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

IN RE:	)	
	)	
ANTHEM BLUE CROSS AND BLUE SHIELD REQUEST FOR AUTHORIZATION TO DISCONTINUE AND REPLACE LEGACY INDIVIDUAL HEALTH PLANS EFFECTIVE JANUARY 1, 2017	)	**PROCEDURAL ORDER**
	)	
Docket No. INS-15-802	)	

In accordance with the provisions of Bureau of Insurance Rule Chapter 350(3)(A), Superintendent of Insurance Eric Cioppa hereby establishes the following procedures for the conduct of this proceeding. In addition to the procedures set forth in this Order, this proceeding also will be conducted pursuant to the provisions of Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, subchapter 4; 24-A M.R.S. §§ 229 to 236; and any orders of the Superintendent that may be issued from time to time. The provisions of Maine Insurance Rule Chapter 350 also shall apply to the extent not inconsistent with this Order.

I. SCHEDULE OF PROCEEDING

The remaining schedule of the proceeding is set forth below, consistent with the dates previously established. All persons are advised that this schedule is subject to change and prospectively should verify the current schedule as necessary.

Item	Date / Deadline
Commencement of Discovery	Immediately upon being granted party status
Intervention Deadline[1]	February 5, 2016

[1] This deadline was established in the Notice of Pending Proceeding and Hearing that the Superintendent issued on January 7, 2016. The Notice and other filings in this proceeding are available online at http://www.state.me.us/pfr/insurance/filings/Anthem_Blue_Cross_Authorization_Legacy/Anthem_BCBS_Legacy_15-802.html.

At this time, the only intervenor in this proceeding is the Maine Attorney General. No other person made timely application for intervention. Late applications for intervention (*i.e.*, after the February 5 deadline) are permitted and may be granted by the Superintendent upon a compelling showing of good cause. *See*, *e.g.*, Rule 350(9)(A)(2) ("Any person who applies for intervenor status after the deadline set by the Superintendent shall be permitted to intervene only upon a compelling demonstration of good cause.")

Deadline for Issuing Discovery Requests	March 16, 2016
Deadline for filing Pre-filed Testimony and Exhibits	March 23, 2016
Public Hearing	March 28, 2016

III. FILING AND SERVICE OF DOCUMENTS

A. Computation of Time

Unless and until otherwise ordered by the Superintendent, the provisions of Insurance Rule Chapter 350(5) shall govern the computation of any period of time prescribed by the Superintendent in this proceeding.

Filings are deemed timely only if (a) electronic filing is completed **no later than 4:00 pm** on the date the filing is due **and** (b) the hard copy filing is either hand-delivered or postmarked by the day the filing is due.

B. Method of Filing

All documents filed by parties in this proceeding must be filed **both** electronically **and** in hard copy except that the Superintendent may waive the requirement that a party file and serve documents electronically upon good cause shown.

Filings must meet the following criteria:

1. Hard Copies:

   (a) One (1) original and one (1) copy must be filed with the Superintendent of Insurance; and

   (b) One (1) hard copy must be served on all parties to the proceeding; provided, however, that any party may, by agreement with another party, choose to be served solely via e-mail in lieu of hard copy delivery.

   Hard copy filings may be hand delivered to the Superintendent, during business hours, at the offices of the Bureau of Insurance, 76 Northern Avenue, Gardiner, Maine, or mailed to the Superintendent at the following address:

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

The original hard copy will be included in the record of the proceedings and shall control in the event of any discrepancies with any paper or electronic copy.

2. Electronic Copies:

One electronic copy of the document must be filed with the Superintendent to the attention of the persons identified below via e-mail sent to the following addresses:

Elena.I.Crowley@maine.gov; and

Tom.Sturtevant@maine.gov.

The maximum total file size for electronic filing by email is 20 megabytes. If a party intends to submit exhibits to a filing that collectively exceed 20 megabytes, the party should provide those exhibits to the Superintendent and parties by CD, DVD, flash drive, or similar means, and shall do so by the filing deadline, if any. In such cases, the filing party shall still file and serve the main filing, without exhibits, via email.

C. Service on Other Parties

A service list has been established and is being maintained by the Superintendent. Any party granted intervenor status after the date of this order shall provide the Superintendent immediately with the name, address, telephone number, fax number, and e-mail address of one person upon whom service for that party is to be made. Parties may obtain the latest version of the service list by contacting Elena Crowley at tel. 207-624-8421. Service on parties shall be made electronically, with hard copy hand delivered or postmarked on the same day. If service is made on a party both electronically and by hard copy, the document shall be considered received on the earliest date of receipt and the time to respond shall be calculated using the date the document is first received.

Each party must include a certification of service on other parties as part of any filing or submission made to the Superintendent. Parties filing documents electronically with the Superintendent shall simultaneously serve all parties via carbon-copy (cc). Hard-copy service shall be completed prior to or simultaneously with filing hard copies with the Superintendent. Neither the Superintendent nor Bureau of Insurance staff will be responsible for providing copies of filings or other documents to the service list. If a party fails to serve all other parties on the designated service list, the filing will not be accepted by the Superintendent until proof of service on all parties is provided.

D. Format of Filing

All electronic documents except exhibits shall be filed in the form of electronically converted (not scanned) Portable Document Format (PDF) files. PDFs must be identical to the hard copy filing except that an electronically converted PDF may be signed with a typed name

preceded by "/s/". The Superintendent will not accept for filing any PDF filings, other than exhibits, that were created by scanning.

Exhibits of documentary evidence not created for purposes of the proceeding shall be filed as scanned or electronically converted PDFs. Exhibits created electronically for purposes of the proceeding may be filed either as electronically converted PDFs or in native format. Notwithstanding the above requirements, all spreadsheets shall be filed in electronic operational form, in addition to the hard-copy reproductions (paper versions). The electronic files shall contain all the embedded data, formulas, assumptions, and underlying electronic workpapers.

All documents filed by parties to the proceeding shall be appropriately captioned following the caption format at the top of the first page of this Order, specifically including the docket number assigned by the Superintendent to the proceeding, INS-15-802.

All documents filed with the Superintendent by parties to the proceeding must be paginated, to the extent practicable.

IV. SUBMISSION OF CONFIDENTIAL AND/OR PRIVILEGED INFORMATION

A. Submission

All confidential or privileged documents or portions of documents for which a party seeks protection from public disclosure must be filed separately. Hard copy filings of documents under claim of confidentiality and/or privilege must be made with red covers. Electronic copy filings of such documents must include "CONFIDENTIAL" in the e-mail subject line, and must specifically identify the specific claim of confidentiality and/or privilege in the body of the email. All pages of any documents for which confidentiality and/or privilege is asserted must be prominently labeled or stamped as confidential and/or privileged. All submissions properly identified in accordance with this paragraph will be maintained as confidential and/or privileged unless and until the Superintendent rules otherwise.

B. Presumption of Public Access

Under both the Maine Insurance Code and Maine's Freedom of Access law, the Superintendent is required to disclose public records. *See*, *e.g.*, 24-A M.R.S. § 216(2); 1 M.R.S. § 401. The presumption is that citizens have a right of free access to documents filed with the Superintendent. Thus, the public has a right of access to Bureau records unless it is demonstrated that such information meets one of the strictly construed exceptions to disclosure. *See* 1 M.R.S. § 402(3)(A)-(T).

C. Memorandum in Support

The party requesting confidentiality and/or privilege must provide the Superintendent with a memorandum of law in support of the request. Except with leave of the Superintendent, the memorandum in support must be submitted simultaneously with the documents for which confidentiality and/or privilege is requested. The memorandum must clearly identify those documents, or portions of documents, for which confidentiality and/or privilege is requested, the reason for the request, and any supporting legal authority. Specifically, the memorandum of law

shall include detailed legal analysis as to why the information is not a public record pursuant to the provisions of Maine's Freedom of Access law, including identification of which statutory exception protects the information from being made publicly available.

D. Challenges to Confidentiality Assertions

If an assertion of confidentiality and/or privilege is challenged, the party claiming confidentiality and/or privilege will be notified and provided an opportunity to argue in favor of continued protection.

E. Protective Order

All information or documentation for which protection from public disclosure is provided by the Superintendent, and all parties to the proceeding, are subject to the terms of any protective order(s) that the Superintendent may issue.

V. MOTIONS

Every request or motion for an order or ruling of any kind by the Superintendent shall be in writing, unless made on the record during a hearing to which the request or motion is related. Every request or motion should include or be accompanied by a clear statement of the support for the order or other action sought. The statement supporting the request or motion also should include any arguments with respect to policy or law that have a bearing on the request.

Requests or motions and their supporting papers should be clearly labeled on the first page and in the caption with a title that includes "motion" or "request," a short description of the action or order requested, and language in the caption sufficient to identify the matter to which the request or motion relates. If legal arguments are advanced, the supporting statement accompanying the motion shall include citations to all supporting authorities relied upon by the moving party.

Any party opposing a request or motion shall file a statement in opposition to the motion or request within four (4) business days after receipt of the motion, unless the Superintendent establishes some other period. The Superintendent may rule on any request or motion prior to the expiration of the deadline for filing an opposition.

VI. DISCOVERY PROCEDURES

Copies of all discovery requests and responses to discovery requests must be served on all parties and submitted to the Superintendent according to the same standards and procedures applicable to any other filing in this proceeding. All parties are prohibited from making requests for information that are duplicative of prior requests made by any party. To the extent that documents have been provided previously in this proceeding in response to a discovery request, those documents may be referenced in subsequent responses and need not be produced again.

Responses to discovery requests shall be made within the later of four (4) business days after the date on which the request was served or within two (2) business days after the Superintendent's overruling of an objection to discovery.

Should any party oppose any part of an information request served, that party and the requesting party shall confer promptly and in good faith to attempt to resolve the dispute. Any objection to a request for discovery must be served and filed within two (2) business days after the date on which the request was served. If the requesting party determines that a ruling on the objection is necessary, it shall serve and file a response within two (2) business days of receiving the objection. The Superintendent shall rule promptly upon receiving such a response, with or without a hearing, within the discretion of the Superintendent.

Discovery responses do not become part of the evidentiary record of the proceeding unless admitted as exhibits during the hearing or as a late-filed exhibit.

VII. PRE-FILED TESTIMONY

On the deadline established for pre-filed testimony and exhibits, any party wishing to submit evidence shall pre-file with the Superintendent written testimony and exhibits of each witness whom they propose to present in support of their direct cases. A copy of all testimony and exhibits must be served on all other parties to the proceeding in accordance with the requirements set forth above. The pre-filed testimony shall be in question and answer format, double-spaced and with each line numbered for ease of reference; summary or other non-testimonial material shall not be accepted. Such pre-filed testimony and exhibits are subject to objection when offered at the hearing, and in no event may be admitted unless the witness submitting the testimony affirms the pre-filed testimony under oath at the hearing and is available at the hearing for cross-examination.

The scope of pre-filed testimony and exhibits should be limited to the issues and subject matters outlined in the applicable statutes, and by such further order of the Superintendent.

VIII. COMMUNICATIONS WITH THE BUREAU

Except as otherwise noted in this section, parties shall not communicate with respect to this proceeding with the Superintendent, Bureau Staff advising the Superintendent in this proceeding, or consultants retained by the Superintendent without notice and opportunity for all parties to be present.

Parties may direct questions of a strictly ministerial nature to Elena Crowley at tel. 207-624-8421. Procedural queries should be directed only to Thomas Sturtevant, Assistant Attorney General and counsel to the Superintendent in this proceeding.

At his discretion, the Superintendent may direct a member of his staff to develop independent evidence pertaining to all or part of the submissions in this proceeding. That independent evidence shall be made part of the record in this case and the staff member shall be subject to cross-examination at the hearing. The Superintendent may hire consultants to assist

him in this proceeding. Any such consultants shall be deemed agents of the Bureau, and the rules applicable to *ex parte* communications and cross-examination shall apply equally to them.

Nothing in this Order shall permit the Superintendent, when rendering a decision, to rely upon any evidence or other factual information outside of that made part of the record or upon which official notice has been made.

IX. COMMUNICATIONS FROM THE PUBLIC

Communications from the general public for the Superintendent's consideration will not be subject to formal filing requirements. In the interest of maintaining a complete record, communications from the general public in connection with this proceeding and any responses from the Superintendent or his Staff will be maintained as part of the record of the proceeding. As provided by 5 M.R.S. § 9057, such communications will not constitute evidence unless sworn to by the author and the author is available for cross-examination or subject to subpoena, except for good cause shown. Communications from the general public and responses thereto will not be copied to the parties. Any such documents will be available for review by the parties during the regular business hours of the Bureau. Representative communications between the general public and the Superintendent and/or his staff may be made available on the Bureau's webpage.

X. FAILURE TO COMPLY WITH LAWS, RULES, AND ORDERS

Should any party or participant violate or disregard any provisions of the Maine Insurance Code, Bureau Rule, or order of the Superintendent, the Superintendent shall have and may exercise the option to impose an appropriate sanction without further notice, including but not limited to denial of any party or participant request; striking material from the record; or consideration and reduction or elimination of that party's or participant's participation in the proceeding.

XI. SPECIAL NEEDS

The Department of Professional and Financial Regulation does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services, or activities. Individuals in need of auxiliary aid or with other special needs for effective communication with respect to any aspect of this proceeding are invited to make their needs and preference known to Elena Crowley, tel. 207-624-8421, sufficiently in advance of the hearing so that appropriate arrangements may be made.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

February 25, 2016

ERIC A. CIOPPA
Superintendent of Insurance