

¹ Act of May 17, 1921, P.L. 789, *as amended*, 40 P.S. §§ 221.1-221.63.

3. The following parties have intervened in this matter for limited purposes:

- a. Primerica Life Insurance Company (“Primerica”)²;
- b. The National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”);
- c. The Maine Superintendent of Insurance, the Massachusetts Commissioner of Insurance, and the Washington Insurance Commissioner (the “State Insurance Regulators”);
- d. ACSIA Long Term Care, Inc., Global Commission Funding LLC, LifeCare Health Insurance Plans, Inc., Senior Commission Funding LLC, Senior Health Care Insurance Services, Ltd., LLP, and United Insurance group Agency, Inc. (“Agents and Brokers”);
- e. Anthem, Inc., Health Care Service Corporation, Horizon Healthcare Services, Inc., and United HealthCare Insurance Company (the “Health Insurers”); and
- f. Policyholders Georgianna I. Parisi and James Lapinski.

² Transamerica Life Insurance Company (“Transamerica”) intervened as well, but later withdrew from the matter and is no longer a party to this case.

4. Certain of the intervening parties timely filed witness and exhibit lists in anticipation of the plan hearing:

a. NOLHGA intends to offer NOLHGA President Peter Gallanis and an actuarial expert from Long Term Care Group (“LTCG”) as witnesses. NOLHGA will offer certain plan documents and analyses as exhibits, together with other information to be identified prior to the hearing.

b. James Lapinski intends to offer himself and Sue Lapinski as witnesses. Mr. Lapinski will offer his handwritten filings and certain plan documents as exhibits.

c. The State Insurance Regulators, the Health Insurers, and the Agents and Brokers filed witness and exhibit statements which identified topics but did not identify any specific witness or exhibit to be offered at hearing on the Plan.

5. The Rehabilitator submitted the Application because she believes that the parties and issues are substantially set, the Amended Plan is ready for this Court’s consideration, and the Rehabilitator is ready to commence the process to implement a plan under this Court’s guidance.

6. The problems faced by SHIP are substantial and the proposed plan for its rehabilitation is an ambitious and complex undertaking. Understandably, the Amended Plan gives rise to several issues ultimately to be resolved by this Court. The Rehabilitator reports that she has endeavored to provide affected parties the information necessary for them to understand the Plan and present any resulting issues to the Rehabilitator and this Court. To that end the Rehabilitator and the Special Deputy Rehabilitator (“SDR”) have provided and are continuing to provide substantial information about SHIP and its proposed rehabilitation to interested parties and insurance regulators around the country. That process began in 2018, accelerated in 2019 and early 2020, and continued after the filing of the April 22, 2020 Plan and the October 21, 2020 Amended Plan.

7. The Rehabilitator has advised the Court that, following the filing of the Amended Plan, the SDR opened a secure data site for intervening parties and all state insurance regulators to use in considering the issues raised by commenters and others. The secure data site has provided users with a significant amount of material information for their review and analysis, including, *inter alia*, seriatim anonymized policyholder data, actuarial analyses and assumptions, expected outcomes under the Amended Plan, and the financial condition of SHIP. This data site has been updated several times in response to requests and inquiries by intervenors and other interested parties and will continue to be updated as

warranted. Notwithstanding, disagreement regarding information to be provided persists with at least one party.

8. The Rehabilitator has proposed to the Court a schedule for the rehabilitation proceeding and procedures for providing information about the Plan.

It is therefore hereby **ORDERED** as follows:

Schedule and Procedure

1. All requests for information from the Rehabilitator must be submitted to the Rehabilitator's counsel no later than February 9, 2021.

2. An initial pre-hearing conference is hereby scheduled for February 26, 2021, by means to be determined by the Court. At this conference the parties may present to the court (a) any unresolved information requests; (b) any matters regarding the conduct of the hearing; and (c) any other unresolved pre-hearing matters.

3. On or before March 8, 2021, the Rehabilitator and each intervenor shall file a Pre-Hearing Memorandum, which will include (a) the facts relevant to the party's interests and position with citations to record documents or proposed exhibits; (b) a detailed Argument section in favor of or in opposition to the plan before the Court with citations to legal and technical authority as necessary; (c) an updated hearing witness list with brief testimonial narratives; and (d) an updated list of hearing exhibits, together with all exhibits not previously identified as such

and produced. Any issue not sufficiently raised and addressed by an Intervenor in its Pre-Hearing Memorandum shall be considered waived and shall not be raised by that party at the hearing except as it may be properly raised solely as rebuttal matter.

4. On or before March 22, 2021, any intervening party may, but shall not be required to, respond to the Rehabilitator's Pre-Hearing Memorandum by submitting a Rebuttal Pre-Hearing Memorandum of no more than ten pages, together with a list of rebuttal witnesses with narratives, a list of rebuttal exhibits, and copies of all rebuttal exhibits not previously provided. At the hearing on the Plan, the Court may decline to admit into evidence any testimony or exhibit not disclosed by an intervenor in the Pre-Hearing Memorandum of Rebuttal Pre-Hearing Memorandum unless good cause is shown why such disclosure could not be made.

5. On or before April 12, 2021, the Rehabilitator may (a) supplement her Pre-Hearing Memorandum, exhibit list, and witness narratives before the hearing; (b) provide any data or information that was not available in time to be included with or before the Pre-Hearing Memorandum; and (c) file any proposed amendments to the plan.

6. A final Pre-Hearing conference shall be held on April 19, 2021, by means to be determined by the Court.

7. A hearing shall be held on April 26, 2021, and continue as necessary thereafter, as to whether the proposed rehabilitation plan should be approved, modified and approved, or disapproved.

MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Senior Health Insurance : No. 1 SHP 2020
Company of Pennsylvania in :
Rehabilitation :

**APPLICATION FOR APPROVAL
OF A SECOND CASE MANAGEMENT ORDER**

Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as the Statutory Rehabilitator (“Rehabilitator”) of Senior Health Insurance Company of Pennsylvania (“SHIP”), hereby applies to this Court for its approval of a Second Case Management Order (“Second CMO”) establishing the necessary dates and procedures leading up to and for conducting a hearing on approving a rehabilitation plan for SHIP. In support thereof, the Rehabilitator avers as follows:

Background

1. On January 23, 2020, the Rehabilitator filed in this Court an Application seeking to place SHIP in rehabilitation due to its insolvency.
2. On January 29, 2020, this Court entered an Order (“Rehabilitation Order”) placing SHIP in rehabilitation and appointing the Rehabilitator, in accordance with the provisions of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, *as amended*, 40 P.S. §§ 221.21-221.63 (Rehabilitation Order at ¶¶ 1-2.)

3. In the Rehabilitation Order, the Court directed the Rehabilitator to “rehabilitate the business of SHIP; to take possession of the assets of SHIP; and to administer the SHIP assets in accordance with the orders” of the Court. (*Id.* at ¶ 3.)

4. The Court also directed the Rehabilitator to “prepare a plan of rehabilitation,” with a preliminary plan to be filed on or before April 22, 2020, together with “a timeline for the preparation of a final plan of rehabilitation.” (*Id.* at ¶¶ 4, 16.)

5. On April 22, 2020, the Rehabilitator filed a complete proposed Plan of Rehabilitation (the “April 22 Plan”), together with applications for approval of the Plan and a Form and Distribution of Notice.

6. On June 12, 2020, the Court entered a Form of Notice of Application for Approval of the Plan of Rehabilitation (“Notice of Plan”) and a Case Management Order for Comments and Hearing on the Proposed Plan of Rehabilitation (“First CMO”).

7. In the Notice of Plan and First CMO, the Court set the following deadlines:

- (a) July 31, 2020: Intervention applications to be filed;
- (b) September 15, 2020: Formal Comments to be filed;
- (c) September 30, 2020: Intervenor-Commenters’ deadline to file narrative of witness testimony and exhibits to be introduced at plan hearing; and
- (d) October 20, 2020: Pre-Hearing Conference on Proposed Plan.

8. The Court did not schedule a hearing on plan approval at that time.
(Notice of Plan at 3.)

9. On September 25, 2020, the Court extended the deadline for Intervenor-Commenters' witness and exhibit information to October 30, 2020.

10. On October 7, 2020, this Court cancelled the October 20, 2020, pre-hearing conference, stating that it would be rescheduled by future order.

11. On October 21, 2020, the Rehabilitator filed an Amended Rehabilitation Plan ("Amended Plan") based on the formal and informal comments received as well as other considerations informed by the Rehabilitator's ongoing assessment of SHIP and its prospects for rehabilitation.

12. On October 27, 2020, the Court established a deadline of November 30, 2020, for parties to amend their Formal Comments to address material issues first raised in the Amended Plan.¹ The Court also extended the deadline for Intervenor-Commenters to file witness and exhibit information to November 30, 2020.

¹One policyholder was granted until December 30, 2020, to amend his Formal Comment due to extenuating circumstances.

The Intervenor and Other Interested Parties

13. The following parties have intervened in this matter for limited purposes and submitted Formal Comments:

- (a) Primerica Life Insurance Company (“Primerica”)²;
- (b) The National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”);
- (c) The Maine Superintendent of Insurance, the Massachusetts Commissioner of Insurance, and the Washington Insurance Commissioner (the “State Insurance Regulators”);
- (d) ACSIA Long Term Care, Inc., Global Commission Funding LLC, LifeCare Health Insurance Plans, Inc., Senior Commission Funding LLC, Senior Health Care Insurance Services, Ltd., LLP, and United Insurance group Agency, Inc. (“Agents and Brokers”);
- (e) Anthem, Inc., Health Care Service Corporation, Horizon Healthcare Services, Inc., and United HealthCare Insurance Company (the “Health Insurers”); and
- (f) Policyholders Georgianna I. Parisi and James Lapinski.

14. The following parties submitted Formal Comments but did not intervene in the proceedings:

- (a) The Wisconsin Office of the Insurance Commissioner;
- (b) Kathleen A. Birrane, as Insurance Commissioner for the State of Maryland;
- (c) Trustees of the Senior Health Care Oversight Trust; and

² Transamerica Life Insurance Company (“Transamerica”) intervened as well, but later withdrew from the matter and is no longer a party to this case.

- (d) Certain policyholders whose names were placed under seal by the Court.

15. The Rehabilitator also received informal comments regarding the April 22 Plan and the Amended Plan from approximately one hundred policyholders and interested parties.

Status of the Proceedings

16. The Rehabilitator submits this Application because the parties and issues are substantially set, the Amended Plan is ready for this Court's consideration, and the Rehabilitator is ready to commence the process to implement a plan under this Court's guidance.

17. In addition to the requirements set by this Court and Pennsylvania law, including general considerations of fairness and feasibility, the intervening and commenting parties have raised the following issues for this Court's consideration:

- (a) Whether, in exercising jurisdiction over SHIP in rehabilitation, this Court may approve the rate and benefit modification mechanism proposed by the Rehabilitator in the Amended Plan.
- (b) The impact of COVID-19, if any, on the rehabilitation.
- (c) Whether this Court may approve the suspension or termination of commissions claimed as an entitlement by the intervening Agents and Brokers.

18. Between 2018 and early 2020, even before her appointment as SHIP's Rehabilitator, Commissioner Altman and her team shared with state insurance regulators a significant amount data, information and analysis regarding SHIP, the

need for rehabilitation, the rehabilitation plan she was contemplating and the expected impact of that plan. States were invited to make additional requests for information and discussion, and the Rehabilitator considered the input of state insurance regulators in developing the plan later proposed in April 2020 and amended in October 2020.

19. Then, following the filing of the Amended Plan, the Rehabilitator opened a secure data site for intervening parties and all state insurance regulators to use in considering the issues raised by commenters and others.

20. The secure data site has provided users with a significant amount of material information for their review and analysis, including, *inter alia*, seriatim anonymized policyholder data, actuarial analyses and assumptions, expected outcomes under the Amended Plan, and the financial condition of SHIP. This data site has been updated several times in response to requests and inquiries by Intervenors and other interested parties and will continue to be updated as warranted.

21. Certain of the intervening parties timely filed witness and exhibit lists in anticipation of the plan hearing:

- (a) NOLHGA intends to offer NOLHGA President Peter Gallanis and an actuarial expert from Long Term Care Group (“LTCG”) as witnesses. NOLHGA will offer certain plan documents and analyses as exhibits, together with other information to be identified prior to the hearing.

- (b) James Lapinski intends to offer himself and Sue Lapinski as witnesses. Mr. Lapinski will offer his handwritten filings and certain plan documents as exhibits.
- (c) The State Insurance Regulators, the Health Insurers, and the Agents and Brokers filed witness and exhibit statements which identified topics but did not identify any specific witness or exhibit to be offered at trial.

22. Intervenor Georgianna Parisi did not submit a witness or exhibit list. The comments submitted by Transamerica and Primerica, among others, regarding the treatment of reinsured policies were addressed by the Amended Plan and the Recapture Agreement approved by this Court on December 29, 2020. Transamerica withdrew as a party following approval of the Recapture Agreement, and Primerica stated that it will not participate in a plan hearing based on the treatment of reinsured policies in the Amended Plan.

Proposed Procedure and Schedule

23. With the filing of the Amended Plan, all Formal Comments, and the hearing statements of intervening parties, the issues before the Court have sufficiently taken shape such that a scheduling order should be entered.

24. The schedule and procedure proposed herein balances the need for urgent action for the benefit of SHIP's policyholders with the value of sufficient time for the Rehabilitator, the Intervenor, and the Court to prepare for any plan hearing.

25. The issues raised by the intervening parties are primarily legal rather than factual—*i.e.*, whether this Court can approve the Rehabilitator's proposed rate

and benefit modification mechanism, and whether this Court can approve the proposed suspension or termination of commissions. Through the data site and other means both before and after the filing of the April 2020 and Amended Plans, the intervening parties have received and are continuing to receive sufficient actuarial data and other information to be reasonably apprised about issues they may elect to develop in their presentations and arguments about the plan.

26. To focus the issues before the Court, the Rehabilitator proposes that each party file a Pre-Hearing Memorandum, which will include (a) the facts relevant to the party's interests and position with citations to record documents or proposed exhibits, (b) a detailed Argument section in favor of or in opposition to the plan before the Court with citations to legal and technical authority as necessary, (c) an updated hearing witness list with brief testimonial narratives, and (d) an updated list of hearing exhibits, together with all exhibits not previously identified as such and produced. Any issue not sufficiently raised and addressed by an Intervenor in its Pre-Hearing Memorandum shall be considered waived and shall not be raised by that party at the hearing except as it may be properly raised solely as rebuttal matter.

27. The intervening parties will have an opportunity to respond to the Rehabilitator's initial Pre-Hearing Memorandum by submitting a Rebuttal Pre-Hearing Memorandum of no more than ten pages, together with a list of rebuttal witnesses with narratives, a list of rebuttal exhibits, and copies of all rebuttal exhibits

not previously provided. At the hearing on the plan, the court may decline to admit into evidence any testimony or exhibit not disclosed by an Intervenor in the Pre-Hearing Memorandum or Rebuttal Pre-Hearing Memorandum unless good cause is shown why such disclosure could not be made.

28. Finally, as the moving party seeking approval of a Plan of Rehabilitation, the Rehabilitator will have an opportunity to supplement her Pre-Hearing Memorandum, exhibit list, and witness narratives before the hearing.

29. Specifically, the Rehabilitator proposes the following procedure and possible schedule to conclude the pre-hearing preparations and set a date for a hearing on the approval and implementation of a Plan of Rehabilitation for SHIP.

- (a) February 9, 2021: Deadline for Intervenor to submit additional requests for information to counsel for the Rehabilitator.
- (b) Weeks of February 15-26: Initial Pre-Hearing Conference to address scheduling order, outstanding requests for information, or other issues raised by the Court.
- (c) March 8, 2021: Deadline for all parties to file Pre-Hearing Memoranda with Witness Narratives, Exhibit List, and copies of exhibits, as set forth herein.
- (d) March 22, 2021: Deadline for Intervenor to file rebuttal Pre-Hearing Memoranda, including narratives for any rebuttal witnesses, a list of any rebuttal exhibits, and copies of rebuttal exhibits not previously provided.
- (e) April 12, 2021: Deadline for Rehabilitator to file a supplemental Pre-Hearing Memorandum, including any supplemental or responsive witness narratives, and a list and description of supplemental or responsive exhibits. Deadline for Rehabilitator to submit any proposed amendments or changes to the Amended

Plan in response to the Intervenor's Pre-Hearing Memoranda, as well as to provide any new data or information discovered too late to be included at the time of the Rehabilitator's initial Pre-Hearing Memorandum.

- (f) April 19, 2021: Final Pre-Hearing Conference, if necessary.
- (g) April 26, 2021: Plan Hearing

30. Of course, the Rehabilitator is mindful that this schedule is ultimately the province of the Court and offers this proposed schedule as one that she believes is reasonable under the circumstances without unduly delaying the rehabilitation. The Rehabilitator believes that the following intervals incorporated in this schedule are important and requests respectfully that they be incorporated in the schedule ultimately adopted by the Court to the extent that it differs from this proposed schedule:

- (a) At least 60 days before hearing: Initial Pre-Hearing Conference to address scheduling order, outstanding requests for information, or other issues raised by the Court.
- (b) At least 35 days before hearing: Deadline for all parties to file Pre-Hearing Memoranda with Witness Narratives, Exhibit List, and copies of exhibits, as set forth herein.
- (c) At least 21 days before hearing: Deadline for Intervenor to file rebuttal Pre-Hearing Memoranda, including narratives for any rebuttal witnesses, a list of any rebuttal exhibits, and copies of rebuttal exhibits not previously provided.
- (d) At least Seven days before hearing: Deadline for Rehabilitator to file a supplemental Pre-Hearing Memorandum, including any supplemental or responsive witness narratives, and a list and description of supplemental or responsive exhibits. Deadline for Rehabilitator to submit any proposed amendments or changes to

the Amended Plan in response to the Intervenor's Pre-Hearing Memoranda, as well as any provide any new data or information discovered too late to be included at the time of the Rehabilitator's initial Pre-Hearing Memorandum.

- (e) Week prior to hearing: Final Pre-Hearing Conference, if necessary.

Information Requests

31. Starting long before filing the Application for an Order of Rehabilitation, Commissioner Altman and her staff have engaged in an extraordinarily transparent and informative process aimed in substantial part at assuring that her fellow insurance regulators around the country would be as informed as they wanted to be about the challenges facing SHIP and the steps she has been taking in response. These efforts have included numerous meetings and conference calls to which representatives of all insurance departments were invited, and the distribution of a multitude of reports and spreadsheets about SHIP and the Proposed Plan, including particularized reports for each state.

32. The Rehabilitator would also note for the Court that the instant proceeding is not one of garden-variety commercial litigation between parties seeking relief from each other. Rather, it is one of those special proceedings addressed to this Court's unique expertise involving judicial review of measures proposed by the Commonwealth's chief insurance regulator for the rehabilitation of an insurer placed in her charge by Pennsylvania law.

33. Given the foregoing, this proceeding is not one for which conventional discovery makes common sense. But that is not to say that parties interested in the affairs of SHIP should not be adequately informed. Balancing these considerations, the Special Deputy Rehabilitator (“SDR”) has made, and is continuing to make, volumes of data and information available to regulators around the country and the parties in this case through a secure data site accessible by authorized individuals. Access is granted to the representatives of any insurance department as well as to the Intervenors and their advisors. As the SDR receives more inquiries and requests, additional data and information are added to the site. Exhibit A is a copy of the current table of contents for this site. In addition, the SDR has provided, and is continuing to provide, state-specific reports and information as requested. Despite the efforts of the Rehabilitator and SDR to address these issues consensually, some disagreement persists. (*See* the Intervenor State Insurance Regulators’ Application for Order Regarding Rehabilitator’s Exhibits and Witness Testimony filed herein on January 20, 2021.)

34. The Rehabilitator proposes that, in lieu of any formal discovery process, parties continue to submit requests for information to the SDR and that he post responsive information on the secure data site accessible by all the parties and the various state insurance regulators. To the extent that the SDR rejects a request for such information for any reason, and if the parties cannot resolve such request(s)

without the Court's intervention, those specific request(s) can be presented to the Court for its consideration, and the Court can address any such request(s) at the Pre-Hearing Conference.

WHEREFORE, for the reasons set forth herein, the Rehabilitator respectfully asks this Court to enter the attached proposed Case Management Order.

Dated: January 29, 2021

Respectfully submitted,

/s/ Michael J. Broadbent

Dexter R. Hamilton

Attorney I.D. No. 50225

Michael J. Broadbent

Attorney I.D. No. 309798

Haryle Kaldis

Attorney I.D. 324534

COZEN O'CONNOR

1650 Market Street, Suite 2800

Philadelphia, PA 19103

(215) 665-2000

and

Leslie M. Greenspan

Attorney I.D. No. 91639

TUCKER LAW GROUP

Ten Penn Center

1801 Market Street, Suite 2500

Philadelphia, PA 19103

Counsel for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, as Statutory Rehabilitator of
SENIOR HEALTH INSURANCE
COMPANY OF PENNSYLVANIA

EXHIBIT A



Supplemental Rehabilitation Plan Material

Table of Contents

Welcome to the Supplemental Rehabilitation Plan data site.

This Table of Contents lists all the documents and files on the data site.

A direct link to each document/file is provided by clicking on the individual entry.

Document	Data Content as of	Date Loaded
Amended Rehabilitation Plan for SHIP Current version of the proposed plan	10/21/2020	10/23/2020
Comparison of Rehabilitation to Liquidation An interactive spreadsheet that allows users to select issues state and status to compare the two potential outcomes	06/30/2020	11/23/2020
Seriatim Option Results Gross premium reserve components for current benefits and benefits covered by the GA	06/30/2020	01/26/2021
Issue State Rate Approval Amended Plan language describing issue-state rate approval alternative	01/26/2021	01/26/2021
Additional Information about SHIP and the Rehabilitation Plan Includes responses to specific questions	01/26/2021	01/26/2021
Appendix A – inventory of actuarial assumptions 2021 01 11 Referenced by Oliver Wyman Actuarial Report	01/11/2021	01/27/2021
Appendix A – inventory of actuarial assumptions 2021 01 22 Referenced by Oliver Wyman Assumptions Report	01/22/2021	01/27/2021
Appendix C – SHIP cash flow projections	01/11/2021	01/27/2021
Financials for COSC Q3 2020_SHIP SHIP Income Statement, Balance Sheet, Investment Summary	09/03/2020	01/26/2021
Seriatim File with Covered Liabilities and Premium Information Individual policy features with corresponding Plan and Liquidation premium	06/30/2020	10/22/2020
SHIP – Oliver Wyman Actuarial Report	01/26/2021	01/27/2021
SHIP – Oliver Wyman Assumption Report	01/26/2021	01/27/2021
SHIP – Q2 2020 liability cash flow and GPV projections	07/24/2020	01/27/2021
SHIP – Q4 2020 GPV Results Gross premium reserve results and analytics	12/31/2020	01/26/2021
SHIP - Rehabilitation Plan Probability Weighted Results Individual policy probability for each option and gross premium reserve	06/30/2020	11/06/2020
SHIP Rehabilitation Plan Results Illustrative probability weighted scenarios	06/30/2020	11/23/2020
SHIP Reinsurance Information Active reinsurance agreement details	10/01/2020	12/23/2020

CERTIFICATE OF SERVICE

I, Michael J. Broadbent, hereby certify that on January 29, 2021, I caused to be served the foregoing Application for Approval of a Second Case Management Order through the Court's PACFile system and on all parties listed on the Master Service List, and that an electronic copy of the foregoing document will be posted on SHIP's website at <https://www.shipltc.com/court-documents>.

/s/ Michael J. Broadbent