

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

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), SCRCF, no security shall be required of Plaintiffs as an officer and agency of the State.

3. A hearing on the Motion for Temporary Injunction is set for Monday, November 29, 2021 at 2:00 p.m. in Courtroom 3B of the Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201.

4. This Order shall expire at 11:59 p.m., November 29, 2021, unless within that time the Order is extended by this Court or unless Defendants consent to an extension.

AND IT IS SO ORDERED.


L. Casey Manning
Chief Administrative Judge
Fifth Judicial Circuit

November 19, 2021
Columbia, South Carolina