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Unsecured Creditors of HHH Choices Health Plan, LLC*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

HHH CHOICES HEALTH PLAN, LLC,

Case No. 15-11158 (MEW)

Case No. 15-13264

Case No. 16-10028

Debtor.

(Jointly Administered)

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**NOTICE OF (I) APPROVAL OF DISCLOSURE STATEMENT;
(II) HEARING ON CONFIRMATION OF THE PLAN OF LIQUIDATION;
(III) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION
OF THE PLAN; (IV) DEADLINE AND PROCEDURES FOR
TEMPORARY ALLOWANCE OF CLAIMS; (V) TREATMENT OF
DISPUTED, CONTINGENT OR UNLIQUIDATED CLAIMS;
AND (VI) VOTING DEADLINE FOR RECEIPT OF BALLOTS**

TO ALL CREDITORS AND OTHER PARTIES IN INTEREST

PLEASE TAKE NOTICE that, upon the motion dated August 16, 2017 (the "Motion")¹ of the Official Committee of Unsecured Creditors (the "Committee") appointed in the Chapter 11 case of HHH Choices Health Plan, LLC (the "Debtor"), and after a hearing held on September 26, 2017, the Court entered an order on September 28, 2017 (the "Order"), providing for the following:

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or in the Plan (defined below), as applicable.

Approval of Disclosure Statement

1. Pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017(b), the Disclosure Statement (as it may be amended or otherwise modified, the “Disclosure Statement”), for the Plan of Liquidation Under Chapter 11 of the Bankruptcy Code for HHH Choices Health Plan, LLC (as it may be amended or otherwise modified, the “Plan”), is approved in all respects.

Confirmation Hearing Date

2. Pursuant to Bankruptcy Rule 3017(c), the hearing (the “Confirmation Hearing”) to consider confirmation of the Plan shall be held before the Honorable Michael E. Wiles, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **October 31, 2017 at 10:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel can be heard, and may be adjourned from time to time without further notice (other than by announcement of the adjourned date or dates in open court, or by a notice of adjournment filed with the Court and served on all persons that have filed a request for service of filings in the Case pursuant to Bankruptcy Rule 2002). Plan may be modified, amended or supplemented pursuant to section 1127 of the Bankruptcy Code prior to, during, or as a result of the Confirmation Hearing provided that such modifications, amendments or supplements do not materially and adversely affect any Class of Claims in the Plan.

Deadline and Procedures for Filing Objections to Confirmation

3. Pursuant to Bankruptcy Rule 3020(b)(1), in order to be considered, objections or proposed modifications, if any, to the Plan must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim of such party; (iii) state with

particularity the basis and nature of any objection or proposed modification; (iv) provide proposed language to remedy such objections; and (v) be filed with the Clerk of the Court and served so as to be received by (a) counsel to the Committee, Farrell Fritz, P.C., 622 Third Avenue, 37th Floor, New York, New York 10017 (Attn.: Martin G. Bunin, Esq. and Darren A. Pascarella, Esq.); (b) counsel to the Debtor, Lippes Mathias Wexler Friedman LLP, 50 Fountain Plaza, Suite 1700, Buffalo, New York 14202 (Attn: Raymond L. Fink, Esq. and John A. Mueller, Esq.); and (c) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Room 1006, New York, New York, 10006 (Attn: Greg M. Zipes, Esq.) (collectively, the “Notice Parties”), no later than **October 24, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”).

4. Objections that do not contain the information described above and that are not filed and served by the Objection Deadline in the manner as set forth above may not be considered and may be overruled and deemed waived.

Deadline and Procedures for Temporary Allowance of Claims for Voting Purposes

5. Any holder of a Claim seeking to have such Claim temporarily allowed for voting purposes shall file with the Court and serve on the Notice Parties so as to be actually received on or before **October 16, 2017 at 4:00 p.m. (prevailing Eastern Time)** a motion for temporary allowance of those Claims for purposes of accepting or rejecting the Plan (each, a “Temporary Allowance Motion”). Any objections to Temporary Allowance Motions shall be filed and served on or before **October 27, 2017**, with a hearing on such motions to be held on the date of the Confirmation Hearing in the event that the parties have not otherwise resolved the Temporary Allowance Motion through the submission of a stipulation temporarily allowing the Claim for voting purposes only.

6. Any party who timely files a Temporary Allowance Motion shall be permitted to submit a provisional ballot in respect of the Claim(s) that is the subject of the motion; provided, however, that such ballot may be counted by the Voting Agent only after entry of an order granting the Temporary Allowance Motion.

Treatment of Disputed, Contingent or Unliquidated Claims

7. Pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 3003(c)(2), any holder of a Claim (i) that is listed in the Schedules as disputed, contingent or unliquidated or scheduled in a zero or unknown amount, and (ii) that is not the subject of a timely filed proof of Claim or an Order specifically allowing such Claim (any such holder, a “Non-Creditor”), shall not be treated as a Creditor with respect to such Claim for purposes of receiving distributions under the Plan or voting on the Plan.

8. Following the entry of the Disclosure Statement Order, (a) Non-Creditors and (b) any party listed in the Debtor’s creditor matrix who is not listed in the Schedules and did not file a proof of Claim, shall no longer be treated as Creditors for the purpose of receiving notices in the Case and shall be removed from the creditor matrix.

Establishment of Voting Record Date

9. **September 26, 2017** is the date and time by which the claims register shall be deemed closed for purposes of determining whether a holder of an Unsecured Claim or Subordinated Claim is a record holder entitled to vote on the Plan (the “Voting Record Date”). The Committee and the Voting Agent shall have no obligation to recognize for purposes of voting on the Plan the vote of any purported transferee of an Unsecured Claim or the Subordinated Claim transferred after the Voting Record Date. With respect to transfers of Claims filed pursuant to Bankruptcy Rule 3001, the holder of a Claim as of the Voting Record Date shall be the transferor of such Claim unless the documentation evidencing such transfer was filed with the Court on or

before 21 days prior to the Voting Record Date and no timely objection with respect to such transfer was filed by the transferor.

Voting Deadline for Receipt of Ballots

10. Pursuant to Bankruptcy Rule 3017(c), to be counted, ballots for accepting or rejecting the Plan must be received by the Voting Agent no later than **October 20, 2017 at 5:00 p.m. (prevailing Eastern Time)** (the “Voting Deadline”). Ballots may *not* be cast by facsimile transmission or other electronic means.

11. Ballots that are not received by the Voting Deadline will not be counted.

12. Ballots must be addressed to:

If by Mail, hand delivery or overnight courier:

Farrell Fritz, P.C.
400 RXR Plaza
Uniondale, New York 11556
Attention: Darren A. Pascarella, Esq.

Executory Contracts and Unexpired Leases

13. The Plan provides that effective on and as of the Confirmation Date, all Executory Contracts are specifically deemed rejected, except for any Executory Contract (a) that has been specifically assumed or assumed and assigned by the Debtor on or before the Confirmation Date with the approval of the Court, or (b) in respect of which a motion for assumption or assumption and assignment has been filed with the Court on or before the Confirmation Date; provided, however, that to the extent any insurance policy of the Debtor, or any insurance policy that names or otherwise covers the Debtor as an insured, is deemed or determined to be an Executory Contract, such insurance policy is deemed assumed by the Debtor effective on and as of the Confirmation Date.

14. The Plan further provides that the entry of the Confirmation Order by the Clerk of the Court (subject to the condition that the Effective Date occur) shall constitute (a) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption or assumption and assignment of any Executory Contracts assumed or assumed and assigned pursuant to Section 7.1 of the Plan, and (b) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the Executory Contracts rejected pursuant to Section 7.1 of the Plan.

15. Additionally, the Plan provides that Claims against the Debtor arising out of the rejection of Executory Contracts pursuant to the Plan must be filed with the Court no later than forty-five (45) days after the Effective Date. **Any such Claims not filed within such time shall be forever barred from assertion against the Debtor and/or its property.**

Compensation and Benefit Programs

16. The Plan also provides that to the extent not previously terminated, all employment and severance agreements and policies, and all employee compensation and benefit plans, policies and programs of the Debtor applicable generally to their respective current employees or officers as in effect on the Confirmation Date, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit plans, incentive plans and life, accidental death and dismemberment insurance plans, shall be terminated as of the Confirmation Date.

Injunctions and Exculpation

17. **The Plan provides that, except as otherwise expressly provided in the Plan including, without limitation, the treatment of Claims against and Interests in the Debtor, the entry of the Confirmation Order shall, provided that the Effective Date shall have occurred, operate to enjoin permanently all Persons that have held, currently hold or may**

hold a Claim against or Interest in the Debtor, from taking any of the following actions against the Debtor, the Plan Administrator, the Committee or members thereof, the Post Effective Date Committee or members thereof, present and former directors, officers, trustees, agents, attorneys, advisors, members or employees of the Debtor, or any of their respective successors, heirs or assigns, or any of their respective assets or properties, on account of any Claim against or Interest in the Debtor: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind with respect to a Claim against or Interest in the Debtor; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order with respect to a Claim against or Interest in the Debtor; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind with respect to a Claim against or Interest in the Debtor; (d) asserting any setoff, right of subrogation or recoupment of any kind, directly or indirectly, against any Debt, liability or obligation due to the Debtor or its property or Assets with respect to a Claim against or Interest in the Debtor; and (e) proceeding in any manner in any place whatsoever that does not conform to or comply with or is inconsistent with the provisions of the Plan; provided, however, nothing in this injunction shall preclude the holder of a Claim against the Debtor from pursuing any applicable insurance after the Case is closed, from seeking discovery in actions against third parties or from pursuing third-party insurance that does not cover Claims against the Debtor.

18. The Plan also provides that none of (i) Alston & Bird LLP and Farrell Fritz P.C., in their capacity as counsel to the Committee; (ii) CBIZ Accounting, Tax & Advisory of New York, LLC and CBIZ, Inc., in their capacity as financial advisor to the Committee;

(iii) the Committee; (iv) the members of the Committee and their representatives, in their capacities as such; (v) Harter Secrest & Emery LLP and Lippes Mathias Wexler Friedman LLP, in their capacity as counsel to the Debtor; (vi) Getzler Henrich & Associates LLC, in its capacity as financial advisor to the Debtor; (vii) the Plan Administrator; (viii) the Plan Administrator’s attorneys, financial advisors, agents and representatives, in their capacities as such; (ix) the Post Effective Date Committee; (x) the members of the Post Effective Date Committee and their representatives, in their capacities as such; or (xi) the Post Effective Date Committee’s attorneys and financial advisors, in their capacities as such, shall have or incur any liability for any act or omission after the Petition Date in connection with, related to, or arising out of, the Case, the formulation, preparation, dissemination, implementation, confirmation, or approval of the Plan, the administration of the Plan or the property to be distributed under the Plan, or any contract, instrument, release, or other agreement or document provided for or contemplated in connection with the consummation of the transactions set forth in the Plan; provided, however, that nothing contained in Section 12.2 of the Plan shall affect the liability of any Person that would result from any such act or omission to the extent that act or omission is determined by a Final Order of the Court to have constituted willful misconduct or gross negligence; and in all respects, such Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and shall be fully protected from liability in acting or refraining to act in accordance with such advice.

19. In addition to the foregoing, the Plan provides that on and after the Effective Date, all Persons other than the Plan Administrator will be permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively or otherwise) on account of, or respecting any, Claim, Debt, right or

**Cause of Action that the Plan Administrator retains authority to pursue in accordance with
the Plan.**

Dated: New York, New York
September 28, 2017

FARRELL FRITZ, P.C.

By: *s/Martin G. Bunin*

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