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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:) Lead Case No. 2:18-bk-20151-ER

VERITY HEALTH SYSTEM OF
CALIFORNIA, INC., *et al.*,

Debtors and Debtors In Possession.

X Affects All Debtors

- ☐ Affects Verity Health System of
California, Inc.
- ☐ Affects O'Connor Hospital
- ☐ Affects Saint Louise Regional Hospital
- ☐ Affects St. Francis Medical Center
- ☐ Affects St. Vincent Medical Center
- ☐ Affects Seton Medical Center
- ☐ Affects O'Connor Hospital Foundation
- ☐ Affects Saint Louise Regional Hospital
Foundation
- ☐ Affects St. Francis Medical Center of
Lynwood Foundation
- ☐ Affects St Vincent Foundation
- ☐ Affects St. Vincent Dialysis Center, Inc.
- ☐ Affects Seton Medical Center Foundation
- ☐ Affects Verity Business Services
- ☐ Affects Verity Medical Foundation
- ☐ Affects Verity Holdings, LLC
- ☐ Affects De Paul Ventures, LLC
- ☐ Affects De Paul Ventures - San Jose
Dialysis, LLC

Jointly Administered With:
Case No. 2:18-bk-20162-ER
Case No. 2:18-bk-20163-ER
Case No. 2:18-bk-20164-ER
Case No. 2:18-bk-20165-ER
Case No. 2:18-bk-20167-ER
Case No. 2:18-bk-20168-ER
Case No. 2:18-bk-20169-ER
Case No. 2:18-bk-20171-ER
Case No. 2:18-bk-20172-ER
Case No. 2:18-bk-20173-ER
Case No. 2:18-bk-20175-ER
Case No. 2:18-bk-20176-ER
Case No. 2:18-bk-20178-ER
Case No. 2:18-bk-20179-ER
Case No. 2:18-bk-20180-ER
Case No. 2:18-bk-20181-ER

Hon. Judge Ernest M. Robles

Chapter 11

**OBJECTION OF HUMANA TO
PROPOSED CURE AMOUNTS AND
RESERVATION OF RIGHTS**



Humana Insurance Company, and Humana Health Plan, Inc (together with their affiliates that underwrite or administer health care plans, “Humana”) hereby objects (the “Cure Objection”) to the proposed cure amounts as set forth in *Notice to Counterparties to Executory Contracts and Unexpired Leases of the Debtors That May Be Assumed and Assigned*, dated March 13, 2020 (the “Cure Notice”). In support of its Cure Objection, Humana states as follows:

1. Humana and St. Francis Medical Center (“SFMC”) are parties to a Hospital Participation Agreement, effective October 1, 2012 (the “HPA”). Humana and SFMC may also be parties to the payor agreements (Cure Notice Ref. Nos. 442, 443, 686 and 687), participating provider agreement (Cure Notice Ref. No. 720), and capitation agreement (Cure Notice Ref. No. 721)¹ identified in the Cure Notice. (such agreements, together with the HPA, the “Humana Agreements”).

2. In the Cure Notice, the Debtors assert that the cure amounts owed to Humana with respect to all the Humana Agreements is \$0.00.

3. As of the date hereof, SFMC owes at least \$485,572.90 under the terms of the applicable Humana Agreements (the “Humana Cure Claim”), including at least \$19,629.48 owed to Humana for overpayments under the participating provider agreement (Cure Notice Ref. No. 720), and \$465,943.42 in claims that have not been paid by SFMC to downstream providers in breach of the HPA. Documentation in support of this Cure Objection may contain personal health information and will not be filed with the Court, but will be provided in a manner consistent with the agreement between the parties and applicable law.

4. In addition, the Humana Cure Claim is subject to upward adjustment for any future amounts that become due under the Humana Agreements, including, without limitation,

¹ It is Humana’s understanding that the capitation agreement referenced in Cure Notice Ref. No. 721 is in fact the HPA.

1 any recoupment of overpayments, refunds, or other amounts that become payable to Humana in
2 connection with audits undertaken by Humana or otherwise.

3 5. Similarly, any Order approving the assumption and assignment of the Humana
4 Agreements should provide that the assignee of such Humana Agreements will be liable for any
5 and all charges or other amounts due arising under the Humana Agreements, whether or not such
6 charges or amounts relate to a period of time prior to assignment of the Agreements.
7

8 **RESERVATION OF RIGHTS**

9 6. Humana reserves the right to supplement the Humana Cure Claim with additional
10 amounts that may become due under the Agreements prior to the assumption and assignment of
11 such Humana Agreements.

12 7. Humana is also a party to certain contracts with St. Vincent Medical Center.
13 Humana is owed at least \$296,604.78 in overpayments under these contracts. Humana
14 understands that these contracts are not affected by the Cure Notice and Humana reserves all
15 rights and claims in connection with such contracts.
16

17 8. Further, Humana has certain relationships with PIH Health - Downey Hospital
18 ("PIH Downey") and PIH Health – Whittier Hospital ("PIH Whittier" and, together with PIH
19 Downey, "PIH"). By virtue of these relationships, Humana has an interest in ensuring that any
20 cure amounts due to PIH by any of the Debtors that may be assumed and assigned are paid in
21 full. According to Humana's records, as of the date hereof, the Debtors owe PIH Whittier at
22 least \$7,941.82 and PIH Downey at least \$59,587.14 pursuant to Humana contracts that are
23 subject to the Cure Notice. The Debtors should cure these amounts, and all other amounts due
24 and owing to providers of Humana's members, under the terms of the HPA or any of the
25 Humana Agreements.
26

WHEREFORE, Humana respectfully requests that the Court enter an Order:

- (i) allowing the Humana Cure Claim in the total amount of at least \$485,572.90 (as may be upwardly adjusted to account for any recoupment of overpayments, refunds, or other amounts that become payable or owed to Humana or any downstream providers in connection with the Humana Agreements);
- (ii) directing the Debtors and/or any assignee of the Humana Agreements to pay the above amounts immediately upon the Debtors' assumption and assignment of the Humana Agreements;
- (iii) allowing, and directing the Debtors to pay, any cure claims attributable to PIH (in an amount equal to at least \$7,941.82 with respect to PIH Whitter and at least \$59,587.14 with respect to PIH Downey);
- (iv) requiring that any assignee of the Humana Agreements be liable for any and all charges or other amounts due under the Humana Agreements, including amounts due directly Humana or to the downstream providers, whether or not such charges or amounts relate to a period of time prior to assignment of the Humana Agreements; and
- (v) granting to Humana such other and further relief as may be appropriate under the circumstances.

Dated: April 3, 2020

Respectfully Submitted,

/s/ Douglas B. Rosner

Douglas B. Rosner, Esq.

Gregory O. Kaden, Esq. (MA BBO# 643849)

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Counsel to Humana

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

400 Atlantic Avenue
Boston, MA 02110

A true and correct copy of the foregoing document entitled (*specify*): Objection of Humana Health Plan, Inc. to Proposed Cure Amounts and Reservation of Rights.

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On April 3, 2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued
on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued
on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL
(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on November 28, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued
on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 3, 2020

Douglas B. Rosner

/s/ Douglas B. Rosner

Date

Printed Name

Signature

SERVICE LIST-

SERVICE VIA EMAIL

Dentons US LLP 601 S. Figueroa Street, Suite 2500 Los Angeles, CA 90017 Attn: Tania M. Moyron (tania.moyron@dentons.com)	Cain Brothers, a division of KeyBanc Capital Markets, 601 California Street, Suite 1505 San Francisco, CA 94108 Attn: James Moloney (jmoloney@cainbrothers.com)
Millbank, Tweed, Hadley & McCloy LLP 2029 Century Park East 33 rd Floor Los Angeles, CA 90067 Attn: Gregory A. Bray (gbray@millbank.com)	Office of the United States Trustee 915 Wilshire Blvd., Suite 1850 Los Angeles, California 90017 Attn: Hatty Yip (Hatty.Yip@usdoj.gov);
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