

October 19, 2005

VIA E-MAIL AND US MAIL

Alessandro A. Iuppa, Superintendent
ATTN: Vanessa J. Leon, Docket No. INS-05-700
Bureau of Insurance
Maine Department of Professional & Financial Regulation
34 State House Station
Augusta, ME 04333-0034

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

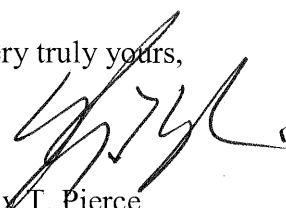
Dear Superintendent Iuppa:

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. Second Response of the Maine Automobile Dealers Association Insurance Trust and the Bankers Health Trust to the Information Request Propounded by the Consumers for Affordable Health Care.

Thank you for your attention to this matter.

Very truly yours,


Roy T. Pierce

RTP:ryp

cc: John Kelly (Via U.S. Mail & Email)
Thomas C. Sturtevant, Jr., Esq. (Via U.S. Mail & Email)
William H. Laubenstein, III, Esq. (Via Email)
Christopher T. Roach, Esq. (Via Email)
Rufus E. Brown, Esq. (Via Email)
D. Michael Frink, Esq. (Via Email)

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

IN RE: REVIEW OF AGGREGATE)
MEASURABLE COST SAVINGS)
DETERMINED BY DIRIGO)
HEALTH FOR THE FIRST) FILING COVER SHEET
ASSESSMENT YEAR)
)
)
DOCKET NO. INS-05-700)

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

Date Filed: October 19, 2005

Names of Parties: Maine Automobile Dealers Association Insurance Trust
and Bankers Health Trust

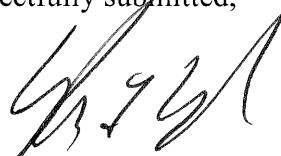
Document Title: Second Response Of The Maine Automobile Dealers Association
Insurance Trust And The Bankers Health Trust To The Information
Request Propounded By The Consumers For Affordable Health Care

Document Type: Discovery responses

Confidential: No

Dated: October 19, 2005

Respectfully submitted,



Bruce C. Gerrity, Bar No. 2047
Roy T. Pierce, Bar No. 7541

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

IN RE: REVIEW OF AGGREGATE) SECOND RESPONSE OF THE MAINE
MEASURABLE COST SAVINGS) AUTOMOBILE DEALERS
DETERMINED BY DIRIGO HEALTH) ASSOCIATION INSURANCE TRUST
FOR THE FIRST ASSESSMENT YEAR) AND THE BANKERS HEALTH TRUST
) TO THE INFORMATION REQUEST
) PROPOUNDED BY THE CONSUMERS
Docket No. INS-05-700) FOR AFFORDABLE HEALTH CARE

The Maine Automobile Dealers Association Insurance Trust and the Bankers Health Trust respond to the Information Request Propounded by the Consumers for Affordable Health Care (“CAHC”) as follows:

9. If the Trusts contend that there have been increased costs in the health care system as a result of the operation of Dirigo Health, please:
- a. Identify each cost
 - b. State the amount of each cost identified
 - c. State how each cost identified is the result of the operation of Dirigo Health
 - d. Provide all data, calculations, information, work papers, documents and other materials of whatever kind and nature used in developing each cost identified.

Response: Objection. It is the Board that has the burden of proving that its methodologies and calculations are correct, in accord with the statute, and reasonably supported by evidence in the record. The Trusts do not have the burden of proving there have been increased costs in the health care system as a result of the operation of Dirigo Health.

In addition, without waiving the above objection:

- a. Identify each cost: The Trusts would respond by stating the increased utilization will increase costs in the system. Newly insured individuals will be more willing to use health care services.
- b. State the amount of each cost identified: The Trusts have not attempted to quantify such costs and are under no obligation to do so. The Trusts understand the Plans and the Chamber may present testimony discussing the effect of costs of utilization by newly insured individuals. The Trusts have not independently analyzed such increased costs but through cross-examination and legal argument will demonstrate that any methodology which fails to account for such increased costs is fundamentally flawed.

By way of further response the Trusts adopt the response of the Chamber in its response to Question 20 of the Dirigo Health First Information Request to the Chamber.

10. If the Trusts contend that there are savings in the health care system not the result of the operation of Dirigo Health, please:

- a. Identify each savings
- b. State the amount of each saving identified
- c. State how each savings identified was achieved
- d. Provide all data, calculations, information, work papers, documents and other materials of whatever kind and nature used in developing each savings identified.

Response: Objection. It is the Board that has the burden of proving that its methodologies and calculations are correct, in accord with the statute, and reasonably supported by evidence in the record. The Trusts do not have the burden of proving there have been savings in the health care system as a result of the operation of Dirigo Health.

The Trusts anticipate that the Lewin Group will offer testimony that hospital cost growth slowed nationwide after 2002. The Chamber, which has been asked the same question, has worked with the Lewin Group and is better able to respond as to the Lewin

Group testimony. In addition, some of the savings asserted by Dirigo Health in fact, are the product of random fluctuation in the marketplace including, but not limited to, fluctuations in payment volume, expenses, national trend and variations in the case mix. In addition, the Trusts and their members engage in efforts to control costs through wellness programs and administrative system efficiencies designed to better understand and limit costs.

The Trusts have not independently analyzed costs savings not the product of Dirigo Health, but will, through cross-examination and legal argument demonstrate that the failure to include these factors is a fundamental flaw in the analysis and methodology presented to the Superintendent.

12. Please describe how the private sector contracting process for health care services with hospitals works. Include in your answer:

- a. How far in advance of the first year of the operation of Dirigo health rates for services were negotiated
- b. The basis upon which the rates were negotiated
- c. Whether the rates negotiated for the first year of the operation of Dirigo health can be changed based on information about hospital costs and profits that is not known until the third year of the operation of Dirigo Health.
- d. How frequently private insurers negotiate charge reductions with hospitals rather than discounts off those charges.

Response: CAHC has limited this request to “how the process works as a general matter for the larger private sector payors negotiating with the larger hospitals.” The Trusts, however, do not know how the process works as a general matter. The Trusts use TPAs to administer their health plans and it is the TPAs who negotiate with the larger hospitals and other providers. The Trusts note that the Maine Automobile Dealers

Association Insurance Trust's TPA is Anthem, who has answered this identical request propounded by the Dirigo Health Agency. See Response of Anthem BCBS to Information Requests of Dirigo Health Agency dated October 11, 2005 at Response No. 13. The Trusts, therefore, defer to Anthem's expertise in this regard.

14. If the Trusts contend that changes in volume account for increases or decreases in Cost per Case Mixed Adjusted Discharge ("CMAD") please provide all data, calculations, information, work papers, documents and other materials of whatever kind and nature that relate to this contention.

Response: Without waiving any argument related to the sufficiency of CMAD as a measure of savings, the Trusts do contend that changes in volume are a significant factor in analyzing the impact of Cost per Case Mixed Adjusted Discharge ("CMAD"). This same request has been made of the Chamber. The Chamber is the intervenor working directly with the Lewin Group and Baker Newman on this issue and the Trusts defer to and adopt the response of the Chamber.

16. Apart from whether or not attributable to Dirigo, do the Trusts agree that the historical settlements reduced hospital costs resulting in savings by \$96.4 million as calculated by Mercer as set forth in its September 19, 2005 Report (Tab 11 of the Board's Filing) and if not, explain in detail:

- a. Why the Trusts disagree; and
- b. How the hospitals accounted for the settlements.

Response: No.

- a. The historical settlements do not reduce hospital costs. Rather, they represent payments to hospitals to settle claims by the hospitals for past Medicaid costs they had incurred and for which the State was obligated to provide reimbursement. In other words, the State's belated payment to

hospitals of Medicaid reimbursements they were legally required to make does not reduce hospital costs. In addition, the hospitals had to engage counsel, retain experts, and incur various costs and expenses associated with the litigation, which produced the settlements. A failure to account for these elements of cost repeats an erroneous theme oft seen in these proceedings – the desire to count only savings without counting costs.

- b. The Trusts have no information in terms of how the hospitals accounted for the settlements.

17. Assuming the methodology is accepted, do the Trusts agree with the analysis of the other Dirigo Initiatives by Mercer as set forth in its September 19, 2005 Report (Tab 11 of the Board’s Filing) and if not, why not.

Response: The Trusts object on the grounds that this request is vague and overbroad. Without waiving this objection, the Trusts remain confused by the term “methodology” as used in Information Request No. 17. The Trusts assume for the purpose of this answer that the “methodology” referred to would be the various methodologies, citations to statutory authorization, and analyses set forth in the September 19th final report of Mercer. The Trusts do not agree with those methodologies. This will be the subject of the Trusts’ Pre-Hearing Memorandum. By way of further response, the Trusts cite to and adopt the responses of Intervenors, Maine Association of Health Plans, Maine Chamber of Commerce and Anthem in response to specific questions on specific methodologies, with the exception to Anthem Response No. 15.

By way of further response, the Trusts do not agree with any methodology that does not consider essentially half of the equation – counting savings without counting expenses (for example, limiting the COM analysis to the hospitals which “saved” and excluding those which did not meet the target utilized in the methodology). The Trusts

further do not agree with the time frames used and the methodologies to count the various
“savings” identified at Tab 11 of the Board’s Filing.

Dated: October 19, 2005

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing document was served on all counsel of record via electronic mail as follows:

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Counsel for Dirigo Health Agency

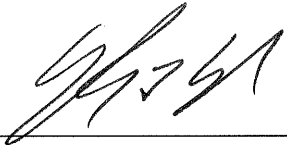
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Dated: October 19, 2005



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