

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

	x	
In re	:	Chapter 11
LAVIE CARE CENTERS, LLC, et al.,	:	Case No. 24-55507 (PMB)
Debtors.¹	:	(Jointly Administered)
	x	

**OBJECTION AND RESERVATION OF RIGHTS OF HUMANA TO NOTICE TO
CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS
AND UNEXPIRED LEASES**

Humana, Inc, Humana Insurance Company, Humana Health Plan, Inc., Health Value Management, Inc. dba ChoiceCare Network, and Humana Government Business, Inc. (collectively, “Humana”) hereby object (the “Objection”) to the *Notice of Revised List of Potentially Assumed Executory Contracts and Unexpired Leases and Related Cure Costs* [Dkt. 356] (the “Revised Assumption Notice”), and through their undersigned counsel, respectfully represent:

BACKGROUND

1. On June 2 and 3, 2024, the above captioned Debtors filed petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).
2. On August 28, 2024, the Debtors filed the Revised Assumption Notice. The Revised Assumption Notice listed 57 agreements with a Humana entity identified as the

¹ The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.



counterparty (collectively, the “Humana Agreements”).² The Revised Assumption Notice does not list an estimated cure amount for any of the Humana Agreements, even though there are amounts owed to Humana by multiple Debtors.

3. The Revised Assumption Notice seeks to “forever [bar] [Humana]...from asserting any additional Cure Payments...due under the Executory Contract or Unexpired Lease, and...forever [bar] [Humana]...from objecting to such proposed assignment to the Successful Bidder on grounds that the Successful Bidder has not provided adequate assurance of future performance as of the closing date of the Transaction(s).” Revised Assumption Notice at 3.

4. As of August 13, 2024, the Debtors are indebted to Humana in the amount of \$595,535.57 which reflects overpayments made by Humana to the Debtor in the ordinary course of business.

OBJECTION

I. THE DEBTORS’ HAVE NOT IDENTIFIED ANY SPECIFIC HUMANA AGREEMENTS FOR ASSUMPTION

5. The Bankruptcy Code permits a debtor to assume and assign executory contracts if it pays the amount to cure any defaults at the time of assumption. 11 U.S.C. § 365(b)(1). Here, the Debtors’ have not identified specific Humana Agreements for potential assumption. In order for Humana to more specifically assess its rights as to the potential assumption of any contract and any applicable cure amounts, the Debtors must identify the specific Humana Agreements with each Debtor that it intends to assume and assign. Otherwise, Humana will be denied its right to assess whether to seek adequate assurance and a cure amount as to any Humana Agreement sought to be assumed. Humana reserves all rights with respect to such agreements.

² The Debtor has not listed the full name of the Humana Agreements in the Revised Assumption Notice.

II. THE CURE AMOUNT LISTED BY THE DEBTORS IS INCORRECT

6. The Revised Assumption Notice lists no cure amount for any Humana Agreement. This is incorrect. As of the date of filing this Objection, \$595,535.57 is due and owing to Humana. Additional amounts may accrue prior to the Effective Date.

7. The Bankruptcy Code requires the Debtors to pay any outstanding cure amounts at the time of assumption. 11 U.S.C. § 365(b)(1). Therefore, if the Debtors ultimately decide to assume and assign any Humana Agreements, the Debtors must make Humana whole for any amounts due and owing at the time of assumption, which is at least \$595,535.57. That amount may increase prior to the Debtors' assumption of any Humana Agreements.

III. RESERVATION OF RIGHTS

8. Humana hereby reserves all of its rights to payments of any other amounts owed to in accordance with the terms of the Humana Agreements. Further, Humana reserves all rights, claims, defenses, and remedies under the Bankruptcy Code and applicable law, including, without limitation, to supplement or amend this Objection, to raise further and other objections, to introduce evidence prior to any hearing regarding this dispute, or to seek to introduce documents or other evidence in support of its position set forth herein.

CONCLUSION

9. Wherefore, for the foregoing reasons, Humana respectfully requests that this Court (a) approves the assumption and assignment of the Humana Agreements (once identified) only to the extent consistent with the foregoing; and (b) grant Humana such further relief it deems just and proper.

Dated: September 5, 2024

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: /s/ Michael F. Holbein

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COMPANY, HUMANA HEALTH PLAN,
INC., HEALTH VALUE MANAGEMENT,
INC. DBA CHOICECARE NETWORK,
AND HUMANA GOVERNMENT
BUSINESS, INC.**

CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing OBJECTION AND RESERVATION OF RIGHTS OF HUMANA TO NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES with the Clerk of Court using the CM/ECF system which automatically sends a service copy via email notification to the parties who have appeared in this case under the CM/ECF system.

Dated: September 5, 2024

SMITH, GAMBRELL & RUSSELL, LLP

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