



January 12, 2011

**By Email and Regular Mail**

Richard H. Diamond, FSA, MAAA  
Senior Life and Health Actuary  
Maine Bureau of Insurance  
34 State House Station  
Augusta, ME 04333-0034

Re: Medical Loss Ratio Adjustment Request Application

Dear Mr. Diamond:

On January 4, 2011, the Office of Consumer Information and Insurance Oversight (OCIIO) emailed you a letter regarding information the State of Maine must submit in order to complete its application for an adjustment to the medical loss ratio (“MLR”) standard for its individual health insurance market. On January 11, 2011, the State of Maine emailed OCIIO a response letter providing corrected and additional information. Thank you for responding promptly. Although OCIIO has not yet had an opportunity to conclude the assessment of whether Maine’s application is now complete, we have done a preliminary review of the information Maine has submitted, and have some follow-up questions. We are sending you these follow-up questions now in the interest of expediting the process.

The follow-up questions in this letter are separate and distinct from the information that our January 4 letter indicates Maine must submit before its application is deemed complete. Application completeness, and hence commencement of OCIIO’s 30-day application processing period, will not be impacted by the timing of Maine’s response to the follow-up questions listed below. Nevertheless, prompt responses to the questions in this letter will greatly assist the Secretary in making a prompt determination as to whether to grant Maine’s request for an adjustment to the MLR standard. Thus, we would appreciate receiving Maine’s responses within seven (7) calendar days from the date of this letter. The responses should be submitted to [MLRAdjustments@hhs.gov](mailto:MLRAdjustments@hhs.gov). Please understand that once Maine’s application is complete, we may have some additional questions.

Please provide the following information:

1. 45 CFR §158.343 provides for an optional State hearing for any State that submits a request for adjustment to the MLR standard. Please indicate whether the Bureau has provided a forum for public input regarding Maine's application for an adjustment to the MLR standard. If there has been public input, please provide copies of the correspondence, comments or other input the Bureau has received in connection with its request for an adjustment to the MLR standard.
2. Pages 1-2 of Maine's application set forth Maine's market withdrawal requirements, including that issuers that withdraw from the individual health plan market are prohibited from re-entry for 5 years unless the Superintendent waives such restriction for "good cause shown." Please describe any regulatory guidance the Superintendent may have issued regarding what may constitute "good cause shown" for waiving the 5-year market reentry bar of 24-A MRSA. § 2736-C(4)(C).
3. The Maine application indicates that MEGA has not provided notice of exit (see document "HHS MML Adj Req 158.321(d)"). The application also states on page 5 that MEGA "would probably need to withdraw from this market if the minimum loss ratio requirement were increased" and on page 6 that "[Maine] would anticipate that if MEGA is unable to meet the 80% standard it is likely to withdraw from the market." Please provide any additional information bearing on the conclusion that MEGA would "probably need to withdraw."
4. Has the Bureau conducted an analysis of why MEGA would be unable to lower its administrative expenses in Maine so as to meet an 80 percent MLR standard? If so, please provide this analysis.
5. Page 6 of Maine's application states that "a three-year adjustment would allow time for MEGA to adjust its business model," and Maine's January 11, 2011 response letter revised Maine's proposal to be an adjustment of "the federal minimum loss ratio requirement to 65% for reporting years 2011 through 2013, consistent with Maine's existing numerical threshold." If MEGA makes the adjustments alluded to in its application or in its January 11, 2011 response letter, please explain the rationale for the proposed MLR standard of a 65% loss ratio for the reporting years 2011, 2012, and 2013, rather than a proposal that incrementally phases in the 80 percent standard over three years.
6. In Response 2 of Maine's January 11, 2011 response letter regarding the Superintendent's authority under 24-A MRSA § 2736-C(8) to create standardized plans that must be offered by all carriers in the Maine individual health insurance market, Maine indicates that "it is highly unlikely that Anthem would be able to offer the type of coverage MEGA now offers at comparable rates." Please indicate whether the Bureau has discussed with Anthem its ability to offer coverage comparable to MEGA.
7. Please describe the eligibility requirements for Dirigo, as well as the amounts of the premiums and out-of-pocket expenses paid by individuals under the income-based sliding scale. Please describe whether an expansion of the Dirigo program could be considered as

an alternative to provide coverage to individuals currently covered under MEGA policies in the event that MEGA withdraws from the individual market.

8. Page 3 of the Maine application indicates that three HMOs currently operate in Maine, with a total market-wide enrollment of 33 individuals. Please explain why there has been such low HMO penetration in the Maine individual health insurance market.
9. To clarify the statement on page 3 of Maine's application that "products in the individual market vary in benefits and prices," and to be sure that we are correctly reading the attached spreadsheet "MEGA Rate Calc.xls" to your January 11, 2011 response letter, please provide, and show how to calculate, what the premiums would be for a \$10,000 deductible individual policy issued by Anthem and a \$10,000 deductible / 20% coinsurance individual policy issued by MEGA for:
  - a. A 24, 42, and 52 year old male non-smoker living in Portland, Maine; and
  - b. A 24, 42, and 52 year old female non-smoker living in Portland, Maine.
10. Please describe, with respect to the data Maine has provided in response to §158.321(d)(2) in document "HHS MML Adj Req 158.321(d)", the basis for the assumptions that (a) quality improvement expenses are 1% of premium for Anthem and HPHC and 0.1% for MEGA, and (b) Federal income tax is one-third of underwriting gain. Please also describe, with respect to the data Maine has provided in Response 6 of Maine's January 11, 2011 response letter, the basis for the assumptions underlying the breakdown of State taxes and fees of 4.2% into 2% premium tax, 1.2% Dirigo access fee, and 1% other. For the Dirigo access fee, please indicate how the assumption that it is 1.2% of premium is derived from the statement that the Dirigo access fee is 2.14% of certain paid claims.
11. In HealthMarkets' (MEGA's parent company) September 30, 2010 Quarterly Report, which is referenced in footnote 6 on page 5 of Maine's application, HealthMarkets describes its strategy with respect to the sale of health insurance products. Specifically, HealthMarkets noted that it evaluated Insphere Insurance Solutions, Inc., its insurance agent subsidiary, and determined that Insphere's sale of third party health insurance products has replaced its sale of HealthMarkets' own products. Thus, HealthMarkets states that "in the second quarter of 2010, the Company determined that it would discontinue the sale of the Company's traditional "*scheduled benefit*" health insurance products and significantly reduce the number of states in which the Company will market all of its health insurance products in the future" (see HealthMarkets' 10-Q at page 30 (italics in original)).

Please describe whether Insphere does business in Maine, including whether third-party health insurance products underwritten by carriers unaffiliated with Healthmarkets are currently sold by Insphere in Maine. Please explain whether Maine has concluded that HealthMarkets would likely exit the Maine individual health insurance market as part of its strategy to "significantly reduce the number of states in which the Company will

market all of its health insurance products in the future” irrespective of whether an adjustment to the MLR standard is granted.

12. Document “HHS MML Adj Req 158.321(d)(1)”, submitted by Maine as part of its application, indicates that MEGA has 13,732 individual health insurance market enrollees in Maine. Does the Bureau have any basis to estimate or determine the number of MEGA individual health insurance market enrollees whom the Bureau believes would not obtain health insurance if MEGA withdraws from the Maine individual health insurance market?

We look forward to receiving the requested information so that the Secretary can make a fully informed assessment and determination. As noted above, this information is separate and apart from whether Maine’s application for an adjustment to the MLR in its individual market is complete. We will review carefully the information received from Maine on January 11, 2011 as soon as possible and will let you know whether Maine’s application is complete.

We appreciate Maine’s cooperation in working together to implement the Affordable Care Act in the best interests of all stakeholders. Please feel free to contact the Office of Oversight by email at [MLRQuestions@hhs.gov](mailto:MLRQuestions@hhs.gov) or by phone at (301) 492-4457 if you have any questions or concerns.

Sincerely,

/Signed, SL, January 12, 2011/

Steven Larsen  
Director, Office of Oversight