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April 1, 2016

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Eric Cioppa, Superintendent of Insurance  
Attn: Elena Crowley  
Docket No. INS-15-802  
Bureau of Insurance  
Maine Dept. of Professional and Financial Regulation  
34 State House Station  
Augusta, Maine 04333-0034

Re: *Anthem Blue Cross and Blue Shield Request for Authorization to Discontinue and Replace Legacy Individual Health Plans Effective January 1, 2017*  
Docket No. INS-15-802

Dear Superintendent Cioppa:

Enclosed for filing please find two hard copies of the following:

SUBMITTED BY: Christina M. Moylan, AAG  
DATE: April 1, 2016  
DOCUMENT TITLE: Attorney General's Closing Argument  
DOCUMENT TYPE: Closing Argument  
CONFIDENTIAL: No

Copies are also being served this date in the manner indicated on the enclosed Certificate of Service. Thank you for your attention.

Sincerely,

/s/ Christina M. Moylan

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

IN RE:	)	
	)	
ANTHEM BLUE CROSS AND BLUE	)	
SHIELD REQUEST FOR AUTHORIZATION	)	<b>ATTORNEY GENERAL'S</b>
TO DISCONTINUE AND REPLACE	)	<b>CLOSING ARGUMENT</b>
LEGACY INDIVIDUAL HEALTH PLANS	)	
EFFECTIVE JANUARY 1, 2017	)	
	)	
Docket No. INS-15-802	)	

The Attorney General (“AG”) submits this Closing Argument relative to the pending request by Anthem Blue Cross and Blue Shield (“Anthem”) to discontinue its Legacy individual health plans. The AG neither supports nor opposes Anthem’s request to discontinue. However, should the Superintendent authorize Anthem’s discontinuance of any Legacy plans, the AG urges the Superintendent to impose certain conditions, which the AG believes are necessary to ensure that Legacy members are minimally disrupted. These conditions include: 1) notice to all members that all Anthem transitions of Legacy members will be to plans with unrestricted broad provider networks and Anthem “blue card” services; 2) mandatory continued coverage for all existing prescribed non-formulary drugs, regardless of how long the policyholder had been on the non-formulary drug, during the entire pendency of any and all Anthem medical justification and/or appeals processes; 3) notice to all members of this extended non-formulary drug coverage and of Anthem’s procedures and timelines for requesting continued coverage of non-formulary drugs; and 4) enhanced and more prominent notice to all Legacy members regarding their other insurance options, apart from the Anthem plans they will be mapped to, and the potential availability of subsidies.

As a preliminary matter, and as the AG’s information requests to Anthem suggest, the

AG was initially concerned that Anthem's estimated 2017 premium savings are speculative and possibly overstated. However, based upon Anthem's responses to those AG requests as well as input from the AG's actuarial consultant, there appear to be too many unknown variables to project member savings with any degree of accuracy, which hampered the AG's ability to test Anthem's assumptions. Nonetheless, the AG is hopeful that most Legacy members would immediately benefit from such a transition, if approved, and that the vast majority would benefit in the relatively near future. However, the fact that some Legacy members would undoubtedly be disrupted and disadvantaged, underscores the need for additional protections and notice.

In addition, public testimony at the hearing earlier this week made it clear that there is a great deal of confusion concerning the proposed discontinuance of Anthem's Legacy plans. For example, anxious members expressed concern over the loss of their providers, even though Anthem confirmed at the hearing that its proposal would transition Legacy members to a plan with an unrestricted broad provider network that included "blue card" services. If the Superintendent approves the requested discontinuance, Anthem should be required to clearly notify members that the default plans that they will be transitioned to will have such an unrestricted broad network and "blue card" services as long as those plans are maintained, thus enabling Legacy members to keep their providers if they want. Maintaining provider relationships and flexibility were clearly the most important considerations for many Legacy members, some of whom may be retaining their Legacy plans for that very reason.

Another factor that appeared to be important to Legacy members attending the public hearing is the ability to continue with their existing prescribed medications. Anthem's recent decision to ensure continuing coverage for Legacy members' non-formulary drugs during the pendency of a prior authorization or medical justification review is laudable, as is its decision to automatically cover a drug a member has been taking for at least six months. The AG asks the

Superintendent to formalize those commitments by making them conditions of any approval. The AG also asks the Superintendent to order that Anthem cover all existing prescribed medications for the entire period of any and all Anthem medical justification and/or appeals processes, no matter how long such processes may take. As with the provider choice, some Legacy members appear to be retaining their Legacy plans precisely because of coverage of a particular drug.

However, having the benefit of these non-formulary drug commitments and conditions is not by itself going to quell the existing fears of members who may be unaware of them. Accordingly, the AG also asks that the Superintendent require Anthem, as part of any authorized transition, to notify in advance and clearly inform all policyholders of the extended non-formulary drug coverage and of Anthem's processes, procedures, and timelines for requesting continued coverage of non-formulary drugs.

Another area of concern to the AG is cost. While many Legacy members may be better off financially on a new Affordable Care Act (ACA) compliant plan, that is unfortunately not the case for every Legacy member, and it remains unclear how many Legacy members will ultimately face increased costs if transitioned to ACA compliant plans. The availability of other insurance options, as well as the potential for financial assistance on the Health Insurance Marketplace, should be more prominently featured in Anthem's proposed notice to members. For example, members should be affirmatively alerted to the existence and availability of other options (offered by both Anthem and other carriers) and encouraged to check the Marketplace and consult with Anthem and/or the Bureau to learn whether they may be eligible for a subsidy and whether their current provider is in the network of the Marketplace plan(s) that they are considering. In short, the AG believes that the portion of Anthem's proposed notice regarding

alternative options to the transitioned plan should be more robust and more prominently featured. The AG believes that the precise details of such enhanced notice are best left to the discretion of the Superintendent.

In conclusion, should the Superintendent authorize Anthem's discontinuance of any Legacy plans, the AG asks that the Superintendent order Anthem to: 1) provide clear notice to all members that all Anthem transitions of Legacy members will be to plans with unrestricted broad provider networks and Anthem "blue card" services as long as those plans are maintained by the transitioned member; 2) provide continued coverage for all existing prescribed non-formulary drugs, regardless of how long the policyholder has been on the non-formulary drug, during the entire pendency of any and all Anthem medical justification and/or appeals processes; 3) provide clear notice to all members of this extended non-formulary drug coverage and of Anthem's procedures and timelines for requesting continued coverage of non-formulary drugs; and 4) provide enhanced and more prominently featured notice to all Legacy members regarding various other insurance options, including the potential availability of subsidies.

Dated: April 1, 2016

/s/ Christina M. Moylan  
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**STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE**

IN RE: )  
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ANTHEM BLUE CROSS AND BLUE )  
SHIELD 2014 INDIVIDUAL RATE )  
FILING FOR HEALTHCHOICE, )  
HEALTHCHOICE STANDARD AND BASIC, )  
HEALTHCHOICE HDHP, HMO STANDARD )  
AND BASIC, AND LUMENOS CONSUMER )  
DIRECTED HEALTH PLAN PRODUCTS )  
PURCHASED BY MEMBERS BEFORE )  
JANURY 1, 2014 )  
)  
Docket No. INS-14-1000 )

**CERTIFICATE OF SERVICE**

The undersigned counsel for the Attorney General hereby certifies that on this date I caused to be mailed by electronic mail, hand-delivery or United States first class mail, postage prepaid, as indicated, copies of the Attorney General’s Closing Argument upon the persons and at the addresses indicated below.

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