

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)
)
CC Care, LLC, *et al.*) Case No. 17-32406
) Jointly Administered
) Judge Janet S. Baer
) Chapter 11
Debtors/Debtors-in-Possession.)

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE that on the 22nd day of February, 2018 at 10:00 a.m. or as soon thereafter as counsel can be heard, I shall appear before the Honorable Janet S. Baer, Bankruptcy Judge, in the room usually occupied by her as courtroom 615 in the United States Bankruptcy Court in the Everett McKinley Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois, or before any other Judge who may be sitting in her place and stead and shall present the **Motion to Extend Exclusive Periods For Filing Plans And For Obtaining Acceptances of Plans**, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith.

AT WHICH TIME and place you may appear if you so see fit.

/s/Brian P. Welch
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CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that he caused a copy of the foregoing **Notice of Motion** and attached **Motion to Extend Exclusive Periods For Filing Plans And For Obtaining Acceptances of Plans** to be served on all the parties listed on the attached service list via the Court's Electronic Filing System (ECF), to all parties entitled to receive such notice on the 15th day of February 2018.

/s/Brian P. Welch

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	
)	Case No. 17-32406
CC CARE, LLC, <i>et al.</i> ,)	Chapter 11
)	(Jointly Administered)
)	Hon. Janet S. Baer
)	
<i>Debtors/Debtors-in-Possession.</i>)	

**MOTION TO EXTEND EXCLUSIVE PERIODS FOR FILING PLANS
AND FOR OBTAINING ACCEPTANCES OF PLANS**

Debtor/Debtor-in-Possession, CC CARE, LLC, and its related Debtors/Debtors-in-Possession¹ (collectively, the “Debtors”), by and through their Attorneys, hereby move this Court for the entry of an Order, pursuant to section 1121(d) of the Bankruptcy Code, extending the exclusive periods for the Debtors to file Plans of Reorganization and to obtain acceptances of their Plans, and in support thereof, the Debtors state as follows:

Introduction

1. On October 30, 2017, each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the “Petition Date”).
2. The Debtors are operating their businesses and managing their financial affairs as Debtors-in-Possession.
3. By this Motion, the Debtors seek the entry of an Order extending the exclusive periods set forth in section 1121 of the Bankruptcy Code.

¹ The Debtors in these jointly administered Chapter 11 cases are CC Care, LLC (“CC Care”); BT Bourbonnais Care, LLC (“BT Bourbonnais Care”); CT Care, LLC (“CT Care”); FT Care, LLC (“FT Care”); JT Care, LLC (“JT Care”); KT Care, LLC (“KT Care”); SV Care, LLC (“SV Care”); TN Care, LLC (“TN Care”); WCT Care, LLC (“WCT Care”); and JLM Financial Healthcare, LP (“JLM”).

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter constitutes a “core” proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) and (O).

General Background

5. The Debtors, exclusive of JLM (the “Operating Debtors”), are Delaware limited liability companies that operate long-term care facilities that provide nursing, healthcare, therapeutic and social services to the chronically ill with a diagnosis of mental illness. The following chart identifies each facility operated by each particular Debtor:

DEBTOR	FACILITY NAME/LOCATION
CC CARE	Community Care Center 4314 S. Wabash Ave. Chicago, Illinois 60653 (“ <u>Community Care Center</u> ”)
BT CARE	Bourbonnais Terrace Nursing Home 133 Mohawk Drive Bourbonnais, Illinois 60914 (“ <u>Bourbonnais Terrace</u> ”)
CT CARE	Crestwood Terrace Nursing Center 13301 S. Central Ave. Crestwood, Illinois 60445 (“ <u>Crestwood Terrace</u> ”)
FT CARE	Frankfort Terrace Nursing Center 40 N. Smith Street Frankfort, Illinois 60423 (“ <u>Frankfort Terrace</u> ”)
JT CARE	Joliet Terrace Nursing Center 2330 McDonough Street Joliet, Illinois 60436 (“ <u>Joliet Terrace</u> ”)

KT CARE	Kankakee Terrace Nursing Center 100 Belle Aire Ave. Bourbonnais, Illinois 60914 (“ <u>Kankakee Terrace</u> ”)
SV CARE	Southview Manor 3311 S. Michigan Ave. Chicago, Illinois 60616 (“ <u>Southview Manor</u> ”)
TN CARE	Terrace Nursing Home 1615 Sunset Ave. Waukegan, Illinois 60087 (“ <u>The Terrace</u> ”)
WCT CARE	West Chicago Terrace Nursing Home 928 Joliet Street West Chicago, Illinois 60185 (“ <u>West Chicago Terrace</u> ”)

(Community Care Center, Bourbonnais Terrace, Crestwood Terrace, Frankfort Terrace, Joliet Terrace, Kankakee Terrace, Southview Manor, The Terrace and West Chicago Terrace are hereinafter referred to collectively as the “Nursing Homes”).

6. JLM is a Texas limited partnership that is the sole member and owner of each of the Operating Debtors. The Operating Debtors are “disregarded entities” for federal and state tax purposes and, as a result, a single tax return in the name of JLM is filed that accounts for the business activities of the Operating Debtors.

7. The Operating Debtors are licensed by the State of Illinois to operate Nursing Homes that provide specialized care for the mentally ill who are admitted from hospitals, community health systems, community programs and correctional facilities. The Operating Debtors – which are some of the largest providers in Illinois for patients diagnosed with chronic mental illness – primarily generate their revenue through Medicaid, which is a jointly funded federal and state government program that is designed to pay for qualified medically necessary

services, including physician, hospital and long-term care services. In Illinois, long-term care facilities, such as the Nursing Homes, receive a *per diem* reimbursement (the “Reimbursement Rate”) from the Illinois Department of Healthcare and Family Services (the “IDHFS”) that is funded by shared Medicaid funds from the federal government and the State of Illinois. The Operating Debtors are dependent upon this funding in order to operate their businesses.

8. Since the acquisition of the Nursing Homes in June of 2012, the IDHFS has failed to establish and process the proper Reimbursement Rate for the Operating Debtors, thereby resulting in significantly reduced sums being paid to the Operating Debtors by the IDHFS. The Operating Debtors estimate that this shortfall may total more than \$12 million.

9. As a result, the Operating Debtors filed a Complaint for Injunctive and Declaratory Relief against the Director of IDHFS pursuant to 42 U.S.C. § 1983 (the “1983 Action”) in the United States District Court for the Northern District of Illinois, Eastern Division (the “District Court”), case no. 16-5765. In the 1983 Action, the Operating Debtors seek injunctive and declaratory relief requiring IDHFS to conduct a public process to set proper Reimbursement Rates for the Operating Debtors in accordance with the applicable provisions of relevant state and federal law.

10. The 1983 Action is presently pending in the District Court. The Operating Debtors assert that, by prevailing in the 1983 Action, IDHFS will be required to provide the necessary public process that will result in an increased Reimbursement Rate that, when implemented, will significantly increase the Medicaid payment recoveries to the Operating Debtors.

11. The financial troubles of the State of Illinois have been disastrous for all nursing homes in Illinois. These financial troubles are acutely problematic for the Operating Debtors in that the Operating Debtors are substantially funded through Medicaid. Over 95% of the Nursing

Homes' patients are dependent upon Medicaid and over 85% of these patients also participate in Managed Medicaid Programs. Monthly payments from the State of Illinois have been slow, erratic and significantly lower than what is due. This inadequate payment cycle has had adverse effects on the ability of the Operating Debtors to maintain and fund normal business operations.

12. Importantly, as of July of 2017, the State of Illinois has finally enacted a budget that, coupled with the sale of special purpose bonds by the State of Illinois, should provide the mechanism for the payment of overdue obligations to parties such as the Operating Debtors.

13. The underlying real estate upon which the Operating Debtors operate the Nursing Homes is owned by a separate related entity, each of which is indebted to the U.S. Department of Housing and Urban Development ("HUD") under separate mortgages (the "HUD Mortgage Indebtedness"). The HUD Mortgage Indebtedness aggregates in excess of \$85 million. While the Operating Debtors have pledged collateral to secure the HUD Mortgage Indebtedness, the Operating Debtors have no obligation to repay the HUD Mortgage Indebtedness.

14. MidCap Funding IV Trust ("MidCap") is the Debtors' primary secured lender. MidCap asserts senior liens and security interests in and to all of the Debtors' assets to secure an overall indebtedness, as of the Petition Date, in the approximate amount of \$8,400,000.00.

15. Since the Petition Date, with the consent of MidCap, HUD and others, this Court has entered Orders authorizing the Debtors' use of cash collateral to fund normal and customary operating expenses.

Request for Extension of the Exclusive Periods

16. Pursuant to section 1121(b) of the Bankruptcy Code, "only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter." 11 U.S.C. §

1121(b). Therefore, pursuant to section 1121(b) of the Bankruptcy Code, the Debtors presently hold the exclusive right to file a Plan through February 27, 2018 (the “Plan Exclusivity Period”).

17. Pursuant to section 1121(c)(3) of the Bankruptcy Code the Debtors have the exclusive right to solicit acceptances of their Plan in the 180 days following the entry of the Order for Relief. 11 U.S.C. § 1121(c)(3)(the “Solicitation Exclusivity Period”). Therefore, pursuant to section 1121(c)(3) of the Bankruptcy Code, the Debtors presently hold the exclusive right to solicit acceptances of their Plan through April 28, 2018 (the Plan Exclusivity Period and the Solicitation Exclusivity Period are hereinafter referred to collectively as the “Exclusive Periods”).

18. Pursuant to section 1121(d)(1) of the Bankruptcy Code, this Court may extend the Exclusive Periods “for cause”. 11 U.S.C. § 1121(d)(1).

19. The Debtors have been diligently pursuing the administration of this Chapter 11 case with a view toward formulating a prompt exit strategy. Significantly, since the filing of the Debtors’ Chapter 11 cases, the Debtors have maintained their business operations during the course of these Chapter 11 cases, facilitated by a series of Orders authorizing the use of cash collateral. Pursuant to the Cash Collateral Orders, the secured interests of MidCap, HUD and Edward Don are adequately protected.

20. The Debtors have recently engaged Patrick O’Malley and the firm of Development Specialists, Inc. (“DSI”) to assist them with their cash collateral and other financial reporting. DSI is in the midst of this work and then will proceed to assist the Debtors with various document and information requests of MidCap, the Creditors’ Committee and HUD. Ultimately, DSI will also assist the Debtors with the formulation of their Plans.

21. This Court has recently authorized the Debtors to conduct important discovery of the several managed care organizations (the “MCOs”) with respect to the extensive outstanding

accounts receivable due to the Debtors. This discovery, coupled with the eventual resolution of the millions of dollars of claims of the Debtors due from the MCOs, is an essential element of any Plans to be proposed by the Debtors.

22. The Debtors are beginning the analysis of potential exit strategies on a Debtor-by-Debtor basis. This analysis, which will form the basis of the Plans, will necessarily extend beyond the existing Exclusive Periods.

23. Therefore, the Debtors submit that “cause” exists to extend the Exclusive Periods. The Debtors request an extension of the Exclusive Periods, so that the Debtors retain the exclusive right to: (a) file Plans through **June 27, 2018**; and (b) solicit acceptances of their Plans through **August 28, 2018**.

24. The requested extension of the Exclusive Periods will facilitate the Debtors’ efforts in formulating Plans and successfully resolving these Chapter 11 cases.

25. This request is not being made for the improper purpose of causing unnecessary delay, and the Debtors believe that this request is in the best interests of the Debtors’ estates and their creditors. No creditor will be prejudiced or harmed by the extensions requested in this Motion.

26. Therefore, under the circumstances, “cause” exists to extend the Exclusive Periods as requested in this Motion.

WHEREFORE, are CC Care, LLC; BT Bourbonnais Care, LLC; CT Care, LLC; FT Care, LLC; JT Care, LLC; KT Care, LLC; SV Care, LLC; TN Care, LLC; WCT Care, LLC; and JLM Financial Healthcare, LP, Debtors/Debtors-in-Possession herein, respectfully request the entry of an Order: (i) extending the Plan Exclusive Period through June 27, 2018, pursuant to section 1121(b) of the Bankruptcy Code; (ii) extending the Solicitation Exclusive Period through August

28, 2017, pursuant to section 1121(c)(3) of the Bankruptcy Code; and (iii) granting such other and further relief as this Court deems proper under the circumstances.

Respectfully Submitted,

CC CARE, LLC, *et al.*,
Debtors/Debtors-in-Possession

By: Brian P. Welch
One of their attorneys

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