

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 Maine State Chamber of Commerce's (the "Chamber") October 12, 2005 objections to the information request of the Dirigo Health Board of Director's ("Dirigo" or the "Board") issued October 7, 2005, and on the Maine Automobile Dealers Association Insurance Trust and the Bankers Health Trust (collectively, the "Trusts") objections to the information request of Consumers for Affordable Health Care ("CAHC") issued on October 11, 2005; having also considered the responses of Dirigo and CAHC, respectively, dated October 13, 2005.

Dirigo's information request contains 38 inquiries. The Chamber objects to 10 inquiries on the basis of burdensomeness and/or requests for narrative responses which may be provided on cross-examination at hearing and/or public availability of information. The Chamber further seeks an extension of time within which to respond. Dirigo does not object to an extension of the response deadline.

CAHC's information request contains 17 inquiries. The Trusts object to 7 inquiries on the basis of burdensomeness and/or lack of clarity and/or relevance. The Trusts have not sought an extension of the deadline for responding to CAHC's information request.

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."<sup>1</sup>

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

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<sup>1</sup> The Superintendent recognizes that representatives for CAHC 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 limited discovery appears disruptive. As to Dirigo, the Superintendent is sympathetic to its delay in issuing information requests recognizing the Board's preoccupation early in the proceeding in responding to two separate motions to dismiss, and in reviewing and addressing the various information requests made by parties on Dirigo.

“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).<sup>2</sup>

### General

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

With respect to any document request, the parties are only required to produce responsive documents that are in such party's or any of its consultants, experts, or agents possession and/or relied on by such party or any of its consultants, experts, or agents. In other words, a party is not required to gather or compile documentation not in its possession (including its consultants, experts, or agents) nor relied on by such party (including its consultants, experts, or agents).

To the extent a response to an information request for document production may be fulfilled by public access to information posted to the internet, parties 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.

### Dirigo's Information Request on the Chamber

The Chamber's objections to requests 1, 7, 11, 17, 20, 21, 23, 24, 25, and 26 are DENIED.<sup>3</sup>

### CAHC's information request on the Trusts

CAHC has withdrawn inquiry 11; no response is required by the Trusts to this inquiry. The Trusts' objections to requests 9, 10, 12, 14, 16, and 17 are DENIED. CAHC has narrowed the scope of inquiry 12; a response is required by the Trusts to the modified inquiry 12. To the extent other inquiries are modified or otherwise clarified by CAHC's October 13<sup>th</sup> response, the Trusts shall respond accordingly.

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<sup>2</sup> By the September 26, 2005 Order granting intervention, CAHC was instructed that it “may commence discovery immediately.” Nonetheless, CAHC issued its information requests on parties two weeks later at 3:00 pm on October 11, 2005. Dirigo issued its information request on the Chamber at 2:30 p.m. on October 7, 2005.

<sup>3</sup> The Chamber asserts that many of Dirigo's requests relate to an alternative methodology proposed by the payor group and that, in light of rulings made by the Superintendent, these questions are of questionable relevance. Dirigo responds that if, or to the extent that, the Chamber does not produce supporting data on a particular issue in response to discovery then it should not be allowed to present evidence or argument on that issue at hearing. The Superintendent recognizes this dynamic and will be open to argument at hearing or otherwise if Dirigo's stated concerns materialize during the course of the proceeding.


Response Deadline Extension

Dirigo's information request on the Chamber was made one week ago on October 7, 2005 containing 38 inquires of which 10 were objected to. The Superintendent ORDERS that the deadline for the Chamber to respond to the 28 Dirigo inquiries to which the Chamber did not object is extended to 3:00 p.m. on October 18, 2005; and that the deadline for the Chamber to respond to the remaining 10 inquiries by Dirigo that the Chamber objected to is extended to 5:00 p.m. on October 19, 2005.<sup>4</sup>

CAHC's information request on the Trusts was made on October 12, 2005 containing 17 inquires of which 7 were objected to. The Superintendent ORDERS that the deadline for the Trusts to respond to the 10 CAHC inquiries to which the Trusts did not object and for which no extension request was made shall stay unchanged at 3:00 p.m. on October 16, 2005; and that the deadline for the Trusts to respond to the remaining 7 inquiries by CAHC that the Trusts objected to is extended to 5:00 p.m. on October 19, 2005.

PER ORDER OF THE SUPERINTENDENT

DATED: October 14, 2005

  
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ALESSANDRO A. IUPPA  
Superintendent of Insurance

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<sup>4</sup> Without this extension, the deadline for the Chamber to respond to the 28 Dirigo inquires that the Chamber did not object would otherwise have been 3:00 p.m. on October 12, 2005.