

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
)	
CANO HEALTH, INC., <i>et al.</i>)	Case No. 24-10164 (KBO)
)	
Debtors. ¹)	Jointly Administered
)	
)	Re Dkt. Nos.: 857, 864

**LIMITED OBJECTION OF SUNSHINE STATE HEALTH PLAN, INC., WELLCARE
HEALTH INSURANCE OF ARIZONA, INC., AND CENTENE CORPORATION AND
AFFILIATES TO FOURTH AMENDED JOINT CHAPTER 11 PLAN OF
REORGANIZATION OF CANO HEALTH, INC.
AND ITS AFFILIATED DEBTORS**

Sunshine State Health Plan, Inc. (“Sunshine State”), WellCare Health Insurance of Arizona, Inc. (“WellCare Arizona” and together with Sunshine State, the “Health Plans”), Centene Corporation and affiliates (collectively, “Centene” and together with Health Plans, “Centene Parties”), by and through counsel, hereby file their Limited Objection (the “Objection”) to the *Fourth Amended Joint Chapter 11 Plan of Reorganization of Cano Health, Inc. and Its Affiliated Debtors* [Dkt. 857, 864] (the “Plan”), filed by Cano Health, Inc. and its affiliated debtors in the above-captioned chapter 11 cases (the “Debtors”), and states as follows:

I. PRELIMINARY STATEMENT

1. Centene Parties object to the Plan to preserve their setoff rights arising under certain participating provider agreements, other contracts, and 11 U.S.C. § 553. As reflected in Health Plans’ Cure Objection [Dkt. 1043] (“Cure Objection”),² Health Plans and Cano Health, LLC

¹ The last four digits of Cano Health, Inc.’s tax identification number are 4224. A complete list of the Debtors in the chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kccllc.net/CanoHealth>. The Debtors’ mailing address is 9725 NW 117th Avenue, Miami, Florida 33178.

² The Cure Objection filed by Health Plans is incorporated herein by reference.

(“Cano Health”) are party to certain participating provider agreements and Cano Health owes a deficit pursuant to those agreements. Centene Parties file this Objection to preserve any setoff or recoupment rights they may have against the Debtors.

II. BACKGROUND

i. Procedural Background

2. On February 4, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

3. Upon information and belief, the Debtors are operating and managing their businesses as a debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

4. On May 21, 2024, the Debtors filed their *Fourth Amended Joint Chapter 11 Plan of Reorganization of Cano Health, Inc. and Its Affiliated Debtors* (the “Plan”). Dkt. Nos. 857, 864.

5. Section 10.5 of the Plan reflects the Debtors’ intent to enjoin any setoff rights that Health Plans may possess against claims asserted by the Debtors: “all Entities who have held, hold, or may hold Claims against or Interests in any or all of the Debtors . . . are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, released, or treated pursuant to the Plan from . . . asserting any right of setoff, directly or indirectly, against any obligation due to the Released Parties or the property of any of the Released Parties, except . . . to the extent asserted in a timely filed Proof of Claim or timely filed objection to the confirmation of the Plan.” Dkt. No. 857, at 73; Dkt. No. 864, at 73.

ii. The Agreements

a. The First Participating Provider Agreement

6. On or about October 1, 2018, WellCare of Florida, Inc. (“WellCare Florida”), WellCare Arizona, and Cano Health entered into that certain Participating Provider Agreement (as subsequently amended and modified, the “First PPA”) whereby Cano Health agreed to provide certain health care services to individuals in health benefit plans offered by or available through WellCare Florida and WellCare Arizona (*i.e.*, a participating provider), and in exchange, WellCare Florida and WellCare Arizona agreed to bear financial responsibility for reimbursement of certain covered services.

7. Pursuant to the attachments to the First PPA, Cano Health agreed to participate and provide medical services to enrollees in the Medicare Advantage program.

8. The First PPA provides that Cano Health shall reimburse WellCare Florida and WellCare Arizona for any deficit accruing under the applicable program and that any accrued deficit shall be paid off entirely within three months’ notice of the deficit.

9. The First PPA also authorizes WellCare Florida and WellCare Arizona to deduct from amounts that may be otherwise due and payable to Cano Health any outstanding amounts that Cano Health may owe WellCare Florida and WellCare Arizona for any reason.

10. On or about September 30, 2021, WellCare Florida merged with Sunshine State, and as such, Sunshine State is the successor-in-interest to WellCare Florida under the First PPA.

11. As of February 29, 2024, the total deficit amount accruing under the First PPA was approximately \$1,584,536.00.

12. As of the date of this Objection, the total deficit amount under the First PPA has decreased to a total amount of not less than \$1,127,354.00.³

13. More than three months have passed since Cano Health received notice of the deficit under the First PPA.

b. The Second Participating Provider Agreement

14. On or about January 1, 2022, Sunshine State and Cano Health entered into that certain Participating Provider Agreement (as subsequently amended and modified on January 1, 2023, the “Second PPA” and together with the First PPA, the “Provider Agreements”) whereby Cano Health agreed to provide certain health care services to individuals in products offered by or available through Sunshine State as a participating provider, and in exchange, Sunshine State agreed to bear financial responsibility for reimbursement of certain covered services.

15. The Second PPA requires that Cano Health maintain a minimum threshold of covered persons and that such covered persons have at least one office visit during a contract year.

16. Pursuant to Schedule B to the Second PPA, Cano Health agreed to participate in the following business lines offered by Sunshine State: Medicaid, Child Welfare Specialty Plan, Serious Mental Illness Specialty Plan, Children’s Medical Services Health Plan, and Commercial-Exchange (i.e., Ambetter).

17. The Second PPA provides that Cano Health shall reimburse Sunshine State for any deficit accruing under the applicable program and that any accrued deficit shall be paid off entirely within three months’ notice of the deficit.

³ The outstanding amount due under the First PPA will continue to fluctuate on a daily basis and with the passage of time up to and following Plan confirmation. Cano Health receives monthly reporting of the surplus or deficit under the First PPA and is generally aware of the deficit reflected herein. Out of an abundance of caution, and due to the sensitive nature of the information reflected therein, the First PPA and ledger reflecting the deficit under the First PPA are not attached hereto, but are available upon request to undersigned counsel.

18. The Second PPA also authorizes Sunshine State to deduct from amounts that may be otherwise due and payable to Cano Health any outstanding amounts that Cano Health may owe Sunshine State for any reason.

19. As of March 31, 2024, the total deficit amount accruing under the Second PPA across all business lines was approximately \$3,627,545.00.

20. As of the date of this Objection, Sunshine State does not have the current total deficit amount under the Second PPA, but will supplement the Cure Objection or otherwise provide that information to the Debtors when that information becomes available.⁴

21. More than three months have passed since Cano Health received notice of the deficit under the Second PPA.

III. OBJECTION

22. The Plan appears to invalidate or eliminate setoff rights. However, various provider agreements, other contracts, and 11 U.S.C. § 553 expressly provide setoff rights. Centene Parties may also have recoupment rights. Out of an abundance of caution, Centene Parties file this Objection to preserve their setoff and recoupment rights against the Debtors.

IV. RESERVATION OF RIGHTS

23. Centene Parties reserve the right to (i) amend or supplement this Objection in the event the Debtors amend the Plan, including on grounds that notice is insufficient, (ii) join in any objection to the Plan filed by any other creditor or party in interest, to the extent such objection is not inconsistent with the arguments set forth herein, (iii) raise any additional objections to the Plan

⁴ Similar to the First PPA, the outstanding amount due under the Second PPA will continue to fluctuate on a daily basis and with the passage of time up to and following Plan confirmation. Cano Health receives monthly reporting of the surplus or deficit under the Second PPA and is generally aware of the deficit reflected herein. Out of an abundance of caution, and due to the sensitive nature of the information reflected therein, the Second PPA and ledger reflecting the deficit under the Second PPA are not attached hereto, but are available upon request to undersigned counsel.

not incorporated herein, and (iv) raise the arguments made herein and additional arguments in connection with any hearing on confirmation of the Plan.

V. CONCLUSION

24. The Centene Parties hereby object to the Plan for the reasons set forth herein; request that the Court sustain this Objection; and grant such other and further relief to which the Centene Parties are justly entitled.

Dated: June 21, 2024.

Respectfully submitted,

**GELLERT SEITZ BUSENKELL
& BROWN, LLC**

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PLAN, INC., WELLCARE HEALTH
INSURANCE OF ARIZONA, INC., AND
CENTENE CORPORATION AND
AFFILIATES**

CERTIFICATE OF SERVICE

I, Charles J. Brown, III, hereby certify that on June 21, 2024, I caused a true and correct copy of the foregoing *Limited Objection Of Sunshine State Health Plan, Inc., Wellcare Health Insurance Of Arizona, Inc., And Centene Corporation And Affiliates To Fourth Amended Joint Chapter 11 Plan Of Reorganization Of Cano Health, Inc. And Its Affiliated Debtors* to be electronically filed and served through the Court's CM/ECF system which will send notification that such filing is available for viewing and downloading to all registered participants and additionally served in the manner indicated upon the parties listed below.

Dated: June 21, 2024

/s/ Charles J. Brown, III
Charles J. Brown, III (DE 3368)

Via Electronic Mail

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<p>COLE SCHOTZ P.C. 500 Delaware Avenue, Suite 1410 Wilmington, Delaware 19801 Attn: Justin R. Alberto, Esq. Andrew J. Roth-Moore, Esq. jalberto@coleschotz.com aroth-moore@coleschotz.com</p>	<p><u>Via First Class Mail</u> Cano Health, Inc., et al. 9725 NW 117th Avenue Miami, Florida 33178 Attn: Mark Kent, Chief Executive Officer David Armstrong, General Counsel</p>