

At IAS Part 35 of the Supreme Court
of the State of New York, County of
New York, at the courthouse, 60
Centre Street, in the County, City and
State of New York, on the 17 day of
April, 2017.

P R E S E N T :

HON. CAROL R. EDMead, J.S.C.

-----X

In the Matter of

Index No. 450500/2016

the Liquidation of

ORDER TO SHOW CAUSE

HEALTH REPUBLIC INSURANCE OF
NEW YORK, CORP.

-----X

Based upon the affirmation of Eliot Kirshnitz ("Kirshnitz Affirmation"), an attorney with the New York Liquidation Bureau, the organization that carries out the duties of Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Health Republic Insurance of New York, Corp. ("Health Republic"), dated April 14, 2017, and upon all other papers previously submitted and all proceedings heretofore had herein;

NOW, on motion of the Liquidator, and after due deliberation having been had thereon;

LET all claimants and parties interested in the affairs of Health Republic show cause before this Court at IAS Part 35, Room 438, at the Courthouse located at 60 Centre Street, New York, New York 10007, on the 17 day of MAY, 2017 at 10:00 clock a m.

("Return Date"), or as soon thereafter as counsel can be heard, why an order, substantially in the

HON. CAROL EDMead

form of the proposed order attached as Exhibit F to the Kirshnitz Affirmation, should not be made (1) appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., to serve as referees to hear and report on the validity of any unresolved objections to the Liquidator's determination of Policy Claims (as defined in paragraph 3(a) of the Court's Order Approving the

Procedure for the Liquidator's Adjudication of Claims, dated October 11, 2016); and
(2) authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc.
("IMEDECS") to provide independent medical review services on an as-needed basis in support
of referee reviews of such unresolved objections.

AND, sufficient cause having been alleged therefore, it is hereby

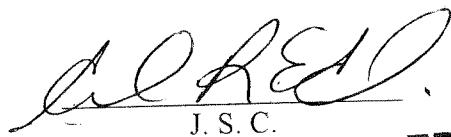
ORDERED, that the Liquidator shall give notice of this application by: (i) posting this
Order to Show Cause and its supporting papers on the Health Republic Internet web page at
<http://www.healthrepublicny.org/> and the New York Liquidation Bureau Internet web page at
<http://www.nylb.org/> at least ten (10) days before the Return Date; and (ii) publishing the notice
substantially in the form attached as Exhibit E to the Kirshnitz Affirmation in the *New York Post*
and the *New York Daily News* within twenty (20) days following the date of issuance of this
Order to Show Cause; and it is further

ORDERED, that a copy of answering papers, either in support of or opposition to the
relief sought herein ("Answering Papers"), shall be served on the Liquidator at the following
address:

Superintendent of Financial Services of the State of New York
as Liquidator of Health Republic Insurance of New York, Corp.
110 William Street, 15th Floor
New York, New York 10038
Attention: General Counsel

at least seven (7) days before the Return Date, and the original Answering Papers, together with
an affidavit of service, shall be filed with the Court on or before the Return Date.

ENTER



J. S. C.

HON. CAROL R. EDMED
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

In the Matter of

Index No. 450500/2016

the Liquidation of

AFFIRMATION

HEALTH REPUBLIC INSURANCE OF
NEW YORK, CORP.

-----X

Eliot Kirshnitz, an attorney at law, duly admitted to practice law before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau (“NYLB”), the organization that carries out the duties of Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Health Republic Insurance of New York, Corp. (“Health Republic”). I make this affirmation upon information and belief, the sources of which are files maintained by the NYLB and communications made to the affirmant by employees of the NYLB.

2. On October 11, 2016, the Court signed an Order Approving the Procedure for the Liquidator’s Adjudication of Claims (“Claims Adjudication Procedure Order”).

3. The Claims Adjudication Procedure Order provides that unresolved objections to the Liquidator’s determination of Policy Claims (as defined in paragraph 3(a) of the Claims Adjudication Procedure Order) are to be referred to a referee and/or qualified medical claims examiner to hear and report on the validity of such objections.

4. On February 8, 2017, as was previously disclosed to the Court, the Liquidator posted an Invitation for Candidates for Appointment as Referees and Medical Claims Examiners on the Health Republic and NYLB Internet web pages. In addition, the Liquidator directly

informed several interested organizations and parties of the existence of the invitation. A copy of the invitation is attached as Exhibit A.

5. In response to the Liquidator's invitation, expressions of interest were received from two individuals offering to serve as referees and from one organization offering to provide independent medical review services.

6. Following an internal review process, it was determined that the three candidates who submitted expressions of interest are (a) competent and qualified, (b) possess the requisite skills and expertise, and (c) are able to provide the necessary services consistent with the appropriate fee scale.

7. The following are brief summaries of the candidates' background and experience:

a. **Hon. Anthony J. Carpinello (Ret.)**. Judge Carpinello's background materials are attached at Exhibit B and provide, among other things, that:

- i. he has been an attorney in New York since 1974;
- ii. he was an Associate Justice of the New York State Appellate Division, Third Department, for twelve and a half years, and the caseload of the Court regularly included hundreds of appeals involving insurance coverage;
- iii. he has served as an arbitrator and mediator at JAMS since 2009, where he has been involved in a number of cases implicating insurance coverage issues; and
- iv. he previously has served as a referee in another New York insurance insolvency proceeding, presiding over numerous matters.

b. **Alberto Torres, Esq.** Mr. Torres's background materials are attached at Exhibit C and provide, among other things, that:

- i. he has been an attorney in New York since 1988;

ii. he previously has been appointed as Court Evaluator and Guardian in several Supreme Court cases that required the review of medical records to evaluate patient care, treatment and appropriate discharge plans;

iii. his review of medical records included medical evaluations, prescriptions, medical diagnosis, and assessments; and

iv. he previously has served as a referee in another New York insurance insolvency proceeding, presiding over numerous matters.

c. **Independent Medical Expert Consulting Services Inc. (IMEDECS).**

IMEDECS's background materials are attached at Exhibit D and provide, among other things, that:

i. the company has provided independent medical reviews since 1999;

ii. the company is accredited by URAC under its independent review standards and provides expert medical review services to health plans, employers groups, third-party administrators and state agencies throughout the U.S.;

iii. the company has a panel of hundreds of reviewers and is able to handle cases involving all types of medical issues; and

iv. the company is certified to perform external reviews in 14 states, including New York, where it is a recognized External Review Agent.

8. Based on a review of these candidates' backgrounds and qualifications, the Liquidator respectfully recommends that the Court issue an Order:

a. Appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., as referees to hear and report on unresolved objections to the Liquidator's determination of Policy Claims; and

b. Authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. ("IMEDECS") to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

9. In accordance with the Claims Adjudication Procedure Order, it is proposed that the two referees will serve as a panel, and any unresolved objections to the Liquidator's determinations will be referred to one of the referees on a rotating basis. In the event that the referee hearing an objection finds that the review requires an independent medical review, the referee will have the discretion to refer the objection, or any individual issue(s) therein, to the independent medical review service provider engaged by the Liquidator, which will provide the results of any such medical review to the referee. Following the referee's review of the objection, the referee will issue a report and recommendation setting forth the referee's recommended resolution of the disputed objection and the reasons therefor.

10. Except for the appointments and authorities sought in this application, the claims adjudication procedures set forth in the Claims Adjudication Procedure Order remain operative.

11. The Liquidator requests that this Court issue the accompanying Order to Show Cause approving a return date ("Return Date") for a hearing on the Liquidator's application to be held before this Court at least twenty (20) days after the date of issuance of the Order to Show Cause.

12. Notice is sought through (i) posting the Order to Show Cause and its supporting papers on the Health Republic Internet web page at <http://www.healthrepublicny.org/> and the

NYLB Internet web page at <http://www.nylb.org/> at least ten (10) days before the Return Date; and (ii) publishing the notice substantially in the form attached as Exhibit E hereto in the *New York Post* and the *New York Daily News* within twenty (20) days following the date of issuance of this Order to Show Cause.

13. No previous application for the relief sought herein has been made to this or any other court of judge thereof.

WHEREFORE, the Liquidator respectfully requests that this Court grant an order substantially in the form attached as Exhibit F hereto (1) appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., to serve as referees to hear and report on the validity of any unresolved objections to the Liquidator's determination of Policy Claims (as defined in paragraph 3(a) of the Court's Order Approving the Procedure for the Liquidator's Adjudication of Claims, dated October 11, 2016); and (2) authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. ("IMEDECS") to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

Dated: New York, New York
April 14, 2017

JOHN PEARSON KELLY,
Attorney for Maria T. Vullo, Superintendent of
Financial Services of the State of New York as
Liquidator of Health Republic Insurance of
New York, Corp.

By: 

Eliot Kirshnitz
New York Liquidation Bureau
110 William Street, 15th Floor
New York, New York 10038

EXHIBIT A

(Invitation for Candidates for Appointment as Referees and Medical Claims Examiners)

**IN THE MATTER OF THE LIQUIDATION OF
HEALTH REPUBLIC INSURANCE OF NEW YORK, CORP.**

Supreme Court County of New York
Index No. 450500/2016

**Invitation for Candidates for Appointment as
REFEREES and MEDICAL CLAIMS EXAMINERS
to conduct independent external reviews of health insurance claim appeals**

The Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Health Republic Insurance of New York, Corp. (“Health Republic”) invites qualified applicants to submit their credentials to serve as court-appointed Referees and/or Medical Claims Examiners in the Health Republic liquidation proceeding.

Health Republic was a health insurance provider that operated as a Co-Op under the Patient Protection and Affordable Care Act. It issued individual and small group health insurance policies and paid claims from approximately January 2014 to November 2015. Claims were reviewed and benefits determined by a third-party claims administrator, and Explanations of Benefits (“EOBs”) were generated based on the claims administrator’s determinations.

Health Republic was placed into liquidation by order of the Supreme Court of the State of New York, County of New York (“Court”), entered May 11, 2016. By Order dated October 11, 2016, the Court approved Claims Adjudication Procedures for the resolution of Health Republic’s pending inventory of unadjudicated health care claims. The Claims Adjudication Procedures provide a process for a claimant to appeal an EOB and receive Court review of the appeal. In the event the Liquidator’s internal review does not resolve a claimant’s appeal, the Claims Adjudication Procedures call for the appeal to be referred to a Court-appointed Referee and/or Medical Claims Examiner to conduct an independent, external review of the appeal and to recommend a final determination of the claim.

Qualified candidates with the legal and/or clinical expertise required to evaluate health care claims and to assess coverage under health insurance policies are invited to apply for appointment by the Court in accordance with the following guidelines.

The Liquidator will review all materials submitted by candidates and will make recommendations to the Court for appointment of Referees and Medical Claims Examiners on an “as needed” basis depending on the volume of appeals. However, all candidate submissions will be made available to the Court for review.

General Requirements

Applicants should possess the legal and/or clinical expertise required to evaluate coverage under health insurance benefit plans and to review benefit determinations for health care claims based on a closed documentary record that will be supplied by policyholders, health care providers, and/or the insurer. Examples of policy-related contractual coverage issues that may need to be reviewed include:

- Patient and dependent eligibility
- Patient responsibilities such as premiums, deductibles, co-pays, and co-insurance
- Covered procedures and relevant authorizations
- Use of out-of-network treatments and facilities
- Limits of liability and policy maximums

Additional Requirements for Medical Claims Examiners

For matters requiring a medical necessity review, Medical Claim Examiners with clinical expertise will be required to evaluate whether appropriate medical care was given to a patient under the terms of the relevant insurance policy, which may include a confidential review of medical history, medical records, ancillary and pharmacy expenditures, and other pertinent information in the record. Examples of the materials and issues that Medical Claims Examiners may be required to review and assess include:

- Patient medical records
- Attending health care professionals' recommendations
- Reports from appropriate health care professionals
- Appropriate evidence-based clinical practice guidelines
- Applicable clinical review criteria

Required Disclosure

Applicants must disclose any past, present, or potential business, professional, personal, or other interest in or relationship with the Liquidator or her agents, Health Republic, or any claimant or creditor in the Health Republic liquidation, to the extent known.

Fees

Subject to Court approval, applicants appointed to serve as Referees and Medical Claims Examiners in the Health Republic liquidation proceeding will be paid a fee at the rate of \$250 per hour as an administrative expense of Health Republic.

Instructions

Interested applicants should be submitted by March 15, 2017, and include (i) a current resume; (ii) prior referee or medical examiner experience; (iii) insurance experience; (iv) health care experience; and (v) any other relevant information to:

Superintendent of Financial Services of the State of New York
as Liquidator of Health Republic Insurance of New York, Corp.
110 William Street, 15th Floor
New York, New York 10038
Attn: General Counsel

Independent Health Claims Review

All reviews by Referees or Medical Claims Examiners will be conducted in accordance with the privacy regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and applicable privacy protections for individually identifiable health information.

The Claims Adjudication Procedures and additional information about the Health Republic liquidation can be found at www.healthrepublicny.org and www.nyhb.org.

EXHIBIT B

(Anthony J. Carpinello)

**Hon. Anthony J. Carpinello (Ret.)
3 Huntswood Lane
East Greenbush, New York 12061**

March 14, 2017

To: Superintendent of Financial Services of the State of New York
as Liquidator of Health Republic Insurance of New York, Corp.
110 William Street, 15th Floor
New York, New York 10038
Attn: General Counsel
Independent Health Claims Review

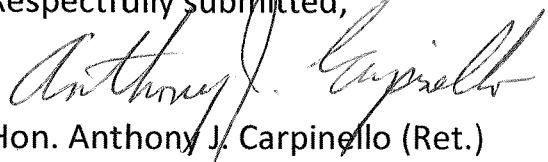
Re: Referees Appointment

Dear Sir,

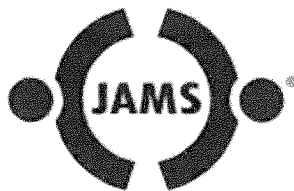
I write in response to your invitation for appointment as a Referee in the Matter of the Liquidation of Health Republic Insurance of New York, Corp. As my resume reflects, I served as an Associate Justice of the New York State Appellate Division, Third Department for twelve and a half years. The caseload of the Court regularly included hundreds of appeals involving issues of insurance coverage. Also, since joining JAMS (Judicial Arbitration and Mediation Services) as an arbitrator and mediator in 2009, I have been involved in a number of cases implicating insurance coverage issues. A brief summary of some of those cases is attached. Lastly, I have handled a number of matters for the Liquidation Bureau involving Frontier Insurance Company. A copy of a report I rendered as a Referee in one of these cases is also enclosed to give you a sense of the quality of my work product.

I have no affiliation with the Liquidator, her agents, Health Republic, or any claimant or creditor in the Health Republic Liquidation. I look forward to the approval of my application to serve as a Referee in this liquidation proceeding. Should you require any further information about my background or experience, I remain available at your convenience to respond to any such inquiries.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony J. Carpinello". The signature is fluid and cursive, with a large initial "A" and a stylized "C".

Hon. Anthony J. Carpinello (Ret.)



T: 212-751-2700
F: 212-751-4099

Case Manager

George Cuervos
JAMS
620 Eighth Avenue
34th Floor
New York, NY 10018
212-607-2789 Phone
212-751-4099 Fax
Email:
gcuervos@jamsadr.com

Hon. Anthony J. Carpinello (Ret.)

Hon. Anthony J. Carpinello (Ret.) has earned a reputation for his ability to expeditiously and professionally resolve complex litigation. He is regarded by both counsel and parties alike as being knowledgeable, courteous, and totally committed to the settlement process. Prior to his 14 years of distinguished public service in the state judiciary on both the trial and the appellate levels, he was in private practice for 20 years where he concentrated on commercial litigation including all aspects of banking and business matters with particular emphasis on loan documentation and collection, real estate, negotiable instruments, enterprise sales and acquisitions, and general corporate advice.

ADR Experience and Qualifications

- As a trial judge, responsible for an Individual Assignment Part averaging 600+ pending cases, deciding motions and conducting trials (jury and non-jury); actively conferencing cases for settlement; and handled all aspects of civil cases, including common law negligence, Labor Law claims, medical and legal malpractice, fraud, breach of contract, corporate dissolutions, and all other categories of civil actions
- As an appellate judge, participated in adjudicating appeals in civil, criminal, family and Surrogate's Court cases from originating courts in the 28 counties surrounding the New York Capital District region
- As both a trial judge and as an appellate judge, mediated thousands of personal injury claims, business disputes, and actions pending in New York State Supreme Court such as:
 - Settled a multi-million dollar action between a public utility and a private power investor which alleged breach of contract over the sale and redevelopment of an historic hydro-electric facility which settlement required both Federal Energy Regulatory Commission and State Historic Preservation Commission approvals
 - Settled a multi-million dollar action between partners of a shopping center and apartment complex development company alleging fraud and breach of fiduciary duty involving allocation of construction profits and tax credits
- As an Associate Justice of the New York State Supreme Court, Appellate Division, Third Department, Justice Carpinello has participated in the adjudication of over 12,000 reported cases. These cases include medical malpractice, personal injury, breach of contract, fraud, challenges to administrative determinations, corporate dissolutions, and all other categories of civil, criminal, and matrimonial actions.

Representative Matters

Examples of significant appellate decisions authored by Justice Carpinello include the following:

- *Berry v. Lazaro* (250 AD2d 63). Prevented intervention by health insurers in a medical malpractice action brought by their own insureds
- *Cramer v. Englert* (262 AD2d 827). Reinstated legal malpractice claim arising out of lost security interest in bankruptcy
- *Gray v. Seaboard Securities* (14 AD3d 852). Found that a state consumer protection law providing a civil remedy for victims of deceptive business practices is not applicable to securities transactions
- *Western Land Services v. Dept. of Environmental Conservation* (26 AD3d 15). Construed state statute requiring a "just and reasonable" royalty to non-consenting owners of gas wells
- *Daimler Chrysler Corp. v. Spitzer* (26 AD3d 88). Determined that New Car Lemon Law

does not require existence of defect at time of arbitration hearing

- *Emigrant Bancorp v. Comm. of Taxation and Finance* (59 AD3d 30). Annulled State Tax Department methodology for calculating bank bad debt reserve balance for qualifying real property loans under Tax Law
- *Ayers v. O'Brien* (60 AD3d 27). Interpreted provision of Vehicle and Traffic Law insulating government emergency vehicle operators from negligent acts

Honors, Memberships, and Professional Activities

- Chair, New York State Continuing Legal Education Board, 2006-present
- Frequent lecturer in bar association programs and continuing legal education programs on creditor rights, mortgage foreclosures, lender liability, bankruptcy, and appellate practice
- Admitted to practice in New York State and before the U.S. Court of Appeals for the Second Circuit
- Member, New York State Bar Association, Supreme Court Justices Association, American Inns of Court

Background and Education

- Associate Justice New York State Supreme Court, Appellate Division, Third Department, 1996-2008
- New York State Supreme Court Justice, 3rd Judicial District, 1995-1996
- Private Practice, Hiscock & Barclay, specializing in commercial litigation, 1974-1994
- Law Clerk, New York State Supreme Court, Appellate Division, Third Department, 1973-1974
- J.D., Albany Law School, *cum laude*, Justinian Society, Law Review, 1973
- B.S., Union College, 1970

Disclaimer

This page is for general information purposes. JAMS makes no representations or warranties regarding its accuracy or completeness. Interested persons should conduct their own research regarding information on this website before deciding to use JAMS, including investigation and research of JAMS neutrals. See More

EXHIBIT C

(Alberto Torres)

ALBERTO TORRES, ESQ.

ATTORNEY AT LAW

629 MELROSE AVENUE BRONX, NEW YORK 10455
Telephone 718-620-0106 Facsimile 718-620-0107

March 10, 2017

Superintendent of Financial Services
of the State of New York
as Liquidator of Health Republic
Insurance of New York, Corp
110 William Street, 15th Floor
New York, New York 10038

Attn: General Counsel
Independent Health Claims Review

Re: Application for Court Appointed Referee
and/or Medical Claims Examiner

Dear Counsel:

Enclosed please find my resume as application for a court appointment Referee and/or Medical Claims Examiner in the liquidation proceeding of Health Republic.

Please be advised I had served as a court appointed Referee in the liquidation proceeding of Ideal Mutual. In that capacity, I conducted extensive hearings, and prepared and submitted Referee Reports to the court on several claims. The disputed claims ranged from individual claims for \$5,000.00, to reinsurance claims involving \$10,000,000.00 - \$15,000,000.00.

In addition, I have been appointed as Court Evaluator and Guardian in several Supreme Court cases that required the review of medical records to evaluate patient care, treatment and appropriate discharge plans. My review of medical records included medical evaluations, prescriptions, medical diagnosis and assessments.

Please be advised that I have had no past, present or potential business, professional, personal or other interest or relationship with the Liquidator, or Health Republic, with the exception of the court appointed Referee on the Ideal Mutual liquidation proceeding.

It is requested that your agency submit my name as a candidate in this liquidation proceeding. If any additional information is required, please contact my office.

Thank you for your professional courtesies.

Sincerely,



Alberto Torres

AT: jh
Enclosure

ALBERTO TORRES

629 Melrose Avenue · Bronx, New York 10455
(718) 620-0106 · Fax (718) 620-0107

EDUCATION

New York Law School
J.D., June 1986
Membership: BALLSA, Secretary (1984-1986)
Puerto Rican Bar Association

The City College of New York
B.A. Psychology, September 1983
Honors: Dean's List (1982-1983)

Commissioner: New York City Taxi and Limousine Commission
July 1996-December 2004
Chairperson: Board of Directors
Bronx Council for Economic Development
1996-2004

EXPERIENCE

ALBERTO TORRES, ESQ. March 2004 - Present

Partner April 2000 - March 2004
RAMIREZ TORRES MARTINEZ LLP
Managing Partner.

Partner June 1996 - March 2000
TORRES & MARTINEZ
Managing Partner.

Partner September 1991 - May 1994
EDMONDS, TORRES, MARTINEZ & MAZZA
Practice in estates and fiduciary matters.

Attorney/Office Manager March 1990 - August 1991
LAW OFFICE OF CORNELL A. EDMONDS
Practice in civil, estates and fiduciary matters.

Deputy Director August 1988 - March 1990
BRONX BOROUGH PRESIDENT'S OFFICE
Bronx Corps
Acting Interim Director; represented Borough President
at various functions and events; organized anti-drug,
beautification and volunteer projects.

Staff Attorney
EDMONDS & EVANS-IRVIN
Practice in civil matters, estates and matrimonial matters.

January 1988 - July 1988

Paralegal
LEGAL ASSISTANTS, INC.
Assisted to Cahill, Gordon & Reindel in securities litigation.

March 1987 - December 1987

Paralegal
SIMPSON, THATCHER & BARLETT
Assisted attorneys with corporate document production.

October 1985 - July 1986

Legal Assistant
WALKER & BAILEY
ATTORNEYS AND COUNSELORS AT LAW
Conducted legal research and prepared legal documents.

September 1984 - December 1985

RELATED EXPERIENCE

New York Law School Criminal Defense Clinic	August 1985 - May 1986
--	------------------------

Housing Discrimination Clinic	January 1985 – May 1985
-------------------------------	-------------------------

Civil Trial Clinic	September 1983 – May 1984
--------------------	---------------------------

SEMINARS AND CONTINUING LEGAL EDUCATION

1991	New York County Lawyers Association Seminar on Receiverships, Conservatorships and Guardian Ad Litem.
1991	New York County Lawyers Association Seminar on Criminal Trial Advocacy.
1991	Fourteenth Annual Conference on Trust & Estates Sponsored by the Roman Catholic Diocese of Brooklyn
1992	Fifteenth Annual Conference on Trust & Estates Sponsored by the Roman Catholic Diocese of Brooklyn
1993	Sixteenth Annual Conference on Trust & Estates Sponsored by the Roman Catholic Diocese of Brooklyn
1993	New York State Bar Association Article 81 of the Mental Hygiene Law

- 1995 Eighteenth Annual Conference on Trust & Estates
 Sponsored by the Roman Catholic Diocese of Brooklyn
- 1998 Twenty-First Annual Conference on Trust Estates
 Sponsored by the Roman Catholic Diocese
- 1999 Twenty-Second Annual Conference on Trust Estates
 Sponsored by the Roman Catholic Diocese
- 1999 Bronx County Bar Association
 Article 81 Court Examine Training

EXHIBIT D

(IMEDECS)

Company History and Overview

IMEDECS was formed in 1999 to provide clients with unbiased, independent reviews of medical cases denied as not medically necessary or experimental/investigational. Originally accredited by URAC under its independent review standards in May 2000, **IMEDECS** was re-accredited in June 2015.

IMEDECS provides expert medical review services to health plans, employers groups, third-party administrators and state agencies throughout the United States. With a panel of hundreds of reviewers, **IMEDECS** is able to handle cases involving all types of medical issues.

In addition to URAC accreditation, **IMEDECS** is certified to perform external reviews in 14 states for fully funded programs. **IMEDECS** also performs reviews nationally for cases falling under the Department of Labor regulations related to self-funded/ASO programs.

IMEDECS has received national certification as a woman owned business through the Women Business Enterprise National Council and state certification from the Commonwealth of Pennsylvania.

The **IMEDECS** mission is to provide unbiased, informed expert medical reviews that resolve disputes or evaluate the quality of care. **IMEDECS** is dedicated to quality health care and improved clinical outcomes.

Key Personnel

IMEDECS' key personnel include Joyce Muller, President & CEO; Stacy Borans, MD, Medical Director; Chuck Fasano, DO, Associate Medical Director; and Deahna Montaque, Vice President of Operations. The Case Review staff consists of full and part-time nurses, and Administrative Assistants. The support staff includes an Accounting Assistant and IT Specialists.

Hundreds of physicians and clinicians comprise the IMEDECS Medical Review Panel, allowing IMEDECS the breadth of expertise to handle every type of independent review. The company also boasts a number of highly specialized double-board certified expert reviewers on its panel. Many of the expert reviewers are drawn from academic medical centers and other leading research facilities throughout the country, thus allowing IMEDECS to provide its clients with outstanding quality reviews, as well as comprehensive specialty coverage.

Scope of Services

The scope of services **IMEDECS** provides includes:

Case Review Services – These reviews address issues of the medical necessity or experimental/investigational status of a treatment or procedure. They may also address whether proposed treatments are a covered benefit under the enrollee’s plan. Case review services may be provided at a predetermination, internal, or external level either prospectively or retrospectively. All reviews are performed on a patient-specific basis by an expert medical practitioner of the same or similar specialty as that of the treating practitioner.

Case review services are classified by the review methodology requested. **IMEDECS** provides the following types of case reviews based on client requirements, regulatory standards, and the individual circumstances of the review.

Review Methodology

▪ **Experimental/Investigational Reviews**

These reviews may involve complex diagnoses; disabling; progressive conditions; and terminal illnesses. The reviews require an expert opinion using an evidence-based approach to questions related to experimental or investigational treatments. Cases are conducted by a single expert reviewer or a panel of experts, when a majority consensus is required, on highly controversial therapies or procedures. Evidence based reviews:

- Include relevant medical records, plan language and a statement of the reason for denial from the health plan;
- May include manufacturer’s data/materials, consult letters, enrollee correspondence and review criteria; and
- Require the reviewer to read primary evidentiary documents, such as journal articles, and provide citations and discussion of rationale supporting the reviewer’s determination.

▪ **Medical Necessity Reviews**

These reviews typically incorporate the use of clinical practice guidelines and practice standards as they relate to medically necessary treatment. At issue may be the cosmetic, custodial, convenience, educational or maintenance nature of the intervention(s) versus its medical necessity. Most of these reviews involve a single physician/clinician reviewer who provides a medical opinion.

IMEDECS must have applicable medical records, plan language and criteria in order to conduct these reviews.

- **Coverage Determination Reviews**

These reviews typically involve appeals whereby the health plan's Certificate of Coverage excludes the proposed or disputed service. The appeal may also involve care from a non-network provider because there was not an appropriate provider within the health plan's network. A single expert reviewer is usually required and this expert will be experienced in health benefit contract interpretation.

Additional Review Services

Quality of Care Reviews – These reviews focus on the quality of care rendered by medical practitioners in a hospital or office setting and address issues related to standard of care, patient safety, medical errors and/or unintended outcomes. The reviewers consider generally accepted practice guidelines developed by the federal government, national or professional medical societies, boards and associations. They may be initiated by a health plan, insurer, physician network, hospital or medical facility. They may be performed in conjunction with performance evaluation, credentialing and continuation of hospital and procedure-specific privileges. These reviews are performed by an expert medical practitioner of the same or similar specialty as the treating practitioner. Reviews can be requested on a single case or on multiple cases with related diagnoses treated by a single practitioner or a group of practitioners. **IMEDECS** can also assist you with fraud reviews, a subset of the quality of care reviews, in which **IMEDECS'** expert reviewers provide medical opinions and/or testimony for legal proceedings.

Medical Coverage Policy Evaluations – **IMEDECS** expert reviewers evaluate client's internal clinical coverage criteria used to approve or deny healthcare services. Experts evaluate current scientific literature and practice guidelines and provide suggested criteria for policy inclusion. These reviews are not-patient specific. The review methodology may be evidence based, criteria based or opinion only, depending on Client requirements. Medical coverage policy evaluations can be conducted by a single expert reviewer or a panel of experts to provide a consensus of opinion.

Coding Reviews – **IMEDECS** provides coding review services for health care providers and managed care organizations. Using Certified Professional Coders (CPCs) trained in a variety of disciplines and with medical specialty expertise. **IMEDECS** reviews clinical, billing, and reimbursement documentation as well as nationally accepted and payor-specific standards in making determinations.

Review services are available on professional, outpatient facility, and inpatient charges and can be conducted on a case-by-case basis or as part of an audit, in conjunction with your compliance program.

An IMEDECS Coding Review may address any of the following:

- CPT and ICD-9 coding validation and linkage
- Appropriate use of modifiers
- Medical record documentation
- Bundling/unbundling
- Usual and customary review

Case Review Process and Turnaround

IMEDECS allows clients to submit cases, receive reports and track case status in a secure manner through its HIPAA compliant client portal (website). The portal facilitates case processing by permitting document transfer between authorized users at **IMEDECS** and the client. Data and documents accepted by **IMEDECS** are entered directly into its Case Review Database from entry in the portal. Client users can access real-time information about the case's acceptance and status, upload additional documentation, and/or contact the **IMEDECS** representatives handling a case through the portal. Access to the portal is limited to representatives with authenticated user IDs and passwords. Information is available at various levels, with individual users' permissions determined and managed by the client. The portal's views are customized to the client's case review and reporting specifications.

The client's submission of the Case Review Request Form initiates the case review. The request form can be submitted by fax or entered by the client into **IMEDECS'** Case Review Database (CRDB) via the client portal. The information submitted (the enrollee's name, age, gender, diagnosis, treatment, treating provider, treating facility) populates the case review database and allows the recruitment and conflict of interest screening of an expert reviewer(s) for the case. Client specified turnaround times are also noted and tracked in the CRDB.

At the time of entry into the case review database, cases are assigned to a team consisting of a nurse (Case Review Manager) and an administrative assistant. That team will be responsible for the processing of the case through completion. The client is notified via fax or the client portal that the case was received by **IMEDECS** and informed of the unique identifier that was assigned to the case.

Upon receipt of required documentation from the client the Case Review Manager shall review the provided enrollee medical records and supporting information submitted by the client for completeness, legibility and relevance to the review. Any question(s) posed to the expert reviewer(s) by the client will be reviewed for appropriateness and clarity. The Case Review Manager will contact the client and request additional information deemed missing and essential to the review and will inform the client of any information that is noted to be illegible, or appears to be incomplete. Minimal acceptable information is medical documentation describing the enrollee's medical condition, course of treatment and proposed treatment. Procedures as defined by state statute (if applicable) for

missing/additional review documentation will be followed. Copies of the documentation will be made for each reviewer as necessary. The case is then recruited.

IMEDECS reviewers must complete a Conflict of Interest Disclosure (CID) prior to assignment of a case, they must attest to “no conflict of interest” specific to the case they are asked to review.

Before assigning a case, the potential reviewer must affirm that he/she has no material professional, familial, financial, or other affiliation with any of the following: the insurer; any officer, director, or management employee of the insurer; the physician, the physician’s medical group that is proposing the service; the facility at which the service would be provided; the development or manufacture of the principal drug, device, procedure, or other therapy that is proposed by the treating physician; or the member.

Quality Assurance

The most important aspect of quality oversight for IMEDECS is the Case Review Manager. Each review is assigned a Case Manager, who ensures that the case conforms to the appropriate review parameters based on the state law and/or contractual provisions. In addition, because IMEDECS Case Review Managers are nurses, they guarantee clinical and medical issues are addressed as they arise, including requesting additional documentation when necessary, assigning cases to appropriate experts, and reviewing expert reports for compliance with quality parameters, format and proper citations.

IMEDECS also uses its Case Review Database for quality oversight. The database allows IMEDECS staff to track each case as it proceeds through the review process. When IMEDECS receives a case, our staff enters it into the CRDB, which automatically assigns the case a unique number for tracking and reference. The staff will also enter all the relevant tracking information on the case, including timeframe and due date, type of review (e.g., medical necessity or experimental/investigational) and number of expert(s) for assignment. The database prompts our staff when a case nears its due date, thus preventing the case from exceeding its turnaround time.

In addition to these tracking features, the database allows case review staff to enter narrative comments on various aspects of the case, such as requests for additional records, contacts from all relevant parties, or questions or problems posed by the expert. These comments can be compiled and summarized for reporting to the Quality Assurance Committee or management when potential quality issues are identified.

As part of its commitment to quality independent medical reviews, IMEDECS maintains an active and in-depth Quality Assurance (QA) Program. The QA program is supported by written policies and procedures, including standardized incident reports, the CRDB, and feedback and improvement mechanisms. The program ensures early problem identification, timely recognition of opportunities for correction and enhancement and ultimately a high-quality independent medical review based on an impartial, informed and clinically sound appeal mechanism.

All physician reports are reviewed by the Case Review Manager for clarity, completeness and accuracy of case summarization. If problems or questions arise regarding a reviewer report, the Medical Director will be consulted. The Medical Director will then interface with the reviewer to resolve any outstanding problems not resolved by the Case Manager.

Client Orientation

Upon signing a new client, **IMEDECS** conducts a new client orientation specific to the intake process. The orientation acts as a mutual learning opportunity. During the meeting, held via conference call, representatives responsible for the appeals process from both organizations are introduced, and the client learns in detail about the intake process, avenues for case submission, and timelines for review, among other things. **IMEDECS** also gathers information during the meeting with respect to the client's requirements. The information gleaned allows **IMEDECS** to develop client-specific case review instructions and to customize the case review portal to meet the client's specifications.

EXHIBIT E

(Proposed form of Notice)

NOTICE

**IN THE MATTER OF THE LIQUIDATION OF
HEALTH REPUBLIC INSURANCE OF NEW YORK, CORP.
Supreme Court County of New York
Index No. 450500/2016**

The Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Health Republic Insurance of New York, Corp. (“Health Republic”) has made an application to the Supreme Court of the State of New York, County of New York (“Court”) seeking an order:

(1) appointing Hon. Anthony J. Carpenello (Ret.) and Alberto Torres, Esq., to serve as referees to hear and report on the validity of any unresolved objections to the Liquidator’s determination of Policy Claims (as defined in paragraph 3(a) of the Court’s Order Approving the Procedure for the Liquidator’s Adjudication of Claims, dated October 11, 2016); and (2) authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. (“IMEDECS”) to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

The Court has set _____, ____ 2017 at _____ .m. as the date and time for any interested parties to appear before the Court at the Courthouse, 60 Centre Street, New York, New York 10007, Room 438, and show cause why the requested relief should not be granted. If you wish to object to the Liquidator’s application, you must serve upon the Liquidator a written statement setting forth your objection and all supporting documentation by _____, ____ 2017, at the following address:

**Superintendent of Financial Services of the State of New York
as Liquidator of Health Republic Insurance of New York, Corp.
110 William Street, 15th Floor
New York, New York 10038
Attention: General Counsel**

The application and its supporting documents are available at <http://www.nylb.org> and at <http://www.healthrepublicny.org/>.

EXHIBIT F

(Proposed Order)

At IAS Part 35 of the Supreme Court of the State of New York, County of New York, at the courthouse, 60 Centre Street, in the County, City and State of New York, on the ____ day of _____, 2017.

P R E S E N T :

HON. CAROL R. EDMOND, J.S.C.

-----X

In the Matter of

Index No. 450500/2016

the Liquidation of

ORDER

HEALTH REPUBLIC INSURANCE OF
NEW YORK, CORP.

-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Health Republic Insurance of New York, Corp. (“Health Republic”), moved this Court for an order (1) appointing Hon. Anthony J. Carpinello (Ret.) and Alberto Torres, Esq., to serve as referees to hear and report on the validity of any unresolved objections to the Liquidator’s determination of Policy Claims (as defined in paragraph 3(a) of the Court’s Order Approving the Procedure for the Liquidator’s Adjudication of Claims, dated October 11, 2016); and (2) authorizing the Liquidator to engage Independent Medical Expert Consulting Services Inc. (“IMEDECS”) to provide independent medical review services on an as-needed basis in support of referee reviews of such unresolved objections.

NOW, upon reading the affirmation of Eliot Kirshnitz, an attorney for the New York Liquidation Bureau, the organization that carries out the duties of the Liquidator, dated April 14, 2017, and proof of service thereof upon all interested parties having been made, after due deliberation;

NOW, upon application of the Liquidator, it is ORDERED that:

1. Anthony J. Carpinello, Esq., and Alberto Torres, Esq., are appointed as Referees to hear and report on the validity of any unresolved objections the Liquidator's determination of claims, and such Referees shall be paid a fee based on an hourly rate of \$250 as an administrative expense of Health Republic.

2. The Liquidator is authorized to engage Independent Medical Expert Consulting Services Inc. ("IMEDECS") to provide independent medical review services on an as-needed basis at a base rate of \$425 per medical necessity review or coverage determination review as an administrative expense of Health Republic.

E N T E R

J. S. C.