

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

IN RE: REVIEW OF AGGREGATE)
MEASURABLE COST SAVINGS)
DETERMINED BY DIRIGO) ORDER ON INFORMATION
HEALTH FOR THE FIRST) REQUESTS
ASSESSMENT YEAR)
)
)
Docket No. INS-05-700)

The Superintendent issues this Order on the Dirigo Health Board of Director's ("Dirigo" or the "Board") October 11, 2005 objections to the joint information request of Anthem Health Plans of Maine, Inc. d/b/a/ Anthem Blue Cross and Blue Shield and the Maine Association of Health Plans (collectively, "Anthem/MEAHP") and the information request of the Maine State Chamber of Commerce (the "Chamber"), both issued on Friday afternoon October 7, 2005; having also considered the responses of the Chamber and Anthem/MEAHP filed on October 12, 2005. Anthem/MEAHP's information request contains 57 inquiries and the Chamber's request contains 61 inquiries. Dirigo objects to numerous of the inquiries on the basis of relevance and/or duplication and/or burdensomeness and/or requests for narrative responses which may be provided on cross-examination at hearing. Dirigo further seeks an extension of time within which to respond to October 21, 2005.

Pursuant to P.L. 2005, ch. 400: "The superintendent shall approve the [Dirigo] filing upon a determination that the aggregate measurable cost savings filed by the board are reasonably supported by the evidence in the record." P.L. 2005, ch. 400, § B-2(2)(B). Issues involved in the proceeding are those found by the Superintendent to bear on whether or not Dirigo's determination of aggregate measurable cost savings "are reasonably supported by the evidence in the record."¹

Bureau of Insurance Rule Chapter 350(10)(B)(2), governing the scope of discovery in insurance proceedings, states: "Informational requests shall be relevant to the issues involved in the proceeding, and shall not be unduly burdensome or repetitious." The Bureau's rules of practice and procedure governing adjudicatory proceedings further establish that Chapter 350 "shall be liberally construed to secure just, speedy and economic determination of all matters pending before the Superintendent and his staff." Chapter 350(2)(B).²

¹ The Superintendent recognizes that representatives for Anthem, MEAHP, and the Chamber regularly attended and/or actively participated in the Dirigo Working Group process since its inception in late June 2005. Given this historic involvement with the issues now presented in this proceeding, waiting two weeks in a six week adjudicatory process to issue voluminous discovery appears disruptive.

² By the September 26, 2005 Order granting intervention to Anthem Maine, MEAHP, and the Chamber, the parties were instructed that they "may commence discovery immediately." Nonetheless, the Chamber and Anthem/MEAHP issued their information requests nearly two weeks later: the Chamber at 12:30 p.m. on Friday October 7th, and Anthem/MEAHP at approximately 5 p.m. on Friday the 7th.

In the Superintendent's Procedural Order issued September 19, 2005, it was established that: "All parties are prohibited from making requests for information that is duplicative of prior requests made by any party." Procedural Order, section IX. The Superintendent further directed the parties on two occasions that: "Intervenor parties with similar interests shall coordinate with each other to avoid duplication of efforts, particularly with respect to the service of multiple informational requests when one or two joint requests would accomplish the same goal." September 22 and 26, 2005 intervention Orders.

General

To the extent the Chamber and/or Anthem/MEAHP have made inquiries which Dirigo in the exercise of its reasoned good faith judgment determines to be duplicative, Dirigo shall respond to such duplicative inquiry by responding via cross-reference to the earlier applicable response which is determined to be responsive to the subsequent inquiry. To the extent such cross-referenced earlier response is not fully responsive to the subsequent inquiry, Dirigo shall respond to that portion of the subsequent inquiry which has not been responded to by the cross-referenced response.

The Superintendent DENIES the general objection by Dirigo regarding information requests which seek narrative responses. Unless otherwise ruled in this Order on the basis of a specific objection, Dirigo shall provide narrative responses to information requests where applicable.

With respect to any information request, Dirigo is only required to produce responsive documents that are in Dirigo's or any of its consultants, experts, or agents possession and/or relied on by Dirigo or any of its consultants, experts, or agents in the determination of aggregate measurable cost savings contained in the September 19, 2005 filing with the Superintendent. In other words, Dirigo is not required to gather or compile documentation not in its possession (including its consultants, experts, or agents) nor relied on by Dirigo (including its consultants, experts, or agents) in the determination of aggregate measurable cost savings contained in the September 19, 2005 filing with the Superintendent.

To the extent a response to an information request for document production may be fulfilled by public access to information posted to the internet, Dirigo may satisfy such inquiry by giving the precise internet webpage address, or link, in the response. Parties are advised to immediately notify the Superintendent if for any reason this process of accessing publicly available documentation is unsuccessful or otherwise problematic.

Chamber Information Request

Dirigo's objections to requests 32 and 61 are GRANTED; provided, however, that regarding inquiry 61, the Board's minutes for the date identified in inquiry 60 shall be produced.³

³ Dirigo objected to inquiry 32, and the Chamber did not respond to or otherwise move to compel the production of a response by Dirigo to this inquiry.

Anthem/MEAHP Joint Information Request


Anthem/MEAHP has withdrawn inquiries 6, 22, 35, and 55; no responses are required by Dirigo to these inquiries. Dirigo's objections to requests 8, 11, and 48 are GRANTED.

Response Deadline Extension

By e-mail notice provided on behalf of the Superintendent to all parties on October 12, 2005, the pre-existing October 12, 2005 deadline for Dirigo to respond to the Chamber's and Anthem/MEAHP's October 7, 2005 information requests was extended indefinitely. Dirigo subsequently requested an extension to October 21, 2005; the Chamber proposes an extension to October 17, 2005; and Anthem/MEAHP proposes an extension to October 19, 2005. The Superintendent ORDERS that the deadline for Dirigo to respond to the October 7, 2005 information requests of the Chamber and Anthem/MEAHP is extended to 5:00 p.m. on October 19, 2005.

PER ORDER OF THE SUPERINTENDENT

DATED: October 13, 2005



ALESSANDRO A. IUPPA
Superintendent of Insurance