

**FILED IN DISTRICT COURT**  
**IN THE DISTRICT COURT OF OKLAHOMA COUNTY OKLAHOMA COUNTY**  
**STATE OF OKLAHOMA**

JUN 14 2023

RICK WARREN  
COURT CLERK

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STATE OF OKLAHOMA, ex rel. )  
GLEN MULREADY, Insurance )  
Commissioner, )

Plaintiff, )

v. )

Case No. CJ-2023-3105

FRIDAY HEALTH PLANS OF )  
OKLAHOMA, INC., a licensed health )  
maintenance organization in the State of )  
Oklahoma, )

Defendant. )

**AGREED ORDER PLACING FRIDAY HEALTH PLANS OF OKLAHOMA, INC. INTO RECEIVERSHIP, APPOINTING RECEIVER, AND PERMANENT INJUNCTION**

NOW on this 12th day of June, 2023, there comes before this Court the Petitioner’s verified Application for Order Placing Friday Health Plans of Oklahoma, Inc. into Receivership, Appointing Receiver, and Issuing Injunction (“Application”). Petitioner, Glen Mulready, Insurance Commissioner, appears by and through Nicole M. Nash, Deputy General Counsel for the Oklahoma Insurance Department. Defendant Friday Health Plans of Oklahoma, Inc. (“FHP-OK”) waives service of process and appears through Chief Executive Officer, Elizabeth Bierbower.

The Court, having examined the Application filed June 2, 2023, and the evidence presented, and being well advised in the premises, finds as follows:

1. Glen Mulready is the duly elected and acting Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing the Oklahoma Insurance Code. Okla. Const. art. VI, § 22; 36 O.S. § 307. Pursuant to 36 O.S. § 1905, by and

through 36 O.S. § 6943(B), the Insurance Commissioner may appear in the District Court to make application for an order appointing the Insurance Commissioner as receiver.

2. This Court has exclusive jurisdiction of this action pursuant to 36 O.S. §§ 1902(A) and 6943(B).

3. Venue in this Court is appropriate pursuant to 36 O.S. § 1902(F).

4. FHP-OK is an Oklahoma domestic health maintenance organization, whose business practices qualify it as an “insurer” pursuant to Oklahoma law and subject to the Insurance Commissioner placing it into receivership pursuant to Article 19 of the Oklahoma Insurance Code. See 36 O.S. §§ 1901(2) and 6943(B).

5. Pursuant to 36 O.S. §§ 1905 and 6943(B), Glen Mulready, the Insurance Commissioner, and any successor, should be appointed as the Receiver of FHP-OK because FHP-OK is:

- a. Below the Mandatory Control Level Risk-Based Capital (“RBC”), triggering a Mandatory Control Level Event pursuant to 36 O.S. § 6938(8)(d) and 6943(B);
- b. Insolvent as defined by 36 O.S. § 1901(1); and
- c. Is in a condition such that the continued operation would be hazardous to the policyholders, the creditors, or the general public.

6. Pursuant to 36 O.S. § 1910(A), “[a]n order to rehabilitate a domestic insurer shall direct the Insurance Commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.”

7. On April 4, 2023, Glen Mulready, Insurance Commissioner, placed the Defendant into supervision pursuant to Article 18 of the Oklahoma Insurance Code. The Insurance Commissioner has provided FHP-OK with ample opportunity and time to address the conditions that lead to the necessity for the supervision. Attempts by FHP-OK to raise capital and address such conditions have been unsuccessful.

8. On June 2, 2023, Insurance Commissioner submitted a verified Application for an order placing FHP-OK into receivership for the purpose of rehabilitation and appointing the Insurance Commissioner as receiver in accordance with 36 O.S. §§ 1905, 1910.

9. Sufficient cause and evidence exists for the entry of this Order Placing Friday Health Plans of Oklahoma, Inc. Into Receivership, Appointing Receiver, and Permanent Injunction against Defendant FHP-OK, and FHP-OK has consented to this Order.

10. FHP-OK has on deposit with the State of Oklahoma through the Insurance Commissioner a security deposit in the amount of at least \$500,000.00. Said deposit may be released to the Receiver of FHP-OK pursuant to 36 O.S. § 6913(B)(4).

**IT IS THEREFORE ORDERED AND DECREED THAT:**

11. FHP-OK is hereby placed into receivership pursuant to 36 O.S. §§ 1901, et seq. This order of rehabilitation is hereby entered to and against FHP-OK. This is a final order.

12. Glen Mulready, Insurance Commissioner of the State of Oklahoma, and any successor, is hereby appointed Receiver of FHP-OK and is vested with all powers and authority, express or implied, under the provisions of 36 O.S. §§ 1901, et seq.

13. As provided by 36 O.S. § 1914(F), Donna Wilson is hereby appointed Assistant Receiver of FHP-OK vested with all the duties, powers, and limitations given to the Receiver. The Insurance Commissioner's selection of the law firm Riggs Abney Neal Turpen Oribson & Lewis,

PC for the Receiver is hereby approved. The compensation of the assistant commissioner, assistant receivers, counsel, clerks, or deputies and all expenses of taking possession of FHP-OK and of conducting the proceedings, including the compensation from this date forward, shall be fixed by the Insurance Commissioner, as Receiver, subject to approval of this Court, and shall be paid out of the funds or assets of FHP-OK, as appropriate and approved by the Court.

14. Pursuant to the provisions of 36 O.S. § 1914, the Receiver is hereby vested by operation of law with title to and shall forthwith take possession of all the property, contracts, rights of action, and all of the books and records of FHP-OK, wherever located, as of the date of this Order. The Receiver shall, subject to the direction of this Court, immediately proceed to conduct the business of FHP-OK pursuant to the laws of Oklahoma, and to take such steps to remove the causes and condition which have made rehabilitation necessary as the Court may direct. Therefore, the Court directs that any person, business, corporation, or other legal entity of any kind that has property, assets, or anything of FHP-OK in its possession return it to the Receiver immediately.

15. FHP-OK's deposit of at least \$500,000.00 with the Insurance Commissioner is hereby directed to be released to the Receiver.

16. If any legal action is commenced against the Insurance Commissioner, Receiver, assistant commissioners, assistant receivers, retained counsel, deputies, and/or any of their employees or personnel, whether personally or in an official capacity, shall be immune from liability and indemnified as defined and set forth under 36 O.S. § 1937.

17. The Court orders the Receiver to continue payment of insurance policy claims. The Receiver may pay reasonable fees related to member services, as determined by the Receiver.

18. Until further order of the Court, no obligation, claim, or debt of FHP-OK shall be paid except those which the Receiver deems to be necessary or appropriate to facilitate the taking of possession. Except as provided for herein, no distribution of the property of FHP-OK will be made without approval of the Court.

19. FHP-OK and each of its respective officers, employees, directors, affiliates, trustees, stockholders, shareholders, corporate members, subscribers, agents, representatives, and all other persons, are hereby permanently enjoined and prohibited from transacting any further business of FHP-OK except as authorized by the Receiver, and are further permanently enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing of, or assigning any assets, contracts, causes of action, funds, records, correspondence, memoranda, or any other documents or other property of FHP-OK.

20. FHP-OK, its respective officers, employees, directors, affiliates, trustees, stockholders, shareholders, insurers, agents, representatives, contractors, subcontractors, and all other persons, are hereby directed to assign, transfer, and deliver any and all amounts owed to and/or property of FHP-OK to the Insurance Commissioner, as Receiver.

21. Any and all authority of FHP-OK's officers and directors is hereby terminated.

22. Until further order from this Court, all persons and entities (including secured creditors, unsecured creditors, claimants, litigants, stockholders, and/or shareholders) are hereby enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing and assigning, in any manner, the assets and/or property of FHP-OK; and are further enjoined and prohibited from commencing any action or litigation or prosecuting any pending action or litigation involving FHP-OK (whether as a plaintiff or defendant) or against its insureds; or making any levy against FHP-OK or against their assets or any part thereof.

23. As to judgment under any decision, order, verdict, or other findings based on default, the Receiver or impacted guaranty association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

24. Any and all banks, brokerage houses, financial institutions and any and all other companies, persons, or entities having knowledge of this Order and having in its possession accounts or any other assets which are, or may be, the property of FHP-OK are restrained from disbursing or disposing of said accounts or assets and are further restrained from disposing of or destroying any records pertaining to any business transaction between FHP-OK; and such banks, brokerage houses, financial institutions, companies, persons, or entities having done business or doing business with FHP-OK or having in its possession assets which are, or may be, the property of FHP-OK are ordered to immediately deliver any and all such assets and/or records to the Receiver.

25. All agents, brokers, and fronting companies of FHP-OK and their respective agents, servants, representatives, and employees, and all other persons having knowledge of this Order are restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums upon policies, contracts, or certificates of insurance or reinsurance previously issued by FHP-OK to members or others; and all such agents, servants, representatives, and employees are directed to turn over all such funds in their possession or under their control, including, but not limited to, any premium or money to which they may hereafter acquire possession or control, to the Receiver in gross and not net of any commissions which may be due thereon.

26. Except as noted herein, in the interest of judicial economy and until further order from this Court, entry of this Order, by filing with the clerk of any court in this state with competent jurisdiction along with affidavit or counsel of record that FHP-OK insured is a named party in a lawsuit, will serve to stay any action, against FHP-OK insureds only, either commenced or in the process of being prosecuted without further notice or the necessity of a separate motion to stay a pending or commenced action. Notwithstanding anything contrary contained herein, this stay order shall not prevent the commencement of any new action against any FHP-OK insured, provided however that such new action shall become subject to the provisions of this Order, including the stay provisions herein.

27. Medical providers (i.e., those medical providers that had a written contract with FHP-OK), their assignees, or their agents are and shall be enjoined from instituting or maintaining any collection efforts in order to seek reimbursement, remuneration, compensation and/or fees from FHP-OK members for sums owed to the providers by FHP-OK. Any collection efforts against any FHP-OK's member for compensation owed to a medical provider for sums owed by FHP-OK shall immediately reimburse the FHP-OK member for any monies collected in connection with said collection efforts. Additionally, said medical provider shall take any steps necessary to remove any collections actions prohibited by this order from the credit reports of the FHP-OK's member that is the subject of said collection efforts. Any violation of this Order or the injunctive relief set forth herein shall be deemed contempt of Court and shall subject the violating party to such penalties as allowed by law.

28. Pending the Receiver's first application to the Court for approval of administrative fees and expenses, the Receiver is authorized to advance funds not to exceed Fifty Thousand Dollars (\$50,000.00) to cover the initial direct and allocated expenses of the Assistant Receiver/

Oklahoma Receivership Office, Inc.. These expenses shall be itemized and presented to the Court for approval in the Receiver's first application for approval of administrative fees and expenses.

29. All expenses of these proceedings, including those incurred June 2, 2023, and thereafter but prior to the Entry of this Order, shall be taxed and assessed against FHP-OK, as approved by the Court.

30. The Court, being duly informed, authorizes the Receiver to pay any and all remaining supervision expenses, including examiners and attorney fees, which incurred during the supervision of FHP-OK but which may not have been fully invoiced and paid during the supervision prior to the inception of Friday Health Plan's receivership.

31. Pursuant to 36 O.S. § 1923, the Insurance Commissioner shall not be required to pay any fee to any public officer in this state for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the Insurance Commissioner, as Receiver, of any of the powers or duties conferred upon him, whether or not such paper or instrument be executed by the Insurance Commissioner or his assistants, deputies, employees, or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the Insurance Commissioner, or with the subsequent conduct of such action or proceeding.

32. As provided by 36 O.S. § 1914(C), the recording of a certified copy of this Order in the Office of the County Clerk of any County where proceedings are pending shall impart the same notice of possession of the assets of FHP-OK as would be imparted by a deed, bill of sale, or other evidence of title duly recorded or filed.

33. This Order shall be afforded full faith and credit by sister states. U.S. Const. art. IV, § 1.



34. Unless otherwise ordered by this Court, any violation of this Order or the injunctive relief set forth herein shall be deemed a contempt of Court and shall subject the violating party to such penalties as allowed by law.

Signed and entered this 13<sup>th</sup> day of June, 2023.

**NATALIE MAJ**

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JUDGE OF THE DISTRICT COURT

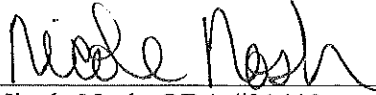
**CERTIFIED COPY**  
**AS FILED OF RECORD**  
**IN DISTRICT COURT**

JUN 14 2023

**RICK WARREN** COURT CLERK  
Oklahoma County

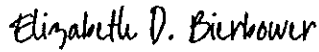
*Rick Warren*

APPROVED AS TO FORM:



Nicole Nash, OBA #31412  
ATTORNEY FOR PLAINTIFF  
STATE OF OKLAHOMA, EX REL.,  
GLEN MULREADY, INSURANCE COMMISSIONER

DocuSigned by:



Elizabeth Bierbower  
Chief Executive Officer  
DEFENDANT FRIDAY HEALTH PLANS OF OKLAHOMA, INC.