

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Penn Treaty Network America  
Insurance Company in Rehabilitation

No. 1 PEN 2009

AND

In Re: American Network Insurance  
Company in Rehabilitation

No. 1 ANI 2009

**RESPONSE OF THE HEALTH INSURERS TO THE COMMISSIONER’S  
APPLICATION TO APPROVE STATEMENT REGARDING,  
AND AUTHORIZE, RESTRUCTURING OF INSURANCE  
LIABILITIES IN LIQUIDATION**

Aetna Life Insurance Company, Anthem, Inc., Cigna Corporation, HM Life Insurance Company, Horizon Healthcare Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey, QCC Insurance Company, United Concordia Life and Health Insurance Company, United Concordia Insurance Company and UnitedHealthcare Insurance Company (collectively, the “Health Insurers”), through their undersigned counsel, hereby submit this response to the Application of Commissioner Teresa D. Miller, in her capacity as statutory receiver (the “Receiver”) of Penn Treaty Network America Insurance Company (“PTNA”) and American Network Insurance Company (“ANIC” and, together with PTNA, the

“Companies”), to Approve Statement Regarding, and Authorize, Restructuring of Insurance Liabilities in Liquidation (the “Restructuring Statement”).<sup>1</sup>

The Health Insurers respond to ensure that entry of an order approving the Restructuring Statement does not impair the rights of any party to contest the use of the Companies’ assets to pay Uncovered Benefits by changing the status quo but allows the Receiver to seek the tax relief described in her Application and Restructuring Statement. As the Court is aware, in connection with the Second Amended Plan of Rehabilitation, the Health Insurers, the Receiver and others extensively briefed and argued the issue of whether Pennsylvania law permits the use of estate assets to pay Uncovered Benefits. Although the Plan has now been withdrawn, these issues will again arise in the Receiver’s proposed distribution of estate assets following entry of an order of liquidation.

The Health Insurers raised these concerns with the Special Deputy Receiver and his counsel. The Special Deputy Receiver has agreed to add the following language in footnote 4 of the Restructuring Statement:

As the Court knows, the Health Insurers have previously asserted that under Pennsylvania law, assets of the estate cannot be used to pay Uncovered Benefits, a contention with which the Rehabilitator disagrees. In the event that the Court rules that the assets of the estate cannot be used to pay Uncovered Benefits, there will be no Uncovered Benefit Assets for purposes of the restructurings

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Restructuring Statement.

described herein. However, the restructuring of both the Covered Benefit Liabilities and the Uncovered Benefit Liabilities to convert their unfunded amounts into indebtedness would still occur as described in the Restructuring Statement.

The Health Insurers believe that the inclusion in the Restructuring Statement of the above-quoted language will allow the Receiver to seek the relief contemplated by the Restructuring Statement without prejudicing the rights of any party regarding issues surrounding the use of estate assets to pay Uncovered Benefits.

WHEREFORE, the Health Insurers respectfully join in the Receiver's Application to Approve the Restructuring Statement as modified by the addition of the agreed upon language quoted above.

Respectfully submitted,

Dated: January 20, 2017

MORGAN, LEWIS & BOCKIUS LLP

By: */s/John P. Lavelle, Jr.*

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## CERTIFICATE OF SERVICE

I certify that on January 20, 2017, I caused a true and correct copy of the foregoing document to be served on the following persons by email at the email addresses indicated below:

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