

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION CIRCUIT COURT  
CAUSE NO. 49C01-0811-MI-053358

CAROL CUTTER, as the Insurance )  
Commissioner of the Department of Insurance )  
of the State of Indiana, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
MEDICAL SAVINGS INSURANCE COMPANY, )  
 )  
Respondent. )

**FILED**  
161 SEP 25 2009  
*Elizabeth D. White*  
CLERK OF THE MARION CIRCUIT COURT

**LIQUIDATOR'S RECOMMENDATIONS AS TO**  
**PROOF OF CLAIM FORM AND BAR DATE**

Indiana Insurance Commissioner Carol Cutter, as Liquidator of Medical Savings Insurance Company ("MSIC"), submits the following recommendations as to the Proof of Claim form to be utilized for submittal of claims against MSIC and the Bar Date by which such claims must be submitted. In support thereof, Liquidator states as follows:

I.  
BACKGROUND

1. On December 1, 2008, the Court entered an Order of Rehabilitation against MSIC which, in part, appointed the Indiana Insurance Commissioner as Rehabilitator of MSIC pursuant to Ind. Code 27-9-3.
2. On January 23, 2009, the Rehabilitator filed a Verified Petition for Liquidation ("Liquidation Petition") as against MSIC and requested that the Court set a hearing thereon. On January 23, 2009, the Rehabilitator also filed Recommendations Concerning Liquidation Procedures, Claims and Notices ("Liquidation Procedures"), requesting that the Liquidation

Procedures also be heard and considered at the hearing to be scheduled on the Liquidation Petition. The Court set a hearing on both the Liquidation Petition and the Liquidation Procedures for February 25, 2009.

3. One of the recommendations contained in the Liquidation Procedures was the Liquidator's proposal to wait seven (7) months, following the entry of an Order of Liquidation, before submitting a Proof of Claim form and a recommended Bar Date for the Court's consideration. The Liquidator's recommendation to withhold the submittal and approval of the Proof of Claim form and Bar Date for seven months, was to provide time for the Liquidator, in conjunction with the guaranty associations, to: (i) investigate outstanding claims arising under the MSIC Policies; (ii) pursue and/or continue discussions with the Providers as to possible resolution of such claims; and (iii) settle those claims on which resolutions are reached, all in accordance with recommendations of the Liquidator as set forth in the Liquidation Procedures.

4. On February 26, 2009, after the scheduled hearing, the Court entered the following two Orders:

- A) Order of Liquidation which, in part, appointed the Commissioner as Liquidator of MSIC pursuant to Ind. Code 27-9-3 and bestowed the Commissioner with all authority and powers of a Liquidator as provided by such statutes; and
- B) Order Approving Liquidation Procedures, Claims and Notices ("Procedures Order").

5. Per the terms of the Procedures Order, the Liquidator was specifically directed, within seven months of the Order of Liquidation being entered (on or before September 26, 2009), to file with the Court a petition which:

- A) Seeks approval of the "Proof of Claim" form to be utilized in submitting claims against MSIC; and

- B) Recommends the establishment of a “Bar Date” for the submittal of Proofs of Claim, which “Bar Date” shall be no earlier than one (1) year from the filing of that petition.

6. As described in the August 10, 2009 Status Report as to Provider Claims and Motion to Extend Stay as to Claims Against MSIC Policyholders (“Status Report/Motion”) and further explained during the August 20, 2009 hearing on the Status Report/Motion, the Liquidator and the guaranty associations have made significant progress in reviewing and evaluating outstanding claims arising out of MSIC Policies, in communicating with Providers regarding such claims and in resolving many of those claims (with payments being made by the appropriate guaranty association in accordance with and subject to their enabling statutes). The Liquidator and the guaranty associations are also continuing with their efforts as to the remaining outstanding claims, consistent with the Procedures Order and the Court’s August 20, 2009 Order Extending Stay as to Claims Against MSIC Policyholders.

7. By proceeding in the manner set forth above, the number of Proofs of Claim that will hereafter be filed against MSIC will be greatly reduced and there will be a corresponding reduction in administrative expenses for the benefit of the MSIC estate. However, all creditors (whether policyholders, members, enrollees, health care providers or general creditors) who believe they have outstanding claims against MSIC must be provided the opportunity to file a formal Proof of Claim. All such Proofs of Claim that are hereafter timely submitted must be considered and addressed by the Liquidator, consistent with Ind. Code 27-9-3 and the Liquidation Procedures previously approved by the Court in the Procedures Order.

II.  
RECOMMENDATIONS

8. Considering all facts set forth above, the Liquidator now submits the following recommendations:

- A) The Proof of Claim form attached hereto as Exhibit A should be approved by the Court, as the form to be utilized by creditors of MSIC to submit their claims as against the MSIC estate<sup>1</sup>; and
- B) That the Court should establish October 1, 2010 as the “Bar Date” for the filing of claims as against MSIC, thereby requiring any person or entity wishing to make a claim of any sort as against MSIC to timely mail a properly executed Proof of Claim, with supporting documents, by first class United States mail, postage prepaid, addressed to:

Medical Savings Insurance Company, In Liquidation  
c/o Special Deputy Liquidator  
P.O. Box 68961  
Indianapolis, IN 46268-0961

with such mailing to be *postmarked no later than the recommended Bar Date of October 1, 2010.*

9. Should the Court approve the Proof of Claim form and Bar Date set forth above, it is further recommended that the Liquidator be directed to mail, by first class United States mail, postage prepaid, within twenty-five (25) days of the Court’s approval of this Petition, a copy of the Notice (in the form attached hereto as Exhibit B) and a copy of the Proof of Claim form (in the form attached hereto as Exhibit A) to the last known address as indicated in MSIC’s records or the records of the Liquidator (unless notices previously sent to such addresses were returned to the Liquidator), for the following groups of persons:

- A) Former officers and directors of MSIC;

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<sup>1</sup> In order to further promote administrative efficiency and cost savings, the Liquidator recommends that all affected guaranty associations should be afforded the option of submitting their claims in an Omnibus Proof of Claim, to hereafter be filed by the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”) on behalf of its members who elect to participate in such filing. The form of such Omnibus Proof of Claim, once developed by the Liquidator and NOLHGA, will be presented to the Court for review and approval.

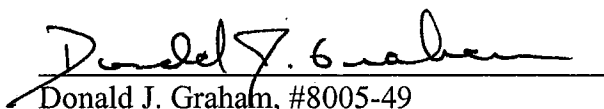
- B) Medical Savings Investment, Inc.;
- C) Reinsurers of MSIC, if any;
- D) All insureds of MSIC;
- E) All insurance producers of MSIC;
- F) All known parties or their counsel of record in pending litigation and/or in claims involving MSIC or insureds of MSIC, including all known healthcare providers who have rendered services to MSIC insureds and who continue to assert claims for payments;
- G) All known creditors of MSIC;
- H) The Insurance Commissioners or Departments in each state or jurisdiction and the National Association of Insurance Commissioners;
- I) The Indiana Life and Health Insurance Guaranty Association, similar associations in the other states and jurisdictions where MSIC was licensed to do business and the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”);
- J) The Indiana Secretary of State;
- K) The Indiana Attorney General;
- L) The Auditor of Marion County, Indiana;
- M) The Internal Revenue Service, both at its national and local offices;
- N) The Indiana Department of Revenue;
- O) The United States Attorney for the Southern District of Indiana;
- P) The Department of Justice; and
- Q) All who have filed their appearance in this proceeding.

10. The Liquidator also recommends that it be ordered to cause the Notice (in the form attached hereto as Exhibit B, but modified to delete any references to enclosures) to be published once in a newspaper of general circulation in Indianapolis, Marion County, Indiana, within twenty-five (25) days of the Court’s approval of this Petition.

WHEREFORE, the Liquidator respectfully requests that the Court consider this Petition and enter an Order, in the form attached hereto as Exhibit C, which:

- A. Approves the Proof of Claim form attached hereto as Exhibit A;
- B. Approves October 1, 2010 as the "Bar Date" for the submittal of claims as against MSIC;
- C. Approves the form and extent of the Notice to be provided by the Liquidator, upon the Court's approval of this Petition, and directs the Liquidator to proceed with such mailings and publication; and
- D. Enters all further relief the Court deems appropriate in the circumstances.

Respectfully submitted.



Donald J. Graham, #8005-49

Thomas C. Scherer, #24-49

Whitney L. Mosby, #23691-49

Sonia S. Chen, #22924-29

Counsel to Commissioner Cutter

BINGHAM MCHALE LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, IN 46204-4900  
(317) 635-8900

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been deposited in the U.S. Mail, first class postage prepaid, this 25<sup>th</sup> day of September, 2009, addressed to the following:

Eric R. Johnson  
Gayle A. Reindl  
TAFT STETTINIUS & HOLLISTER LLP  
One Indiana Square, Suite 3500  
Indianapolis, IN 46204

Andrew W. Hull  
HOOVER HULL LLP  
111 Monument Circle, Suite 4400  
P.O. Box 44989  
Indianapolis, IN 46244-0989

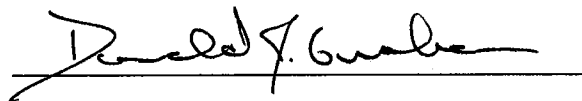
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& RUSSELL, P.A.  
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300 North Meridian, Suite 2700  
Indianapolis, IN 46204-1782



Donald J. Glover

EXHIBIT A

INDIANA LIQUIDATION PROCEEDING  
REGARDING  
MEDICAL SAVINGS INSURANCE COMPANY, IN LIQUIDATION

PROOF OF CLAIM

A Liquidation Proceeding has been opened in Indiana, pursuant to Ind. Code 27-9-3, to consider and adjudicate claims under Indiana law as a result of the insolvency of Medical Savings Insurance Company ("MSIC").

IF YOU WERE A MEMBER/ENROLLEE OF MSIC, OR A HEALTH CARE PROVIDER WHO RENDERED SERVICES TO A MEMBER/ENROLLEE OF MSIC, AND YOU HAVE ALREADY RECEIVED PAYMENT IN FULL ON YOUR CLAIM FROM A GUARANTY ASSOCIATION, THEN YOU DO NOT NEED TO FILE A PROOF OF CLAIM.

If, however, you have any outstanding claim against MSIC then you must fill out this form completely and return it to Medical Savings Insurance Company, In Liquidation, c/o Special Deputy Liquidator, at the address shown below, by depositing it in the United States mail, first class postage prepaid, by no later than October 1, 2010. FAILURE TO HAVE THIS FORM COMPLETED, MAILED AND POSTMARKED ON OR BEFORE OCTOBER 10, 2010, WILL AFFECT YOUR LEGAL RIGHTS AND MAY WAIVE AND BAR ANY CLAIM THAT YOU MIGHT OTHERWISE HAVE.

**Please file only one (1) claim per Proof of Claim form. If you have more than one (1) claim as against MSIC, you may file as many separate Proof of Claims as necessary to submit each of your individual claims.**

**PLEASE PRINT OR TYPE THIS SECTION**

1. Name: \_\_\_\_\_ 2. Daytime Phone Number  
\_\_\_\_\_ (\_\_\_\_) \_\_\_\_\_

3. Address:  
\_\_\_\_\_  
Street Address City State Zip Code

4. Give a brief explanation of the facts and basis surrounding your claim, including the consideration on which it is based. Attach all documents which are the foundation of or otherwise provide support for the claim and identify the date on which your claim arose against MSIC (use additional pages if necessary and attach all documentation supporting your claim).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Identify the amount of the claim, the identity and amount of security on the claim, if any, payments made on the claim to date, if any, and the right of priority of payment or other specific rights being claimed, if any. (Use additional pages if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Social Security or Federal ID No.: \_\_\_\_\_

7. By signing this Proof of Claim (this form **MUST BE SIGNED**), the undersigned verifies that the sum claimed is justly owing and that there is no set-off, counterclaim, or defense to the claim.

Printed \_\_\_\_\_  
Title (if applicable) \_\_\_\_\_

This Proof of Claim **MUST BE MAILED AND POSTMARKED NO LATER THAN OCTOBER 1, 2010**, addressed to the attention of:

Medical Savings Insurance Company, In Liquidation  
c/o Special Deputy Liquidator  
P.O. Box 68961  
Indianapolis, IN 46268-0961

To Be Completed by Special Deputy Liquidator

Claim I.D. #: \_\_\_\_\_

Postmarked Date: \_\_\_\_\_

Received: \_\_\_\_\_

**EXHIBIT B**

**TO:** ALL PERSONS WHO HAVE AN INTEREST IN MEDICAL SAVINGS INSURANCE COMPANY, IN LIQUIDATION

**FROM:** CAROL CUTTER, INDIANA INSURANCE COMMISSIONER, AS LIQUIDATOR OF MEDICAL SAVINGS INSURANCE COMPANY

**DATE:** \_\_\_\_\_, 2009

Please be advised that on February 26, 2009, the Marion Circuit Court in Indianapolis, Indiana ("Liquidation Court"), entered an Order of Liquidation against Medical Savings Insurance Company ("MSIC"), pursuant to Ind. Code 27-9-3. The Order of Liquidation appointed the Indiana Insurance Commissioner as Liquidator of MSIC ("Liquidator") and directed that the Liquidator take possession and control of the property, books, records and assets of MSIC and administer them under the general supervision of the Liquidation Court.

The Liquidation Court has now established October 1, 2010, as the "Claims Bar Date." **TO HAVE ANY CLAIM CONSIDERED IN THE MSIC LIQUIDATION, YOU MUST COMPLETE, SIGN AND MAIL, BY FIRST CLASS UNITED STATES MAIL, POSTAGE PREPAID, WITH SUCH MAILING TO BE POST-MARKED NO LATER THAN OCTOBER 1, 2010, A PROOF OF CLAIM FORM ADDRESSED TO:**

Medical Savings Insurance Company, In Liquidation  
c/o Special Deputy Liquidator  
P.O. Box 68961  
Indianapolis, IN 46268-0961

IF YOU WERE A MEMBER/ENROLLEE OF MSIC OR A HEALTH CARE PROVIDER WHO RENDERED SERVICES TO A MEMBER/ENROLLEE OF MSIC AND YOU HAVE RECEIVED PAYMENT IN FULL ON YOUR CLAIM FROM A GUARANTY ASSOCIATION, THEN YOU DO NOT NEED TO FILE A PROOF OF CLAIM. If you are currently in discussions with representatives of the Liquidator or representatives of one or more guaranty associations concerning the possible resolution of your outstanding claims, you are encouraged to continue those discussions to determine if your claims can be settled without the need to file a Proof of Claim. However, all persons and entities (members/enrollees, health care providers or other creditors of MSIC) who have either not yet received payment on their claims or who believe their claims have not yet been paid in full, must complete and mail a Proof of Claim no later than the Bar Date of October 1, 2010.

All Proof of Claims received by MSIC will be reviewed by personnel acting under the direction and control of the Liquidator, consistent with procedures previously approved by the Liquidation Court. Claimants will, thereafter, be notified in writing of the Liquidator's recommendation regarding each claim and the process to object or otherwise contest the recommendation if the claimant disagrees with the Liquidator's position.

For further information regarding the claims process, please contact the Special Deputy Liquidator at the address set forth above or visit the following website:  
[www.medicalsavings.com](http://www.medicalsavings.com).

Thank you for your patience and cooperation during the liquidation proceedings.