

CJ-23-3105  
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

JUN - 2 2023

RICK WARREN  
COURT CLERK

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

Plaintiff, )

v. )

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

Defendant. )

CJ - 2023 - 3105  
Case No. CJ-2023-\_\_\_\_\_

**APPLICATION FOR ORDER PLACING FRIDAY HEALTH PLANS OF OKLAHOMA, INC. INTO RECEIVERSHIP, APPOINTING RECEIVER, AND ISSUING INJUNCTION**

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, by and through his attorney, Teresa L. Green, and requests the Court to issue an order placing Friday Health Plans of Oklahoma, Inc. ("Friday Health Plans") into receivership for the purpose of rehabilitation and appointing the Insurance Commissioner as Receiver of Friday Health Plans. The Insurance Commissioner also requests the Court to issue an injunction enjoining Friday Health Plans from further transacting business or wasting or otherwise disposing of its property and assets until further order of the Court. In support of this Application, the Insurance Commissioner states as follows:

**PARTIES, JURISDICTION, AND VENUE**

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 enforcement the Oklahoma Insurance Code. Okla. Const. art. VI, § 22; 36 O.S. § 307.

2. Friday Health Plans is an Oklahoma domestic health maintenance organization licensed to transact the business of insurance under the laws of the State of Oklahoma and holding certificate of insurance number 513030382 and NAIC Code Number 17032.

3. The Insurance Commissioner has authority to request an Oklahoma County District Court to issue an Order to direct insurers, including health maintenance organizations, to show cause why it should not be placed in receivership. 36 O.S. §§ 1903, 6943(B). However, in the current matter a hearing to show cause as to why the health maintenance organization should not be placed in receivership is unnecessary. Friday Health Plans has communicated to the Insurance Commissioner that it will be consenting to being placed into receivership.

4. The Court has jurisdiction over this matter pursuant to the provisions of 36 O.S. § 1902(A) by and through 36 O.S. § 6943(B), which gives the District Court exclusive original jurisdiction of delinquency proceedings against health maintenance organizations.

5. Venue is proper in the District Court within Oklahoma County pursuant to the provisions of 36 O.S. § 1902(F).

#### **STATEMENT OF VERIFIED FACTS**

6. Friday Health Plans' annual risk-based capital ("RBC") report indicates its RBC ratio is negative one thousand fifty three percent (-1,053%).

7. Pursuant to 36 O.S. § 6938(8)(d), Mandatory Control Level RBC is an RBC ratio that is less than seventy percent (70%).

8. Friday Health Plans' financial condition creates a Mandatory Control Level Event under 36 O.S. § 6943, which is sufficient grounds for the Insurance Commissioner and this Court to place Friday Health Plans into receivership pursuant to the provisions of Article 19 of the Insurance Code. See 36 O.S. § 6943.

9. Friday Health Plans was placed into supervision by the Insurance Commissioner on April 4, 2023, which requires Friday Health Plans to “demonstrate an attainable path to achieve necessary and sufficient capital and surplus as required by the Oklahoma Insurance Code.” See Exhibit A, Agreed Order of Supervision Instanter.

10. Friday Health Plans has exhausted all reasonable options for increasing capital and surplus and is not able to achieve necessary and sufficient capital and surplus as required by the Oklahoma Insurance Code. For this reason, Friday Health Plans has notified the Oklahoma Insurance Commissioner of its intention to voluntarily wind down its business and affairs.

11. Friday Health Plans is a health maintenance organization offering individual health coverage on and off the marketplace exchange. Friday Health Plans has approximately eight thousand two hundred four (8,204) policyholders in Oklahoma and pays on average three million sixty-three thousand seven hundred forty-two dollars per month (\$3,063,742.00) per month on claims. These Oklahoma policyholders and/or their medical providers could reasonably be expected to receive significant, imminent, and irreparably injury—including, but not limited to, nonpayment of claims— if Friday Health Plans, its officers, directors, stockholders, members, subscribers, agents, or other persons are not immediately enjoined from waste or disposal of Friday Health Plans assets.

12. Friday Health Plans has communicated to the Insurance Commissioner that it will be consenting to receivership in the State of Oklahoma.

13. The Insurance Commissioner may apply to the District Court for an order appointing the Insurance Commissioner as receiver of and directing the Insurance Commissioner to rehabilitate Friday Health Plans if the company is impaired or insolvent or is in a condition such that the continued operation would be hazardous to the policyholders, the creditors of the insurer,

or the general public. See 36 O.S. § 1905. Friday Health Plans meets all these conditions, as evidenced by its negative one thousand fifty three percent (-1,053%) RBC ratio.

14. Friday Health Plans has on deposit with the State of Oklahoma through the Insurance Commissioner a security deposit in the amount of at least \$500,000.00, which is required for authority to transact insurance in Oklahoma. Said deposit may be released to the Receiver of Friday Health Plans upon proper order of this Court. 36 O.S. § 6913(B)(4).

15. Pursuant to 36 O.S. § 1904(C), “no bond shall be required of the Insurance Commissioner as a prerequisite for the issuance of any injunction....”

16. Pursuant to 36 O.S. § 1914(F), the Insurance Commissioner may appoint one or more assistant commissioners to act for him and may employ such counsel, clerks, and assistants as he deems necessary and within the duties imposed upon them. The Insurance Commissioner appoints Donna Wilson as Assistant Receiver to act for the Insurance Commissioner as Assistant Receiver of Friday Health Plans.

#### **PRAYER FOR RELIEF**

WHEREFORE, premises considered, the State of Oklahoma prays the Court to enter an order placing Friday Health Plans into receivership; appointing Glen Mulready, Insurance Commissioner, as Receiver, without bond; appointing Donna Wilson as Assistant Receiver; and releasing Friday Health Plans’ security deposit to the Receiver.

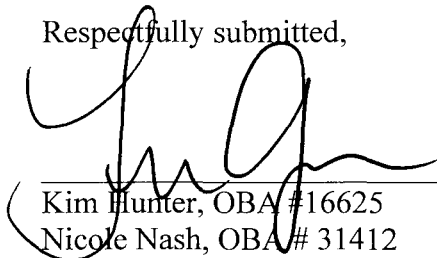
Furthermore, because certain actions will or could reasonably be expected to cause significant, imminent, and irreparable injury to the policyholders, creditors, and/or the public, the Applicant prays the Court enter an injunction as follows:

A. Pursuant to 36 O.S. § 1904(A), enjoining Friday Health Plans, its officers, directors, stockholders, members, subscribers, agents, and all other persons from transacting any further

business of Friday Health Plans and wasting or disposing of Friday Health Plans' assets until further order of this Court; an

B. Pursuant to 36 O.S. § 1904(B), enjoining any person or entity from interfering with the Insurance Commissioner or these proceedings; wasting the assets of Friday Health Plans; commencing or prosecuting any actions against Friday Health Plans; obtaining any preferences, judgments, attachments, or other liens against Friday Health Plans; and making of any levy against Friday Health Plans or its assets or any part thereof.

Respectfully submitted,



Kim Hunter, OBA #16625

Nicole Nash, OBA # 31412

Teresa L. Green, OBA #32897

Oklahoma Insurance Department

400 N.E. 50<sup>th</sup> Street

Oklahoma City, Oklahoma 73105

Phone: (405) 521-2746

Fax: (405) 522-0125

ATTORNEY FOR THE INSURANCE  
COMMISSIONER

**VERIFICATION**

STATE OF OKLAHOMA )  
 ) SS.  
COUNTY OF OKLAHOMA )

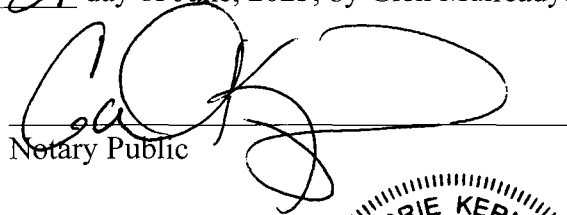
I, GLEN MULREADY, being of lawful age and being duly sworn and under oath state:

I am the Insurance Commissioner for the State of Oklahoma, and I have read the foregoing Application for Order Placing Friday Health Plans of Oklahoma, Inc. into Receivership, Appointing Receiver, and Issuing Injunction and that the contents thereof and the facts set forth therein are within my personal knowledge and are true to the best of my knowledge.



\_\_\_\_\_  
GLEN MULREADY  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

Subscribed and sworn to before me this 2 day of June, 2023, by Glen Mulready.



\_\_\_\_\_  
Notary Public

My Commissioner Number: 20003481  
My Commissioner Expires: 3/26/24



**FILED**

**APR 04 2023**

**BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. GLEN )  
MULREADY, Insurance Commissioner, )  
 )  
Petitioner, )  
v. )  
 )  
FRIDAY HEALTH PLANS OF )  
OKLAHOMA, INC., a licensed insurer )  
in the State of Oklahoma, )  
 )  
Respondent. )

**INSURANCE COMMISSIONER  
OKLAHOMA**

Case No. 23-0152-SOL

**AGREED ORDER OF SUPERVISION INSTANTER**

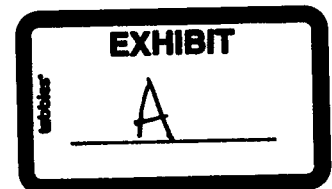
THE STATE OF OKLAHOMA, ex rel. Glen Mulready, Insurance Commissioner (“Insurance Commissioner”), and Respondent, Friday Health Plans of Oklahoma, Inc. (“Company”), jointly agree to the issuance of this **AGREED ORDER OF SUPERVISION INSTANTER** applicable to the Company.

**JURISDICTION**

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101–7402.

2. Friday Health Plans of Oklahoma, Inc. is authorized to do business in Oklahoma as a health maintenance organization pursuant to SBS Number 513030382, NAIC Company Code 17032.

3. The Insurance Commissioner has jurisdiction over this matter pursuant to the OKLA. CONST. art. VI, § 22 and the Oklahoma Insurance Code, specifically Article 18 Supervisors and Conservators of Insurances, 36 O.S. §§ 1801–12.



4. Pursuant to OAC 365:1-7-9(a), the Insurance Commissioner under the circumstances agreed to herein by the Company may order summary action.

**FINDINGS OF FACT**

5. The Insurance Commissioner finds that it is in the best interests of the Company's policyholders or members, creditors, and the general public that the Company be placed under supervision.

6. The Company agrees and consents to the issuance of this Order placing the Company under supervision pursuant to 36 O.S. § 1803(A).

**CONCLUSIONS OF LAW**

7. The Insurance Commissioner is authorized, pursuant to 36 O.S. § 1803, to place the Company under supervision to address the Company's situation. The Company agrees and consents to such supervision.

8. The Insurance Commissioner is authorized, pursuant to 36 O.S. § 1804, to appoint a supervisor, to require that the Company conduct its business in a certain manner as ordered, and to refrain from engaging in certain acts. The Company agrees to such an appointment.

**ORDER**

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, pursuant to 36 O.S. § 1803 and the consent of the Company, that Friday Health Plans of Oklahoma, Inc. is placed under the SUPERVISION of the Oklahoma Insurance Department, effective immediately.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, pursuant to 36 O.S. § 1804 and the consent of the Company, that the Insurance Commissioner may appoint a supervisor for the insurer. The Insurance Commissioner's designated Supervisor shall have all powers of a supervisor and examiner outlined in the Oklahoma Insurance Code and with costs incident to the



Supervisor's services and any other services performed by the Insurance Commissioner's employees, examiners, and counsel to be fixed by the Insurance Commissioner and paid from the Company's assets and funds of the Insurance Commissioner may determine.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, and with consent of the Company, that the Supervisor perform the following acts as needed:

- a. Conduct an examination of the Company;
- b. Make inventory of all Company assets;
- c. Collect agent balance receivables;
- d. Identify and terminate all unnecessary expenses; and
- e. Take such other actions as the Insurance Commissioner and Supervisor may determine to be necessary to protect the Company's policyholders or members, creditors, and general public.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, pursuant to 36 O.S. § 1804(B) and the consent of the Company, the Company shall cease to add new members or enrollees, unless the addition is to add a family member of a current member or enrollee, during supervision.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by Insurance Commissioner, and with the consent of the Company, that the Company shall continue processing and servicing its claims and members of the health maintenance organization during supervision.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by Insurance Commissioner, and with the consent of the Company, that the Company shall continue to make timely claims payments during supervision.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by Insurance Commissioner, and with the consent of the Company, that the Company shall immediately begin filing with the Insurance Commissioner monthly financial reports which shall include balance sheet, income statement, cash flow statement, and estimated risk-based capital. The monthly reports must be delivered to the Insurance Commissioner no later than the 15<sup>th</sup> day of the following month. The Company shall provide the Insurance Commissioner any additional documents that the Insurance Commissioner deems necessary after reviewing the monthly financial statements.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by Insurance Commissioner, and with the consent of the Company, that the Company shall immediately begin filing with the Insurance Commissioner monthly updates on claims, including any claims over thirty (30) days aged.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, and with the consent of the Company, that the Company shall file a plan of operation designed to bring the Company into compliance with all relevant provisions of the Oklahoma Insurance Code. The plan of operation shall be designed to return the Company to a financially stable condition and to prevent hazardous conditions from occurring in the future. As an alternative to the written plan of operation, the Company may submit a written plan designed to facilitate an orderly wind down and ensure compliance with all applicable laws during such wind down.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, and with the consent of the Company, that the Company shall demonstrate an attainable path to achieve necessary and sufficient capital and surplus as required by the Oklahoma Insurance Code. Sufficiency and attainability shall be determined by the Insurance Commissioner.

The Insurance Commissioner may require the Company to fund a special deposit to be held by the Insurance Commissioner under joint control with the Company. The purpose of a special deposit would be to assure the continuation of healthcare services to Oklahoma enrollees.

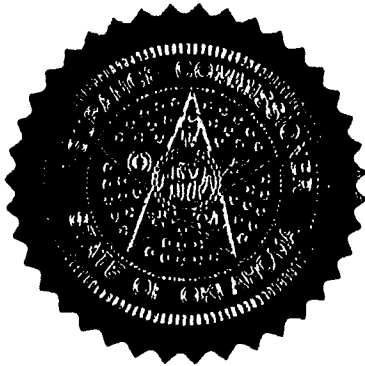
IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, and with the consent of the Company, that the Company may not perform the following acts without the express written consent from the Insurance Commissioner or Supervisor, including:

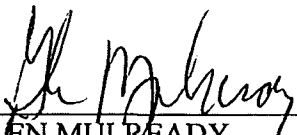
- a. With the exception of routine claim payments, making a cash disbursement in excess of \$5,000.00;
- b. Disposing, conveying, or encumbering any of its assets or its business in force;
- c. Lending any funds;
- d. Investing any funds;
- e. Transferring any property;
- f. Destroying any books or records (physical or digital);
- g. Relocating or moving any books or records (physical or digital);
- h. Incurring any debt, obligation, or liability;
- i. Merging or consolidating with any company or entity, or entering into an agreement to be acquired by another company, entity or person;
- j. Issuing any capital stock or capital notes, including surplus notes;
- k. Entering into any new reinsurance contract or treaty or modifying (including terminating) any existing reinsurance contract or treaty;
- l. Releasing, paying, or refunding premium deposits, or member security deposits and surplus deposits, unearned premiums, or other reserves on any insurance policy,

- certificate or contract;
- m. Making any material change in management;
  - n. Increasing salaries and benefits of officers, directors, or employees;
  - o. Making any bonus payment to any officer, director, or employee;
  - p. Entering into or modifying any existing employee pension or other employee benefit plan;
  - q. Entering into or modifying any existing employment contract with any officer, director, employee, or any other person;
  - r. Paying dividends or making other distributions to shareholders;
  - s. Making payments, loans, or advances of any type and for any reason to affiliates;
  - t. Entering into new, or modifying existing, affiliated agreements; or
  - u. Modifying or terminating any contract or agreement with any vendor that provides administrative, claims, or other services.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, and with the consent of the Company, that nothing in this Order shall preclude the Insurance Commissioner from seeking additional or separate action pursuant to Article 18 and Article 19 of the Oklahoma Insurance Code.

Witness my Hand and Official Seal this 4 day of April, 2023.



  
\_\_\_\_\_  
GLEN MULREADY  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

APPROVED:

DocuSigned by:

*Elizabeth Bierbower*

Elizabeth Bierbower, Chief Executive Officer  
Friday Health Plans of Oklahoma, Inc.  
700 Main Street, Suite 100  
Alamosa, CO 81101

**Teresa Green**

Digitally signed by Teresa Green  
DN: cn=Teresa Green, o=Oklahoma Insurance Department,  
ou=Legal Division, email=Teresa.Green@oid.ok.gov, c=US  
Date: 2023.04.06 12:26:33 -0500

Teresa L. Green, OBA #32897  
Senior Counsel  
Oklahoma Insurance Department  
400 N.E. 50<sup>th</sup> Street  
Oklahoma City, OK 73105  
Phone: (405) 522-6654

**CERTIFICATE OF MAILING**

I, Teresa L. Green, hereby certify that a true and correct copy of the above foregoing *Agreed Order of Supervision Instanter* was mailed via certified mail, with postage prepaid and return receipt requested, and electronic mail on this 14th day of April, 2023, to:

Friday Health Plans of Oklahoma, Inc.  
700 Main Street, Suite 100  
Alamosa, CO 81101

CERTIFIED MAIL NO. **7022 2410 0003 2697 7770**

Beth.Bierbower@fridayhealthplans.com

and a copy was delivered to:

Oklahoma Insurance Department's Financial Division  
Oklahoma Insurance Department's Consumer Assistance

**Teresa Green**  
Digitally signed by Teresa Green  
DN: cn=Teresa Green, o=Oklahoma Insurance Department,  
ou=Legal Division, email=Teresa.Green@oidc.state.ok.us  
Date: 2023.04.04 12:30:40 -0500

Teresa L. Green

I, Glen Mulready Insurance Commissioner of the State of Oklahoma, hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the Oklahoma Insurance Department, this 2nd day of June, 2023

**Glen Mulready  
Insurance Commissioner**

By *Ornelia Torres*