

**IN THE IOWA DISTRICT COURT FOR POLK
COUNTY**

STATE OF IOWA, ex rel.)	Equity No. _____
NICK GERHART, IOWA)	
COMMISSIONER OF INSURANCE,)	
)	PETITION FOR REHABILITATION
PETITIONER,)	ORDER OF AND REQUEST FOR
v.)	INJUNCTIVE RELIEF
)	
COOPORTUNITY HEALTH, INC.)	
(NAIC # 15093))	
)	
RESPONDENT.)	
)	

COMES NOW the State of Iowa, ex. rel, Iowa Commissioner of Insurance Nick Gerhart (“Commissioner”), in his official capacity, Petitioner, and for its cause of action in the above-captioned cause states as follows:

Jurisdiction, Venue, and Standing

1. CoOpportunity Health, Inc. (“CoOpportunity”) is an Iowa life insurance company incorporated and licensed to transact insurance under Iowa Code chapters 504 and 508 (2013). Iowa Code section 508.29 (2013) authorizes a life insurance company to enter into contracts for insurance for the health of persons and against personal injuries.

2. CoOpportunity was licensed to do business in Iowa on March 22, 2013. Its home office is located at 2700 Westown Parkway, Suite 345, West Des Moines, Iowa 50266- 1411

3. CoOpportunity is licensed in the states of Iowa and Nebraska.

4. CoOpportunity is subject to chapter 507C, 2013 Code of Iowa, (“Ch. 507C”); section 507C.2(16), 2013 Code of Iowa.

5. The Commissioner is the statutory rehabilitator of Iowa domiciled insurers subject to Ch. 507C; section 507C.13(1), 2013 Code of Iowa.

6. Only the Commissioner may commence a rehabilitation proceeding against an insurer under Ch. 507C; section 507C.4(1), 2013 Code of Iowa, (“A court shall not have jurisdiction over a proceeding under this chapter commenced by a person other than the commissioner.”).

7. Polk County District Court has jurisdiction over this action, since the Commissioner is bringing this action under Iowa Ch. 507C; section 507C.4(2), 2013 Code of Iowa, (“A court shall not have jurisdiction over a petition praying for ...rehabilitation...other than pursuant to this chapter.”); section 507C.4(5), 2013 Code of Iowa, (“All action[s] authorized by this chapter shall be brought in the district court of Polk County.”).

8. Polk County District Court has personal jurisdiction over the parties in this case. Iowa Code § 507C.4(3).

9. Venue is proper in Polk County District Court. Iowa Code §507C.4(5), 2013 Code of Iowa.

10. CoOpportunity will not oppose the entry of the Rehabilitation Order contemplated by the terms of this Petition.

Rehabilitation of CoOpportunity Health

11. CoOpportunity operates as a qualified nonprofit health insurance issuer under the provisions of section 1322(c) of the Patient Protection and Affordable Care Act (Public Law 111-148) (the “Act”), for the mutual benefit of its members, and

substantially all of its activities consist of the issuance of qualified health plans, as defined in section 1301(a) of the Act.

12. CoOpportunity was approved and funded as a Consumer Operated and Oriented Plan by the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (“CMS”). CoOpportunity has received \$130,612,100 as solvency funds and approximately \$15.4 million as operating funds from CMS.

13. The Act provides three risk spreading mechanisms to address risk pool issues by limiting the amount an insurance company can lose by participating in the marketplace. These risk spreading mechanisms are risk corridors, risk adjustment, and reinsurance (the “Three R’s”). The Three R’s payments have been treated as assets of CoOpportunity. However, on December 13, 2014, when Congress adopted the Consolidated and Further Continuing Appropriations Act of 2015, a provision of that act placed in jeopardy the projected risk corridor asset. CoOpportunity estimates the potential asset reduction at \$60 million dollars.

14. On December 16, 2014, CMS advised CoOpportunity and the Commissioner that it would not provide additional solvency funding to CoOpportunity.

15. On December 16, 2014, CoOpportunity was placed under a Supervision Order by the Commissioner as a result of CoOpportunity being in a hazardous financial condition as defined by Iowa Code section 507C.9 and 191 IAC 110.

16. The adverse claims experience has resulted in deterioration of CoOpportunity’s surplus.

17. The October 31, 2014, financial statement filed by CoOpportunity

with the Commissioner indicates a net loss of \$45,708,748 during the period of January 1, 2014 to October 31, 2014, which equates to a 66 percent loss to remaining surplus at October 31, 2014.

18. As of October 31, 2014, CoOpportunity reported net cash from operations of approximately \$74.4 million and invested cash and invested assets of approximately \$47.1 million.

19. As of December 12, 2014, CoOpportunity reported cash and invested assets of approximately \$17.2 million. The amount of CoOpportunity's cash and invested assets has decreased by approximately \$10.2 million since November 30, 2014.

20. CoOpportunity had accounts receivable from CMS relating to the Three R's in the sum of approximately \$125.6 million, which will not be received until the second half of 2015 (approximately \$60 Million of which CoOpportunity believes is in jeopardy per paragraph 13 above).

21. CoOpportunity's largest single asset is a receivable from CMS.

22. CoOpportunity has been unable to obtain additional operating funds.

23. CoOpportunity is operating in a financially hazardous condition, a ground for rehabilitation under Iowa Code section 507C.12(1)(a):

a. CoOpportunity's operating loss in the last 12-month period is greater than 50 percent of its remaining surplus as regards policyholders in excess of the minimum required (191 IAC 110.4(5));

b. CoOpportunity will experience in the foreseeable future, cash flow or liquidity problems (191 IAC 110.4(16)).

24. On December 23, 2014, the Board of Directors of CoOpportunity determined it would not oppose the imposition of the Rehabilitation Order contemplated by these proceedings.

25. CoOpportunity is not insolvent on a statutory basis at this time, but CoOpportunity's lack of additional solvency funding places it in a financially hazardous condition.

26. The Commissioner should be appointed as rehabilitator for CoOpportunity and be directed to proceed with rehabilitation under the provisions of Iowa Code chapter 507C and, including, but not limited to Iowa Code sections 507C.13 and 507C.14.

27. If the Court issues a rehabilitation order, the Commissioner may appoint a special deputy, legal counsel and other personnel to assist the Commissioner with the rehabilitation. Iowa Code § 507C.14.

28. No bond is required of the State. No other petition for injunctive relief has been presented to any court. At this time, the Commissioner anticipates full cooperation from CoOpportunity and asks that the Court reserve jurisdiction in the event injunctive orders are needed in the future.

Request for Relief

WHEREFORE, the Commissioner prays that the Court, pursuant to Iowa Code chapter 507C and, in particular, Iowa Code section 507C.13, issue a rehabilitation order (1) appointing the Commissioner as rehabilitator for CoOpportunity, and (2) directing the Commissioner to take immediate possession of CoOpportunity's assets and

to administer the assets under the general supervision of the court; and prays for such additional orders as are necessary and authorized by law

Respectfully submitted,

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