Order approving the final account of the Liquidator set forth in the attached Exhibit "B".

IV.

ORDER DIRECTING THE DESTRUCTION OF ALL RECORDS OF MEDCARE HEALTH PLAN, INC., SEVEN YEARS AFTER THE DISCHARGE AND RELEASE OF THE LIQUIDATOR

Ohio Revised Code Section 3903.48 provides:

Whenever it shall appear to the Superintendent of Insurance that the records of any insurer in process of liquidation or completely liquidated are no longer usable, he may recommend to the court and the court shall direct what records should be retained for future reference and what should be destroyed.

Under Revised Code §3903.47, a Motion to reopen the liquidation proceedings may be made at any time after the proceeding has been terminated, by the Superintendent of Insurance or other interested parties. Because the Liquidation Act provides no period of repose, other relevant statutes of limitation should be considered when deciding the appropriate length of time to store estate documents. For example, there is a three year statute of limitations for actions (not involving fraud) which are brought by the Internal Revenue Service. Ohio law imposes a four year statute of limitations for injuries to the rights of the Plaintiff not arising on contract, a six year statute of limitations for actions upon express and implied oral contracts, a ten year limitation period for actions on an official bond, and a fifteen year limitation period for actions on a written contract. Of course, the likelihood of future need for these documents, in light of the fact that Medicare Health Plan, Inc., is fully liquidated and has no assets, must be weighed against the cost of storage of these documents. For this reason, the Liquidator recommends that

documents of Medicare Health Plan, Inc. be stored for a period of seven years after the date of discharge and release of the Liquidator.

V. CONCLUSION

For the reasons set forth above, the Liquidator hereby requests that this Court enter an Order, 1) terminating the Liquidation of Medicare Health Plan, Inc.; 2) discharging and releasing the Liquidator, his predecessors, successors, assigns and any and all deputies, agents, or employees of the Office of the Ohio Insurance Liquidator, including employees of the Ohio Department of Insurance, of all responsibility and liability; 3) approving the Report of Disallowed Claims attached hereto as Exhibit "A;" 4) approving the Liquidator's Final Account attached hereto as Exhibit "B;" and 5) directing the Liquidator to destroy all records of Medicare Health Plan, Inc. seven years after the discharge and release of the Liquidator.

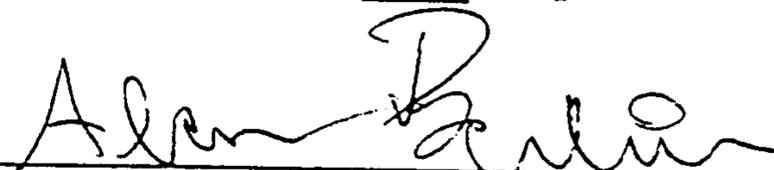
Respectfully submitted,

LEE FISHER
Attorney General

By Alan F. Berliner
Alan F. Berliner
Supreme Court No. 0012240
Jan E. Hensel
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Fax : (614) 221-0216
Attorneys for Harold T. Duryee
Liquidator of Medicare Health
Plan, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Application of the Liquidator for Termination of Liquidation Estate, Discharge and Release of Liquidator and Order to Transfer Funds That Are Uneconomic to Distribute, Approving the Report of Disallowed Claims, and Approval of Final Account was served upon Thomas Nordquist at 45439 Metz Road, Columbiana, Ohio 44408-1144 by regular U.S. Mail, postage prepaid, on this 26 day of October, 1993.



Alan F. Berliner

REPORT OF DISALLOWED CLAIMS

MEDCARE HEALTH PLAN
UNCASHED CLASS 4 DISTRIBUTION CHECKS

LIQ#	CLAIMANT	CHECK#	AMOUNT
2-00420	Karl Baumgaertel, MD	2558	167.36
2-00477	Willie Josey, MD	2572	2.38
2-00871	Russell Morrison DO Former Director	2633	19.18

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EXHIBIT "A"

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Harold T. Duryee, Superintendent
of Insurance,

Plaintiff,

v.

Case No. 88CV-12-8519
Judge Crawford

Medcare Health Plan, Inc.,

Defendant.

FINAL ACCOUNT OF LIQUIDATOR

Harold T. Duryee, Superintendent of Insurance for the State of Ohio, as Liquidator of Medcare Health Plan, Inc. ("Medcare"), hereby files the Final Account of the Liquidator consisting of the following documents:

1. Statement of Receipts and Disbursements for the period July 1, 1993, through closing date;
2. Medcare's Comparative Balance Sheet as of October 25, 1993, and closing date;
3. Medcare's Comparative Income Statement for January 1, 1993, through closing date and October 25, 1993;
4. Statement of Capital and Surplus Account;
5. Comparative General Operating Expenses for closing date and October 25, 1993; and
6. List of final disbursements to be made from the Medcare Estate.

These statements account for all assets received and disbursements made through the closing date. Further, the

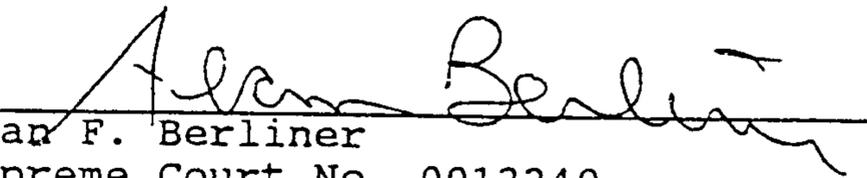
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EXHIBIT "B"

Liquidator hereby incorporates by reference all prior accounts which have been filed in the above-captioned case.

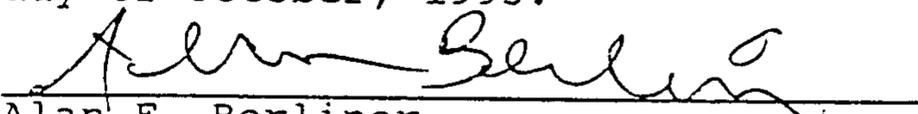
As of the closing date, the Liquidation Estate has total assets of zero (-0-) dollars.

LEE FISHER
Attorney General

By 
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Supreme Court No. 0040785
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Tele: (614) 228-6135
Fax : (614) 221-0216
Attorneys for Harold T. Duryee
Liquidator of Medicare Health
Plan, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Final Account of Liquidator was served upon Thomas Nordquist at 45439 Metz Road, Columbiana, Ohio 44408-1144 by regular U.S. Mail, postage prepaid, on this 26 day of October, 1993.


Alan F. Berliner

MEDCARE HEALTH PLAN
Final Account
Disbursements to be Made at Closing of Liquidation Estate

Administrative Expenses to be Paid are as Follows:

1. Carlile, Patchen & Murphy (legal fees)	\$7,414.35
2. Peat Marwick & Mitchell (Preparation of final 1993 tax return)	\$1,000.00
3. Ohio Department of Insurance (Professional Fees)	1,857.71
4. American Druggists Insurance Co. (Intercompany expense allocation and warehouse costs)	4,205.97
5. Proprietors Insurance Company (Intercompany expense allocation)	2,010.52
 TOTAL ADMINISTRATIVE EXPENSES TO BE PAID AT CLOSING	 <u>\$16,488.55</u>

MEDRC148

MEDCARE HEALTH PLAN, IN LIQUIDATION
Statement of Receipts and Disbursements
For The Period 7/01/93 to Closing Date

	<u>CASH</u>	<u>SECURITIES</u>	<u>TOTAL</u>
Balance at 6/30/93	\$7,293.17	\$580,000.00	\$587,293.17
 <u>RECEIPTS</u>			
Investment Proceeds - Repurchase Agmt (Note 1)	680,000.00	(680,000.00)	0.00
Interest/Dividend Income	2,827.39	0.00	2,827.39
TOTAL RECEIPTS	682,827.39	(680,000.00)	2,827.39
 <u>DISBURSEMENTS</u>			
Employee Wages, Taxes, Benefits	3,131.34	0.00	3,131.34
General Operating Expenses	14,748.04	0.00	14,748.04
Legal Expense	13,364.26	0.00	13,364.26
Class 4 Distribution	658,876.92	0.00	658,876.92
TOTAL DISBURSEMENTS	690,120.56	0.00	690,120.56
 Balance at Closing Date	 <u><u>\$0.00</u></u>	 <u><u>\$0.00</u></u>	 <u><u>\$0.00</u></u>
	A	A	

(A) Excluding \$0.00 held by States.

Note 1: The captions "Investment Proceeds in Repo Agreements" or "Investment Purchases in Repo Agreements" represent the difference between total repurchases sales and purchases for the reporting period.

PRELIMINARY & UNAUDITED STATEMENT

Medicare Health Plan. In Liquidation
 Comparative Balance Sheets
 As of Closing Date & October 25, 1993

	Balance At Closing Date	October 25, 1993
ASSETS		
Bonds	0.00	0.00
Cash on Hand and on Deposit (Sch 1)	0.00	16,488.55
Short - term Investments-Repo	0.00	0.00
	<hr/>	<hr/>
	0.00	16,488.55
 NON-ADMITTED ASSETS		
EDP Equipment	0.00	0.00
A/R - Commercial Group (Uncollectable)	0.00	51,902.07
A/R Other (Uncollectable)	0.00	975.88
	<hr/>	<hr/>
Total Non-Admitted Assets	0.00	52,877.95
Less: Total Non-Admit Assets	0.00	(52,877.95)
	<hr/> <hr/>	<hr/> <hr/>
	0.00	16,488.55

PRELIMINARY & UNAUDITED STATEMENT

Medicare Health Plan, In Liquidation
 Comparative Balance Sheets
 As of Closing Date & October 25, 1993

	Balance At Closing Date	October 25, 1993
LIABILITIES		
Accounts Payable - Creditors	0.00	1,442,156.58
General Expense Reserves	0.00	16,488.55
A/P Intercompany	0.00	0.00
	<hr/>	<hr/>
	0.00	1,458,645.13
 SURPLUS		
Unassigned Surplus	0.00	(2,495,031.58)
Capital Stock	0.00	1,052,875.00
	<hr/>	<hr/>
	0.00	(1,442,156.58)
 TOTAL LIABILITIES AND SURPLUS		
	<hr/> <hr/>	<hr/> <hr/>
	0.00	16,488.55

PRELIMINARY & UNAUDITED STATEMENT

Medicare Health Plan, In Liquidation
 Comparative Income Statements
 For January 1, 1993 through Closing Date &
 January 1, 1993 through October 25, 1993

	Balance At Closing Date	October 25, 1993
REVENUE:		
Investment Income		
Interest Income	0.00	11,668.56
(Premium)/Discount on Bonds	0.00	0.00
	<hr/>	<hr/>
Total Investment Income	0.00	11,668.56
Other Income		
Gain/(Loss) on Sale of Assets	0.00	0.00
Recovery from Medicaid	0.00	0.00
Miscellaneous	0.00	0.00
	<hr/>	<hr/>
Total Other Income	0.00	0.00
Total Revenue	<hr/> <hr/>	<hr/> <hr/>

EXPENSES:

Liquidation Expenses		
General Operations (Sch 9)	0.00	54,303.07
Losses	0.00	0.00
	<hr/>	<hr/>
Total Expenses	<hr/> <hr/>	<hr/> <hr/>

PRELIMINARY & UNAUDITED STATEMENT

Medicare Health Plan in Liquidation
 Surplus Reconciliation
 As of Closing Date & October 25, 1993

	Balance At Closing Date	October 25, 1993
Surplus - Beginning	(2,495,031.58)	(2,455,915.55)
Gains(+) and Losses(-) in Surplus		
Net Income (Loss)	0.00	(42,634.51)
Writedown of Assets/Liabilities	1,389,278.63	0.00
Change in Non-Admitted Assets	52,877.95	3,518.48
Writedown of Capital Stock	1,052,875.00	0.00
	<hr/>	<hr/>
Change in Surplus for the Year	2,495,031.58	(39,116.03)
Surplus - Ending	<u>0.00</u>	<u>(2,495,031.58)</u>

MEDICARE HEALTH PLAN, IN LIQUIDATION
 GENERAL OPERATING EXPENSES
 AS OF CLOSING DATE & OCTOBER 25, 1993

	BALANCE AT CLOSING DATE	OCTOBER 25, 1993
1 ADVERTISING	0.00	32.39
2 BOARDS, BUREAUS AND ASSOCIATIONS	0.00	1.29
3 SALARIES	0.00	8,563.18
4 EMPLOYEE RELATIONS AND WELFARE	0.00	1,816.47
5 INSURANCE	0.00	125.47
6 TRAVEL AND TRAVEL ITEMS	0.00	120.28
7 RENT AND RENT ITEMS	0.00	2,963.89
8 EQUIPMENT	0.00	9,170.01
9 PRINTING AND STATIONARY	0.00	200.56
10 POSTAGE, TELEPHONE, TELEGRAPH, EXCHANGE AND EXPRESS	0.00	316.08
11 LEGAL AND AUDITING	0.00	19,041.15
Subtotal (Items 1 to 11)	0.00	42,350.77
12 TAXES, LICENSES AND FEES		
a) INSURANCE DEPARTMENT LICENSES AND EXAMINER FEES	0.00	10,909.62
b) PAYROLL TAXES	0.00	717.17
13 MISCELLANEOUS		
a) INVESTMENT EXPENSES & BANKING FEES	0.00	85.66
b) OUTSIDE SERVICES	0.00	239.81
c) MISCELLANEOUS	0.00	0.04
TOTAL EXPENSES INCURRED	0.00	54,303.07
14 LESS UNPAID EXPENSES CURRENT PERIOD	0.00	16,488.55
15 ADD UNPAID EXPENSES PREVIOUS PERIOD	16,488.55	5,626.65
TOTAL EXPENSES PAID	16,488.55	43,441.17