

Date: May 23, 1996
To: Patricia E. Ryan
Executive Director
From: John E. Carnes J.E.C.
Commission Counsel
RE: [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Laura Garcia, Esq.'s statement of the law is accurate. I would not dismiss the charge at this point.

Generally, when a Complainant alleges employment discrimination in the provision of insurance benefits and the employer uses another company to provide/administer those benefits, the second company may be viewed as the employee's "employer" for purposes of the Maine Human Rights Act if:

1. the insurance company exercises control over important aspects of employee health care coverage (e.g. determines levels of benefits);
2. the insurance company/trust exists solely to allow the employer to delegate its responsibility to provide health insurance; or
3. the insurance company/trust is the "agent" of the employer acting on behalf of the employer in providing and administering employee health insurance benefits.

The cases to cite in this situation are:

Carparts Distribution Center, Inc. v. Automotive Wholesaler's Association of New England, Inc., 37 F. 3rd 12 (1st Cir. 1994), and Spirit v. Teachers Insurance and Annuity Association, 691 F. 2nd 1054, 34 FEP Cases 1510 (2nd Cir. 1984).