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October 12, 2005

By E-mail and U.S. Mail

Alessandro A. Iuppa, Superintendent
Attn: Vanessa J. Leon, Docket No. INS-05-700
Bureau of Insurance
Maine Department of Professional & Financial Regulation
124 Northern Avenue
Gardiner, Maine 04345

**Re: In Re: Review of Aggregate Measurable Cost Savings Determined by Dirigo
Health for the First Assessment Year
Docket No. INS-05-700**

Dear Superintendent Iuppa:

Enclosed for filing in the above-referenced matter please find the original and one (1) copy of the following documents:

1. Filing Cover Sheet; and
2. Maine State Chamber of Commerce Reply to Dirigo Health's Objections to Information Request of Maine Chamber

Thank you for your attention to this matter.

Very truly yours,



William H. Stiles

WHS/rdl
Enclosure

cc: Service List (*by e-mail*)
John Kelly (*by e-mail and U.S. Mail*)
Kristine Ossenfort

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE)
MEASURABLE COST SAVINGS)
DETERMINED BY DIRIGO) FILING COVER SHEET
HEALTH FOR THE FIRST)
ASSESSMENT YEAR)

DOCKET NO. INS-05-700

To: Alessandro Iuppa, Superintendent of Insurance
Attn: Vanessa J. Leon

Dated Filed: October 12, 2005

Name of Party: Maine State Chamber of Commerce

Document Title Reply to Dirigo Health's Objections to Information Requests of Maine Chamber

Document Type: Reply to Objection

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Respectfully submitted,



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STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE:)	
)	
REVIEW OF AGGREGATE)	
MEASURABLE COST SAVINGS)	MAINE STATE CHAMBER
DETERMINED BY DIRIGO HEALTH)	OF COMMERCE REPLY TO
FOR THE FIRST ASSESSMENT YEAR)	DIRIGO HEALTH'S
)	OBJECTIONS TO
)	INFORMATION REQUESTS
)	OF MAINE CHAMBER
)	
)	
Docket No. INS-05-700)	

The Maine State Chamber of Commerce (“Chamber”), by and through its attorney, hereby replies to Dirigo Health Objections to Information Requests of Maine Chamber of Commerce.

In its objection, the Dirigo Board raises essentially three objections: (1) undue burden; (2) objection to narrative requests; and (3) duplication. Each are discussed below:

In this case, the Dirigo Board has determined that there has been nearly \$137,000,000 of saving attributable to the operation of Dirigo Health. The basis for the Board’s determination was not made available until September 19, 2005, and the only information provided in support of this incredible sum appears to be found in (1) the September 19, 2005 letter summarizing the determination; (2) Attachment 3 (a ten page summary stating “WORKING DRAFT - without accompanying discussion this document is incomplete”; (3) Attachment 5 (a summary power point presentation); (4) Attachment 6 (a summary power point presentation); Attachment 8 (a one page summary of savings); (5) Attachment 11 (Final Mercer Report dated September 19, 2005). Although the appendices attached to the Final Mercer Report contain additional

information, the calculations supporting the alleged saving are provided in summary format only, and in many cases identify assumptions that do not find support in the explanations or calculations.

It is important to note that the Board does not object on the basis of relevancy. In fact, the Board concedes that “the questions all test the foundation for the total aggregate measurable cost savings made by the Board.” Opposition, p. 4.

UNDUE BURDEN

Although the Dirigo Board expresses surprise regarding the volume of information requests propounded by the interveners, this situation is clearly of the Board’s own making. Indeed, it was the Board’s decision to provide only summary conclusions in support of its \$137,000,000 of alleged saving. It was the Board’s decision to make a filing that, standing alone, is neither auditable or verifiable. And it was the Board’s decision not to require its consultants to compile the auditable and verifiable source data that supports their summary calculations.

The Chamber also questions the Dirigo Board’s assertion that providing the specific documentation requested by the Chamber will be an undue burden. The Chamber’s document requests seek specific underlying source data for the summary calculations found in the Final Mercer Report at Appendix E, F, H, L, M, N, and O. One would assume that in creating summary calculations of this magnitude, the consultants would naturally keep copies of source data readily available. Otherwise, there would be no means for the consultants to audit, cross-check, and verify their final summary calculations (and there would be no audit trail for Mercer or the Board to judge the reasonableness of the summaries calculations provided). Thus, there are only two possibilities. First, and most likely, the consultants did keep copies of their source

documentation readily available for self-audit and verification -- in which case production should not be burdensome. Second, and unlikely, the consultants did not keep source documentation -- in which case the validity of the summary calculations must be questioned, and further underscores the need for such documents to be produced.

NARRATIVE REQUESTS

First, both the Trusts and the Superintendent have previously made a number of information requests that require the Board's narrative explanation. The Board did not raise any objection to narrative requests in its prior objection with regard to the Trusts requests. Interestingly, the Board has not objected to the Superintendent's narrative requests, or otherwise suggested that the Superintendent does not have the authority to require responses to narrative requests. Thus, the Board has waived any such objection.¹

The Chamber further questions how the written explanations sought by the Chamber are burdensome. Generally, these questions seek the source of the various assumptions underlying the summary calculations, or whether certain matters were contemplated by the Board or the consultants when developing their methodologies. Understanding the assumptions utilized is necessary for a full appreciation of the Dirigo Filing, and is a prerequisite to the Chamber's ability to provide a full and proper critique of the reasonableness of the Dirigo methodologies. Since all testimony must be pre-filed, waiting until cross-examination to discover -- for the first time -- the basis of important assumptions and explanations will not allow the Chamber to present appropriate pre-filed testimony or discharge its obligations as an intervener in a meaningful fashion.

¹ In its requests for information to the Chamber, the Board has requested narrative responses that could be addressed on cross-examination. Interestingly, the Board has not withdrawn such narrative requests.

Furthermore, requiring advance written narratives can only promote efficiency and fairness, not detract from it. This is important in light of the limited time allotted for the hearing, and the potential for time limits on the parties presentations through direct and cross-examination (as indicated by the October 11 Procedural Order). It is simply not fair for the Board to suggest that parties should wait until cross-examination to discover admittedly relevant information -- especially since the specter of time limits may make meaningful cross-examination unavailable.²

Finally, the Chamber does not understand how an explanation of key assumptions, matters considered, and actions taken could be considered burdensome. Indeed, either there is source documentation for an assumption or there is not. Similarly, either the consultant (or the Board) considered a matter (or took an action), or it did not. If it did, there should be readily available evidence of that consideration, and providing a factual explanation of relevant action already undertaken should not prove difficult. If it did not, then responding will not burdensome -- it will simply be disclosing unfavorable information. Again, even assuming for the sake of argument that this could be considered burdensome, the Board brought this burden to bear by relying upon undocumented assumptions and declining to identify the matters its considered in a case of such great interest and importance.

DUPLICATION

Prior to filing its requests for information, the Chamber reviewed the Trust's and the Superintendent's filings, as well as a draft of Anthem's requests, and made substantial revisions intended to avoid duplication. However, despite these efforts, the Chamber concedes that there is limited duplication as described more fully below. Where the parties agree there is duplication, the Board may discharge its obligation with respect to the duplicative Chamber

² Although the Board has offered to produce the consultants as witnesses, many of the narrative questions were directed at the Board's own consideration of matters, and the Board has not offered to produce the Board.

Request by providing the information to the Trusts, with a cross-reference in the Board's response to the Chamber.

Responses to Specific Objections Regarding Duplication

Trust Requests 4, 5, 6, and 7 seek information related to Attachment 5, a power point presentation by Mercer. Chamber Requests 14 and 15 seek information related to Attachment 11, Appendix F. Chamber Request 43 requests specific documentation and bases for Woodwork effect. There is no duplication.

Trust Request 8, 9, 10, 11 seek information related to Attachment 6, a power point presentation by Ms. Kane. Chamber Requests 14 and 15 seek information related to Attachment 11, Appendix F. There is no duplication.

Trust Request 15 seeks information related to Attachment 8, a one page summary of savings. Chamber Request 31 seeks specific information regarding the \$2.7 million of savings related to under and uninsured patients. There is no duplication.

Trust Request 20, 21, 22, and 23 seek the identity of persons, a current CV, a description of the role of the identified persons, and an identification of source documents for Attachment 11. Chamber Requests 1, 2, 3, and 4 seek specific information regarding Attachment 11, Appendix E. The Chamber agrees that its Requests 2 and 3 duplicate the Trust Requests. However, Chamber Request 1 seeks the electronic spreadsheet containing the calculations on Appendix E, and this does not appear to duplicate a Trust Request.

Trust Request 24, 25, 26, 27, 28, 29, 30 seek information related to Attachments 12A and 12B, which are draft Mercer reports. Chamber Requests 2, 3, 11, 14, 15, and 16 do not relate to Attachments 12A and 12B. There is no duplication.

Trust Request 51 seeks an explanation of how the Dirigo Methodology takes account of differing hospital fiscal years and contract cycles. Chamber Request 11 requests identifications of specific changes to a hospital's COM compared to its financial statements. There is no duplication.

Trust Request 55 seeks a description of the "woodwork effect". Chamber Requests 43 and 45 ask for documents and information related to two specific assumptions identified in the Dirigo filing section addressing the woodwork effect, and the identification of any other assumptions not apparent from the calculations. There is no duplication.

Trust Request 56 seeks professional literature that supports the validity of "woodwork effect". Chamber Requests 43 and 46 ask for documents and information related to two specific assumptions identified in the Dirigo filing section addressing the woodwork effect, and copies of all documents that support Dirigo's assumptions. There is no duplication.

Trust Request 59, broadly interpreted, may provide information that is responsive to Chamber Requests 4 and 18. If Board's response to Trust Request 59 includes the specific explanations requested in Chamber Requests 4 and 18, then the Chamber agrees that there is duplication.

Trust Request 60, broadly interpreted, may provide information that is responsive to Chamber Requests 4, 5, 6 and 19. If Board's response to Trust Request 60 includes the specific explanations requested in Chamber Requests 4, 5, 6 and 19, then the Chamber agrees that there is duplication.

Trust Requests 65, 66, 67, 68, 70, 72, 74, 76, 78, 80, 82 each refer to reports required by 24-A M.R.S.A. § 6913(8). Chamber Request 41 seeks clarification and documentation of information set forth in the Final Mercer Report regarding underinsured figures. Chamber

Request 45 seeks the identification of all assumptions regarding uninsured, underinsured, and WW effect as set forth in Final Mercer Report. Chamber Request 6 seeks a description of the Board's efforts to review the reasonableness of Appendix E of the Final Mercer Report.

Chamber Request 1 seeks the electronic spreadsheet and source data for Tables 2 and 3 of Appendix E of the Mercer Report. Chamber Request 31 seeks source data and documents supporting uninsured and underinsured savings of \$2.7 million identified in Mercer Report.

There is no duplication.

The Chamber does not understand the basis for the Board's conclusion that the following Chamber and Plans Requests create duplication:

Chamber 16, Plans 15, 17

Chamber 18, Plans 18, 19

Chamber 22 Plans 16, 17

Chamber 27 Plans 18, 23

Chamber 45 Plans 31

Chamber 48 Plans 50

Chamber 51 Plans 22

Chamber 55 Plans 55

Chamber Request 9 is limited to Appendix E of the Mercer Report (COM). Although this information may also be responsive to Plan Request 14, it appears that the Plans seek additional information for all initiatives and not just COM. The Chamber suggests that the Board should produce the specific information requested by the Chamber. If there is duplication when the Board responds to the Plans, the duplicated information may be cross-referenced in the response.

Chamber Request 23 is limited to Appendix F of the Mercer Report (CMAD). Although this information may also be responsive to Plan Request 14, it appears that the Plans seek additional information for all initiatives and not just CMAD. The Chamber suggests that the Board should produce the specific information requested by the Chamber. If there is duplication when the Board responds to the Plans, the duplicated information may be cross-referenced in the response.

Chamber Request 37 is limited to specific assumptions used by Mercer related to bad debt and charity care. Plans 32 and 36 also seek information related to underinsured patients. The Chamber suggests that the Board should produce the specific information requested by the Chamber. If there is duplication when the Board responds to the Plans, the duplicated information may be cross-referenced in the response.

Response to Specific Objections made by the Board

Requests 9, 11, 22, 23, 24, 25, 27, 34, 36, 37, 39, 40, 42, 44, 45, 48, 50, 51, 55, 55 (sic), 56, 57, 58: The Board does not suggest that these requests are irrelevant, but instead suggests that they are burdensome (without further explanation) and could be asked on cross-examination. However, these requests seek an explanation of how different aspects of the identified savings are attributable to Dirigo (Requests 9, 22, 23, 27, 55, 55(sic), 56, 57, 58); an explanation of important (but unexplained) assumptions in the Mercer Report (Requests 34, 36, 39, 40, 42, 44, 45, 48); and clarification of methodologies identified in the Mercer Report (Requests 11, 24, 25, 37, 49, 50). These admittedly relevant matters are not apparent from the Dirigo Filing, and the parties should not have to wait until cross examination to find out important matters such as attribution to Dirigo, unexplained assumptions, and unclear methodologies. Delaying the

production of this information will only cause delay and confusion at the hearing, and notions of fairness, economy and due process outweigh any inconvenience alleged by the Board.

WHEREFORE, the Chamber requests that the Superintendent grant the following relief:

1. If the Superintendent finds after review that the Chamber's requests are duplicative of the Trust's requests, the Board may discharge its obligation with respect to that request by providing the information responsive to the Trust's request and cross-reference such information when responding to the Chamber.
2. Compel the Board to respond to the questions identified as cross-examination questions in the Board's Objection.
3. Compel the Board to respond to the Chamber's information request by October 17, 2004.
4. Extend the time by which the Chamber must respond to the Board's requests to October 17, 2004.

Dated: October 12, 2005

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, William H. Stiles, attorney for the Maine State Chamber of Commerce, hereby certify that on this 12th day of October 2005 I caused the foregoing document to be served upon all counsel of record via First-Class Mail and E-mail as follows:

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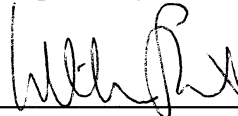
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Dated: October 12, 2005

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