

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MODIVCARE, INC., *et al.*,

Debtors.

HEALTHSPRING, INC.,

Plaintiff,

v.

MODIVCARE SOLUTIONS, LLC,

Defendant.

Chapter 11
Case No. 25-90309 (ARP)
(Jointly Administered)

Adversary No. _____

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.



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**TO THE HONORABLE ALFREDO R. PEREZ,
UNITED STATES BANKRUPTCY JUDGE:**

Pursuant to Federal Rule of Civil Procedure 65, made applicable herein by Federal Rule of Bankruptcy Procedure 7065, Plaintiff HealthSpring, Inc. (“HealthSpring”) submits this *Emergency Motion for Temporary Restraining Order and Preliminary Injunction* to compel Debtor ModivCare Solutions, LLC (“ModivCare”) to comply with its contractually obligated 180-day wind-down and transition period under Section 12.4 of ModivCare’s Master Service Agreement with HealthSpring. In support thereof, HealthSpring respectfully submits the following:

INTRODUCTION

1. Plaintiff HealthSpring, Inc. (“HealthSpring”) seeks this Court’s intervention to prevent Debtor ModivCare Solutions, LLC (“ModivCare”) from irreparably harming HealthSpring and severely jeopardizing the health and safety of hundreds of thousands of Medicare beneficiaries. HealthSpring is a Medicare Advantage organization that provides health and prescription drug benefits to approximately [REDACTED] Medicare beneficiaries. ModivCare entered into a Master Service Agreement (“MSA”) and additional Statements of Works (“SOW”; collectively, with the MSA, the “Contract”) with HealthSpring to be HealthSpring’s sole national vendor for Non-Emergency Medical Transportation (“NEMT”) services through December 31, 2026. NEMT services are critical lifelines for HealthSpring’s members, providing (among other things) necessary transportation to life-sustaining medical treatment such as dialysis, infusion, and chemotherapy. Because the Contract involves an essential service to a vulnerable population, HealthSpring and ModivCare agreed that upon termination of the Contract for any reason, ModivCare is required to “run out” its services for 180 days so HealthSpring can implement an alternative provider.

2. After filing for bankruptcy protection, ModivCare repeatedly assured HealthSpring that it would continue to perform under the Contract—and even submitted a bid to continue providing services under a new contract starting in 2027 at higher rates. However, on December 18, 2025, after learning that it did not win the 2027 contract, ModivCare issued a “for cause” termination to HealthSpring and has repeatedly refused to provide any of the contractual “run out” services necessary to ensure HealthSpring’s members have uninterrupted access to care. Unless enjoined, ModivCare will leave HealthSpring’s Medicare enrollees, many with chronic diseases, with no other viable method of reaching the care they need. Notably, HealthSpring has agreed to pay ModivCare for these services at the rates ModivCare recently proposed when seeking a new agreement with HealthSpring starting in 2027, which are higher than the current rates. For these reasons and those further established below, this Court should enjoin ModivCare from ceasing services to HealthSpring’s members until May 1, 2026—which is when HealthSpring can have a replacement provider in place.

FACTUAL BACKGROUND

I. THE PARTIES

3. HealthSpring is a Medicare Advantage organization that has contracted with the Centers for Medicare and Medicaid Services (“CMS”) to offer Medicare Advantage plans to Medicare beneficiaries in numerous states across the country. *See Exhibit A*, Declaration of Kayla McKenzie in Support of Emergency Motion for Temporary Restraining Order and Preliminary Injunction (“McKenzie Decl.”) at ¶¶ 6-7; **Exhibit B**, Declaration of Dana Mott in Support of Emergency Motion for Temporary Restraining Order and Preliminary Injunction (“Mott Decl.”) at ¶¶ 5-6.¹ Approximately ██████████ Medicare beneficiaries are enrolled in HealthSpring’s Medicare

¹ In submitting this Motion, HealthSpring’s Exhibits 1-12 are identical to Exhibits 1-12 filed in Support of Objection of HealthSpring, Inc., to Debtors’ Motion for Entry of an Order Authorizing the Debtors to Reject Certain Executory

Advantage plans, the vast majority of whom are over 65 years old and many have complex medical conditions. McKenzie Decl. at ¶¶ 8-9.

4. ModivCare is a national provider of several services, including NEMT services, to health plans and their members. ModivCare holds itself out as the “nation’s leading provider of Non-Emergency Medical Transportation” and boasts: “No matter where or when the appointment, Modivcare’s non-emergency medical transportation (NEMT) helps tens of millions each year reach their care destinations. We deliver access.” <https://www.modivcare.com/offerings/nemt/>.

II. THE PARTIES’ CONTRACT FOR NATIONAL NEMT SERVICES

A. ModivCare Entered Into the Contract with HealthSpring to be the National NEMT Services Provider to ████████ of HealthSpring’s Medicare Enrollees.

5. In early 2023, HealthSpring’s predecessor² decided to transition NEMT services to a new provider. McKenzie Decl. at ¶ 14. After discussions with ModivCare, ModivCare won the contract to be the national NEMT services provider. *Id.* NEMT is an important benefit that HealthSpring offers to its approximate ████████ enrollees as it provides transportation to and from medical appointments and behavioral health appointments and to pick up prescriptions, among other things. *Id.* at ¶¶ 7, 72. The parties entered into the MSA, effective April 1, 2023. *See Id.* at ¶ 16; **Exhibit 1**. The parties then executed SOW No. 11007, dated April 15, 2023, that detailed the NEMT services ModivCare was to provide. *See* McKenzie Decl. at ¶ 17; **Exhibit 2**. Due to the complexity of initiating NEMT services for a national health plan like HealthSpring (described in

Contracts Filed at Docket No. 1133 (Dkt No. 1189; the “Opposition”). The McKenzie Decl. and Mott Decl. have been updated to address additional issues discussed herein.

² The Contract was entered into between Cigna Corporate Services, LLC (“Cigna”) and ModivCare. On March 19, 2025, Health Care Service Corporation (“HCSC”) acquired Cigna’s Medicare Advantage business, and the Contract was ultimately assigned to HealthSpring as a subsidiary of HCSC. *See* McKenzie Decl. at ¶ 3; Mott Decl. at ¶ 3.

B. If the Contract is Terminated *For Any Reason*, ModivCare is Required to Provide Essential Wind-Down and Run-Out Services to Ensure HealthSpring's Members Have Uninterrupted Transportation to Necessary Medical Care.

8. HealthSpring's Medicare Advantage program is a nationwide program. McKenzie Decl. at ¶ 11. It is difficult to onboard a national NEMT provider, as it requires significant technology investments, data transfers, and regulatory compliance considerations. *Id.* For instance, to integrate a new provider for HealthSpring's [REDACTED] members, that provider must, among other actions: (1) make the existing network of drivers and transportation providers available to existing HealthSpring customers and onboard additional transportation providers for HealthSpring consumers in locations where services do not already exist; (2) input and organize all new customer information; (3) set up a system to track the use of member benefits; and (4) set up a smartphone application, website, and phone system, that HealthSpring plan members can access to schedule their trips. *Id.* at ¶ 11; *see also id.* at Appendix A (detailing tasks that must be accomplished to transition from ModivCare to another provider). For its part, HealthSpring must ensure that all links on existing websites and phone numbers are rerouted from ModivCare to the new provider and work with existing customers to ensure they understand the transition and have access to new websites and applications so there is no interruption in service. *Id.* Additionally, once the new NEMT service provider is onboarded, HealthSpring must provide 30 days' notice to all eligible members for each new way to access services provided by the new vendor, including new websites and mobile applications. *Id.*

9. Due to the complexity of onboarding a new NEMT provider (as demonstrated by ModivCare's onboarding that took six months, McKenzie Decl. at ¶ 28) and the need to ensure that members do not have any disruption in services, the parties specifically negotiated what happens in the event of a termination of the Contract *for any reason*. McKenzie Decl. at ¶¶ 12-13.

Specifically, ModivCare agreed to, among other things, a 180-day wind down period (the “Wind-Down Period”) during which time it would continue to provide “run out” services and provide necessary information to HealthSpring. *Id.* at ¶ 24. Section 12.4 of the MSA provides, in relevant part, that during this 180-day period, ModivCare is obligated to continue to provide NEMT services in accordance with the SOW (the “Run-Out Services”):

[REDACTED]

See Exhibit 1, MSA at § 12.4 (emphasis added). The SOW defines those services, including

[REDACTED]

[REDACTED]

See Exhibit 2,

SOW at 2-5.

10. In addition to the Run-Out Services, Exhibit 2 to the SOW delineates ModivCare’s termination assistance obligations (“Termination Assistance”), including:

- [REDACTED]

- [REDACTED]

- [REDACTED]
- [REDACTED]

See **Exhibit 2**, SOW at 2-5; McKenzie Decl. at ¶ 24.

III. THE BUSINESS DISPUTE REGARDING THE AMOUNT OF PAYMENT

11. In August 2024, ModivCare raised a dispute with HealthSpring about certain risk-sharing payments and the appropriateness of a medical loss ratio (“MLR”) calculation (the “2024 Payment Dispute”). McKenzie Decl. at ¶ 39. While the scope of this dispute is discussed below, the resolution of the 2024 Payment Dispute is irrelevant to this motion. Specifically, even if alleged improper payments did allow ModivCare to properly terminate for breach, ModivCare would still be required to provide the Run-Out Services as such services are mandated regardless of the reason for termination. See **Exhibit 1**, MSA § 12.4.

12. As to the 2024 Payment Dispute, under the Contract, HealthSpring agreed to compensate ModivCare in two ways for its services. First, HealthSpring paid ModivCare a per member, per month (“PMPM”) capitated payment that was meant to cover both the cost of the transportation services and ModivCare’s administrative costs necessary to arrange for the transportation services. McKenzie Decl. at ¶ 19. In addition, starting in 2024, HealthSpring and ModivCare agreed to a risk-sharing arrangement tied to a medical loss ratio (“MLR”) for the transportation services. *Id.* at ¶ 20. An MLR is essentially the cost of the services at issue (in this case transportation services) divided by the revenue paid for those services (in this case, the PMPM capitated payments). *Id.* at ¶ 21. [REDACTED]

[REDACTED]

[REDACTED] *Id.* at ¶ 22. [REDACTED]

[REDACTED]

B. In June 2025, HealthSpring Issued an RFP for a New NEMT Contract Starting in 2027 and ModivCare Responded to that RFP.

15. The Contract was set to end on December 31, 2026. McKenzie Decl. at ¶ 29. In anticipation of the need for a new provider of NEMT services in 2027, on or about June 6, 2025, HealthSpring issued a Request for Proposal (“RFP”) for Non-Emergency Medical Transportation Services. *Id.* at ¶ 47. ModivCare submitted an RFP response that included rates that were higher than the existing rates in the Contract. *Id.* at ¶ 49. At the conclusion of the RFP process in October 2025, HealthSpring ultimately chose a different NEMT provider for 2027. *Id.* at ¶ 50.

16. Upon being notified of the decision, ModivCare assured HealthSpring that it would continue to perform under the Contract through 2026. *Id.* In mid-December 2025, however, ModivCare asked if HealthSpring would reconsider its RFP decision and award the 2027 NEMT contract to ModivCare. *Id.* at ¶ 57. HealthSpring declined to do so and reiterated that HealthSpring would continue to work with ModivCare as a partner through the end of 2026. *Id.*

V. AFTER FAILING TO OBTAIN THE 2027 NEMT CONTRACT, MODIVCARE SUDDENLY REVERSED COURSE ON ITS ASSURANCES OF CONTINUED PERFORMANCE AND TERMINATED THE CONTRACT ALLEGEDLY “FOR CAUSE”.

17. Up until mid-December 2025, ModivCare made repeated assurances that (i) it would continue to perform through 2026, and (ii) its bankruptcy would not disrupt services to HealthSpring’s members. *See* McKenzie Decl. at ¶¶ 50-57. However, after HealthSpring informed ModivCare that it did not win the 2027 NEMT contract, on December 18, 2025, ModivCare sent HealthSpring a “Thirty Day Termination Notice for Breach” letter (“Termination Notice”), in which it resurrected the dormant 2024 Payment Dispute and declared HealthSpring was in material breach. *See* McKenzie Decl. at ¶ 58; **Exhibit 9**. ModivCare further stated it was terminating the Contract for cause in 30 days pursuant to Section 12.2 of the MSA, and that ModivCare might also seek to reject the MSA in this bankruptcy proceeding if HealthSpring did not settle the 2024

Payment Dispute within days. McKenzie Decl. at ¶ 58. HealthSpring has performed and until ModivCare signaled the termination of the contract, was prepared to continue performing under this contract until the end of its term—December 31, 2026. *Id.* at ¶ 29.

18. After ModivCare sent the Termination Notice, HealthSpring immediately began engaging with MTM Health (“MTM”), the NEMT provider that was awarded the 2027 contract, to begin the process of going live as soon as possible. McKenzie Decl. at ¶ 69. However, there is significant work involved in onboarding MTM, including, among other things, (i) making existing transportation providers available to customers or onboarding new transportation providers; (ii) inputting all of the roughly eligible ██████ plan members; (iii) setting up a system to track the use of member benefits; and (iv) setting up a smartphone application, website, and phone system, that HealthSpring plan members can access to schedule their trips. *Id.* at ¶ 11; *see generally Id.* at ¶¶ 69-78. Additionally, HealthSpring requires information from ModivCare about the consumers and services to complete this transition. *Id.* at ¶ 76, Appendix A. As a result, MTM will not be able to fully take over NEMT services until May 1, 2026, leaving HealthSpring’s customers without access to NEMT services if ModivCare does not fulfill its contractual obligations. *Id.* at ¶¶ 73-74, 77-78.

19. HealthSpring repeatedly attempted to have ModivCare commit to its Run-Out Services and Termination Assistance obligations to ensure HealthSpring’s members continued to have access to necessary NEMT services. McKenzie Decl. at ¶ 60; Mott Decl. at ¶¶ 11-15. ModivCare consistently refused and, instead, demanded that HealthSpring make a multi-million dollar payment to resolve the 2024 Payment Dispute and/or award the 2027 NEMT contract to

ModivCare before it would discuss its contractual obligations.⁴ See McKenzie Decl. at ¶¶ 61-67; Mott Decl. at ¶¶ 11-13, **Exhibit 10-12**.

20. Unwilling to be extorted but needing to ensure its members had continued access to care, HealthSpring offered to pay ModivCare the rates ModivCare had proposed in response to the 2027 RFP for performance of the Run-Out Services—but ModivCare simply ignored that offer. Mott Decl. at ¶ 14. As a result, ModivCare intends to leave tens of thousands of Medicare beneficiaries without transportation to medical care.

VI. MODIVCARE FAILING TO ABIDE BY THE WIND-DOWN PERIOD WILL IMMEDIATELY IMPACT ROUGHLY [REDACTED] HEALTHSPRING CONSUMERS WHO ARE ENTITLED TO USE NEMT SERVICES

21. If ModivCare ceases providing services without the Wind-Down Period, the roughly [REDACTED] consumers entitled to NEMT services, including [REDACTED], will immediately not have access to this benefit. McKenzie Decl. at ¶¶ 11, 31, 37. The roughly [REDACTED] consumers entitled to NEMT services largely comprise elderly and those with limited means, so they require these NEMT services because they often do not have alternative means of transportation. *Id.* at ¶¶ 7-9. With respect to the approximately [REDACTED] members who routinely use these services, many using the NEMT services have recurring needs to be transported to life-sustaining appointments, such as dialysis, infusion and chemotherapy. *Id.* Additionally, not only will HealthSpring's consumers suffer, but if HealthSpring loses its sole provider for NEMT services and cannot provide these

⁴ ModivCare filed the Motion seeking to reject the Contract, effective as of January 28, 2026. *Id.* at ¶ 61. The Motion [Docket No. 1133] was filed immediately before ModivCare announced entry of the order of a plan of reorganization [Docket No. 1134]. It does not appear that ModivCare ever disclosed the 2024 Payment Dispute with HealthSpring or its potential impact on the reorganization during the plan confirmation process—even though the dispute began in mid-2024. Likewise, the Motion does not mention ModivCare's contractual Run-Out Services and Termination Assistance obligations.

services, it will irreparably damage HealthSpring's reputation with these consumers and in the marketplace. *Id.* at ¶¶ 67-68.

ARGUMENT

I. LEGAL STANDARD

22. Under Fed. R. Civ. P. 65, this Court may issue both temporary restraining orders and preliminary injunctions. *See* Fed. R. Civ. P. 65(a) & (b). “The standard for deciding whether to issue a preliminary injunction is the same standard used to issue a temporary restraining order.” *Texas v. United States*, 524 F. Supp. 3d 598, 651 (S.D. Tex. 2021) (citing *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987)).

23. A party seeking a temporary restraining order and/or preliminary injunction “generally must show (1) a substantial likelihood of success on the merits, (2) irreparable injury if the injunction is not granted, (3) that the injury outweighs any harm to the other party, and (4) that granting the injunction will not disserve the public interest.” *Brock Servs., L.L.C. v. Rogillio*, 936 F.3d 290, 296 (5th Cir. 2019). While the party seeking the injunction must carry the burden of persuasion, it is not required to prove its case in full. *Glycobiosciences, Inc. v. Woodfield Pharm., LLC*, No. 4:15-CV-02109, 2016 WL 1702674, at *2 (S.D. Tex. Apr. 27, 2016) (quoting *Fed. Sav. & Loan Ins. Corp. v. Dixon*, 835 F.2d 554, 558 (5th Cir. 1987)). Further, “none of the four prerequisites has a fixed quantitative value.” *Mock v. Garland*, 75 F.4th 563, 587 (5th Cir. 2023) (quoting *State of Tex. v. Seatrain Int’l, S. A.*, 518 F.2d 175, 180 (5th Cir. 1975)). “Rather, a sliding scale is utilized, which takes into account the intensity of each in a given calculus.” *Id.* (quoting *State of Tex.*, 518 F.2d at 180). The decision whether to grant a temporary restraining order or injunction lies within the sound discretion of the court. *Glycobiosciences, Inc.*, 2016 WL 1702674, at *2 (citing *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 320 (1982); *Lakedreams v. Taylor*, 932 F.2d 1103, 1107 (5th Cir. 1991)).

II. THE FOUR FACTORS WEIGH HEAVILY IN FAVOR OF AN INJUNCTION.

A. Irreparable Harm: HealthSpring and Its Medicare Enrollees Will Suffer Irreparable Harm Absent An Injunction.

24. If ModivCare unilaterally ceases services without abiding by its contractual Run-Out Services and Termination Assistance obligations, the harm to HealthSpring and—most importantly—the approximate [REDACTED] Medicare members who are entitled to the NEMT services will be immediate and irreparable. Indeed, [REDACTED] members require transportation to receive life-sustaining medical services to treat chronic diseases. ModivCare’s actions will leave them literally standing at the curb and risking their health and safety. ModivCare cannot be permitted to walk away from its duties to HealthSpring and these members.

25. A party establishes irreparable harm if it demonstrates a “significant threat of injury from the impending action, that the injury is imminent, and that money damages would not fully repair the harm.” *Humana, Inc. v. Avram A. Jacobson, M.D., P.A.*, 804 F.2d 1390, 1394 (5th Cir. 1986); *see also Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2011) (“[A] harm is irreparable where there is no adequate remedy at law, such as monetary damages.”). It is hard to imagine a more irreparable harm than being without a means to receive medical and other care, and for this reason Fifth Circuit courts have held that lack of access to medical care can constitute irreparable harm—not only for the company asserting the claim, but also actual and potential consumers. *See United States v. Texas*, 566 F. Supp. 3d 605, 689 (W.D. Tex. 2021) (finding that without preliminary injunction patients would suffer irreparable harm by being unable to access medical care); *ArthroCare Corp. v. Innovatech Med. Res., L.P.*, No. A-11-CA-639-SS, 2011 WL 13234894, at *2 (W.D. Tex. July 27, 2011) (finding a preliminary injunction would prevent irreparable harm to business reputation of medical device manufacturer, and potentially patients who used their products); *Fam. Rehab., Inc. v. Azar*, No. 3:17-CV-3008-K, 2018 WL 2670730, at

*3 (N.D. Tex. June 4, 2018) (finding irreparable harm because “[n]ot only is [the plaintiff] suffering a dramatic financial hardship currently, but Family Rehab will go out of business permanently, with its remaining employees losing their employment and patients losing their healthcare provider.”)

26. If ModivCare ceases performing services for HealthSpring without adhering to its Run-Out Services and Termination Assistance obligations, the harm will be immediate and irreparable for both HealthSpring and its customers. NEMT services provide a lifeline to seniors, individuals with disabilities, those with behavioral health needs, and low-income populations, who would otherwise miss life-sustaining treatments like dialysis, infusion, or chemotherapy. McKenzie Decl. at ¶ 7. It is critical that NEMT service remains uninterrupted for HealthSpring members because the very purpose of NEMT service is to ensure that members, many of whom are low income and have complex medical needs, have available transportation to receive medical care. *Id.* at ¶ 8. This will lead to missed doctor visits, worsening health, increased reliance on costly emergency room care, and lack of consistent care for chronic conditions like diabetes, kidney disease (dialysis), or heart disease. *Id.*

27. ModivCare and HealthSpring included the 180-day Wind-Down Period in the MSA specifically because, as ModivCare knows from its transition to being HealthSpring’s NEMT provider, HealthSpring, like any other plan, requires substantial lead time to transition from one national NEMT provider to another. McKenzie Decl. at ¶¶ 24, 28. The new national provider must, among other things, (i) making existing transportation providers available to customers or onboarding new transportation providers; (ii) input all of the roughly eligible ██████████ plan members; (iii) set up a system to track the use of member benefits; and (iv) set up a smartphone application, website, and phone system, that HealthSpring plan members can access to schedule

their trips. *Id.* at ¶ 11; *see also id.* at Appendix A (detailing information needed from ModivCare to effectuate the transition); ¶¶ 70-77. HealthSpring must ensure that all links on existing websites and phone numbers are rerouted from ModivCare to the new provider and work with existing customers to ensure they understand the transition and have access to new websites and applications so there is no interruption in service. *Id.* at ¶ 11. Additionally, once the new NEMT service provider is onboarded, HealthSpring must provide 30 days' notice to all eligible members for each new way to access services provided by the new vendor, including new websites and mobile applications. *Id.*

28. In anticipation of ModivCare's breach, HealthSpring has engaged a new provider, MTM, to transition services. McKenzie Decl. at ¶ 69. However, due to the complexity of the transfer and validation of the new supplier, it will take until approximately May 1, 2026 to fully bring MTM on board. *Id.* at ¶¶ 28, 69-73. If ModivCare does not render the Run-Out Services and Termination Assistance, HealthSpring cannot deliver this benefit to the over [REDACTED] customers who are entitled to this benefit. *Id.* at ¶¶ 12-13, 77-78. This means until May 1, 2026 (the date by which HealthSpring can fully bring MTM on board), these customers will not be able to receive this NEMT benefit and [REDACTED] will not receive the care they need for life-threatening conditions. *Id.* at ¶¶ 7-9, 12-13. Not only will this irreparably impact consumers, it will also irreparably damage HealthSpring's reputation with these consumers and in the marketplace. *Id.* at ¶¶ 67-68. *ArthroCare Corp.*, 2011 WL 13234894, at *2.

29. Given the grave importance of ensuring that Medicare enrollees have continued access to, among other things, life-sustaining medical services, this factor heavily weighs on the "sliding scale" in favor of an injunction. *Mock v. Garland*, 75 F.4th at 587; *Carroll Indep. Sch. Dist. v. United States Dep't of Educ.*, 741 F. Supp. 3d 515, 520 (N.D. Tex. 2024).

B. Public Interest: The Public Interest in Ensuring Medical Enrollees Have Continued Access to Medical and Other Care Heavily Favors Injunctive Relief.

30. “In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 24 (2008) (quoting *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982)). Just like with irreparable harm, this factor weighs heavily in favor of an injunction as the harm to the public is both real and extensive if ModivCare walks away from providing NEMT services to HealthSpring’s approximate [REDACTED] Medicare enrollees who are entitled to the NEMT services provided by ModivCare. McKenzie Decl. at ¶¶ 8, 11, 31.

31. As set forth above, without ModivCare’s services until HealthSpring can bring its new vendor online, a significant portion of these customers will not have access to or will have difficulty accessing medical care. McKenzie Decl. at ¶¶ 8-13, 31, 67-68, 72-73, 77-78. Numerous courts in this Circuit consider a reduction in access to health and medical care to be against the public interest and weigh in favor of an injunction. *See Med-Cert Home Care, LLC v. Azar*, 365 F. Supp. 3d 742, 758 (N.D. Tex. 2019) (finding the public interest was served by granting a preliminary injunction that would prevent closure of a home health agency that “provides unique services to an aging population from South East Asia who have special needs because of language and cultural differences in addition to exposure to Agent Orange”); *Teladoc, Inc. v. Texas Med. Bd.*, 112 F. Supp. 3d 529, 544 (W.D. Tex. 2015) (finding the public interest was served by granting a preliminary injunction after plaintiffs argued consumers would face higher price and reduced access to medical care if injunctive relief were not granted); *Angels of Care Home Health, Inc. v. Azar*, No. 3:18-CV-3268-S-BK, 2019 WL 1101286, at *5 (N.D. Tex. Feb. 13, 2019), *report and recommendation adopted*, No. 3:18-CV-3268-S-BK, 2019 WL 1099028 (N.D. Tex. Mar. 8, 2019) (granting a preliminary injunction, in part, because a home health care agency would close without

the injunction and “the public ‘would benefit from continued access’ to Plaintiff’s services”); *Fam. Rehab., Inc. v. Azar*, No. 3:17-CV-3008-K, 2018 WL 2670730, at *3 (N.D. Tex. June 4, 2018) (same).

32. Thus, the public interest factor likewise heavily favors injunctive relief.

C. HealthSpring Is Substantially Likely to Succeed on the Merits

i. *ModivCare is in Clear Breach of its Contractual Run-Out Services and Termination Assistance Obligations.*

33. As set forth in its Adversary Complaint, HealthSpring alleges that ModivCare has wrongfully repudiated its contractual Run-Out Services and Termination Assistance obligations—which exist regardless of the reason for the termination of the Contract. “While the movant bears the burden of persuasion on each of the four preliminary injunction factors, showing a likelihood of success on the merits is a lower bar than actual success on the merits.” *MS Int’l, Inc. v. EDCO Express Logistics, LLC*, No. 5:23-CV-00088, 2024 WL 5036660, at *3 (S.D. Tex. May 20, 2024) (citing *Byrum v. Landreth*, 566 F.3d 442, 446 (5th Cir. 2009)). That is, the party seeking an injunction “is not required to prove its entitlement to summary judgment in order to establish ‘a substantial likelihood of success on the merits’ for preliminary injunction purposes.” *Byrum v. Landreth*, 566 F.3d 442, 446 (5th Cir. 2009) (citing *ICEE Distribs. v. J&J Snack Foods Corp.*, 325 F.3d 586, 596 n.34 (5th Cir. 2003)).

34. Under controlling New York law,⁵ HealthSpring has a substantial likelihood of success on its breach of contract claim. To succeed on a claim for breach of contract under New York law, a plaintiff must demonstrate: “(1) the existence of an agreement, (2) adequate

⁵ Pursuant to Section 13.7 of the MSA, the Contract is controlled by New York law. See *Highland Crusader Offshore Partners LP v. LifeCare Holdings Inc.*, 377 F. App’x 422, 425–26 (5th Cir. 2010) (“The [agreement] contains an enforceable choice of law provision choosing New York law, and, because Texas would honor the agreement’s choice of law provision, we find that New York law governs [the] contract claims.”).

performance of the contract by the plaintiff, (3) breach of contract by the defendant, and (4) damages.” *Eternity Glob. Master Fund Ltd. v. Morgan Guar. Tr. Co. of N.Y.*, 375 F.3d 168, 177 (2d Cir. 2004). None of these elements are reasonably in dispute.

35. **First Element – Existence of Agreement:** There is no dispute that the Contract exists and is in full force, as ModivCare is now seeking to reject it—tacitly admitting to the existence of the Contract and that it is still in force. *See, e.g.*, Ex. 1 at 1; Ex. 2 at 1; Dkt. 1133 at 1-2, 3; Dkt. 1133-1 at 4-5; *see Bionpharma Inc. v. CoreRx, Inc.*, 582 F. Supp. 3d 167, 176 (S.D.N.Y. 2022).

36. **Second Element – Performance by HealthSpring:** HealthSpring has performed its duties under the contract. Until ModivCare indicated it sought to terminate the Contract in December 2025, HealthSpring was prepared to continue performing under the Contract through its completion in December 2026. McKenzie Decl. at ¶ 29. HealthSpring has paid its contractually obligated payments under the Contract in accordance with the terms of the Contract. *Id.* at ¶¶ 29, 39-46.

37. ModivCare nevertheless on December 18, 2025, asserted that the Contract has been terminated by HealthSpring’s breach, and HealthSpring has performed its duties in the face of such an assertion of breach. If such breach occurred, it would bring into effect ModivCare’s Run-Out Services and Termination Assistance obligations under Section 12.4 of the MSA. Section 12.4 provides that [REDACTED]

[REDACTED] *See Exhibit 1*, MSA at § 12.4. HealthSpring believes that the rates in the Contract are suitable. Mott Decl. at ¶ 14. Nevertheless, as a showing of its good faith, HealthSpring offered to pay ModivCare at the rates *ModivCare* proposed in response to the most recent HealthSpring RFP for the 2027 NEMT contract. *Id.* As such, HealthSpring has

performed and has offered to continue to perform. *See AKF, Inc. v. Dajon, Inc.*, No. 1:21-CV-90 (FJS/DJS), 2021 WL 6113208, at *4 (N.D.N.Y. Feb. 23, 2021); *Hercules Pharms., Inc. v. Cherne*, No. 24-CV-5659 (JS)(AYS), 2024 WL 4406899, at *4-5 (E.D.N.Y. Sept. 18, 2024), *aff'd*, No. 24-2545-CV, 2025 WL 1099431 (2d Cir. Apr. 14, 2025).

38. **Third Element – Breach/Anticipatory Repudiation by ModivCare:** ModivCare’s anticipatory breach and repudiation of the Contract is clear and unequivocal.⁶ Specifically, Section 12.4 of the Contract and Exhibit 2 of the SOW sets forth Run-Out Services and Termination Assistance obligations that ModivCare must adhere to *regardless of the reason for the termination of the Contract*. *See* Factual Background, § II.B. Those services include requiring ModivCare to continue to provide NEMT services in accordance with the SOW and provide extensive information to allow the transition to a new NEMT provider. *Id.* HealthSpring specifically negotiated these provisions *for the very purpose of ensuring that its members have continued access to the medical care they need*. *Id.* Thus, regardless of the reason for termination of the Contract, ModivCare has contractual Run-Out Services and Termination Assistance obligations during the 180-day Wind-Down Period. However, ModivCare has stated unequivocally that it would stop providing any services if this Court enters the Rejection. Dkt. 1133; McKenzie Decl. at ¶ 63. Even if the Court approves rejection of the Contract, termination on that date would still be a clear breach of ModivCare’s obligations imposed by Section 12.4 of the MSA and Exhibit 2

⁶ “Failure by the promisor to perform at the time indicated for performance in the contract establishes an immediate breach[.]” but “the promisor’s renunciation of a contractual duty *before* the time fixed in the contract for ... performance is a repudiation.” *Franconia Assocs. v. United States*, 536 U.S. 129, 142-43 (2002) (internal quotation marks and citations omitted). “Anticipatory repudiation occurs when, before the time for performance has arisen, a party to a contract declares his intention not to fulfill a contractual duty.” *Lucente v. Int’l Bus. Machines Corp.*, 310 F.3d 243, 258 (2d Cir. 2002). “For an anticipatory repudiation to be deemed to have occurred, the expression of intent not to perform by the repudiator must be ‘positive and unequivocal.’” *Princes Point LLC v. Muss Dev. L.L.C.*, 30 N.Y.3d 127, 133 (2017) (quoting *Tenavision, Inc. v. Neuman*, 45 N.Y.2d 145, 150 (1978)). “Where the repudiation is in writing, . . . the court may resolve the issue of repudiation ‘as a matter of law.’” *DiFolco v. MSNBC Cable L.L.C.*, 622 F.3d 104, 112 (2d Cir. 2010) (quoting *York Agents, Inc. v. Bethlehem Steel Corp.*, 36 A.D.2d 62, 318 N.Y.S.2d 157, 158-59 (1st Dep’t 1971)).

of the SOW. ModivCare's assertion that it will not perform the run-out services upon rejection is a classic example of an anticipatory repudiation. *See AKF, Inc.*, 2021 WL 6113208, at *4; *Hercules Pharms., Inc.*, 2024 WL 4406899, at *4-5.

39. **Fourth Element – Damages:** While HealthSpring has already and will certainly continue to incur damages, there cannot be any real dispute that such damages are inadequate given the irreparable harm to HealthSpring and its Medicare members, as described above. *See AKF, Inc.*, 2021 WL 6113208, at *4; *Fam. Rehab., Inc.*, 2018 WL 2670730, at *3.

40. This element, likewise, heavily favors an injunction as there is no real dispute that ModivCare has anticipatorily repudiated its contractual obligations.

ii. ***Controlling Law Provides HealthSpring a Specific Performance Remedy.***

41. Because both HealthSpring and its consumers will be irreparably harmed by ModivCare's breach and because damages will not cure that harm, the only remedy is ModivCare's performance of its Run-Out Services and Termination Assistance obligations during the Wind-Down Period.

42. Under New York law, when continued performance under the contract is vital to a party's business and the party is ready and willing to continue to performance, the appropriate remedy is an injunction requiring specific performance of the contract against the breaching company. *See Reuters Ltd. v. United Press Int'l, Inc.*, 903 F.2d 904, 909 (2d Cir. 1990) (granting a preliminary injunction for the defendant after the plaintiff terminated agreement to supply foreign news photographs and compelling the plaintiff to continue supplying photographs until trial could be held); *Bionpharma Inc. v. CoreRx, Inc.*, 582 F. Supp. 3d 167, 179 (S.D.N.Y. 2022) (granting an injunction and compelling defendant to continue supplying plaintiff with generic drug in accordance with agreement); *Vestron, Inc. v. National Geographic Soc'y*, 750 F. Supp. 586 (S.D.N.Y. 1990) (granting a preliminary injunction and compelling the defendant to continue

supplying master tapes pursuant to distribution agreement where agreement required performance pending resolution of disputes); *see also Xerox Corp. v. Hewlett-Packard Co.*, 63 F.Supp.2d 1317, 1319–21 (D.Kan.1999) (enjoining the defendant from terminating licensing agreement despite giving notice of material breaches and alleging that plaintiff failed to cure within 30–day period allowed by contract). Courts have applied specific performance of the contract to enforce mutually agreed wind-down provisions. *See, e.g., Dish Network L.L.C. v. ARY Digital USA LLC*, No. 1:19-CV-03728-RM, 2020 WL 616351, at *1 (D. Colo. Feb. 10, 2020) (holding that plaintiff was entitled to preliminary injunction that enforces its right to programming services through the wind-down period established by the parties’ contracts).

43. Here, upon receiving the Termination Notice, HealthSpring engaged a new NEMT provider. McKenzie Decl. at ¶ 69. However, the transition to that provider takes time, which is why HealthSpring and ModivCare specifically negotiated the Run-Out Services and Transition Assistance Obligations during the Wind Down Period. McKenzie Decl. at ¶¶ 12-13, 28, 70-78. At this point, it is imperative for ModivCare to adhere to its contractual obligations to provide: (1) the Run-Out Services so that members have continued access to their critical healthcare needs; and (2) the Termination Assistance to allow HealthSpring to fully transition to its new provider.

iii. *A Court Approval of the Rejection of the Entirety of the Contract Does Not Terminate the Contract Itself, and the Court Retains the Power to Compel Performance of the Run-Out Services.*

44. ModivCare has argued that it is permitted to exercise its business judgment to reject the Contract. While HealthSpring objects to the rejection, even if permitted to do so, a rejection does not terminate the Contract. In *Mission Product Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652 (U.S. 2019), the Supreme Court instructed:

A rejection does not terminate the contract. When it occurs, the debtor and counterparty do not go back to their pre-contract positions. Instead, the counterparty retains the rights it has received

under the agreement. As after a breach, so too after a rejection, those rights survive.

Id. at 1662 (emphasis added); *GSL of Ill, LLC v. McCaffety Elec. Co. (In re Demay Int'l LLC)*, 471 B.R. 510, 532 (S.D. Tex. 2012) (“‘Rejection,’ *i.e.*, the Debtor’s decision not to assume a lease or executory contract, does not equate to ‘termination[.]’”). Thus, even if the proposed rejection is approved, “the rights and obligations of the parties remain intact after a rejection because ‘rejection does not change the substantive rights of the parties to the contract, but merely means the bankruptcy estate itself will not become a party to it.’” *In re Ground Round, Inc.*, 335 B.R. 253, 261 (Bankr. 1st Cir. 2005) (quoting M.T. Andrew, *Executory Contracts in Bankruptcy: Understanding ‘Rejection,’* 59 U. Colo. L. Rev. 845, 848-49 (1988)).

45. The *Ground Round* Court also held that rejection in bankruptcy may not preclude a creditor from seeking specific performance if such a remedy is available under state law:

Rejection also means that the debtor cannot be compelled to render its performances required under the contract, **unless specific performance is available to the non-debtor party under applicable state law**. However, if state law does authorize specific performance under the rejected executory contract, it means that the non-debtor should be able to enforce the contract against the Debtor, irrespective of his rejection of it. Thus, **a party is entitled to specific performance of a rejected contract if such a remedy is clearly available under applicable state law**.

335 B.R. at 261 (applying Pennsylvania law to order specific performance of retention of liquor license under rejected commercial lease) (emphasis added). Other courts similarly have allowed specific performance of a rejected contract as an alternative to monetary damages. *See In re Walnut Associates*, 145 B.R. 489, 494 (Bankr. E.D. Penn. 1992) (“if state law ... authorize[s] specific performance under the rejected executory contract ... the non-debtor should be able to enforce the contract against the [d]ebtor”); *In re West Chestnut Realty of Haverford, Inc.*, 177 B.R. 501, 506 (E.D. Penn. 1995) (same). The same should be done here.

D. The Balance of Equities Favors HealthSpring and Its Members

46. A Plaintiff “must also establish that their irreparable harm is greater than the hardship that the preliminary injunction would cause.” *Great Am. Ins. Co. v. Ritter, Botkin Prime Constr. Co., Inc.*, No. 1:21-CV-578-RP, 2022 WL 875913, at *3 (W.D. Tex. Mar. 24, 2022) (citing *Sirius Computer Sols., Inc. v. Sparks*, 138 F. Supp. 3d 821, 842 (W.D. Tex. 2015)). When weighing the equities, courts have found that the harm that plaintiffs and, in the health care context, their patients will suffer is greater than a defendant’s burden to continue their lawfully obligated performance under a contract. *Fam. Rehab., Inc. v. Azar*, No. 3:17-CV-3008-K, 2018 WL 2670730, at *3 (N.D. Tex. June 4, 2018) (finding the balance of hardship favored the plaintiff as patients would lose their healthcare if the temporary restraining order were not granted); *Med-Cert Home Care, LLC v. Azar*, 365 F. Supp. 3d 742, 758 (N.D. Tex. 2019) (finding the balance of hardship favored the plaintiffs as patients would lose access to home healthcare provided if the temporary restraining order were not granted); *see also HealthTrackRX, Inc. v. Samaha*, No. 4:24-CV-1100-SDJ, 2025 WL 2269795, at *7 (E.D. Tex. July 25, 2025); *Reuters Ltd. v. United Press Int’l, Inc.*, 903 F.2d 904, 909 (2d Cir.1990); *Xerox Corp. v. Hewlett-Packard Co.*, 63 F.Supp.2d 1317, 1319–21 (D.Kan.1999) (finding the balance of hardships favored a preliminary injunction that “simply prohibits [defendant] from refusing to do what it has otherwise agreed to do.”).

47. As set forth above, HealthSpring has demonstrated the extreme harm that it, and its members, will encounter if ModivCare fails to adhere to its Run-Out Services and Termination Assistance obligations. In contrast, ModivCare would only have to continue to perform under the Contract that it repeatedly told HealthSpring it could perform under, even after filing for bankruptcy. McKenzie Decl. at ¶¶ 49, 51-57. Furthermore, ModivCare will continue to be compensated for its services, including at rates that it proposed as recently as just a few months

ago in its bid for the 2027 contract. Mott Decl. at ¶ 14. Thus, the balance of equities likewise favors HealthSpring.

III. A BOND IS NOT REQUIRED AS HEALTHSPRING HAS OFFERED TO FAIRLY COMPENSATE MODIVCARE.

48. Rule 65 (c) provides “[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c). The amount of the security “is a matter for the discretion of the trial court” and it “may elect to require no security at all.” *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996); *see also Tanyingu as Tr. of Nia Umoja Legacy Express Tr. v. Lakeview Loan Servicing, LLC*, No. 4:25-CV-3021, 2025 WL 1797554, at *3 (S.D. Tex. June 30, 2025) (granting a temporary restraining order but waiving bond requirement), *O’Kane v. Sembritzky*, No. CV H-18-2728, 2019 WL 2524239, at *7 (S.D. Tex. June 19, 2019) (ordering no bond where narrowly tailored injunction would prevent any damages from a wrongful injunction), *ATI Restoration, LLC v. Csernik*, No. 4:22-CV-00872, 2022 WL 3030572, at *1 (S.D. Tex. Aug. 1, 2022) (granting a preliminary injunction but exercising its discretion to order a “minimal bond” of \$5,000). The court can require no security where granting the injunction carries no risk of monetary loss to the defendant. *Fellowship of Christian Univ. Students at Univ. of Texas at Dallas v. Eltife*, No. 1:25-CV-1411-DAE, 2025 WL 2924228, at *18 (W.D. Tex. Oct. 14, 2025).

49. Here, HealthSpring will pay ModivCare for any services that ModivCare performs and, therefore, there is no risk of monetary loss to ModivCare and no need to prevent damages from a wrongful injunction. *See O’Kane*, 2019 WL 2524239, at *7 (citing Fed. R. Civ. P. 65(c) (the purpose of the security bond is “to prevent damages to a party from a wrongful injunction”).

Since there is no risk to ModivCare, a security bond is unnecessary and HealthSpring asks the Court to exercise its discretion and waive the requirement.

REQUEST FOR EMERGENCY RELIEF

50. ModivCare has stated that it intends to cease performing services under the MSA, including the Run Out Services and Termination Assistance that are required even in the event of termination for material breach, immediately upon entry of an order from this Court rejecting the MSA.

51. HealthSpring needs until May 1, 2026 to put a replacement provider in place. A hearing on ModivCare's motion to reject the MSA will commence but may not conclude on February 13, 2026.

52. In the meantime, HealthSpring is taking steps to try to put a replacement vendor in place as soon as possible. But ModivCare is delaying those efforts by refusing to cooperate or comply with its obligation to provide "transition and termination assistance" as required by the MSA. These services include lists of transport providers used by ModivCare as well as plan members' preferred transport providers for trips to the services they require.

53. The provisions of the MSA that require ModivCare to provide Run Out Services and Transition Assistance for 180 days following termination exist for the protection of the [REDACTED] Medicare enrollees that are entitled to rely on these transportation services to receive critically important health care. ModivCare knows this and still refuses to provide transition and termination services that it remains contractually obligated to provide under the MSA.

54. ModivCare has told this Court that HealthSpring needs to move faster to onboard a replacement vendor. But outside of this Court, ModivCare is frustrating HealthSpring's efforts to do so by refusing to provide transition and termination services required by a contract that is not

yet rejected. The longer ModivCare delays providing transition and termination services, the longer it is going to take HealthSpring to put a replacement vendor in place.

55. HealthSpring respectfully requests that emergency or expedited relief to prevent further delays by ModivCare be considered at the hearing set for Friday, February 13, 2026, at 1:00 p.m., or at the Court's earliest convenience. Should these issues resolve consensually, HealthSpring will so report to the Court immediately.

CONCLUSION

For these reasons, HealthSpring respectfully requests that this Court grant its Emergency Motion for Temporary Restraining Order and Preliminary Injunction and:

- A. Immediately issue a temporary restraining order that requires ModivCare, together with all of its directors, officers, agents, servants, employees, subsidiaries, affiliates, assigns, and all persons in active concert or participation with ModivCare, to:
 1. Provide the Run-Out Services and Termination Assistance as required under the Contract through May 1, 2026, unless and until HealthSpring agrees to release ModivCare from any further obligations under the MSA; and
 2. Take no actions that frustrate the purpose of the MSA or otherwise failing to perform its obligations under the MSA;
- B. Enter a preliminary injunction order directing ModivCare, together with all of its directors, officers, agents, servants, employees, subsidiaries, affiliates, assigns, and all persons in active concert or participation with ModivCare, to:
 1. Provide the Run-Out Services and Termination Assistance as required under the Contract through May 1, 2026, unless and until HealthSpring agrees to release ModivCare from any further obligations under the MSA; and
 2. Take no actions that frustrate the purpose of the MSA or otherwise failing to perform its obligations under the MSA;
- C. Award HealthSpring its costs and expenses incurred in bringing this motion; and

D. Grant such other and further relief as the Court may deem just and proper.

Dated: February 6, 2026

Respectfully submitted,

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ATTORNEYS FOR HEALTHSPRING, INC.

CERTIFICATE OF SERVICE

Undersigned counsel certifies that on February 6, 2026, a true and correct copy of the foregoing to be served via CM/ECF to all parties registered to receive service and via electronic mail to counsel for ModivCare Solutions LLC as follows: (i) Jonathan Weichselbaum at jon.weichselbaum@lw.com; and (ii) Betsy Marks at Betsy.Marks@lw.com.

/s/ Erin E. Jones

CERTIFICATE REQUIRED BY LBR 9013-1(i)

Undersigned counsel certifies that the reasons for requesting emergency relief set forth in the foregoing motion are the true and correct reasons why emergency relief is sought by HealthSpring.

/s/ Erin E. Jones

Accordingly, pursuant to Federal Rule of Civil Procedure 65, made applicable by Federal Rule of Bankruptcy Procedure 7065, it is hereby:

ORDERED that, subject to further order of this Court, ModivCare, together with all of its directors, officers, agents, servants, employees, subsidiaries, affiliates, assigns, and all persons in active concert or participation with ModivCare, shall provide the Run-Out Services and Termination Assistance as required under the Contract through May 1, 2026, unless and until HealthSpring agrees to release ModivCare from any further obligations under the MSA; and it is further

ORDERED that, subject to further order of this Court, ModivCare, together with all of its directors, officers, agents, servants, employees, subsidiaries, affiliates, assigns, and all persons in active concert or participation with ModivCare, shall take no actions that frustrate the purpose of the MSA or otherwise fail to perform its obligations under the MSA; and it is further

ORDERED that subject to further order of this Court, ModivCare, together with all of its directors, officers, agents, servants, employees, subsidiaries, affiliates, assigns, and all persons in active concert or participation with ModivCare, shall take any and all action necessary to fulfill its present obligations under the MSA, including but not limited to providing Run-Out Services and Transition Assistance under the MSA; and it is further

ORDERED that ModivCare shall immediately pay all HealthSpring's reasonable costs and expenses incurred in connection with this Motion; and it is further

ORDERED that the Court shall retain exclusive jurisdiction to implement, interpret and enforce this Order.

SIGNED this ____ day of February 2026.

Alfredo R. Pérez
United States Bankruptcy Judge

EXHIBIT **A**

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MODIVCARE, INC., *et al.*,

Debtors.

HEALTHSPRING, INC.,

Plaintiff,

v.

MODIVCARE SOLUTIONS, LLC,

Defendant.

Chapter 11

Case No. 25-90309 (ARP)

(Jointly Administered)

Adversary No. _____

**DECLARATION OF KAYLA MCKENZIE IN SUPPORT OF EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, Kayla McKenzie, do hereby declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, the following:

1. I am over the age of eighteen and competent to make this declaration. The facts stated herein in this declaration are true and correct to the best of my knowledge.

2. I am currently employed as Senior Director of Medicare Vendor Management & Delegation Oversight for Health Care Service Corporation (“HCSC”). I have held that position since March 2025. Prior to that I held several positions at Cigna Healthcare, over the course of nineteen years.

3. In 2024, HCSC announced the acquisition of Cigna’s Medicare Advantage business, an acquisition that closed in March 2025. As is described in more detail below, prior to that transaction Debtor ModivCare Solutions, LLC (“Debtor” or “ModivCare”) entered into a

contract with Cigna to provide Non-Emergency Medical Transportation (“NEMT”) services to enrollees of Medicare Advantage health plans administered by Cigna. Prior to the sale of Cigna’s Medicare Advantage business, Cigna assigned the ModivCare contract to its affiliate HealthSpring, Inc. (“HealthSpring”). After the transaction, HealthSpring became a wholly owned subsidiary of HCSC.

4. Both before and after the transaction I have been involved in the operational oversight of, and engagement with, ModivCare on behalf of Cigna, HCSC, and HealthSpring.

5. I am authorized to execute this Declaration on behalf of HealthSpring. If called to testify, I could and would competently testify to the facts set forth herein based on my personal knowledge of such facts, events and transactions.

Non-Emergency Medical Transportation in Medicare Advantage

6. Medicare Advantage is an alternative to traditional Medicare. At a high level, Medicare Advantage organizations contract with the federal government to provide or arrange to provide for the coverage of Medicare, and if applicable, additional benefits. In order to provide additional benefits, a Medicare Advantage organization is required to submit a bid to the federal government that identifies the specific benefits, and the Centers for Medicare & Medicaid Services (“CMS”) must then approve those benefits.

7. NEMT is a Supplemental benefit that HealthSpring offers to its Medicare Advantage program members that provides rides for members to obtain necessary healthcare services. NEMT allows the members to obtain transportation to and from appointments essential for their health—such as doctor visits, dialysis, infusion, and chemotherapy—among other things. This is a crucial benefit because it removes transportation barriers, ensuring that the most vulnerable individuals, such as seniors, disabled individuals, those with behavioral health needs,

and low-income individuals, can access essential healthcare. NEMT benefits are typically offered through a national solution vendor, such as ModivCare. A NEMT vendor like ModivCare acts as a technology-driven broker that is responsible for arranging and coordinating the transportation for members using a network of transportation providers. Members are able to schedule these rides in advance or in real time, through simple, common portals to a single service provider.

8. NEMT service provides a lifeline to seniors, individuals with disabilities, those with behavioral health needs, and low-income populations, who would otherwise miss life-sustaining treatments like dialysis, infusion, or chemotherapy. Roughly [REDACTED] plan members are eligible for NEMT services through enrollment in HealthSpring's Medicare Advantage plans and the vast majority are over 65 years old. The NEMT service helps ensure that patients receive timely care and it facilitates a seamless transition for patients moving between hospitals, rehabilitation centers, and home, which is essential for successful recovery. It provides safe and reliable transport, reducing the anxiety of missing appointments and supports long-term mental wellness. NEMT service provides consistent access to routine check-ups and specialized treatments that help prevent complications from chronic illnesses such as diabetes and heart disease.

9. It is critical that NEMT service remains uninterrupted for HealthSpring members. The very purpose of NEMT service is to ensure that members, many of whom are low income and have complex medical needs, have available transportation to receive medical care. If NEMT service is disrupted, HealthSpring members, especially those within these vulnerable populations, would miss important doctor visits, leading to worsening health and increased reliance on costly emergency room care. Because many members, including the elderly and low-income individuals, lack any alternative means of transportation, they would likely skip treatments. The lack of

consistent care for chronic conditions like diabetes, kidney disease (dialysis), or heart disease would lead to severe complications and potentially life-threatening situations. And unmanaged conditions would escalate, forcing members to rely on costly emergency room services that could have been avoided. NEMT prevents a downward spiral for these vulnerable populations by ensuring that they can reach the care they need, when they need it.

10. On its website, ModivCare acknowledges the serious responsibility that NEMT providers bear for vulnerable populations.¹ In explaining how its “goal isn’t a number, it’s a difference,” ModivCare acknowledges that it “serve[s] the most underserved by facilitating non-emergency medical transportation to enable greater access to care, reduce costs, and improve outcomes.” ModivCare further states:

We believe social and economic factors such as where you live, work or learn should never be a barrier to care. These factors, known as the social determinants of health, lead to inequities in our healthcare system and it’s our mission to close that gap by making connections to care. To make a world of difference, one patient at a time. That’s what drives us.

11. HealthSpring’s Medicare Advantage program is a nationwide program. It is difficult to onboard a national NEMT provider, as doing so requires significant technology investment, data transfer, and regulatory compliance considerations. Looking merely at the challenges faced when integrating a new provider for the roughly [REDACTED] plan members eligible for NEMT services, that provider must, among other things:

- a. Make the existing network of drivers and transportation providers available to existing HealthSpring customers and onboard additional transportation providers for HealthSpring consumers in locations where services do not already exist;
- b. Input and organize all new customer information;

¹ See “About Modivcare,” https://www.modivcare.com/company/about-modivcare/?gad_source=1&gad_campaignid=20987313344.

- c. Set up a system to track the use of member benefits; and
- d. Set up a smartphone application, website, and phone system, that HealthSpring plan members can access to schedule their trips;

In addition, HealthSpring must collect and transfer information and other items from ModivCare to the new NEMT service provider in order to effectuate a full transition. Attached as Appendix A is a list I prepared of information and other items that ModivCare must provide to HealthSpring in order to transfer to a new NEMT services provider, including the items needed from ModivCare, the reason they are needed, the tasks that must be done, and the frequency or timing of the task. For its part, HealthSpring must ensure that all links on existing websites and phone numbers are rerouted from ModivCare to the new provider and work with existing customers to ensure they understand the transition and have access to new websites and applications so there is no interruption in service. Additionally, once the new NEMT service provider is onboarded, HealthSpring must provide 30 days' notice to all eligible members for each new way to access services provided by the new vendor, including new websites and mobile applications.

12. Due to the complexity of onboarding a new provider, NEMT service contracts require a long off-ramp provision to allow for a smooth transition in the event of a termination of services. Cigna (now HealthSpring) required such a provision in the Contract with ModivCare to ensure that there was no disruption to care in the event of a contract termination regardless of the reasons.

13. The bottom line is that these transition services/off-ramp provisions are included solely to protect the members' health and safety. Without such an off-ramp, health plan members will be at risk of missing appointments necessary for their health and well-being.

The Agreement Between Cigna/HealthSpring and ModivCare

14. In 2023, Cigna Corporate Services, LLC ("Cigna") decided to transition NEMT

services to a new service provider. After discussions with ModivCare Solutions LLC (“ModivCare”), the parties entered into a Master Services Agreement and corresponding Statement of Work whereby ModivCare provided NEMT services for Cigna’s Medicare Advantage members nationwide.

15. In 2023, I was the Senior Director of National Ancillary Contracting and Vendor Management for Cigna Healthcare. While in that role, I was responsible for many Medicare Advantage agreements that were national in scope, including Medicare Advantage Supplement contracts, and more specifically, the agreement between Cigna and ModivCare.

16. Attached to the HealthSpring, Inc.’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction (“HealthSpring’s Motion”) as Exhibit 1 is a true and correct copy of the Master Services Agreement entered between Cigna and ModivCare, dated April 1, 2023 (hereinafter referred to as the “MSA” or “Contract”).

17. Attached to HealthSpring’s Motion as Exhibit 2 is a true and correct copy of the Statement of Work No. SOW_11007 entered between Cigna and ModivCare, dated April 15, 2023, pursuant to the MSA (hereinafter referred to as the “SOW”).

18. I was involved in the negotiations for all of the material provisions of the MSA and SOW, including terms for compensation and termination.

19. The parties negotiated a capitated payment fee for ModivCare’s services to be based on a Per-Member-Per-Month (“PMPM”) rate, as reflected in Section 5.1 of the SOW. The PMPM payment to ModivCare is intended to be an all-inclusive payment, accounting for both the cost of the transportation services, as priced by Modivcare, as well as any administrative costs that ModivCare incurs to arrange for the services. This PMPM payment structure is standard in the industry for NEMT providers.

20. Starting in 2024, the parties also negotiated the Medical Loss Ratio (“MLR”) Risk Sharing arrangement, reflected in Section 5.6 of the SOW. [REDACTED]

21. The MLR for Medicare Advantage, as the federal government explains, is “expressed as a percentage, generally representing the percentage of revenue used for patient care, rather than for such other items as administrative expenses or profit.” <https://www.cms.gov/medicare/health-drug-plans/medical-loss-ratio> In other words, MLR calculates the amount a plan spends on covered benefits compared to the plan premium for those services. [REDACTED]

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

Contract by providing NEMT services for Cigna's/HealthSpring's Medicare Advantage members. Similarly, HealthSpring has performed and until ModivCare signaled the termination of the contract, was prepared to continue performing under this contract until the end of its term—December 31, 2026.

30. The NEMT services provided by ModivCare are vital to HealthSpring's most vulnerable members because it provides safe and reliable transportation to and from pharmacies, doctor appointments, lab visits, and treatment facilities, including life-sustaining dialysis, infusion, and chemo/radiation treatment.

31. Roughly [REDACTED] of HealthSpring's members are eligible to use this service and approximately [REDACTED] of those members use the benefit per quarter.

32. As HealthSpring's national solution vendor for NEMT services, ModivCare acts as the single point of contact for HealthSpring's Medicare members to obtain NEMT services. HealthSpring members rely upon ModivCare to provide these services for, among other things, life-sustaining medical care such as dialysis, infusion, and chemotherapy, [REDACTED] members who receive rides many times a week.

33. [REDACTED]

[REDACTED]

[REDACTED]

34. [REDACTED]

[REDACTED] Obviously, chemotherapy is a life-saving treatment and HealthSpring members need to ensure that they have timely and reliable transportation to these services.

35. [REDACTED]

[REDACTED]

[REDACTED]

36. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

37. [REDACTED]

[REDACTED]

[REDACTED]

38. As can be seen, HealthSpring members rely on transportation to these visits to improve their health, manage chronic conditions, and avoid costly emergency room visits. This is particularly vital for seniors, people with disabilities, and those with behavioral health needs, who frequently rely on this transportation.

The Contract Dispute

39. In August 2024, a dispute arose between Cigna and ModivCare concerning whether ModivCare’s administrative costs should be included in the calculation of the MLR. The dispute continued into 2025.

40. Attached to HealthSpring’s Motion as Exhibit 3 is a true and correct copy of a memo dated August 6, 2024, from Kirk Gonzales with ModivCare to Cigna where ModivCare advocates for including administrative costs in the calculation of MLR.

41. Attached to HealthSpring’s Motion as Exhibit 4 is a true and correct copy of a letter dated September 25, 2024, from Cigna to Kirk Gonzales with ModivCare, where Cigna explained that Centers for Medicare and Medicaid Services’ guidance and Medicare Advantage regulations

prohibit including administrative costs in the calculation of MLR.

42. After the exchange of views about the calculation of the MLR in mid-2024, the discussion regarding the merits of the dispute ceased—although ModivCare continued to request rate increases. In October 2024, Cigna and HealthSpring announced to ModivCare and other providers the impending sale of Cigna’s Medicare Advantage business. In the summer of 2025, after the completion of that sale HealthSpring (now as a member of the HCSC corporate family) attempted to address ModivCare’s continuing requests for rate increases.

43. Attached to HealthSpring’s Motion as Exhibit 5 is a true and correct copy of a letter dated June 23, 2025, from me to Marvin Lewis and Cody Huffman at ModivCare, where HealthSpring offered to resolve the Contract dispute by increasing the PMPM rate by [REDACTED]

[REDACTED] HealthSpring made clear that these proposed changes would not be retroactively applied.

44. Attached to HealthSpring’s Motion as Exhibit 6 is a true and correct copy of ModivCare’s response dated June 25, 2025, where ModivCare stated that it would agree to the increased PMPM fee and to modify the MLR Risk Sharing arrangement starting in 2026, but that it would not waive claims under the MLR Risk Sharing arrangement for 2024 and 2025.

45. Attached to HealthSpring’s Motion as Exhibit 7 is a true and correct copy of a letter dated July 1, 2025, from me to Marvin Lewis and Cody Huffman at ModivCare, where HealthSpring acknowledged ModivCare’s response to HealthSpring’s proposal. As the letter explained, because ModivCare was unwilling to fully resolve the Contract dispute with HealthSpring’s offer, HealthSpring considered the offer rejected. HealthSpring would continue to operate under the negotiated and agreed-upon terms and conditions of the SOW through the

remainder of the term period, which ends December 31, 2026.

46. Throughout this period, from August 2024 through July 2025, ModivCare never threatened termination of the Contract. It also never contended that if it did terminate the contract, that it could abandon its obligation to provide run-out services to the Medicare Advantage enrollees it served. To the contrary, ModivCare repeatedly stated it wanted to continue with the business.

Request for Proposal

47. On or about June 6, 2025, HealthSpring issued a formal Request For Proposal (“RFP”), to solicit bids from vendors to provide NEMT services for HealthSpring’s Medicare Advantage programs for the term January 1, 2027, through December 31, 2027 (“2027 Contract”). In its RFP, to avoid improper disputes regarding the MLR from ModivCare or any other vendor who might win the RFP, HealthSpring made clear that the PMPM rate was considered an all-inclusive rate and that there would be no negotiation for a separate fee to cover administrative costs.

48. Vendors who wanted to bid for the RFP went through several rounds of responses and presentations from July through September.

49. ModivCare participated in the RFP process and submitted its bid for the 2027 Contract. [REDACTED]

[REDACTED], and

was in terms and rates generally competitive with all other RFP respondents.

50. On or about November 13, 2025, HealthSpring awarded the 2027 Contract to MTM Health (“MTM”). MTM is an alternative provider of NEMT services. ModivCare was informed

that it had not won the contract on that same day. After being notified of the award decision, ModivCare assured HealthSpring that it would continue to perform under the Contract through 2026.

ModivCare's Bankruptcy

51. While it was bidding for the 2027 Contract, ModivCare filed for Chapter 11 bankruptcy on August 20, 2025.

52. After filing for bankruptcy, ModivCare requested a special meeting with HealthSpring leadership to discuss ModivCare's bankruptcy. On August 21, 2025, Heath Campbell, Dana Mott, Stephen Harris, Nancy Wohlhart and I met with Heath Sampson, Kenneth Shepard and Cody Huffman from ModivCare. ModivCare assured us that there was no need for concern and that the transportation services provided to HealthSpring's customers would not be disrupted in any way. ModivCare did not raise the Contract dispute regarding administrative costs and it did not mention termination of the Contract at all.

53. ModivCare and HealthSpring held several subsequent meetings, including one on August 28 where we discussed the strategic partnership and longer-term relationship between HealthSpring and ModivCare. During these meetings, there was never a threat to terminate. To the contrary, the parties were operating with the understanding that we had a Contract that would last through the end of 2026.

54. ModivCare provided HealthSpring with weekly email updates on the status of its bankruptcy proceedings. Attached to HealthSpring's Motion as Exhibit 8 are true and correct copies of emails dated September 15, 2025, September 19, 2025, September 26, 2025, October 6, 2025, and December 5, 2025.

55. In several of those updates, ModivCare repeatedly assured HealthSpring that "we

are continuing to operate as usual throughout this process, and we expect no changes in how we work together, nor do we expect any disruption in care for your members” and “our teams are fully focused on serving you and your members with the same reliability and care you expect from ModivCare.”

56. In addition to assurances that it would continue to perform, ModivCare continued to provide NEMT services to HealthSpring and its members post-bankruptcy filing without any suggestion that it would terminate the Agreement.

ModivCare’s Termination

57. On or about December 15, 2025, at ModivCare’s request, Heath Campbell and I met with representatives of ModivCare, Kenneth Shepard and Cody Huffman. ModivCare asked whether HealthSpring would be willing to change its mind about the RFP and instead award the 2027 Contract to ModivCare. We explained that the RFP process provided a fair assessment and that HealthSpring has made its decision. We also stated that ModivCare was contracted through 2026 and HealthSpring would continue to work with ModivCare as a partner. ModivCare then emphasized that they still had a dispute about PMPM rates and stated that a letter was forthcoming. Even then, the ModivCare representatives did not mention termination.

58. A few days later, on December 18, 2025, ModivCare sent a letter to Cigna (not HealthSpring) asserting that it was terminating the agreement for cause. In the letter, it contended that HealthSpring had materially breached the MSA and SOW. ModivCare further stated that it would cease all services within 30 days and that it might seek to reject the MSA in connection with its bankruptcy if HealthCare did not respond by December 23. Attached to HealthSpring’s Motion as Exhibit 9 is a true and correct copy of that letter. In the letter, ModivCare contended that it was owed an additional [REDACTED] for services in 2024 pursuant to the MLR Risk

Sharing arrangement, and that it would be owed an estimated [REDACTED] for 2025 when the year-end calculation for that year is performed. It made the provision of all its services, including the essential transportation services during a run-out period, contingent on receipt of payment of the 2024 demand by January 2, 2026.

59. While the issue of the MLR Risk Sharing is irrelevant to ModivCare's obligation to protect Medicare enrollees with services during the run-out period, to be clear HealthSpring contends ModivCare has been fully paid for 2024 and that when the 2025 figure is properly calculated it will likely be approximately [REDACTED].

60. On December 23, 2025, HealthSpring sent a letter in response contesting ModivCare's assertion that HealthSpring was in breach of the MSA and SOW. HealthSpring explained that ModivCare's termination was improper and would create substantial harm to HealthSpring's members by severely disrupting access to critical medical care. HealthSpring also reminded ModivCare of its contractual wind down obligations to ensure a smooth transition to a new NEMT services provider. Attached to HealthSpring's Motion as Exhibit 10 is a true and correct copy of HealthSpring's letter dated December 23, 2025. In its letter, HealthSpring requested that the parties meet as soon as possible to discuss a plan that will prevent any disruption in services to its members, and ModivCare's clients.

61. On Friday, December 26, 2025, ModivCare responded by refusing to rescind the termination and demanding a financial resolution by the following Monday, December 29, by 10:00 a.m. EST. ModivCare did not respond to our inquiries about whether it would comply with its contractual obligations with regard to the termination provisions—including service to Medicare enrollees during the 180-day run-out period.

62. On the same day, HealthSpring requested additional information to substantiate

ModivCare's demand.

63. ModivCare responded by informing HealthSpring that it would seek Bankruptcy Court approval to reject the MSA and SOW, effective January 28, 2026, and that it would continue services through that date. Again, ModivCare did not address its contractual obligations post-termination.

64. On December 29, 2025, ModivCare filed its motion to reject the MSA and SOW in the Bankruptcy Court.

65. On January 7, 2026, HealthSpring sent another letter to ModivCare reiterating its contractual obligations with regard the termination provisions. Attached to HealthSpring's Motion as Exhibit 11 is a true and correct copy of HealthSpring's letter dated January 7, 2026.

66. In that letter, HealthSpring highlighted the harm to both it and its members if ModivCare did not comply with its contractual termination assistance and wind down obligations. HealthSpring also sought confirmation that ModivCare would adhere to mutually agreed contractual termination assistance and wind down obligations and if not, specify the date by which it would terminate such assistance.

67. If ModivCare does not continue to provide NEMT services to HealthSpring's members until transition to a new NEMT services provider, [REDACTED] HealthSpring's Medicare Advantage health plan members will be at risk of missing critical appointments necessary for their health and well-being.

68. If ModivCare ceases providing services to HealthSpring's Medicare Advantage health plan members, it would irreparably damage HealthSpring's reputation with these consumers and in the marketplace.

Transition to MTM

69. Since ModivCare's termination notice letter, HealthSpring has been actively working with MTM, the NEMT service provider who won the RFP for the 2027 Contract, to ensure that it is prepared to take over providing NEMT services for HealthSpring's Medicare Advantage members as soon as possible.

70. In order for MTM to be able to take over this responsibility, several aspects and logistics must be prepared, tested and verified, including the following:

- a. MTM must ensure that it has the infrastructure in place to receive and securely store confidential information for HealthSpring's members, in compliance with all privacy guidelines. This takes time to test and vet.
- b. MTM must set up the system to track the use of member benefits and then convey that information back to HealthSpring.
- c. MTM must ensure that it has the proper network of providers in place to service HealthSpring's members, including specialty transportation providers who can transport wheelchairs. This takes time to vet new providers and negotiate contracts with them.
- d. HealthSpring must assess and test MTM's phone app to make sure that HealthSpring's members can use it to schedule their trips; and
- e. HealthSpring similarly must assess its own websites and phone numbers to ensure that all of the existing links and numbers are re-routed from ModivCare to MTM.

71. In addition, HealthSpring will need time to be able to provide notice to its members so that there are no surprises. For example, if there will be new phone numbers or apps or websites to be used to schedule transit, HealthSpring needs to give that notice in advance of the actual transition.

72. Because HealthSpring's most vulnerable members depend on this transportation service in order to see their doctors, attend lab visits, obtain their prescription medicine, and receive treatment, it is critical that the transition from ModivCare to MTM be as smooth and seamless as possible.

73. In all likelihood, MTM will not likely be ready to take over NEMT services until May 1, 2026.

74. The challenges that MTM faces are the reason for the 180-day termination assistance obligations in the MSA and SOW. To safely transition these services to another vendor without interruption to HealthSpring's members, requires time and ModivCare's assistance.

75. HealthSpring has a similar 180-day requirement with its other vendors (*e.g.*, meals, fitness, and vision vendors) to ensure a smooth transition without disruption of services if a vendor is replaced mid-term.

76. For the transition to MTM, HealthSpring needs at least the following information from ModivCare:

- a. A list of preferred providers ModivCare uses based on member preferences or needs;
- b. Details on benefits that have been used so far in 2026;
- c. Which customers have pre-scheduled trips, so that customers will not need to reschedule or start from scratch;
- d. A documented transition plan per the existing agreement;
- e. Any other reports pertaining to services provided in 2026; and
- f. Which customers have special requirements (*e.g.*, wheelchairs).

As I indicated above, a full list of tasks that Modivcare must provide to HealthSpring is provided in Appendix A.

77. HealthSpring does not have other vendors who can provide this service, either nationally or regionally within Medicare.

78. Contracting with a national provider is required for HealthSpring's members to have a single-entry point to the services. Trying to cobble together a patchwork of multiple providers amplifies the difficulty.

Flex-Cards Are Not a Solution

79. HealthSpring has explored other potential solutions to ModivCare’s improper conduct, including the provision of pre-paid “flex cards” to members for payment of transportation services. However, that is not a viable solution.

80. As an initial matter, if HealthSpring were to alter the method of how NEMT benefits were to be provided to its members, such as funding flex-cards, it would first need to provide at least 30-days’ notice to its members before this new method could be implemented, because Medicare Advantage organizations like HealthSpring cannot simply give out cash-equivalent gift cards to members in situations such as this. This would be true even if the new method was to be on an interim basis.

81. Furthermore, it would be very disruptive to HealthSpring’s members to provide them with a completely different method of service such as funding flex-cards that the members would use to pay for transportation on their own (e.g., Uber or Lyft).

82. While HealthSpring could fund cards, there is no way to ensure that members would use those funds only for transportation to doctors’ visits, pharmacies, or treatment centers.

83. A second challenge is that members have already started using their 2026 benefits with ModivCare. It would be very difficult to track member benefits from the current transit service through ModivCare, then transition to a flex-card and then ultimately transition to a new transit service through MTM.

Signed under penalty of perjury pursuant to 28 U.S.C. § 1746 on February 6, 2026, at Apex, North Carolina.

/s/ Kayla McKenzie

Kayla McKenzie

Appendix A

Items Needed	Description/ Purpose	Tasks	Frequency/ Timing
Standing orders report	Need comprehensive report of recurring trip schedules for all of our customers so we can ensure those trips are fulfilled through MTM, and to perform outreach to those customers to support through the transition.	<ul style="list-style-type: none"> Deliver standing orders report on dates specified 	<ul style="list-style-type: none"> Need to receive updated file 1 day prior to HealthSpring customer outreach beginning <p>Need to receive changes to this file daily throughout the transition period</p>
Future trips report	Need comprehensive report of all scheduled trips for all of our customers so we can ensure those trips are fulfilled through MTM, and to perform outreach to those customers to support through the transition.	<ul style="list-style-type: none"> Deliver future trips report on dates specified 	<ul style="list-style-type: none"> Need to receive updated file 1 day prior to HealthSpring customer outreach beginning <p>Need to receive changes to this file daily throughout the transition period</p>
Communication plan to customers	Need to align on the communication plan to the customers. HealthSpring will conduct customer outreach, but we will need a reactive plan for those customers reaching out to Modivcare following the transition.	<ul style="list-style-type: none"> Collaborate on scripting/ messaging for customers reaching out to Modivcare post-transition date (note – customers reaching out via the transportation phone number should be automatically re-routed to MTM as the number isn't changing. IVR will re-route accordingly. However, if any customer somehow manages to contact Modivcare, we will need a plan) <p>Post agreed-upon banner/ messaging on the Modivcare website to redirect</p>	<ul style="list-style-type: none"> Need to identify a timeline for the messaging and banners to be available post-termination (i.e. 3 months? 6 months?)

Items Needed	Description/ Purpose	Tasks	Frequency/ Timing
		<p>HealthSpring customers</p> <p>Post agreed-upon banner/ messaging on the Modivcare app to redirect HealthSpring customers</p>	
Communication plan to providers	Need to align on the communication plan to providers who may reach out on behalf of customers and/or assist customers with scheduling rides when in the office. HealthSpring will conduct provider outreach, but we will need a reactive plan for those providers reaching out to Modivcare following the transition.	<ul style="list-style-type: none"> Collaborate on scripting/ messaging for providers reaching out to Modivcare post-transition date on the dedicated facility line <p>Post agreed-upon banner/ messaging on any portals or forums that providers may access to assist customers in scheduling rides</p>	<ul style="list-style-type: none"> Need to identify a timeline for the messaging and banners to be available post-termination (i.e. 3 months? 6 months?)
Communication plan to transportation providers (drivers)	<p>Need to develop communication plan to transportation providers that may participate with both Modivcare and MTM and determine what communication is needed to support the change.</p> <p>Ensure transportation providers know that they should service our HealthSpring customers via our new vendor</p>	<ul style="list-style-type: none"> Provide list of current transportation provider network and contact information <p>TBD</p>	<ul style="list-style-type: none"> TBD
Website, app and call center transition and shut-down details	Extension of the communication plan to customers noted above. Need to determine transition	Determine when HealthSpring customer access is cut off to these avenues	<ul style="list-style-type: none"> TBD

Items Needed	Description/ Purpose	Tasks	Frequency/ Timing
	timeline in terms of shutting down access to these mediums.		
Timeline and expectations for run-out reporting and file transfers	Need to ensure report and file exchanges are available for the appropriate amount of time to support transition and runout timelines	<ul style="list-style-type: none"> • Collaborate to identify full list of inbound and outbound reporting <p>Collaborate to document purpose and recipient of each report</p> <p>Collaborate to confirm with consumer of report through which date they need to receive the report (i.e. end day of termination, 6 month runout, etc.)</p>	<ul style="list-style-type: none"> • TBD based on final termination date and runout timelines identified for each report
Ad hoc reporting needs to facilitate seamless transition for our customers	TBD – identify and address any ad hoc reporting that may be needed to ensure a seamless transition from the perspective of our customers	<ul style="list-style-type: none"> • TBD 	<ul style="list-style-type: none"> • TBD
Grievance, appeals and claims runout	Runout plan for 1 year on supporting/ processing any grievances, appeals or claims that are submitted post-termination	<ul style="list-style-type: none"> • Collaborate to document plan for runout on each item <p>Identify any supporting reports that are needed for these items during the runout period</p>	<ul style="list-style-type: none"> • TBD
Review and agreement of record retention and audit expectations,	Ensure that we have access to records and materials needed in the event of a CMS audit or other regulatory issue requiring access	<ul style="list-style-type: none"> • Document and uphold record retention requirements as determined by CMS 	<ul style="list-style-type: none"> • Need to confirm, but believe retention standard is 10 years

Items Needed	Description/ Purpose	Tasks	Frequency/ Timing
compliant with CMS standards	to this material in accordance with CMS standards		
Customers' preferred providers report	Need to know customer preferences for transportation providers and ensure preferences are delivered to new vendor to support seamless customer transition (i.e. those who don't want to use Lyft/ Uber, etc.)	<ul style="list-style-type: none"> Deliver report showing preferred transportation providers for all our customers <p>Determine cutoff date for making any changes to customers' preferred providers and ensure we receive updates throughout the transition period</p>	<ul style="list-style-type: none"> First report needed immediately so new vendor can begin to upload preferences <p>Daily report to identify any preferred provider changes until the cutoff date for making updates</p>
List of the current provider network, including contact information	Need transportation provider information so we can inform them of the change and that they should service our HealthSpring customers via our new vendor	<ul style="list-style-type: none"> Identify list of transportation providers by market, as well as contact information 	<ul style="list-style-type: none"> TBD
Ensure Modivcare complies with information requests from federal and state agencies	If/ when state and federal agencies reach out to obtain information, Modivcare needs to comply with providing requested information.	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
Weekly wind-down call to review de-implementation plan and deliverables	Align weekly on all de-implementation activities throughout the transition and runout periods.	<ul style="list-style-type: none"> Provide agreement on date for weekly call 	<ul style="list-style-type: none"> Weekly through transition period <p>TBD through runout period</p>
Additional items as identified	Any additional items needed to support the transition to a new vendor as identified through the de-implementation process and transition period	<ul style="list-style-type: none"> TBD 	<ul style="list-style-type: none"> TBD

EXHIBIT **B**

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MODIVCARE, INC., *et al.*,

Debtors.

HEALTHSPRING, INC.,

Plaintiff,

v.

MODIVCARE SOLUTIONS, LLC,

Defendant.

Chapter 11

Case No. 25-90309 (ARP)

(Jointly Administered)

Adversary No. _____

**DECLARATION OF DANA MOTT IN SUPPORT OF EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, Dana Mott, do hereby declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, the following:

1. I am over the age of eighteen and competent to make this declaration. The facts stated herein in this declaration are true and correct to the best of my knowledge.
2. I am currently employed as Divisional Senior Vice President for Health Care Service Corporation (“HCSC”). I have held that position since January 1, 2025. Prior to that, I held several positions within the organization since April 2016.
3. HealthSpring is the assignee of a contract between Cigna and Debtor ModivCare Solutions, LLC (“ModivCare” or “Debtor”), which provides Non-Emergency Medical Transportation (“NEMT”) services to members of Medicare Advantage health plans

administered by HealthSpring. HCSC completed the acquisition of the Medicare Advantage business of Cigna in March 2025. HealthSpring is a wholly owned subsidiary of HCSC.

4. I am authorized to execute this Declaration on behalf of HealthSpring. If called to testify, I could and would competently testify to the facts set forth herein based on my personal knowledge of such facts, events and transactions.

5. In my role, I am familiar with regulatory requirements related to providing NEMT Benefits to HealthSpring's Medicare Advantage programs.

6. The Centers for Medicare & Medicaid Services ("CMS") maintains oversight over Medicare benefits and programs, including HealthSpring's Medicare Advantage program.

7. Pursuant to CMS guidelines, if HealthSpring were to alter the method of how NEMT benefits were to be provided to its members, such as funding flex-cards that members would use to pay for transportation on their own, it would first need to give its members at least 30-days' advanced notice before this new method could be implemented. This would be true even if the new method were employed on an interim basis.

8. It is therefore impossible for HealthSpring to comply with CMS guidelines in implementing any replacement program for NEMT benefits by January 28, 2026.

9. I was also involved with recent discussions between HealthSpring and ModivCare Solutions LLC ("ModivCare") concerning ModivCare's purported termination of the contract between HealthSpring and ModivCare for NEMT services ("Contract").

10. I am informed and believe based on reports to me from my colleague at HCSC, Kayla McKenzie, that prior to its letter dated December 18, 2025, ModivCare indicated that it was interested in continuing to provide NEMT services through 2026, pursuant to the Contract.

11. On January 9, 2026, I had a call with Kenneth Shepard, Senior Vice President of

Finance at ModivCare. In that call he stated that ModivCare was unwilling to negotiate a settlement amount that was less than the amount referenced in its December 18 demand letter, or discuss continuing to provide NEMT services to HealthSpring's members beyond January 28, 2026, unless HealthSpring provided a meaningful opportunity for business in 2027 and beyond.

12. On January 16, 2026, I had another conversation with Mr. Shepard at his request, with the hope that ModivCare would commit to adhere to its contractual termination assistance and wind down obligations as outlined in the Contract, including, but not limited to, continuing to provide all services under the agreement for a period of 180 days after January 28, 2026. Mr. Shepard did not reference any requirement for business in 2027, but he made a counteroffer toward resolving the disputed amounts for 2024 and 2025. He also proposed new rates for 2026 which would be applied during a transition period, but that required HealthSpring to agree to ModivCare's demands about the disputed amounts for the two past years.

13. Attached to HealthSpring's Motion as Exhibit 12 is a true and correct copy of an email I sent on January 19, 2026, to Mr. Shepard confirming our January 16, 2026, conversation and further confirming HealthSpring's willingness to "discuss in good faith a fair and reasonable rate" should ModivCare continue to refuse to perform under the contractually agreed rate.

14. In spite of believing that the original rates agreed to with ModivCare were reasonable, on January 25, 2026, HealthSpring offered to ModivCare that it will pay for the 180-day run out NEMT services under the Agreement at the rates proposed by ModivCare for NEMT services to HealthSpring in its recent response to the RFP for 2027 services. HealthSpring further clarified that this proposal was not contingent on settlement of the broader contract dispute, complied with the obligation of section 12.4 of the Agreement, and provided ModivCare in 2026 with the rates it proposed for 2027. ModivCare has not responded to this offer.

15. In these discussions with ModivCare, HealthSpring's main objective is to ensure that ModivCare abides by the 180-day contractual wind-down period to ensure HealthSpring's members continued to have access to necessary NEMT services, prevent any disruption in services to its members and ensure a smooth transition to a new NEMT services provider.

16. In addition to the foregoing discussions regarding the dispute over the wind-down services and transition, HealthSpring and ModivCare have had separate business-to-business discussions regarding global settlement of the payment dispute.

Signed under penalty of perjury pursuant to 28 U.S.C. § 1746 on February 6, 2026, at Washington, D.C.

/s/ Dana Mott

Dana Mott

EXHIBIT 1

Entire Document Filed Under Seal

EXHIBIT **2**

Entire Document Filed Under Seal

EXHIBIT **3**

MEMO

August 6, 2024

TO: Marvin Lewis

FROM: Kirk Gonzales

RE: Medical Loss Ratio – regulatory requirements for NEMT Brokerage Services

The following analysis addresses the question of how non-emergency medical transportation (NEMT) brokerage services provided by Modivcare are viewed with respect to the Medical Loss Ratio (MLR) requirements under the Medicaid Managed Care (MMC) Final Rule that the Centers for Medicare and Medicaid Services (CMS) published on May 6, 2016. 81 Fed. Reg. 27,498 (as amended). The MMC Final Rule is codified at 42 C.F.R. § 438 et seq.

42 C.F.R. § 438.4(b)(9) requires capitation rates be developed in such a way that the MCO, PIHP, or PAHP would reasonably achieve a medical loss ratio (MLR) standard of at least 85 percent for the rate year. However, 42 C.F.R. § 438.9 clarifies that the majority of the MMC Final Rule, including the requirements of § 438.4(b)(9), are NOT applicable to NEMT brokerage services.¹ As a result, when Modivcare is contracted to an MCO, the monies paid to it by the MCO associated with NEMT reservation intake and trip routing / re-routing, including active recovery of trips in real-time (NEMT Brokerage Services), would be entirely part of the numerator as incurred claims and/or quality improvement activities.

This conclusion is supported by CMS public guidance issued contemporaneous with the implementation of the MLR Rule. The following is an excerpt of a transcript of a CMS Webinar² that addresses this issue:

QUESTION: If there is a prepaid ambulatory health plan (PAHP) providing unique services like intensive care management as a high-fidelity wrap-around plan, how would the MLR apply and how would that plan be able to meet the MLR calculation?

ANSWER (by Renee Frandson, CMS, Center for Medicaid and CHIP Services): As you saw in the final rule, we did decide that all PAHPs, **except for non-emergency medical transportation (NEMT) PAHPs**, should be subject to calculating and reporting the MLR. We do think that a lot of the activities performed by the PAHP (offering those unique services) will fall under the quality improving activities realm, and in doing so, those quality improvement activities related to intensive care management are included in the numerator of the MLR calculation, so we think there is a high likelihood that the MLR could be met. [Emphasis added].

¹ § 438.9 excludes NEMT PAHPs. Modivcare operates as a NEMT PAHP as defined by 42 C.F.R § 438.1.

² From Q&A Portion of July 21, 2016, CMS Medicaid Managed Care Webinar

Modivcare’s activities qualify as incurred claims. CMS states explicitly in the preamble to the MMC Final Rule that, for purposes of the MLR requirement, NEMT services are an “incurred claim” included in the numerator (i.e., the 85%) of the calculation. See 81 Fed. Reg. at 27,526 (reminding stakeholders that “all services, including behavioral health, acute care, pharmacy, NEMT, and LTSS are included in this definition [of incurred claims].” 81 Fed. Reg. at 27,526 (emphases added). This language from the MMC Final Rule strongly suggests that NEMT Brokerage Services should be considered to contribute to the 85% spent on “incurred claims.” Moreover, in the MMC Final Rule, CMS removed the word “medical” from the MLR provision and specifically stated that it was doing so to reflect the fact that services meeting the definition of “incurred claims” at § 438.3(e), for purposes of the MLR calculation, “may not always be medical in nature.” 81 Fed. Reg. at 27,526.

Modivcare’s activities also qualify as Quality Improvement Activities (QIA). The regulations provide that certain activities that “improve health care quality” should be included in the numerator along with incurred claims, if they meet the criteria set forth in 45 C.F.R. § 158.150(b). The MMC Final Rule’s preamble explicitly states that service coordination, case management, and activities supporting state goals for community integration of individuals with more complex needs should be included in the MLR calculation’s numerator as health care QIA. 81 Fed. Reg. at 27,528. In addition, CMS further indicated that it expects health care quality improvement activities would include the cost of appropriate outreach, engagement, and service coordination. 81 Fed. Reg. at 27,523. Accordingly, even if for the sake of argument some NEMT Brokerage Services activities performed by Modivcare are not considered services meeting the definition of “incurred claims,” they would nevertheless contribute to the 85% MLR numerator as QIA (i.e., service coordination to ensure members without reliable transportation options are transported to covered health care services through trip reservation intake and management and trip routing / re-routing, including active recovery of active trips in real-time).

In sum, payments made to Modivcare for NEMT Brokerage Services should be treated as incurred claims and/or QIA activities that belong in the numerator of a MLR analysis. CMS has made it clear that an NEMT PAHP is not required to calculate or report a MLR, and the MCO contracting with us should act accordingly. Moreover, our NEMT Brokerage Services fit well within the definitions of an incurred claim and QIA. The fact that the actual transportation is provided through independent contractors rather than direct employees of Modivcare (a requirement of the NEMT brokerage regulations, (see 42 C.F.R. § 440.170(a)(4)(ii)(A)) does not change this analysis.

EXHIBIT **4**



Cigna Healthcare
900 Cottage Grove Road
Hartford, CT 06152

September 25, 2024

ModivCare Solutions, LCC
Attention: Legal Department
Kirk Gonzales
6900 Layton Avenue, Suite 1200
Denver, CO 80237

RE: Medicare Advantage – Medical Loss Ratio Risk Sharing under Section 5.6 of the Statement of Work No. SOW_11007

Dear Mr. Gonzales:

Cigna Healthcare (“Cigna”) writes to respond to ModivCare Solutions’ (“ModivCare”) letter dated August 6, 2024. Specifically, Cigna rejects ModivCare’s attempt to include the cost of both: (i) Customer Service Representatives (staff who answer customer calls and address issues such as eligibility and coverage, travel destination, and confirmation of services) and (ii) Customer Advocate/Transportation Routers (staff who route trips based on customer travel date, time and destination), as medical expenses in calculating the Medical Loss Ratio (“MLR”) under the MLR Risk Sharing arrangement, listed as section 5.6 in Statement of Work No. SOW_11007 (“SOW”) to the parties’ April 1, 2023 Master Services Agreement (“Agreement”). Your position is contrary to both the Agreement’s SOW and to CMS Medicare Advantage (“MA”) regulations and guidance applicable to this situation.

The SOW’s MLR Risk Sharing Provision

[Redacted]

Here, the contract’s language does not support including ModivCare’s staffing costs as medical expenses for calculating the MLR. [Redacted]

[Redacted]

Furthermore, this Agreement is the result of an arm’s length transaction. If ModivCare wanted a different result, it should have negotiated for it. Instead, the parties executed the Agreement which only allows for the actual **covered service amounts** to count towards the MLR.

CMS’ Regulations and Guidance on MLR for Medicare Advantage



CMS guidance for calculating MLR under MA also supports Cigna's position. The guidance is found in CMS's MA regulations, specifically at 42 CFR § 422.2420 et seq. entitled "Requirements for a Minimum Medical Loss Ratio".¹ For background, the MA MLR regulations refer to medical expenses as "incurred claims" and administrative costs as "non-claim costs". (42 CFR § 422.2401) Generally, the MA MLR regulation states the MLR numerator equals the "**amount** [Cigna] pays for **covered services**", meaning incurred claims or medical expenses. (42 CFR §§ 422.2420(b)(1)-(2)) However, the MLR regulation explicitly excludes specific amounts – namely, administrative fees – from the definition of incurred claims. (42 CFR § 422.2420(b)(4)). Applied here, ModivCare's staffing costs are categorized as non-claim administrative costs and thus are excluded from incurred claims. Simply put, CMS directs that administrative costs mean non-medical costs. Yet ModivCare advocates for a contrary result.

Additionally, to the extent that the Agreement is classified as a capitated contract, the Agreement does not pass CMS' four-factor incurred claim test which would allow administrative costs to count towards medical expenses. For capitated contracts, CMS allows certain administrative costs to count towards medical expenses when four factors are met. Review of the applicable factors makes it clear that ModivCare cannot meet two of the four required factors.² First, NEMT services are not a clinical service, as required by the test. Second, NEMT services are not provided through an integrated delivery system, which is also required by the test. Because these two threshold factors are not met, ModivCare's administrative functions (staffing costs) cannot be included in incurred claims (medical expenses), despite the classification of the Agreement as a capitated contract. As such, under CMS' applicable MA regulations and guidance, ModivCare's staffing costs are not included as part of the MLR numerator as those costs are clearly non-claim costs.

ModivCare's Memo on MLR

Cigna received and reviewed a copy of ModivCare's memo titled "Medical Loss Ratio – regulatory requirements for NEMT Brokerage Services". In the memo, ModivCare relies on CMS' regulations and guidance applicable to **Medicaid managed care** to conclude that minimum MLR standards are not applicable to NEMT services, and thus, the entire amount paid for NEMT services are included in incurred claims to calculate the MLR. ModivCare's reliance is misplaced for a myriad of reasons. First and most significantly, Medicaid authority is inapplicable to the Medicare program. Second, the Medicaid regulation (42 CFR § 438.9) containing the MLR standard exemption for NEMT services does not have an analogous Medicare regulation. This means CMS deliberately choose not to carve-out NEMT services from MA MLR standards. Third, the Medicaid regulation only applies to NEMT pre-paid ambulatory health plans ("PAHP"). (42 CFR § 438.9(b)) NEMT PAHPs are entities who only provide NEMT services under a contract with a state Medicaid administrator. (42 CFR § 438.9(a)) Here, ModivCare is not operating as a NEMT PAHP because ModivCare is contracted with Cigna to provide NEMT services to Medicare beneficiaries. Therefore, Cigna rejects all implication that Medicaid regulations allow ModivCare to treat administrative costs as medical expenses under the Medicare program or under the Agreement.

Cigna believes this to be our final interpretation of MLR calculation per CMS guidelines and will continue to administer the contract as such. Thank you for your understanding and we appreciate your partnership.

¹ Neither CMS' MA regulations nor its guidance address the specific situation of calculating MLR for NEMT services.

² CMS, Medical Loss Ratio (MLR) Data Form Filing Instructions for [Contract Year 2023](#) (hyperlink); see also, CMS' website for Regulations and Guidance on [Medical Loss Ratio](#) (hyperlink), specifically, [CMS' February 10, 2018 Guidance Letter Regarding Medical Loss Ratio](#) (hyperlink).

EXHIBIT **5**



June 23, 2025

ModivCare Solutions
Marvin Lewis and Cody Huffman
6900 Layton Avenue, Suite 1200
Denver, CO 80237

RE: Medicare Advantage – Best and Final Proposal to Amend Statement of Work No. SOW_11007

Dear Marvin and Cody:

HealthSpring Life & Insurance Company, Inc. d/b/a Cigna Medicare Advantage ("HealthSpring") writes ModivCare Solutions, LLC ("ModivCare") to propose HealthSpring's best and final offer to resolve the impasse regarding the financial terms of Statement of Work No. SOW_11007 ("SOW") under the parties' April 1, 2023 Master Services Agreement ("Agreement"). HealthSpring proposes this offer in good faith to demonstrate its commitment and partnership to ModivCare. HealthSpring's offer is –

[REDACTED] If HealthSpring's offer is not accepted by **June 25, 2025**, HealthSpring will continue to operate under the present terms and conditions of the SOW and Agreement through the remainder of the term period, which ends December 31, 2026.

HealthSpring's Offer

[REDACTED]

The deadline to accept HealthSpring's offer is **June 25, 2025**.

Non-Acceptance of HealthSpring's Offer

If Health Spring's offer is not accepted by June 25, 2025, HealthSpring intends to continue working under the existing terms and conditions of the SOW and the Agreement which were negotiated and agreed to by ModivCare and

300 E Randolph St, Chicago, IL 60601
Mobile: 201-978-0398 • kayla_mckenzie@hcsc.com

HealthSpring for the remainder of the contract period ending December 31, 2026. Stated alternatively, this means HealthSpring will continue – through December 31, 2026 – to: [REDACTED]

In closing, HealthSpring's best and final offer to increase the capitated PMPM fee and modify the MLR Risk Sharing arrangement, as detailed above, must be accepted by or on **June 25, 2025**.

Please contact Heath Campbell at 813-416-7979 or Heath.Campbell@CignaHealthcare.com if you have any questions or need any additional information.

Thank you,

Kayla McKenzie

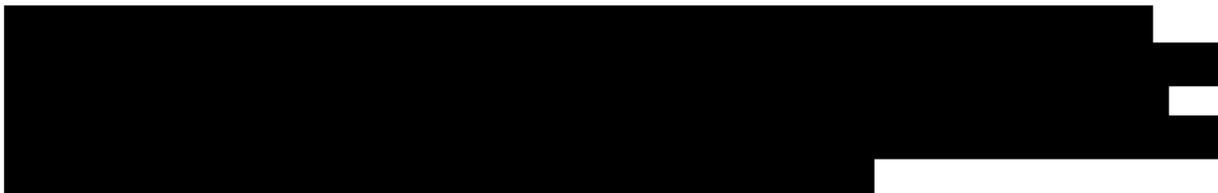
Medicare Vendor Management & Delegation Oversight

EXHIBIT **6**

From: Sharon Wilson <Sharon.Wilson@modivcare.com>
Sent: Wednesday, June 25, 2025 3:57 PM
To: Campbell, Heath H (CTR) <Heath.Campbell@CignaHealthcare.com>; Marvin Lewis <marvinl@modivcare.com>; Cody Huffman <Cody.Huffman@modivcare.com>
Cc: Kayla McKenzie <kayla_mckenzie@hsc.com>
Subject: [External] RE: 2026 Payment Rate - Confirmation Requested

Hello Heath,

Modivcare acknowledges receipt of your offer letter dated June 23, 2025. After careful review and consideration, our position is as follows:



With respect to Medical Loss Ratio (MLR) calculations, Modivcare maintains that direct staffing and service costs should be included in the MLR calculation, in accordance with CMS guidelines for transportation services. This approach is consistent with Cigna's 2026 offer. Accordingly, we accept the offer as it pertains to the 2026 contract year.

We also wish to clarify that Modivcare does not waive its claims to monies owed for the 2024 and 2025 claim years under the current MLR calculation methodology outlined in our contract. We remain open to engaging with the appropriate members of Cigna's leadership team to resolve this matter.

Regards,

Sharon Wilson
Vice President, Enterprise Account Management
ModivCare
Phone: [404.888.5898](tel:404.888.5898) **Mobile:** [404.783.9923](tel:404.783.9923)
Email: sharon.wilson@modivcare.com | **Website:** ModivCare.com
LinkedIn: [ModivCare](#) | **Facebook:** [ModivCare](#) | **Twitter:** [@ModivCare](#)

From: Campbell, Heath H (CTR) <Heath.Campbell@CignaHealthcare.com>
Sent: Monday, June 23, 2025 8:45 AM
To: Marvin Lewis <marvinl@modivcare.com>; Cody Huffman <cody.huffman@modivcare.com>
Cc: Kayla McKenzie <Kayla_McKenzie@hsc.com>; Sharon Wilson <Sharon.Wilson@modivcare.com>
Subject: 2026 Payment Rate - Confirmation Requested
Importance: High

CAUTION: This email is not from a Modivcare employee -- **DO NOT** reply to this email if the sender is claiming to be a Modivcare employee. **DO NOT** click links or open attachments unless you recognize the sender and know the content is safe.

Marvin/Cody,

In April HCSC offered Modivcare a 2026 rate increase in good faith to address a disagreement of the calculation of MLR on the legacy Cigna contract.

Thank you,

Heath H. Campbell

AVP, National Vendor Management

Pronouns: he, him, his

Office: 860-902-5472

Work Mobile: 813-416-7979

Email: heath.campbell@cigna.com



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EXHIBIT **7**



July 1, 2025

ModivCare Solutions
Marvin Lewis and Cody Huffman
6900 Layton Avenue, Suite 1200
Denver, CO 80237

**RE: Medicare Advantage – Response to Proposal to Amend Statement of Work
No. SOW_11007**

Dear Marvin and Cody:

HealthSpring Life & Insurance Company, Inc. d/b/a Cigna Medicare Advantage ("HealthSpring") writes ModivCare Solutions, LLC ("ModivCare") to acknowledge receipt of ModivCare's response to HealthSpring's offer to fully resolve the financial misalignment for Statement of Work No. SOW_11007 ("SOW"). Initially, HealthSpring offered to resolve the financial misalignment on a go-forward basis by [REDACTED]

[REDACTED] In response, ModivCare was agreeable to [REDACTED]; however, ModivCare stated it would not waive claims under the MLR Risk Sharing arrangement for 2024 and 2025 – this condition neither aligns nor comports with HealthSpring's offer to fully resolve the financial misalignment.

As such, HealthSpring will continue to operate under the presently negotiated and agreed upon terms and conditions of the SOW through the remainder of the term period, which ends December 31, 2026.

Please contact Heath Campbell at 813-416-7979 or Heath.Campbell@CignaHealthcare.com if you have any questions or need any additional information.

Thank you,

Kayla McKenzie

Medicare Vendor Management & Delegation Oversight

300 E Randolph St, Chicago, IL 60601
Mobile: 201-978-0398 • kayla_mckenzie@hcsc.com

EXHIBIT **8**

From: Lance Wittl <Lance.Wittl@modivcare.com>
Sent: Monday, September 15, 2025 10:34 PM
To: Levesque, Mark (CTR); Karas, Melanie (CTR); Campbell, Heath H (CTR)
Subject: Chapter 11 Update

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Team,

As you know, Modivcare is undergoing a pre-arranged Chapter 11 restructuring, supported by an overwhelming majority of our lenders. This process is designed to strengthen our financial foundation, and we remain committed to emerging as a stronger, privately held company in the fourth quarter of 2025.

Why this matters to you:

- Your members will continue receiving uninterrupted services.
- Our business continues to operate as usual, with a focus on operational excellence.
- The Chapter 11 process is subject to court oversight, ensuring fairness and transparency.
- Through the Chapter 11 process, we intend to assume all critical customer contracts.
- Each step positions Modivcare to emerge a stronger, more sustainable organization, with reduced debt and enhanced long term stability.

Throughout the Chapter 11 process, all Bankruptcy Court orders can be found on the Verita claims agent website: <https://www.veritaglobal.net/Modivcare>

Some of the orders you can expect to see confirm our ability to continue to deliver on these commitments:

- **Plan and Disclosure Statement Communication Materials:** Communication materials prepared for teammates and clients to share the Plan of Reorganization and Disclosure Statement filings with the Bankruptcy Court. These are important documents that outline our path out of Chapter 11 and filing them puts us one step closer to completing a successful restructuring.
- **Disclosure Statement Hearing Notice:** Informs recipients of the Disclosure Statement Hearing in the Bankruptcy Court, which is scheduled to be held on October 6, 2025. The Disclosure Statement is an important document that contains detailed information on Modivcare's business and the steps by which the Company will undertake to complete the Chapter 11 process.
- **Bar Date:** Informs recipients of the deadline by which creditors must file a proof of claim form, which the Court has established as Wednesday, October 1st, before 5 PM Central Time.
- **Proof of Claim Form:** The form creditors must fill out and submit to the Court if they believe they are owed money by Modivcare from prior to the bankruptcy filing that has not been paid. Please note, all creditors receive this form, and receiving this form does not mean you have to file a claim with the Court.

Thank you,

Lance Witt

Sr. Director, Client Services

Modivcare

Mobile: 405.410.9115

Email: lance.witti@modivcare.com | Website: modivcare.com

LinkedIn: [Modivcare](#) | Facebook: [Modivcare](#) | Twitter: [@Modivcare](#)

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From: Lance Wittl <Lance.Wittl@modivcare.com>
Sent: Friday, September 19, 2025 3:52 PM
To: Levesque, Mark (CTR); Karas, Melanie (CTR); Campbell, Heath H (CTR)
Cc: Sharon Wilson
Subject: Chapter 11 Update 09-19-2025

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Team,

As part of our commitment to supporting you, we are aiming to keep you more regularly updated as we move forward through our Chapter 11 process.

To that end, we will be providing you with weekly updates summarizing key developments in our case and upcoming milestones, as well as recapping any communications delivered over the course of the week. If there are no updates, we will let you know that as well.

Our goal is to ensure you receive clear, timely information directly from us. As a reminder, we are continuing to operate as usual throughout this process, and we expect no changes in how we work together or disruption in care for your members.

We appreciate your ongoing support throughout this process and are always available to answer your questions.

Modivcare Restructuring Communications Update and Materials 09/19/2025

- **Court Updates**
 - Our “second day” hearing was reset from September 16 to September 30. The hearing was reset to give the newly appointed official committee of unsecured creditors time to review and respond to first day pleadings. This is a normal and expected step that helps ensure all parties are heard and is not an indication of a negative change in our Chapter 11 process.
- **Ongoing and Received Communications**
 - We are required by the Courts to provide certain legal notices to creditors throughout our Chapter 11 process. Recently, this group received notices including the Disclosure Statement Hearing Notice, Bar Date Notice, and Proof of Claim Form.
- **Upcoming Communications**
 - Looking ahead, creditors should expect to receive the Plan of Reorganization, Disclosure Statement, and other solicitation-related materials. All documents sent by the Courts are compiled online by our claims agent, Verita, at veritaglobal.net/Modivcare.

Thank you,

Lance Wittl
Sr. Director, Client Services

Modivcare
Mobile: 405.410.9115
Email: lance.wittl@modivcare.com | Website: modivcare.com

[LinkedIn: Modivcare](#) | [Facebook: Modivcare](#) | [Twitter: @Modivcare](#)

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From: Lance Wittl <Lance.Wittl@modivcare.com>
Sent: Friday, September 26, 2025 3:16 PM
To: Levesque, Mark (CTR); Karas, Melanie (CTR); Campbell, Heath H (CTR)
Cc: Sharon Wilson
Subject: Chapter 11 Update 09-26-2025

Hello Team,

As part of our commitment to supporting you, we are aiming to keep you more regularly updated as we move forward through our Chapter 11 process.

To that end, we will be providing you with weekly updates summarizing key developments in our case and upcoming milestones, as well as recapping any communications delivered over the course of the week. If there are no updates, we will let you know that as well.

Our goal is to ensure you receive clear, timely information directly from us. As a reminder, we are continuing to operate as usual throughout this process, and we expect no changes in how we work together or disruption in care for your members.

We appreciate your ongoing support throughout this process and are always available to answer your questions.

Modivcare Restructuring Communications Update and Materials 09/26/2025

- **Court Updates**
 - Our creditor meeting was held on September 22. A creditor meeting is a required meeting in the Chapter 11 process where the debtor answers questions from the United States Trustee and creditors regarding the Company, its finances and the Chapter 11 case generally. This meeting is largely for background purposes, and no substantial updates or impacts to our Chapter 11 timeline resulted from this meeting.
- **Ongoing and Received Communications**
 - We are required by the Courts to provide certain legal notices to creditors throughout our Chapter 11 process. Recently, this group received notices including a motion to pay claims of critical vendors, Disclosure Statement Hearing Notice, Bar Date Notice and Proof of Claim Form, motions to pay and retain certain advisors and professionals, and a motion to approve certain lease rejections.
- **Upcoming Communications**
 - Looking ahead, creditors should expect to receive the Plan of Reorganization, Disclosure Statement, and other solicitation-related materials. All documents sent by the Courts are compiled online by our claims agent, Verita, at veritaglobal.net/Modivcare.

Thank you,

Lance Wittl
Sr. Director, Client Services

Modivcare

Mobile: 405.410.9115

Email: lance.wittl@modivcare.com | Website: modivcare.com

LinkedIn: [Modivcare](https://www.linkedin.com/company/modivcare) | Facebook: [Modivcare](https://www.facebook.com/modivcare) | Twitter: [@Modivcare](https://twitter.com/Modivcare)

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From: Lance Wittl <Lance.Wittl@modivcare.com>
Sent: Monday, October 6, 2025 9:41 AM
To: Levesque, Mark (CTR); Campbell, Heath H (CTR); Karas, Melanie (CTR)
Subject: Chapter 11 Update 10-03-2025

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Team,

I hope you had a great weekend!

As part of our commitment to supporting you as we move forward through our Chapter 11 process, we will be keeping you updated on a more regular basis.

To that end, we will be providing you with weekly updates summarizing key developments in our case and upcoming milestones, as well as recapping any communications delivered over the course of the week. We will also let you know if there are no updates to report.

Our goal is to ensure you receive clear, timely information directly from us. As a reminder, we are continuing to operate as usual throughout this process, and we expect no changes in how we work together, nor do we expect any disruption in care for your members.

We appreciate your ongoing support throughout this process and are always available to answer your questions.

Modivcare Restructuring Communications Update and Materials 10/03/2025

- **Court Updates**

- Our second day hearing was held on September 30. Our final cash management and trade vendor motions were approved, allowing us to continue to meet all of our financial obligations to our stakeholders. We are still awaiting approval of the final draw on our "debtor-in-possession" financing, which would grant us access to the remaining \$37.5 million of the \$100 million committed by our lenders as part of this process.

- **Ongoing and Received Communications**

- We are required by the Courts to provide certain legal notices to our creditors throughout the Chapter 11 process. Recently, this group received notices including the Final Trade Vendor Order, Disclosure Statement Hearing Notice, Bar Date Notice and Proof of Claim Form, motions to pay and retain certain advisors and professionals, and a motion to approve certain lease rejections.

- **Upcoming Communications**

- Looking ahead, creditors should expect to receive the Plan of Reorganization, Disclosure Statement, and other solicitation-related materials. All documents sent by the Courts are compiled by our claims agent, Verita, and can be found online at veritaglobal.net/Modivcare.

Thank you,

Lance Witt
Sr. Director, Client Services

Modivcare
Mobile: 405.410.9115
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LinkedIn: [Modivcare](#) | Facebook: [Modivcare](#) | Twitter: [@Modivcare](#)

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From: Lance Wittl <Lance.Wittl@modivcare.com>
Sent: Friday, December 5, 2025 2:04 PM
To: Levesque, Mark (CTR); Karas, Melanie (CTR)
Cc: Campbell, Heath H (CTR)
Subject: Chapter 11 Update

Good afternoon,

As part of our ongoing commitment to supporting you as we move forward through our Chapter 11 process, please see the 12/5/25 updates.

Modivcare Restructuring Communications Update and Materials 12/5/2025

As we continue to progress towards our confirmation hearing this Monday December 8, we wanted to take a moment to let you know our plan remains on track, and we continue to expect to emerge from Chapter 11 around the end of the year.

Our operations remain strong, and our teams are fully focused on serving you and your members with the same reliability and care you expect from Modivcare. We will provide additional updates as new milestones are reached or developments occur. We will provide you with an update on our confirmation hearing in our next update email on Friday, December 12.

All official filings and related materials remain available at veritaglobal.net/Modivcare. Please reach out to your Modivcare account representative or to me directly with any questions.

Thank you again for your ongoing confidence and partnership.

Thank you,

Lance Wittl
Interim Vice President, Enterprise Account Management

Modivcare
Mobile: 405.410.9115
Email: lance.wittl@modivcare.com | Website: modivcare.com
LinkedIn: [Modivcare](#) | Facebook: [Modivcare](#) | Twitter: [@Modivcare](#)

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VRI | 1400 Commerce Center Dr, Franklin, OH 45005 | 1-800-860-4230

EXHIBIT **9**



6900 Layton Ave
Suite 1200
Denver, CO 80237

Office 800.486.7647
modivcare.com

Overnight Delivery Service

December 18, 2025

Cigna
900 Cottage Grove Road
Hartford, CT 06152
Attn: Supply Chain Management, C8SCM

RE: Thirty Day Termination Notice for Breach

CC: Kayla McKenzie, Sr Director, Medicare Vendor Management & Delegation Oversight

To whom it may concern:

This notice is provided pursuant to Section 12.2 of the Master Services Agreement (“MSA”) effective April 1, 2023, between Cigna Corporate Services (“Cigna”) and ModivCare Solutions, LLC (“Modivcare”), and serves to notify Cigna of its material breach of the MSA. Specifically, in violation of the MLR Risk Sharing arrangement defined in Section 5.6 in the Statement of Work No. SOW 11007 (“SOW”) to the MSA, Cigna has failed to pay Modivcare [REDACTED] for the non-emergency transportation brokerage services Modivcare performed in 2024. Further, Cigna is in anticipatory breach of its 2025 MLR Risk Sharing payment obligation (currently estimated to be approximately [REDACTED]).

Section 5.6 of the SOW defines [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Importantly, the only CMS guidance that specifically addresses non-emergency transportation services is found in reference to *Medicaid*-managed care, for which non-emergency transportation is a mandatory benefit. That guidance requires the inclusion of costs associated with customer service staff and routers scheduling the reservations and assisting members and transportation



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providers with transportation issues as expenses for the MLR calculation.¹ Interpreting the CMS guidance for non-emergency transportation to mean it is inapplicable to the MSA merely because the guidance is in reference to Medicaid rather than Medicare services would effectively render meaningless the MSA's plain and clear language applying CMS guidance for non-emergency transportation.

The requirement in Section 5.6 to apply CMS guidance for non-emergency transportation was intentional. It is well-established that non-emergency transportation is not a traditional Medicare-covered service, yet 5.6 includes language that directs the parties to calculate the MLR based on CMS guidance for non-emergency transportation. Had Cigna intended to limit the MLR calculation strictly to Medicare guidance it could have included that caveat in the MSA or simply excluded the requirement to apply guidance for non-emergency transportation from Section 5.6 entirely. It did not.

In accordance with Section 12.2 of the MSA, the agreement will terminate, and all services provided by Modivcare shall cease, 30 days from the date of this notice unless Cigna cures its breach by paying the outstanding balance of [REDACTED] in full, and providing a written warrant and representation that it will timely pay the full balance of its 2025 MLR Risk Sharing obligation, on or before January 2, 2026.

In addition, Modivcare may seek to reject the MSA in connection with its pending Chapter 11 case in the event Cigna does not respond to this letter by December 23, 2025 at 11:59 P.M. (CT).

Sincerely,

A handwritten signature in black ink that appears to read "Ken Shepard".

Ken Shepard

SVP, Finance

Modivcare

6900 Layton Ave | Suite 1200 | Denver, CO 80237

kenneth.shepard@modivcare.com

¹ See 42 C.F.R. § 438.4(b)(9); see also Q&A Portion of July 21, 2016, CMS Medicaid Managed Care Webinar

EXHIBIT **10**



December 23, 2025

Via Overnight Courier

ModivCare Solutions, LLC
Attention: Legal Department
6900 Layton Avenue, Suite 1200
Denver, CO 80237

Via Email

Ken Shepard
SVP, Finance
ModivCare
6900 Layton Ave, Suite 1200
Denver, CO 80237
kenneth.shepard@modivcare.com

RE: Response to ModivCare Solutions, LLC's December 18, 2025 Notice of Breach and Termination

Dear Mr. Shepard:

I write on behalf of HealthSpring, Inc. ("HealthSpring")¹ to respond to ModivCare Solutions, LLC's ("ModivCare") letter dated December 18, 2025 (the "Notice Letter").

In the Notice Letter, ModivCare: (1) declares that HealthSpring is in material breach of the parties' April 1, 2023 Master Services Agreement ("Agreement") and the Statement of Work No. SOW_11007 ("SOW"); (2) provides notice that ModivCare is terminating the Agreement and SOW for cause in 30 days pursuant to Section 12.2 of the Agreement; and (3) that ModivCare may also seek to reject the Agreement in the company's bankruptcy proceeding if HealthSpring does not respond to the Notice Letter by Tuesday, December 23, 2025 at 11:59 p.m. CT.

¹ As you know, Cigna Corporate Services, LLC ("Cigna") contracted with ModivCare. However, pursuant to an assignment as part of the sale of Cigna's Medicare Advantage business to Health Care Service Corporation, Cigna assigned the Agreement and related documents to HealthSpring.

For the reasons set forth herein and previously communicated to ModivCare, HealthSpring is not in breach of the parties' Agreement and SOW. Therefore, ModivCare's declaration of breach and corresponding termination of the Agreement and SOW is improper. More importantly, ModivCare's actions threaten the health and safety of HealthSpring's membership and ModivCare's clients. As you know, ModivCare was contracted to be HealthSpring's national provider of non-emergency transportation services (NEMT) to HealthSpring's 300,000+ Medicare members. ModivCare, among other things, provides transportation to our member's medical appointments, behavioral health appointments, and to obtain prescriptions. Many of these appointments are for life-saving services, such as dialysis and infusion, and tens of thousands of our members rely upon ModivCare to transport them to receive the care they need. Indeed, ModivCare is projected to provide almost 200,000 trips in Q1 2026 based upon past utilization patterns, and ModivCare's rash actions are jeopardizing the ability of these members to navigate their complex care needs and obtain life-saving care.

HealthSpring is not in breach of the parties' Agreement and SOW. ModivCare's core position is that the medical loss ratio ("MLR") risk sharing calculation set forth in the SOW requires HealthSpring to include ModivCare's administrative costs in the numerator of the MLR as incurred claims. However, as set forth in greater detail to ModivCare in prior correspondence, including a letter dated September 16, 2024, the applicable regulations and guidance applicable to Medicare Advantage organizations such as HealthSpring do not allow administrative costs, like those claimed by ModivCare, to be included as incurred claims in the MLR. Furthermore, the parties' Agreement does not support including ModivCare's administrative expenses as medical expenses for calculating the MLR.

[REDACTED] The encounter file only allows the actual cost of the services provided by ModivCare's transportation providers and does not allow administrative costs. As such, HealthSpring vehemently disputes that it is in breach of the parties' Agreement and SOW.

Any termination of the Agreement and SOW for cause would be improper and create substantial harm to HealthSpring's members. ModivCare's Notice Letter also states that it is providing notice that it is terminating that Agreement and SOW for cause and within 30 days due to HealthSpring's alleged non-compliance MLR Risk Sharing requirements. As set forth above, HealthSpring is not in breach of the Agreement and SOW. Therefore, any termination by ModivCare for cause would be improper, and furthermore would severely disrupt access to critical medical care for HealthSpring's members and create substantial damages to HealthSpring. To the extent that ModivCare proceeds with its purported for cause termination, HealthSpring reserves all rights to seek emergency relief in an appropriate venue to prevent the disruption of members receiving access to critical healthcare services and to file any resulting claim against ModivCare.

Any rejection of the Agreement in the bankruptcy proceedings would likewise create substantial harm to HealthSpring's members. Finally, ModivCare's Notice Letter states that "it may seek to reject the MSA in connection with its pending Chapter 11 case in the event Cigna does not respond to this letter by December 23, 2025 at 11:59 P.M. (CT)." Just like any putative termination, any rejection of the Agreement and SOW would severely disrupt access to critical medical care for HealthSpring's members and create substantial damage to HealthSpring. HealthSpring reserves all rights to object to such a rejection and seek appropriate relief to prevent the disruption of members receiving access to critical healthcare services. HealthSpring furthermore reserves the right to file any resulting claim against ModivCare for the damage that would ensue from such a rejection.

ModivCare has contractual wind down obligations. As set forth above, HealthSpring strongly disputes that it is in breach and believes that any putative termination is improper. Furthermore, to the extent that ModivCare intends to improperly proceed with a termination or seek to reject the Agreement in the bankruptcy proceedings, ModivCare has contractual obligations to [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Therefore, to the extent that ModivCare intends to proceed with a termination or rejection, HealthSpring requests that the parties meet as soon as possible to discuss a plan that will prevent any disruption in services to our mutual members/clients and ensure a smooth transition to a new services provider. Please contact me at [Dana Mott-bronson@hcsc.net](mailto:Dana.Mott-bronson@hcsc.net), to discuss as soon as possible.

HealthSpring expressly reserves and does not waive all claims, causes of action, demands, defenses, arguments, and otherwise with respect to ModivCare.

Sincerely,



Dana Mott, DSVP
Government Programs

EXHIBIT **11**



January 7, 2026

Via Overnight Courier

Modivcare Solutions, LLC
Attention: Legal Department
6900 Layton Avenue, Suite 1200
Denver, CO 80237

Via Email

Ken Shepard
SVP, Finance
Modivcare
6900 Layton Ave, Suite 1200
Denver, CO 80237
kenneth.shepard@modivcare.com

RE: Modivcare Solutions, LLC's Termination Assistance Obligations

Dear Ken:

I write regarding Modivcare Solutions, LLC's ("Modivcare") improper termination of the parties' April 1, 2023 Master Services Agreement ("Agreement") and the Statement of Work No. SOW_11007 ("SOW"), as well as Modivcare's threatened rejection of the Agreement and SOW in the Bankruptcy Court.

As an initial matter, while we believe that Modivcare has improperly terminated the parties' Agreement and SOW, we are hopeful that Modivcare will reasonably engage in dispute resolution discussions to reach a mutually agreeable solution to the parties' dispute. At the same time, if we cannot reach a resolution, we need to ensure that Modivcare is prepared to adhere to its contractual termination assistance and wind down obligations to avoid irreparable harm to HealthSpring and its members. This letter addresses those concerns.

By way of background, Modivcare's improper termination of the Agreement and SOW came without any warning and after HealthSpring justifiably relied upon Modivcare leadership's assurances that it would continue to perform.

Beginning in late 2024, the parties had discussions regarding the risk corridor payments and MLR calculation. During those discussions, HealthSpring repeatedly made it clear that the calculations were properly done and no additional money was owed under the risk corridor payment methodology.

In the spirit of partnership, HealthSpring nevertheless offered to pay Modivcare increased capitated payments and adjust the risk sharing mechanism for 2026 to help Modivcare on a going-forward basis. Modivcare rejected HealthSpring's offer. Thereafter, on July 1, 2025, HealthSpring wrote Modivcare stating that HealthSpring expected Modivcare to continue performing under the existing terms of the Agreement and SOW for the duration of the contract term (i.e., through 2026). Modivcare did not respond to that letter. Subsequently, Modivcare became a debtor-in-possession ("DIP") under Chapter 11 of the Bankruptcy Code by

a petition filed on August 20, 2025. At that time, Modivcare leadership assured HealthSpring in writing and in meetings that Modivcare would continue to perform through 2026. HealthSpring justifiably relied upon those assurances in proceeding with performing its obligations under the Agreement and SOW during the ensuing four months of Modivcare's DIP operations.

Furthermore, in the fall of 2025, Modivcare participated in HealthSpring's Request For Proposal (RFP) for Non-Emergency Medical Transportation (NEMT) services to be effective January 1, 2027 (i.e., immediately after the expiration of the existing Modivcare contract). Modivcare submitted an RFP response that included rates nominally higher than the existing contract rates for HealthSpring—demonstrating that the existing rates are undoubtedly economically viable. HealthSpring ultimately chose a different NEMT provider to begin January 1, 2027. Upon notification of the award decision, Modivcare, assured HealthSpring of its intent to continue performing under the existing agreement through 2026.

Notwithstanding Modivcare's repeated assurances that it would continue to perform, on December 18, 2025, Modivcare sent a letter characterized as a "Thirty Day Termination Notice for Breach" (the "Notice Letter"). The Notice Letter asserted: (1) that HealthSpring is in material breach of the parties' Agreement and SOW for allegedly failing to properly calculate the risk corridor payments tied to the MLR calculation; (2) that Modivcare was terminating the Agreement and SOW for cause in 30 days pursuant to Section 12.2 of the Agreement; and (3) that Modivcare might also seek to reject the Agreement in the company's bankruptcy proceeding if HealthSpring does not respond to the Notice Letter by Tuesday, December 23, 2025 at 11:59 p.m. CT.

On December 23, 2025, HealthSpring responded to the Notice Letter. In its response, HealthSpring, among other things, stated that Modivcare's termination is improper and requested that Modivcare rescind the termination to avoid disruption to member services. As HealthSpring explained, Modivcare's actions threaten the health and safety of 300,000+ HealthSpring members and Modivcare's clients. As HealthSpring's national provider of NEMT services, Modivcare provides transportation to our member's medical appointments, behavioral health appointments, and to obtain prescriptions. Many of these appointments are for life-saving services, such as dialysis and infusion, and tens of thousands of our members rely upon Modivcare to transport them to receive the care they need. HealthSpring further stated that, to the extent Modivcare moves forward with the improper termination, it must comply with its contractual wind-down and termination assistance contract obligations to avoid any disruption to member services. HealthSpring requested that the parties meet as soon as possible to discuss rescission of the improper termination and discuss a plan that will prevent any disruption in services to our mutual members/clients and ensure a smooth transition to a new services provider.

On the morning of Friday, December 26, 2025, HealthSpring again reasserted its request via video conference that Modivcare formally rescind its improper termination of the parties' contract to permit the two business parties the opportunity to amicably resolve the issue. On the afternoon of Friday, December 26, 2025, Modivcare responded stating that it would not rescind the termination and failed to address its contractual termination assistance obligations. Furthermore, Modivcare demanded a financial resolution by Monday, December 29, 2025 at 9:00 CT—less than 24 working hours over the holiday weekend. When HealthSpring requested additional information to substantiate Modivcare's demand, Modivcare informed HealthSpring that it would seek Bankruptcy Court approval to reject the Agreement and SOW effective January 28, 2026 and that it would continue services through that date. Again, Modivcare did not address its termination assistance obligations post-termination.

Modivcare has contractual termination assistance and wind down obligations to prevent a disruption in access to care for HealthSpring's members.

The Agreement obligates Modivcare to perform certain termination assistance and wind down services that are designed to ensure there is not disruption of services upon a contract termination. Specifically, Section 12.4 of the Agreement states:

[REDACTED]

Exhibit 2 to the SOW obligates Modivcare to, among other things:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

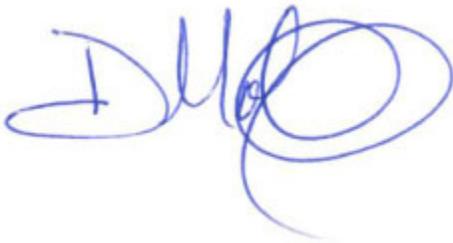
HealthSpring and its members will be irreparably harmed if Modivcare does not comply with its contractual obligations to provide HealthSpring continuing services consistent with the terms of the Agreement. Given the urgent need to protect our members, HealthSpring requests that Modivcare respond to the following points by January 8, 2026, at 5:00pm ET:

1. Confirm that Modivcare will provide all contracted services through January 28, 2026 consistent with the terms of the parties' Agreement and SOW.

2. Modivcare will adhere to its contractual termination assistance and wind down obligations as outlined in the Agreement and SOW, including, but not limited to, continuing to provide all services under the agreement for a period of 180 days after January 28, 2026.
3. The parties meet on or before January 9, 2026 to discuss Modivcare's termination assistance and wind down obligations.

HealthSpring expressly reserves and does not waive all claims, causes of action, demands, defenses, arguments, and otherwise with respect to Modivcare.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DM', with a large circular flourish at the end.

Dana Mott
Divisional Senior Vice President

EXHIBIT **12**

From: Dana Mott <Dana_Mott-bronson@hcsc.net>
Date: Monday, January 19, 2026 at 6:08 PM
To: Kenneth Shepard <Kenneth.Shepard@modivcare.com>
Subject: Modivcare/HCSC Follow-up

Hi Ken:

Thanks again for talking Friday afternoon.

As you know, by Modivcare's motion to reject the Cigna (HealthSpring) Agreement via the Chapter 11 Bankruptcy process, dated December 29, 2025, Modivcare asserts that it will cease all services effective January 28, 2026. We have made repeated written requests that Modivcare adhere to its contractual termination assistance and wind down obligations to support a transition to a new provider. The Agreement obligates Modivcare to perform certain termination assistance and wind down services that are designed to ensure there is no disruption of services to our members upon a contract termination, regardless of the reason.

Specifically, Section 12.4 of the Agreement states that commencing upon any notice of termination (regardless of the reason therefore) and continuing for a period of 180 days after the effective date of the termination, Modivcare shall:

■ [REDACTED]

■ [REDACTED]

In addition, Modivcare is required to provide information and cooperate to agree upon a transition plan.

HealthSpring has requested that Modivcare provide critical information regarding our members that is only in the possession of Modivcare. Until this past Friday, Modivcare had not provided that information. Based on our call, we understand that Modivcare will provide all requested information, although the timeline for doing so is unclear. It also is imperative that the Modivcare team immediately meet with our team to develop a transition plan, including, but not limited to, identifying what Modivcare will be delivering to HealthSpring and the timeline for doing so.

With respect to Modivcare's obligations to provide continuing services for up to 180 days for any notice of termination, regardless of the reason, HealthSpring has made numerous requests for confirmation that Modivcare will provide the necessary run out services. To date, Modivcare has

refused to engage in any discussions on this topic, unless HealthSpring resolves the historical dispute. As we have previously noted, any dispute between the parties is entirely separate from Modivcare's obligations to provide these run out services as Modivcare has contractual duties to provide them.

HealthSpring once again requests that Modivcare separately discuss—pursuant to its contractual obligations—the run-out services. To the extent that Modivcare is concerned about payment, HealthSpring is willing to discuss in good faith a fair and reasonable payment rate. It is critical that Modivcare decouple the resolution of the historical dispute and comply with its termination assistance obligations immediately as failure to do so will jeopardize the health and safety of our members.

HealthSpring reserves all rights.

Thank you,

Dana



Dana Mott

DSVP, Government Programs

Office: 202-249-7214 | 1001 Pennsylvania Ave NW, Ste 760 Washington, DC 20004|
Dana_Mott-Bronson@hcsc.net

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