

## Nursing Home Giant Owes Landlord Over \$300 Million In Rent

By Michael Soon Fah, J.D. Candidate 2019 | October 23, 2017

Significant changes could be coming for thousands of elderly residents living at HCR ManorCare's 292 nursing home and assisted care facilities. On August 17, 2017, HCR's landlord and real estate company, Quality Care Properties, Inc., [filed a complaint](#) seeking to recover over \$300 million in rent owed. The complaint asks the Court to appoint a receiver to facilitate transfer of the homes to a new operator. On October 19, QCP [announced](#) it had agreed to extend the deadline for HCR to respond to the receivership complaint. HCR now has until November 1 to respond.

A receivership is an alternative remedy to traditional bankruptcy and eviction. In a receivership proceeding, the court orders transfer of the insolvent's assets to an appointed receiver. The receiver will facilitate transition of ownership to a new entity who will hopefully be able to run the operation profitably and meet its obligations. During the interim, the court empowers the receiver with the power to manage the business and protect its assets. Receiverships enable continuity and stability, but are only granted in certain circumstances that vary depending on jurisdiction.

Receiverships have been used to transfer ownership of smaller nursing home companies in the past. [Recently in July 2017](#), a court approved the transfer of Fortis Management Group's 65 nursing homes and assisted living facilities to a receiver. However, a court has yet to apply receivership to a nursing home giant like HCR ManorCare.

QCP's lawsuit hits HCR amidst Department of Justice accusations of Medicare fraud. On April 21, 2015, [the DOJ announced](#) it had intervened in a consolidated False Claims Act lawsuit against HCR. The government alleged that HCR pressured staff to push unnecessary services on residents and kept discharge-worthy patients in its facilities to increase Medicare billables. The case is still pending in District Court. If the Court finds HCR engaged in intentional fraud, liability under the False Claims Act may not be dischargeable in bankruptcy.

HCR and QCP expect to use the deadline extension to discuss the possibility of selling and releasing properties, governance and protocol changes, and asset stewardship. It is unclear whether these talks are aimed at completely avoiding the receivership or preliminarily restructuring HCR's assets in advance of the proceeding. Either way, for thousands of HCR ManorCare residents, home could be completely different in the not so distant future.