

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Raymond G. Farmer, as Director of the South
Carolina Department of Insurance, and the
South Carolina Department of Insurance,

Plaintiffs,

vs.

Jessica K. Altman, as Rehabilitator of Senior
Health Insurance Company of Pennsylvania,
Patrick H. Cantilo, as Special Deputy
Rehabilitator of Senior Health Insurance,
Company of Pennsylvania, and Senior Health
Insurance Company of Pennsylvania in
Rehabilitation,

Defendants.

Civil Action No. 2020-CP-40-05802

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs, Raymond G. Farmer, as Director of the South Carolina Department of Insurance, and the South Carolina Department of Insurance, hereby move this Court, pursuant to Rule 65(b), SCRPC, to enter a temporary restraining order prohibiting the Defendants, their agents, employees, successors, attorneys, and all persons in active concert and participation with it or them, from communicating, implementing or enforcing in this State the Approved Rehabilitation Plan for Senior Health Insurance Company of Pennsylvania, in Rehabilitation dated September 30, 2021, otherwise interfering with the rights of policyholders of Senior Health Insurance Company of Pennsylvania (SHIP) in South Carolina, or violating the insurance laws of this State pertaining to long-term care insurance, pending a hearing and determination of Plaintiffs' Motion for a Temporary Injunction and Memorandum in Support filed with this Court on November 12, 2021. Defendants are in the process of implementing the Approved Rehabilitation Plan and will

begin contacting policyholders in December 2021 or sooner, asking them to make elections under the Approved Rehabilitation Plan. Plaintiffs further move the Court for an order setting a date for such hearing.

Unless this motion is granted, Plaintiffs and affected policyholders will suffer immediate and irreparable injury, loss, and damage as a result of the actions of Defendants before Defendants or their attorney can be heard in opposition to it, and before a hearing can be had on the merits of the Motion for Temporary Injunction, as more fully appears in the Motion for Temporary Injunction and Memorandum in Support, the exhibits thereto, and the Summons and Complaint previously filed in this matter.

Plaintiffs are notifying the Defendants of this Motion by automatic electronic service (South Carolina Courts E-File) and by electronic mail from counsel for Plaintiffs to Defendants' counsel of record.

WHEREFORE, Plaintiffs request that the Court enter a Temporary Restraining Order prohibiting the Defendants, their agents, employees, successors, attorneys, and all persons in active concert and participation with it or them, from communicating, implementing or enforcing in this State the Approved Rehabilitation Plan for Senior Health Insurance Company of Pennsylvania, in Rehabilitation dated September 30, 2021 or otherwise interfering with the rights of policyholders of Senior Health Insurance Company of Pennsylvania (SHIP) in South Carolina or otherwise violating the insurance laws of this State pertaining to long-term care insurance, and such other and further relief as the Court may deem just and proper.

This Motion is made pursuant to Rule 65(b), SCRCF and is based upon the papers and pleadings on file herein and any oral argument that this Court may allow.

Respectfully submitted,

November 18, 2021

s/ Geoffrey R. Bonham
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One of the Attorneys for Petitioner

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VERIFICATION

PERSONALLY APPEARED BEFORE ME, Daniel N. Morris, Deputy Director for
Financial Regulation & Solvency, who, first being duly sworn, says the following:

1. As the Deputy Director for Financial Regulation & Solvency at the South Carolina
Department of Insurance, I am responsible for the licensing, financial analysis and examination of
insurance companies in South Carolina.

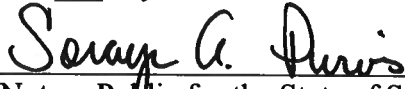
2. I have read the Complaint for Declaratory Judgment and Injunctive Relief, Plaintiffs'
Motion for Temporary Injunction and Memorandum in Support, and the Motion for Temporary
Restraining Order filed in the above-captioned action. The allegations contained therein are true
of my own knowledge and/or review of the official records and reports issued, received and
maintained by the Department pursuant to its powers under statute and regulation, except those

matters therein alleged upon information and belief and, as to them, I believe them to be true and correct to the best of my knowledge.



Daniel N. Morris
Deputy Director for
Financial Regulation & Solvency
South Carolina Department of Insurance
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

Sworn to and Subscribed before me
this 19th day of November 2021



Notary Public for the State of South Carolina

My Commission Expires: 09/26, 2028

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TEMPORARY RESTRAINING ORDER

This matter comes before the Court on Plaintiff's Motion for a Temporary Restraining Order pending the hearing and determination of Plaintiff's Motion for Temporary Injunction and Memorandum in Support, the Summons and Complaint previously filed in this matter, and the Verification of Daniel N. Morris, in which it appears that (1) Plaintiffs are specifically charged by the South Carolina General Assembly to uphold the insurance laws of this State, (2) those laws are designed to protect policyholders, whose contracts were formed in this State and are subject to its laws and regulations, (3) the State has a strong interest in protecting policyholders and ensuring that its laws are enforced, (4) if those laws are not enforced, and Defendants are permitted to continue to implement a plan of rehabilitation by implementing and communicating changes to premium rates and policy changes in December 2021 or sooner without required state regulatory approvals as planned, Plaintiffs will have not upheld their statutory duty and policyholders will be

permanently denied basic contractual, procedural and constitutional rights and suffer permanent and substantial economic harm, (5) even if Plaintiffs were to fine Senior Health Insurance Company of Pennsylvania in Rehabilitation (SHIP) or suspend or revoke its license, such after-the-fact measures would not reinstate any permanent or temporary loss of benefits or premium overcharges, (6) the same is true of any lawsuit to recover lost benefits or premium overcharges, which would also be impracticable given the advanced age and typically limited means of the victims, and (7) those actions would also not undo the substantial confusion and disruption of the marketplace that would have occurred.

On the basis of these pleadings and papers, it appears to the Court that Plaintiffs will suffer immediate and irreparable injury, loss, and damage before notice can be given of a hearing and a hearing can be held on Plaintiffs' Motion for Temporary Injunction in that if Defendants are permitted to implement changes to premium rates and policy changes without required approvals in December 2021 or sooner, it would irretrievably alter the *status quo* with respect to the enforcement of the insurance laws, the insurance marketplace and the rights of policyholders.

The Court is of the opinion that the temporary restraining order should be issued without hearing and without further notice, pending a hearing on Plaintiffs' Motion for Temporary Injunction and Memorandum in Support. Therefore, it is ordered that:

1. Defendants, their officers, agents, employees, successors, and attorneys, and all those in active concert or participation with them, are enjoined and restrained from communicating, implementing or enforcing in this State the SHIP rehabilitation plan approved by the Pennsylvania Commonwealth Court, otherwise interfering with the rights of SHIP long-term care insurance policyholders or otherwise violating the insurance laws of this State pertaining to long-term care insurance until such time as Plaintiffs' Motion for Temporary Injunction and

Memorandum in Support can be heard and determined and an order on said Motion and Memorandum is issued by this Court.

2. Pursuant to Rule 65(c), SCRCP, no security shall be required of Plaintiffs as an officer and agency of the State.

AND IT IS SO ORDERED this ____ day of _____, 2021, to expire on _____, 2021, unless within that time the Order is extended by this Court or unless Defendants consent to an extension.

L. Casey Manning
Chief Administrative Judge
Fifth Judicial Circuit

November ___, 2021
Columbia, South Carolina