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October 26, 2007

Eric A. Cioppa, Acting Superintendent
c/o Vanessa Leon
Docket No. INS-07-1000
Maine Bureau of Insurance
34 State House Station
Gardiner, Maine 04333-0034

Re: Anthem BCBS 2008 HealthChoice Individual Rate Filing
Filing coversheet

Dear Superintendent Cioppa:

Enclosed for filing please find the following:

SUBMITTED BY: Christopher T. Roach
DATE: October 26, 2007
DOCUMENT TITLE: Applicant's Closing Statement
DOCUMENT TYPE: Closing Statement
CONFIDENTIAL: **No**

Thank you for your assistance in this matter.

Very truly yours,

/s/ Christopher T. Roach

cc: Thomas C. Sturtevant, Esquire
Christina M. Moylan, Esquire
Judith M. Shaw, Deputy Superintendent
James Bowie, Esquire

The evidence before the Superintendent demonstrates that the proposed rates are not excessive, inadequate or unfairly discriminatory. The prefiled testimony from Mr. Whitmore reflected an average increase of 13.3%. The updated independent analysis presented at the hearing by the Attorney General's consultant, Ms. Fritchen, was nearly identical. Any difference – Ms. Fritchen testified – was the result of reasonable actuarial judgment. (*See* Transcript of Hearing, "Hrg. Tr.", p.110, ln. 17-22.) Given that Ms. Fritchen approached her analysis from both an independent and different perspective, all of the evidence in the record supports the conclusion that the rates proposed by Anthem BCBS in Mr. Whitmore's prefiled testimony and revised filing are reasonable and should be approved.

While there was global agreement on the fundamentals reflected in the analyses entered into the record in this matter, there were two issues on which the parties differed slightly: (1) treatment of large claims; and (2) whether those in the 65 and over age band should be combined with those under 65 for purposes of Rule 940. As will be explained below, whether large claims are trended separately or together with all other HealthChoice experience, the evidence in the record supports Anthem BCBS's 15.1% claim trend. Anthem BCBS also proposes below a methodology for rating those under age 65 and those 65 and older that complies with Rule 940, but at the same time, avoids the adverse effects of combining all age bands in the under age 65 community with those in the over age 65 community before applying the constraints of Section 8 of the Rule. Because this methodology differs to some degree from the methodology used to develop the proposed rates, for 2008, Anthem BCBS will charge all members age 55 and older the applicable rate for the 55-64 age band.

In addition to a discussion of both of these issues, set out below is a summary of the foundational elements of the proposed rates and the evidence in support of each.

The Administrative Expense Charge is Reasonable.

Anthem BCBS proposed maintaining the 2007 administrative expense allocation of \$20.91 PMPM in 2008, with no inflation. Anthem BCBS recognizes that it may not be able to achieve expense reductions that will offset general inflation, but believes the administrative expense charge proposed is reasonable. Ms. Fritchen agrees that the proposed charge is reasonable. (*See* Fritchen Prefiled, p.13, lns. 1-3.)

The Profit/Risk Charge is Reasonable.

Anthem BCBS has not achieved 3.0% pre-tax profit on the HealthChoice product in several years and believes that recent multi-million dollar losses demonstrate that this margin is

insufficient to cover the costs of providing care to members plus allow for a reasonable rate of return. Recognizing the Superintendent's prior orders, however, the proposed rates include a 3.0% pre-tax profit/risk charge. Ms. Fritchen agrees that the proposed charge is reasonable. (*See Fritchen Prefiled*, p.13, lns. 5-7.)

The Evidence in the Record Supports a Claim Trend of 15.1%.

Anthem BCBS in its original filing, amended filing and in prefiled testimony provided support for adopting a 15.1% trend. Ms. Fritchen approached trend from a different perspective, but calculated a very similar trend: 14.7%. In her supplemental direct at the hearing, Ms. Fritchen acknowledged that the sole difference between her calculation and Anthem BCBS's is in the treatment of large claims. (*See Hrg. Tr.*, p.108, lns.14-25.) More specifically, Ms. Fritchen suggested in her prefiled testimony that large claims should be removed from the other HealthChoice experience and trended separately using a 30% trend. (*See Fritchen Prefiled*, p.9, lns. 17-18.) Based on HealthChoice large claim data, in last year's DirigoChoice proceeding the Superintendent adopted Ms. Fritchen's suggestion to trend large claims separately, but applied a trend of 34.4%. (*See In re Anthem BCBS 2007 Individual / Self-employed Employer Rate Filing for DirigoChoice Products*, INS-06-1030, Decision and Order, p.17.) Whether large claims are trended separately or not, the data introduced into evidence at the October 22, 2007 hearing supports Anthem BCBS's 15.1% trend.

First, Anthem BCBS's original and amended filings and Mr. Whitmore's prefiled testimony explained the derivation of the proposed 15.1% trend based on all HealthChoice experience. There was no evidence presented that challenged, much less contradicted, that evidence.

Second, the large claim data presented likewise supports the proposed 15.1% trend. Anthem BCBS Exhibit 9 reflects different durational annualized trends for HealthChoice large claims. While the annual trends are more volatile (reflecting more recent trends of 31.3% to 71.6%), as would be expected, the two- and three-year annualized trends are more stable, reflecting that these claims are trending over a longer term in the 45-50% range. (*Id.*, Exhibit 9; *see also Hrg. Tr.*, p.53, ln.20-p. 55, ln.11.) Mr. Whitmore testified that, if the Superintendent determines that large claims should be trended separately, the data would support as reasonable a trend of 35-40%. (*See Hrg. Tr.*, p.51, ln.25 – p.53, ln.16; *see also id.*, p.54, lns. 14-17.)

Ms. Fritchen acknowledged that large claims grew annually at 50% over the period 2004-2006, (*see Fritchen Prefiled*, p.10, lns. 7-8), but suggested that "the large claims for calendar year 2004 appear to be abnormally low resulting in an overstatement of the calculated increase of

50%.” (*Id.* at lns. 14-15.)¹ Ms. Fritchen acknowledged at the hearing, however, that the import of her suggestion is that she expected large claims in 2004 would have been higher, which would have meant that the annual trend for large claims from 2003 to 2004 would have been even higher than the 34.5% reflected in Anthem BCBS Exhibit 9. (*See* Hrg. Tr., p. 188, lns. 7-17.) If this were indeed the case, it would mean yet another year in which the trend for large claims substantially exceeded the 30% that Ms. Fritchen suggests, and if 2004 were truly meaningfully “abnormally low”, large claims in 2004 would have trended at greater than 40%. This, together with the fact that the two- and three-year annualized trends in both 2005 and 2006 are between 45% and 52%, supports Mr. Whitmore’s testimony that a trend of 35-40% for large claims is appropriate.

With this backdrop, Ms. Fritchen agreed that, while she believes that 30% is at the lower end of a supportable range, a 35% trend for large claims would also be reasonable. (*See* Hearing Tr., p.119, lns. 3-10.)²

At the hearing, Mr. Whitmore testified that, based on Ms. Fritchen’s table at page eight of her testimony, applying a 35% trend to large claims instead of a 30% trend would yield an overall trend of approximately 15.1%; the same trend calculated by Anthem BCBS. (*Id.*, p. 53, ln.17 – p. 54, ln. 13.) While she had not performed the calculation, Ms. Fritchen testified that this was a reasonable assumption. (*Id.*, p.119, ln.11-p.120, ln.16.)

As a result, whether all HealthChoice claims are trended together, or the large claims are trended separately, the evidence in the record supports approving a 15.1% trend.³

¹ In last year’s DirigoChoice proceeding, Ms. Fritchen testified that “[t]he 68% trend for claims over \$100,000 in calendar year 2005 appears to be an anomaly.” (Fritchen Prefiled, p.9, lns. 20-21.) At the DirigoChoice hearing, Ms. Fritchen amplified this point:

Q. . . . Is there something that’s happening with large claims – what is it about large claims that make the trends overstated if there’s no adjustment?

A. If there’s no adjustment? Well, they’re overstated because 2005 is such a high year with large claims. There was a lot of claims that year. . . .

With the claims data for 2006 now confirming Mr. Whitmore’s view that large claims were, and continue to be, a significant part of the HealthChoice experience, Ms. Fritchen has revised her view and attributed the significant trend in 2005 not to an “anomal[ous]” increase in 2005 large claims, but instead to an “abnormally low” amount of large claims for 2004.

² For convenience, the referenced testimony is as follows:

Q. Okay. That’s fair enough. Do you think that 35 percent is unreasonable?

A. No.

Q. Do you think 40 percent is unreasonable?

A. I think 40 is high.

Q. So somewhere either at the low end of 30 percent or at the high end of 35 percent is what you’d see as reasonable?

A. Yes.

(Hrg. Tr., p.119, lns. 3-10.)

Savings Offset Payment

The Dirigo Health Agency Board assessed a savings offset payment percentage of 1.74% for paid claims effective July 1, 2008. Mr. Whitmore translated this assessment based on the number of anticipated qualifying paid claims and annualized that resulting percentage with the SOP applicable from January 1, 2008 through June 30, 2008. (*See* Whitmore Prefiled, p.4, Ins. 17-22.) Ms. Fritchen adopted that calculation as reasonable. (*See* Hrg. Tr., p.109, Ins. 17-18.)

The prefiled testimony from Amy Cheslock demonstrates that Anthem BCBS has used its best efforts to recover all cost savings that are as the result of the operation of Dirigo Health or the MaineCare expansions identified in 24-A M.R.S.A. §6913. There was no evidence presented to the contrary.

Minor Benefit Modification to Cover Dependent Children Up to Age 25.

In its response to the Second Information Request of the Advocacy Panel, Request No. 1, Anthem BCBS provided evidence that the proposed modification to cover dependent children up to age 25 is a minor modification in that the proposal reflects a change less than or equal to 5% of the overall benefits.

Compliance with Rule 940 for the 65 and older age band

In her prefiled testimony, Ms. Fritchen suggests that Rule 940 should apply to rates for those 65 and older. Based on the discussion of this issue at the hearing, Anthem BCBS will explore developing Rule 940-compliant rates for the community comprised of 65 and older members. Because of the timing for implementation of rates for 2008, however, all members age 55 and older will be charged the applicable 55-64 rate. Although Rule 940-compliant rates for the 65 and older community have not yet been developed, below Anthem BCBS describes the methodology it intends to follow in developing these rates for a future rate filing.

At the hearing, Anthem BCBS explained the implications of aggregating all age bands together with the over age 65 bracket and then applying Rule 940: because the maximum allowable differential must start with the oldest age bracket, including those over 64 results in a

³ Ms. Fritchen's prefiled testimony suggests that Anthem BCBS's rate methodology is conservative. (*See* Fritchen Prefiled, p.5, ln.8-p.6, ln.9.) The main focus of this criticism was premised on the erroneous assumption that Anthem BCBS's financial results for 2006 were substantially better than projected last year. (*Id.*, p.5, lns. 8-16.) Ms. Fritchen recognized and corrected this error at the hearing, acknowledging that Anthem BCBS actually projected a loss ratio last year for 2006 of 95.0% and the actual loss ratio was 94.8%, reflecting only a .2% differential. (*See* Hrg. Tr., p.114, ln. 10-p.115, ln.10; *see also* Anthem BCBS Hearing Exhibits 5 & 9.) Ms. Fritchen agreed that nothing in the revised filing is unreasonable in any way. (*See* Hrg. Tr., p. 116, lns. 4-8.)

rate differential among younger age bands that is unreasonable. To avoid this unreasonable result while still complying with the Rule, Anthem BCBS believes it appropriate to apply Rule 940 to the community rate for the age bands under 30 through 64 and separately to the separate community rate for those 65 and older who are eligible for Medicare Part A without paying a premium.

More particularly, Rule 940 defines “community rate” as “the rate to be charged for a specific benefit plan, smoking status, family structure (e.g. individual, couple, one-parent family, family), and group size (in the case of small group rates), prior to any adjustments for age, industry, occupation, or geographic area.” *Id.*, §4(B). Anthem BCBS determines the community rates for the different age bands from under 30 up to 64. Anthem BCBS then applies the requirements of Section 8 of Rule 940 to the different age brackets within that community to ensure that (1) unless an exception applies, the difference in premium is not greater than the difference in benefit levels, and (2) variations based on age, geographic area and/or industry or occupation must result in rates that are no less than 80% and no more than 120% of the community rate.” *Id.*, §8(B) & (C).

Title 24-A provides that “A separate community rate may be established for individuals eligible for Medicare Part A without paying a premium; however, this rate may not be applied if both the Medicare eligibility date and the issue date are prior to July 1, 2000.” 24-A M.R.S.A. §2736-C(2)(E) (emphasis added). As with the community made up of those under age 65, and subject to the exception previously approved by the Superintendent, Anthem BCBS would apply Rule 940 to the community rate for those Medicare-eligible who are above age 64, ensuring that the premium differential would be no greater than the difference in benefit levels in that age bracket. Those who are over age 64, but not eligible for Medicare Part A without paying a premium, would be charged the 55-64 rate that is applicable to the selected plan.

Anthem BCBS suggests that this approach harmonizes Rule 940 and Title 24-A, while at the same time avoids the adverse implications of applying the Rule 940 constraints in the aggregate across these two separate communities.

For all of these reasons, Anthem BCBS respectfully requests that the Superintendent approve the proposed rates consistent with the comments above. Thank you for your time and attention to this filing.

DATED: October 26, 2007

/s/ Christopher T. Roach
Christopher T. Roach, Esq.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 26, 2007 a copy of Applicant's Closing Statement was served in the manner indicated on each of the persons listed below:

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DATED October 26, 2007

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