

**INTERIM REPORT TO THE DIRIGO HEALTH AGENCY  
BOARD OF DIRECTORS  
BY THE SAVINGS OFFSET PAYMENT WORKING GROUP  
August 29, 2005**

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APPENDIX:

LIST OF WORKING GROUP MEMBERS AND ALTERNATES

**I. CHARGE TO THE WORKING GROUP**

The Working Group is convened by the Superintendent of Insurance pursuant to P.L. 2005, c. 400 (L.D. 1577) to make recommendations to the Board of Directors of Dirigo Health ("the Board") regarding the following matters:

- A. The definition of "subsidy" within the Dirigo Health Program;
- B. The definition of "paid claims" for the purpose of using paid claims as the base for savings offset payment assessments on health insurance carriers, 3<sup>rd</sup>-party administrators, and employee benefit excess insurance carriers;
- C. The process for implementing and invoicing savings offset payments based on the recommended definition of paid claims;
- D. The board's proposed methodology for calculating aggregate measurable cost savings. This recommendation must be made no later than September 20, 2005;
- E. A funding strategy to cover Dirigo Health's administrative expenses. This recommendation must be made no later than December 31, 2005.

## **II. WORKING GROUP MEMBERSHIP AND PROCESS:**

2005 P.L. c. 400, Part B-1 (1) provided for the Working Group to include 5 members representing the interests of insurers, self-insured entities and third party administrators (payor interests) and 5 members representing the interests of Dirigo Health.

Working Group members representing the interests of Dirigo Health:

Karynlee Harrington	Kirsten Figueroa (alternate)
Patrick Ende	Jack Comart (alternate)
Joseph Ditre	
Elizabeth Kilbreth	
Geoffrey Green	

Working Group members representing Payor Interests

John Benoit	Kristine Ossenfort (alternate)
Frank McGinty	Robert Downs (alternate)
James Reid	
Daniel Roet	
Sharon Roberts	

The Working Group met on 13 occasions from June 30, 2005, up to and including August 26, 2005, at times meeting for 2 full days in a week. The Working Group heard presentations from the Maine Health Data Organization and Mercer Government Human Services Consulting. Meeting summaries, the Working Group's groundrules, and documents distributed at Working Group meetings are maintained by the Bureau of Insurance. The Working Group will continue to meet to address charges not addressed in this report.

## **III. SUMMARY OF WORKING GROUP PROGRESS TO DATE:**

Charge A: The Working Group has discussed Charge A (definition of Subsidy), but has not yet formulated its final recommendation under this charge. The Working Group will make recommendations on this charge at a later time.

Charge B: The Working Group has reached consensus on a recommended definition of Paid Claims, except for one issue. The recommendations are set out in Section IV.

Charge C: The Working Group has identified issues to be addressed under this charge, but has not yet discussed these issues in any detail. The Working Group will put forward its recommendations on this charge at a later time.

Charge D: This report sets out the Working Group's alternative recommendations concerning the proposed methodology for calculating aggregate measurable cost savings.

Charge E: The Working Group has not yet discussed this charge. The Working Group will put forward its recommendations on this charge at a later time.

#### IV. CHARGE B: RECOMMENDED DEFINITION OF PAID CLAIMS:

The Working Group reached consensus on and recommends to the Board this definition:

##### RECOMMENDED DEFINITION OF PAID CLAIMS

For the purpose of calculating savings offset payment assessments for health insurance carriers, third-party administrators and employee benefit excess insurance carriers, the term "paid claims" shall be defined as:

All payments made by health insurance carriers, third-party administrators and employee benefit excess carriers for health and medical services provided under policies issued pursuant to the laws of this State that insure residents of this State or, in the case of third-party administrators, for health care for residents of this State except that paid claims shall not include:

1. claims related expenses as defined in this section and general administrative expenses;
2. payments made to qualifying providers under a "pay for performance" or other incentive compensation arrangement if the payments are not reflected in the processing of claims submitted for services rendered to specific covered individuals;
3. claims paid by carriers and third-party administrators with respect to accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement or other limited benefit health insurance, except that claims paid for dental services covered under a medical policy shall be included;
4. claims paid for services rendered to non-residents of this State;
5. claims paid under retiree health benefit plans that are separate from and not included within benefit plans for existing employees;
6. claims paid by an employee benefit excess carrier which have been counted by a third-party administrator for determining its savings offset payment;
7. claims paid for services rendered to persons covered under a benefit plan for federal employees; and
8. [see non-consensus recommendation, below re: claims paid for services rendered outside of this State to persons resident of this State.]\*\*

For the purposes of this definition of "paid claims" claims related expenses shall include:

1. payments for utilization review, care management, disease management, risk assessment, and similar administrative services intended to reduce the claims paid for health and medical services rendered to covered individuals, usually either by attempting to assure that needed services are delivered in the most efficacious manner possible or by helping such covered individuals to maintain or improve their health; and
2. payments made to or by organized groups of providers of health and medical services in accordance with managed care risk arrangements or network access agreements, which payments are unrelated to the provision of services to specific covered individuals.

In those instances in which a health insurance carrier, employee benefit excess insurance carrier, or third party administrator is contractually entitled to withhold certain amounts from payments due to providers of health and medical services in order to help assure that the providers can fulfill any financial obligations they may have under a managed care risk arrangement, the full amounts due the providers before application of such withholds shall be reflected in the calculation of "paid claims."

For the purposes of this definition of "paid claims" the phrase "health and medical services" shall include but not be limited to any services included in the furnishing of medical care, dental care to the extent covered under a medical insurance policy, pharmaceutical benefits, hospitalization including but not limited to services provided in a hospital or other medical facilities; ancillary services, including but not limited to ambulatory services; physician and other practitioner services including but not limited to services provided by a physician's assistant, nurse practitioner or midwife; and behavioral health services including but not limited to mental health and substance abuse services.

[Note:] The sole issue on which the Working Group did not reach consensus is whether "paid claims" should include claims for out-of-state services provided to Maine residents. The different views on this issue are set out below, on page 6.

## COMMENTS ON CONSENSUS RECOMMENDATION:

The WG agreed to these general principles to guide its discussion of a definition of "paid claims:"

The definition should be:

- Easy to Understand
- Easy to Communicate
- Easy to Administer
- Timely
- Inclusive, unless there is a policy reason for exclusion
- Equitable to all segments of the market (e.g., fully and self-insured employers, individuals, insurers), unless there is a countervailing policy reason

The Working Group believes that the recommended definition is consistent with these principles.

The Working Group has agreed to recommend that paid claims should be based on the time claims are paid, not the time claims are incurred. The Working Group believes that this recommendation will be addressed further when recommendations are made under Charge C (implementing and invoicing SOP.)

The WG has agreed that large claims will be subject to assessment, but allocation of assessments through pooling is still the subject of discussion. The WG has agreed to discuss allocation of assessments when it discusses implementation. The WG may choose to revisit the definition of "paid claims" if necessary for some unforeseen technical reason associated with implementation of pooling.

Because of some WG members' concerns that exclusion of employee payments may lead to cost-shifting to employees, it is suggested this be monitored.

## NON-CONSENSUS RECOMMENDATIONS ON PAID CLAIMS:

**Recommendation:** Include claims for out-of-state services to Maine residents in the definition of "Paid Claims":

All Working Group members representing the interests of Dirigo and a small minority of members presenting the interests of payors recommend that the definition of paid claims include claims for out-of-state services to Maine residents. These members make this recommendation for the following reasons:

The Savings Offset Payment is used to support Maine's Dirigo Health Reform Initiative- cost, quality and access efforts which include supporting the provision of out of state services. It is not appropriate to exclude out of state claims, as the law did not specifically exclude this type of claim in section 6913 as it does other types of claims. Additionally, excluding out of state claims adds another layer of administrative complexity. A claim paid is a claim paid regardless of where the provider is located. It is when determining and measuring savings that we need to link the initiative to Dirigo.

**Recommendation:** exclude claims for out-of-state services to Maine residents from the definition of "Paid Claims":

A strong majority of Working Group members presenting the interests of payors recommend that the definition of paid claims exclude claims for out-of-state services to Maine residents. These payor representatives object to the inclusion of out-of-state claims in the definition of paid claims for the following reasons:

1. Health care services rendered in other states are not impacted by the Dirigo Health reform initiatives and, therefore, should not be subject to the assessment;
2. There is no nexus between such claims and Dirigo; the stated intent of the savings offset payment is to recapture the savings generated by the Dirigo Health reform initiatives—to assess claims on which no savings can be recognized transforms the assessment into a tax; and
3. If out-of-state claims were included in the definition of paid claims and, therefore, subject to the savings offset payment assessment, many of those same claims will also be subject to taxation in other states, resulting in double taxation of those claims.