

No. 2017- 5211

Official Order  
of the  
Texas Department of Insurance

Date: SEP 06 2017

**Subjects Considered:**

**Texas Health Reinsurance System Plan of Suspension**

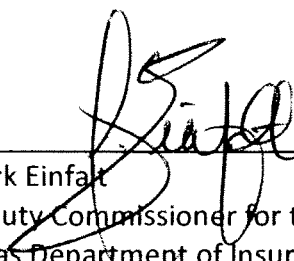
**General remarks and official action taken:**

This order is in consideration of the plan of suspension submitted by the board of directors of the Texas Health Reinsurance System on July 5, 2017, under Section 3 of SB 1171, Act of the 85th Legislature, Regular Session (2017).

**Findings of fact and conclusions of law:**

1. The board of directors of the Texas Health Reinsurance System submitted to the Texas Department of Insurance a plan of suspension for approval on July 5, 2017, in accordance with Section 3 of SB 1171.
2. The plan of suspension contains the matters required by Section 3 of SB 1171 and is consistent with Insurance Code §1501.3022(c).
3. The department reviewed the plan of suspension and recommends that it be approved with revisions for clarity. The plan of suspension with the department's revisions is attached as Exhibit 1.
4. The plan of suspension (Exhibit 1) satisfies the requirements for approval by the commissioner.

The plan of suspension, as submitted by the board of directors of the Texas Health Reinsurance System and revised by the department (Exhibit 1), is approved. The board must complete all suspension activities on or before the 180th day from the date of this order. The department reserves the right to issue further instructions and orders regarding the suspension of the Texas Health Reinsurance System.

  
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Mark Einfalt  
Deputy Commissioner for the Compliance Division  
Texas Department of Insurance  
Delegation Order 4506

TEXAS HEALTH REINSURANCE SYSTEM PLAN OF SUSPENSION

In compliance with the requirements of Insurance Code §1501.3022 and Section 3 of SB 1171, 85th Legislature, Regular Session (2017), and consistent with the general terms of the plan of suspension as approved by the board of directors of the Texas Health Reinsurance System (the board) at its July 5, 2017, meeting, the following paragraphs establish the plan of suspension for the Texas Health Reinsurance System (the system).

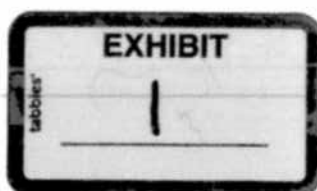
1. Suspension of operations of the system: All transactions described in this plan of suspension must be completed on or before the effective date of the suspension of the operations of the system, unless expressly stated otherwise. The effective date of the suspension of the operations of the system is the 180th day after the date of the department order approving the plan of suspension.
2. Last date to become a reinsured health benefit plan issuer: In accordance with the decision of the board during its July 5, 2017, meeting, July 5, 2017, was the final date a risk-assuming health benefit plan issuer could become reinsured through the system under Insurance Code §§1501.310, 1501.311, and 1501.312.
3. Last date for a reinsured health benefit plan issuer to reinsure additional small employer groups or cede additional eligible lives: In accordance with the decision of the board during its July 5, 2017, meeting, July 5, 2017, was the last date a reinsured health benefit plan issuer could reinsure with the system additional small employer groups or cede additional eligible lives to the system in accordance with Insurance Code §1501.314.
4. Payment of claims/cancelation of liabilities: During the pendency of and following the commissioner's adoption of the plan of suspension, the contracted administrator for the system, with the oversight and approval of the board, will take all actions consistent with suspending or winding down the operations of the system.

(a) The administrator will:

(i) provide all creditors or persons having claims against the system, whether known or reasonably anticipated, notice to file or present outstanding claims for payment to the system;

(ii) provide all creditors or claimants a receipt or acknowledgment of the outstanding claims; and

(iii) process all claims by either paying or rejecting them. In the event the administrator rejects a particular claim in whole or in part, the administrator will promptly notify the creditor or claimant of the reason for the rejection and will promptly negotiate to pay a different amount or otherwise settle the claim in a manner that cancels or releases the claim in accordance with the claimant's contract with the system. In the event an administrator cannot settle a disputed claim under the authority contractually granted by the board, the administrator will notify the board as soon as possible, and the board will consider the measures necessary to adequately address the disputed claim before the effective date of the suspension of the operations of the system.



(b) The administrator will take all necessary actions to close the system's existing lines of credits, bonds, loans, or other financing obligations before the effective date of the suspension of the operations of the system, and will not undertake to open any new obligations or engage in any other activities that would subject the system to a new debt or obligation that would last beyond the effective date of the suspension of operations.

(c) In addition, before the effective date of the suspension of operations of the system, the administrator will collect all outstanding payments due to the system, including the collection and receipt of all assessments made to reinsured health benefit plan issuers, deferred assessments and any final deferred assessments made, and any other payments due; and collect or take possession of any other assets of the system. The administrator will use all such payments or assets collected to pay all valid claims against the system and all costs associated with or incurred in facilitating the implementation of this plan of suspension.

(d) The administrator will take all other actions consistent with facilitating suspension of the operations of the system, including closing any banking accounts, service contracts, leases, or any other pending business relations and transactions.

(e) The administrator and the board will exercise good-faith efforts to resolve all legal actions before the effective date of the suspension of the operations of system. In the event any legal actions are pending against the system on the effective date of the system's suspension of operations, the board will provide the Texas Department of Insurance and the Office of the Attorney General with a summary of these pending legal actions and will transfer any litigation files to the Texas Department of Insurance.

5. Disposition of other assets and related matters: At this time, to the best of the board's knowledge, the system does not have any employees, offices, furniture, business equipment or computers, or other tangible or intangible assets other than cash on deposit. However, in the event the board identifies any assets or obligations, the administrator will either attempt to liquidate the assets or transfer them to the department by the effective date of the system's suspension of operations. In the event the board identifies any previously unknown employees, it will terminate that employment no later than the effective date of the system's suspension of operations.
6. Proportionate distribution: If there are any surplus assets remaining after payment of claims and costs associated with implementing this plan of suspension, including any required audits of the execution of this plan, the administrator, with the oversight and approval of the board and subject to any requirements from the Texas Comptroller of Public Accounts, will provide for the proportionate distribution of any surplus assets of the system. The proportionate distribution will be on a claims-made basis following notice to each health benefit plan issuer reinsured by the system as a part of the system's 2006 assessment. Health benefit plan issuers may not receive more through this distribution than they can demonstrate that they paid into the system as a part of the 2006 assessment. In the event the administrator and the board determine that a proportionate distribution is not feasible, or if claims from participating health benefit plan issuers are not made equal to the remainder of system assets, the board will transfer those assets to the department on or before the effective date of the system's suspension of the operations.
7. Plan of operation: The system presently operates under a plan of operation in accordance with Insurance Code §1501.306 and 28 Texas Administrative Code §26.201 and as approved by Commissioner's Order No. 3412 dated July 15, 2014. The current plan of operation does not incorporate the procedures and

processes to cause the suspension and reactivation of the system as required by SB 1171, 85th Legislature, Regular Session (2017) and as amended and codified in Insurance Code §1501.302. The board will act appropriately as part of the efforts to suspend the operations of the system to modify the plan of operation to reflect amended §1501.302. To the extent that the current plan of operation is in conflict with amended §1501.302, the board will comply with the Insurance Code.

8. Audit: Aside from any final accountings or audits that the board finds to be required by law or rule or desirable in implementing this plan, the board and the administrator will submit the system to a final audit by the State Auditor's Office. The purpose of the final audit is to accomplish the suspension of the operations of the system. If the cost of the audit by the state auditor will become due following the suspension of the operations of the system, the administrator will estimate the cost of the audit and remit that amount to the comptroller before the date of the system's suspension of operations.
9. Post-suspension transfer of documents and records: On the effective date of the suspension of the operations of the system, the board and the administrator will transfer all documents and records in its possession to the department.
10. Discharge of board: The board serving immediately before the effective date of the suspension of the operations of the system is discharged from service on the effective date of the suspension of the operations of the system.
11. Authority of commissioner: Following the effective date of the suspension of the operations of the system, the commissioner or the commissioner's delegated representative will take any action necessary to distribute the surplus assets, if any, of the system until all remaining assets are distributed. In the event there is some remaining contingent activity or transaction that the board did not address before the effective date of the suspension of the operations of the system and the board members' discharge that, in the opinion of the commissioner or the commissioner's delegated representative, is necessary or desirable to accomplish to facilitate suspension of the operations of the system, the commissioner or the commissioner's delegated representative may undertake appropriate action without needing to reappoint the prior board or appoint a new board.