

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. CAROL EDMEAD PART 35

Justice

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MARIA VULLO,

Plaintiff,

- v -

HEALTH REPUBLIC INSURANCE OF NEW YORK CORP.,

Defendant.

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INDEX NO. 450500/2016

MOTION DATE 10/26/2021

MOTION SEQ. NO. 008

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 008) 188, 189, 190, 191, 192, 193, 194, 195

were read on this motion to/for MISCELLANEOUS

Upon the October 25, 2021 affirmation of David Axinn ("Axinn Aff"), Special Deputy Superintendent and agent of Adrienne A. Harris, Acting Superintendent of Financial Services of the State of New York, in her capacity as liquidator ("Liquidator") of Health Republic Insurance of New York, Corp. ("Health Republic") for an order approving a procedure (the "Procedure") for the determination of claims other than claims for administrative expenses under Class One as set forth in Insurance Law Section 7434(a)(1)(i) and claims under policies under Class Two as set forth in Insurance Law Section 7434(a)(1)(ii) (collectively, "Non-Class Two Claims"), and it appearing from the Axinn Aff that the Procedure will best serve the interests of Health Republic, the holders of Non-Class Two Claims, and all other interested persons, and that it should be approved and implemented;

NOW, based upon the application of the Liquidator, it is hereby ordered that:

- 1. The Procedure for the determination of Non-Class Two Claims is approved.
2. The Court finds that the Procedure is required for the orderly administration of the

Health Republic estate. The Procedure will enable the Liquidator to seek allowance or

disallowance of Non-Class Two Claims while offering due process to claimants who object to her recommendations.

3. The Procedure is as follows:

a. The Procedure shall apply to claims for payment against Health Republic other than claims for administrative expenses under Class One as set forth in Insurance Law Section 7434(a)(1)(i) and claims under policies under Class Two as set forth in Insurance Law Section 7434(a)(1)(ii) (“Non-Class Two Claims”).

b. To the extent anything contained in the Procedure is inconsistent with any contract or document governing Non-Class Two Claims, the Procedure shall govern.

c. The Liquidator shall review all claims on its books and records or filed on or before August 9, 2021, the deadline by which claimants were permitted to submit Non-Class Two Claims to the Liquidator, and issue a Notice of Determination (“NOD”), for each Non-Class Two Claim. The NOD shall be transmitted by email or first-class mail pursuant to paragraph “d” below. The NOD shall advise each claimant that:

i. The Liquidator has examined the claim and has recommended that the claim be allowed, in whole or in part, and the amount of the recommended allowance, or that the claim be disallowed and the reason therefor.

ii. No further action is required by the claimant if the claimant accepts the Liquidator’s recommendation.

iii. The claimant may object to the NOD by serving a written objection on the Liquidator within forty-five (45) days after the date of mailing of the NOD. All such objections must be submitted via the online portal located at [www.healthrepublicny.org](http://www.healthrepublicny.org).

iv. If the claimant makes a timely written objection, the claimant will be entitled to have a court-appointed referee hear and report on the validity of the claimant's objection.

v. Either the claimant or the Liquidator may move the court overseeing the Health Republic liquidation, on notice, for an order confirming or denying the Referee's report.

vi. Unless the claimant submits a timely objection under this Procedure, the Liquidator's recommendation in the NOD will be presented to this Court for approval, and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined.

d. NODs and all other correspondence pursuant to this Order shall be made to the email or physical address as reflected in the proof of claim filed by the claimant or, if a books and records claim, the email or physical address as reflected in Health Republic's books and records.

e. Unless the claimant submits a timely objection under this Procedure, the Liquidator's recommendation in the NOD will be presented to this Court for approval, and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined.

f. The claimant may object to the NOD by serving a written objection on the Liquidator within forty-five (45) days after the date of mailing of the NOD. All such objections must be submitted via the online portal located at [www.healthrepublicny.org](http://www.healthrepublicny.org).

g. Any objection to an NOD that is not resolved by the parties will be referred to a referee appointed by this Court. Such referral must be made within forty-five (45) days after the Liquidator's receipt of the claimant's objection to the NOD. The deadlines

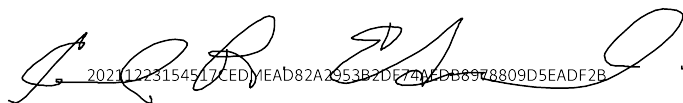
referenced in this subparagraph may be extended by mutual written agreement of the Liquidator and the claimant.

h. The referee will hear and report on the validity of the claimant’s objection. Prior to the hearing, the referee shall hold a prehearing conference and set a schedule for the hearing and submission of supporting papers. If the claimant fails to appear at a scheduled conference or hearing or does not comply with the deadlines established by the referee, and has not requested or received an adjournment, then the claimant’s objection to the NOD shall be deemed forfeited and the NOD accepted.

i. Either the claimant or the Liquidator may move the Court supervising the Health Republic liquidation, on notice, for an order either confirming or denying the referee’s report. If neither party has so moved within sixty (60) days of the referee’s report, the Liquidator shall move, ex parte, for an order approving the referee’s report.

j. The Liquidator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee, or seek alternative dispute resolution; however, the settlement is subject to approval by this Court.

k. Anthony J. Carpinello, Esq. is appointed as referee to hear and report on the validity of any unresolved objections to the Liquidator’s determination of Non-Class Two Claims, and he shall be paid a fee based on an hourly rate of \$450 as an administrative expense of Health Republic



12/23/2021  
DATE

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CAROL EDMED, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
REFERENCE