

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
Lafayette Division**

IN RE:

CASE NO. 16-50740

PROGRESSIVE ACUTE CARE, LLC, et al.

CHAPTER 11

DEBTORS

JOINTLY ADMINISTERED

**MOTION FOR AUTHORITY TO PAY EMPLOYEES'
PRE-PETITION WAGES AND BENEFITS**

NOW INTO COURT, through undersigned counsel, come Progressive Acute Care, LLC (“PAC”), Progressive Acute Care Avoyelles, LLC (“PAC Avoyelles”), Progressive Acute Care Oakdale, LLC (“PAC Oakdale”) and Progressive Acute Care Winn, LLC (“PAC Winn”) as debtors and debtors-in-possession (collectively, the “Debtors”), who respectively move this Court for entry of an order pursuant to Section 105(a) of the Bankruptcy Code authorizing the Debtor to pay its employees' pre-petition wages and benefits (the “Motion”), and respectfully represent as follows:

Jurisdiction and Venue

1.

This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (M) and (O).

2.

The statutory bases for the relief requested herein are sections 105(a), 363(b), 507(a)(3), 507(a)(4) and 1114(e) of Title 11 of the United States Code (as amended, the “Bankruptcy Code”).

3.

This venue is proper pursuant to 28 U.S.C. §§1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2).

Background

4.

On May 31, 2016, the Debtors each filed a petition for voluntary relief under chapter 11 of the Bankruptcy Code. No creditors' committee has been appointed in any case; and, the Debtors are continuing to operate their businesses in the ordinary course as debtors-in-possession, pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

5.

The Debtors own and operate three (3) community-based hospitals ("Hospitals"), ranging from 50-60 bed capacity, which provide inpatient, outpatient and emergency care, primarily for residents of the immediate regions of the Hospitals. The Hospitals are located in Marksville (PAC Avoyelles), Oakdale (PAC Oakdale) and Winnfield (PAC Winn).

Relief Requested

6.

The Debtors currently employ both hourly rate basis and salaried rate basis employees. The vast majority of the Debtors' employees are employed on a full-time, hourly basis.

7.

To minimize the personal hardship those employees will suffer if the currently due portion of pre-petition employee-related obligations are not paid when due, and to maintain employees' morale at this critical time, the Debtors, by this Motion, seek authority to pay the portion of pre-petition claims representative of the portion of hourly-rate wages and salaried wages due for the current payroll period only for, among other items, wages (including but not limited to salaries, bonuses and other compensation), accrued vacation, severance, sick or other paid leave, federal and state withholding taxes, payroll taxes, medical, dental, vision and disability insurance, and all

other employee benefits which the Debtor pays in the ordinary course of business (collectively, the “Employee Obligations”).

Basis for Relief

8.

Both the salaried and hourly rate employees of each Debtor are paid bi-weekly one week in arrears. As of the Petition Date, the Debtors will have approximately ten (10) days of a payroll period for wages earned prior to the Petition Date (the period of May 22, 2016 through May 31, 2016). PAC employs 16 employees, mostly on a full-time hourly basis. PAC now proposes to pay the amounts due for the current pay period to hourly rate and salaried employees, approximately \$25,034.08 net¹. PAC Avoyelles employs 187 employees, mostly on a full-time hourly basis. PAC Avoyelles now proposes to pay the amounts due for the current pay period to hourly rate and salaried employees, approximately \$106,944.06 net². PAC Oakdale employs 159 employees, mostly on a full-time hourly basis. PAC Oakdale now proposes to pay the amounts due for the current pay period to hourly rate and salaried employees, approximately \$94,461.53 net³. Finally, PAC Winn employees 193 employees, mostly on a full-time hourly basis. PAC Winn now proposes to pay the amounts due for the current pay period to hourly rate and salaried employees, approximately \$145,007.26 net⁴.

10.

Each Debtor is also obligated to its employees for medical insurance, life insurance and other employee benefits that were incurred pre-petition, some or all of which would have priority

¹ This amount is prorated based on total net payroll of \$37,551.12 for the period May 22, 2016 through June 4, 2016.

² This amount is prorated based on total net payroll of \$160,416.10 for the period May 22, 2016 through June 4, 2016.

³ This amount is prorated based on total net payroll of \$141,692.30 for the period May 22, 2016 through June 4, 2016.

⁴ This amount is prorated based on total net payroll of \$217,510.90 for the period May 22, 2016 through June 4, 2016.

under 11 U.S.C. § 507(a)(5). These obligations are in the form of payment to employee medical and life insurers (collectively, the “Insurers”). Each Debtor makes a monthly premium payment, some of which will be owed for benefits incurred pre-petition. The total monthly premiums paid to the Insurers are as follows: PAC - \$29,074.35; PAC Avoyelles - \$10,762.06; PAC Winn - \$9,785.12; and, PAC Oakdale - \$7698.14.

11.

The Debtors also provide malpractice coverage through LHA Malpractice and General Liability Trust (“LHA”) to the individual physicians who are employed or contracted by the Debtors. The premium owed and incurred pre-petition is in the amount of \$28,789.61. PAC seeks permission to pay that amount as an employee benefit through this Motion.

12.

The Debtors believe that in the event they are unable to pay the current portion of their Employee Obligations to employees incurred pre-petition when and as due, there is a strong likelihood that its ability to reorganize will be undermined. The Debtors further believe that the continuance of its current medical insurance and other employee benefit plans are critical to the continued loyalty of its employees. The continuation of such plans is essential to the compensation package for employees and is in the best interest of the Debtors.

13.

As a result of the Debtors filing for relief under Chapter 11 of the Bankruptcy Code, in the absence of an order of this Court, any payroll checks or other benefit checks recently issued by the Debtors to its employees that have not previously cleared may be dishonored. To the extent that these checks are dishonored, each such employee would have an unsecured claim for wages, salaries or commissions, which, to the extent of \$12,475.00, would constitute a priority claim

pursuant to Section 507(a)(4) of the Code. Also, in the absence of an order of this Court, the Debtors would not be able to issue checks post-petition for other employee benefits which accrued pre-petition but that had not been paid or submitted pre-petition.

14.

In order to retain its employees, prevent a decline in morale and a possible cessation of operations which would immediately abort the Debtors rehabilitative efforts and cause irreparable harm to the estate and to its creditors, the Debtors moves this Court for authorization to pay its prepetition Employees Obligations immediately. Such payments will increase the likelihood of a greater return to creditors. In connection with payment of Employee Obligations, the Debtors further request that this Court authorize and direct the Debtors to keep all of its pre-petition payroll accounts open, so that there will be a minimum amount of disruption for employees.

Notice

15.

Notice of this Motion has been given to (i) the Office of the United States Trustee; and (ii) all creditors and parties in interest as shown on the court's mailing list. No creditors' committee has been appointed in the Chapter 11 case.

WHEREFORE, for the foregoing reasons, the Debtors respectfully request the Court to enter an order: (a) authorizing the Debtors to pay the current portion of Employee Obligations earned by any employees in the ordinary course of its business (if any are unpaid) as though no bankruptcy filing by the Debtors had occurred; (b) authorizing and directing the Debtors to honor employee checks (assuming funds on deposit are sufficient) for Employee Obligations earned pre-petition that are presented after the commencement of this Chapter 11 case; and, (c) for such other relief as this Court deems just and proper.

Respectfully submitted,

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