

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Healthcare Providers Insurance :  
Exchange, In Liquidation : No. 1 HPI 2017

**LIQUIDATOR'S APPLICATION  
TO ESTABLISH A CLAIM FILING DEADLINE**

Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator ("Liquidator") of Healthcare Providers Insurance Exchange (In Liquidation) ("HPIX"), by her undersigned counsel, respectfully applies to this Court to establish a claim filing deadline. In support of this Application, the Liquidator offers the following:

**Background**

1. HPIX was placed in liquidation by Order of this Court dated January 12, 2018 ("the Liquidation Order").
2. The Liquidation Order provided that in addition to the notice requirements of Section 524 of Article V, 40 P.S. § 221.24<sup>1</sup>, the Liquidator should publish notice regarding the procedures for filing claims. The Liquidation Order also provided that the notice should not establish a deadline for the filing of proofs of claim ("POCs").

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<sup>1</sup>See The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, *as amended*, Article V added by the Act of December 14, 1977, P.L. 280, 40 P.S. §§ 221.1- 221.63 ("Act").

3. In another Order dated January 12, 2018, and entered contemporaneously with the Liquidation Order, this Court reiterated its directive that the Liquidator not establish a deadline for filing POCs, and also gave the Liquidator the discretion to petition the Court on or after April 9, 2018, to set a date by which POCs shall be filed (“Claim Filing Order”). (A copy of the Claim Filing Order is attached hereto as Exhibit A).

4. Pursuant to the Liquidation Order, the Liquidator noticed policyholders and potential creditors or claimants of HPIX, published notice, and filed a report with this Court on February 27, 2018, demonstrating the date and manner by which notice was given.

5. Prior to HPIX entering liquidation, the Pennsylvania Insurance Department (“Department”) approved an assumption reinsurance agreement between HPIX and Medical Mutual Insurance Company of North Carolina (“MMIC”) on December 23, 2015.

6. MMIC assumed all in-force insurance policies of HPIX and prospective obligations of those in-force policies, while HPIX retained any policyholder obligations prior to the January 1, 2016 effective date of the assumption reinsurance transaction.

7. In keeping with the transaction, HPIX entered run-off status for the portion of its business that MMIC had not assumed and agreed not to sell or assume any insurance policies without the Department’s written approval during the run-off period. HPIX did not seek such approval during the approximately two-year run-off period leading up to the entry of the Liquidation Order.

### Claim Filing Deadlines Generally

8. The claim filing period, which is the length of time between the date a liquidation order is entered and the date of the claim filing deadline, varies. With large companies, the claim filing period is often in the two-year range. For example, in the Reliance Insurance Company liquidation, the largest property and casualty company to ever be put in liquidation anywhere in the country, the claim filing period was from October 3, 2001, to December 31, 2003. Similarly, with Legion Insurance Company, another very large liquidation proceeding, the claim filing period was from July 25, 2003, to June 30, 2005. With mid-sized to small companies, the claim filing period is typically several months. For example, in the liquidation proceeding for mid-sized Lincoln General Insurance Company, the claim filing period was from November 5, 2015, to July 6, 2016, and in the liquidation proceeding of a small insurer like First Sealord Surety, Inc., the claim filing period was from February 8, 2012, to October 5, 2012.

9. Unlike a Court ordered claim bar date, a claim filing deadline does not bar a claim that is filed after the claim filing deadline. Instead, any claim filed after the claim filing deadline is subject to the late filing provisions of Sections 537(b) and (c) of the Act, 40 P.S. § 221.37(b) and (c). In a nutshell, these provisions provide that a late filed claim can be excused for good cause shown, and, if good cause is established, the claim will be treated as if it had been timely filed. Conversely, a claim filed after a Court ordered bar date is forever disallowed without any consideration of its merits.

10. While the Liquidator will likely seek this Court's approval of a claim bar date later in this liquidation proceeding, as has been done in many liquidation proceedings, the Liquidator

is, by this filing, first seeking this Court’s approval to establish a claim filing deadline in accordance with the Claims Filing Order.

**Status of the Claims in the HPIX Estate**

11. Between January 12, 2018 and January 31, 2020, the Liquidator has received 179 POCs. The following chart details when those POCs have been received and demonstrates that the volume of POCs received has diminished significantly over the last ten months.

	1st QTR 2018	2nd QTR 2018	3rd QTR 2018	4th QTR 2018	1st QTR 2019	2nd QTR 2019	3rd QTR 2019	4th QTR 2019	1st QTR 2020	TOTAL
GUARANTY ASSOCIATION	6	2								8
3rd PARTY CLAIMANT	3	14	6	3	1	1	3	1		32
INSURED	20	27	20	2	3					72
GENERAL CREDITOR	23	18	13	2	7	2	0	1	1	67
<b>TOTAL</b>	<b>52</b>	<b>61</b>	<b>39</b>	<b>7</b>	<b>11</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>179</b>

12. The Liquidator has issued notices of determination<sup>2</sup> (“NODs”) for 100 of the 179 POCs that have been received. Ninety-three of those NODs have been accepted and the other 7 NODs that have been issued are pending with the claimant. There have been no objections filed

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<sup>2</sup>A Notice of Determination is the Liquidator’s written evaluation of a claim that is provided to the claimant.

to any NOD. Of the other 79 remaining POCs that have not yet been issued a NOD, eight claims are pending with the guaranty associations, five are general creditor claims, and 66 are contingent claims.

### **HPIX Claim Filing Deadline**

13. The Liquidator believes the time is right to seek this Court's approval of a claims filing deadline. Claimants have been filing claims for a little over two years, and the number of claims filed has diminished significantly over the past ten months. Moreover, as a result of the assumption reinsurance transaction described in paragraphs five through seven above, HPIX was in run-off status for approximately two years before it was placed into liquidation, during which time HPIX did not sell or assume any new policies. Accordingly, it has been more than four years since HPIX has written any new business, making it less likely that new claims will be filed going forward. Under these circumstances, and at this juncture of the liquidation proceeding, the Liquidator believes a claim filing deadline of no more than 90 days from the date of any Order this Court may issue that establishes a claim filing deadline, is appropriate.

14. Accordingly, the Liquidator requests that the Court enter the proposed Order attached hereto, which in addition to establishing the claim filing deadline, also approves the form, scope and mailing of the Notice of the claim filing deadline Order attached to this Application as Exhibit B, and the form of publication Notice of the claim filing deadline attached to this Application as Exhibit C.

WHEREFORE, the Liquidator respectfully requests the entry of the proposed Order in the form attached hereto establishing a claim filing deadline, approving the form, scope and

mailing of the Notice of the claim filing deadline Order attached to this Application as Exhibit B, and the form of publication Notice that is attached to this Application as Exhibit C.

Respectfully submitted,



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PRESTON M. BUCKMAN (I.D. #57570)  
Insurance Department Counsel  
Office of Liquidations, Rehabilitations  
& Special Funds  
Governor's Office of General Counsel  
Capital Associates Building  
901 North 7<sup>th</sup> Street  
Harrisburg, PA 17102  
(717) 886-2080

Attorney for Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator of Healthcare Providers Insurance Exchange, In Liquidation

Dated: \_\_\_\_\_

2/12/20

# **EXHIBIT A**

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jessica K. Altman :  
Acting Insurance Commissioner :  
of the Commonwealth of :  
Pennsylvania, :  
Plaintiff :  
v. :  
Healthcare Providers Insurance :  
Exchange, :  
Defendant : No. 1 HPI 2017

**ORDER**

AND NOW, this 12th day of January, 2018, it is hereby ordered that the Liquidator's notice to potential claimants pursuant to Section 524 of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, 40 P.S. § 221.24,<sup>1</sup> shall not establish a deadline for filing proof of claims with the Liquidator. The Liquidator, on or after April 9, 2018, may petition the Court to set a date by which proof of claims shall be filed.

Certified from the Record

JAN 12 2018

And Order Exit

  
\_\_\_\_\_  
P. Kevin Brobson, Judge

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<sup>1</sup> Article V was added by the Act of December 14, 1977, P.L. 280. See 40 P.S. §§ 221.1 – 221.63.



# **EXHIBIT B**

**NOTICE OF THE CLAIM FILING DEADLINE**  
**FOR HEALTHCARE PROVIDERS INSURANCE EXCHANGE**  
**(IN LIQUIDATION)**

On \_\_\_\_\_, 2020, the Commonwealth Court of Pennsylvania entered an Order establishing a claim filing deadline in connection with the liquidation of Healthcare Providers Insurance Exchange (In Liquidation).

The Court's Order provides in pertinent part as follows:

<b><u>ORDER</u></b>
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1. The date \_\_\_\_\_ days after the date of this Order is hereby established as a claim filing deadline.

2. Any and all claims against HPIX, against the Liquidator, her agents and representatives, or in any way affecting or seeking to affect any assets of HPIX, wherever or however such assets may be owned or held, directly or indirectly, filed after \_\_\_\_\_ will be subject to the late filing provisions of Sections 537(b) and (c) of The Insurance Department Act of 1921, 40 P.S. § 221.37(b) and (c).

3. The mailing Notice attached as Exhibit "B" to the Claim Filing Deadline Application is hereby approved. The Liquidator shall mail by first class mail, as soon as practicable after receipt of this Order, a copy of the mailing Notice to the creditors and potential creditors or claimants of HPIX as of the date of the Liquidation Order (January 12, 2018).

4. The publication Notice attached to the Claim Filing Deadline Application as Exhibit "C" is hereby approved. The Liquidator shall cause a copy of the publication Notice to

be published once in the same publications in which the Liquidator filed notice of the Liquidation Order, as soon as practicable after receipt of this Order.

Proof of Claim forms may be obtained by sending a request in writing to:

Proof of Claim Department  
Statutory Liquidator of Healthcare Providers Insurance Exchange (In Liquidation)  
PA Insurance Department  
901 North 7<sup>th</sup> Street  
Harrisburg, PA 17102

Or call:

717-787-7823

Or email:

[ra-in-claims@pa.gov](mailto:ra-in-claims@pa.gov)

Please request a separate claim form for each claim that you wish to file.

# **EXHIBIT C**

**PUBLICATION NOTICE OF THE CLAIM FILING DEADLINE  
FOR HEALTHCARE PROVIDERS INSURANCE EXCHANGE (IN LIQUIDATION)**

NOTICE  
TO THE CLAIMANTS, CREDITORS AND ALL OTHER PERSONS  
INTERESTED IN THE AFFAIRS OF  
HEALTHCARE PROVIDERS INSURANCE COMPANY (IN LIQUIDATION)

NOTICE IS HERBY GIVEN THAT:

Healthcare Providers Insurance Exchange (In Liquidation) (“HPIX”) was placed into Liquidation by Order of the Commonwealth Court of Pennsylvania, effective January 12, 2018 (the “Liquidation Order”). The Liquidation Order appointed the Insurance Commissioner of the Commonwealth of Pennsylvania as Statutory Liquidator of HPIX and vested her with title to all the property, assets, contracts and rights of action of HPIX.


On February \_\_\_\_\_, 2020, the Liquidator filed in the Commonwealth Court of Pennsylvania an Application to Establish a Claim Filing Deadline (“Application”) for HPIX. On \_\_\_\_\_, 2020, the Commonwealth Court entered an Order granting the Application and setting a Claim Filing Deadline of \_\_\_\_\_, 2020.

Therefore, any and all claims against HPIX, against the Liquidator, her agents and representatives, or in any way affecting or seeking to affect any assets of HPIX, wherever or however such assets may be owned or held, directly or indirectly, filed after \_\_\_\_\_ will be subject to the late filing provisions of Sections 537(b) and (c) of The Insurance Department Act of 1921, *as amended*, 40 P.S. § 221.37(b) and (c).

You may obtain a free copy of the Proof of Claim form by writing to Proof of Claim Department, Statutory Liquidator of Healthcare Providers Insurance Exchange , Pennsylvania Insurance Department, 901 North 7<sup>th</sup> Street, Harrisburg, PA 17102, or calling the Liquidator at 717-787-7823 or send an email to: [ra-in-claims@pa.gov](mailto:ra-in-claims@pa.gov)

**CERTIFICATION OF COMPLIANCE  
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



Preston M. Buckman (I.D. No. 57570)  
PA Office of General Counsel  
Pennsylvania Insurance Department  
Office of Liquidations, Rehabilitations  
and Special Funds  
901 North 7<sup>th</sup> Street  
Harrisburg, PA 17102  
(717) 886-2080

Attorney for Jessica K. Altman, Insurance  
Commissioner of the Commonwealth of  
Pennsylvania, in her capacity as Statutory  
Liquidator of Healthcare Providers Insurance  
Exchange, In Liquidation

Dated:

2/12/20

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding, in accordance with the requirements of Pa. R.A.P. 3780, in the following manner:

Service via regular U.S. Mail addressed as follows:

Carl Maio, Esquire  
[CAMaio@foxrothschild.com](mailto:CAMaio@foxrothschild.com)  
Healthcare Providers Insurance Exchange  
1250 Camp Hill Bypass, Suite 108  
Camp Hill, PA 17011

Steven Sawyer, Senior Vice President  
[Steven.Sawyer@MMICNC.com](mailto:Steven.Sawyer@MMICNC.com)  
Corporate Administration  
700 Spring Forest Road, Suite 400  
Raleigh, NC 27609

Paul G. Gagne, Esquire  
[pgagne@kleinbard.com](mailto:pgagne@kleinbard.com)  
Kleinbard LLC  
One Liberty Place, 46<sup>th</sup> Floor  
1650 Market Street  
Philadelphia, PA 19103  
(215) 568-2000  
(215) 568-0140 (Fax)

Edward S. Goodman, Esquire  
[esg@swimonsonlegal.com](mailto:esg@swimonsonlegal.com)  
Simonson Goodman Platzer PC  
111 John Street  
New York, NY 10038  
(212) 233-5001  
(212) 223-0684 (Fax)



PRESTON M. BUCKMAN (I.D. #57570)  
Insurance Department Counsel  
Office of Liquidations, Rehabilitations  
& Special Funds  
Governor's Office of General Counsel  
Capital Associates Building  
901 North 7<sup>th</sup> Street  
Harrisburg, PA 17102  
(717) 886-2080

Attorney for Jessica K. Altman, Insurance  
Commissioner of the Commonwealth of  
Pennsylvania, in her capacity as Statutory Liquidator  
of Healthcare Providers Insurance Exchange, In  
Liquidation

Dated: \_\_\_\_\_

2/12/20

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Healthcare Providers Insurance :  
Exchange, In Liquidation : No. 1 HPI 2017

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of the Application to Establish a Claim Filing Deadline (“Application”) filed by Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator (“Liquidator”) of Healthcare Providers Insurance Exchange (“HPIX”), the Application is GRANTED and it is hereby ORDERED as follows:

1. The date \_\_\_\_ days after the date of this Order is hereby established as a claim filing deadline.

2. Any and all claims against HPIX, against the Liquidator, her agents and representatives, or in any way affecting or seeking to affect any assets of HPIX, wherever or however such assets may be owned or held, directly or indirectly, filed after \_\_\_\_\_ will be subject to the late-filing provisions of Sections 537(b) and (c) of The Insurance Department Act of 1921, *as amended*, 40 P.S. § 221.37(b) and (c).

3. The mailing Notice attached as Exhibit B to the Application is hereby approved. The Liquidator shall mail by first class mail, as soon as practicable after receipt of this Order, a copy of the mailing Notice to the claimants and creditors of HPIX as of the date of the Liquidation Order (January 12, 2018).

4. The publication Notice attached to the Application as Exhibit C is hereby approved. The Liquidator shall cause a copy of the publication Notice to be published once in the same



newspapers where the Liquidator published notice of the Liquidation Order, as soon as practicable after receipt of this Order.

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P. KEVIN BROBSON, JUDGE



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

February 12, 2020

Michael F. Krimmel, Chief Clerk  
Commonwealth Court of Pennsylvania  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17120-9185

***Re: In Re: Healthcare Providers Insurance Exchange ("HPIX") (In Liquidation)  
No. 1 HPI 2017***

Dear Mr. Krimmel:

Attached for filing please find the Liquidator's Application to Establish a Claim Filing Deadline, with regard to the above-referenced matter.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Preston M. Buckman".

Preston M. Buckman  
Insurance Department Counsel

PMB:drh

Enclosure