

STATE OF MAINE

DIRIGO HEALTH AGENCY

RE: DETERMINATION OF) **Consumers for Affordable**
AGGREGATE MEASURABLE) **Health Care Coalition**
COST SAVINGS FOR THE FOURTH)
ASSESSMENT YEAR (2009)) **Application to Intervene**
)

Now comes Consumers for Affordable Health Care Coalition (“CAHC”), by and through its attorney, with its application to intervene as a matter of right, pursuant to 5 M.R.S.A. §9054(1), in the above captioned matter on behalf of its members for the following reasons:

- [1] CAHC is a Maine non-profit corporation located at 39 Green Street in Augusta, Maine. CAHC is Maine’s largest consumer health coalition whose mission is to advocate for affordable, quality health care for every man, woman and child.
- [2] CAHC’s membership includes over one-hundred members, including 27 businesses and organizations.¹ Its collective membership represents the health care and coverage interests of over 200,000 Maine citizens, some of which are DirigoChoice enrollees who will be affected by the outcome of this proceeding. CAHC’s motion to intervene promotes an efficient proceeding in that it consolidates into one motion what could have been several organizational requests to represent their members.
- [3] CAHC attests that its members who are DirigoChoice enrollees will be directly and substantially affected by the outcome of the proceeding and that members rely on CAHC to represent their interests in such proceedings.²
- [4] CAHC has standing to represent interests of its members. The U.S. Supreme Court articulated a three-part test for courts to apply in deciding whether to allow an organization to bring suit on behalf of it members. *Hunt v. Washington Apple Advertising Commission*, 432 U.S. 333, at 343, 97 S. Ct. at 2441 (1977); *Risinger et al. v. Concannon*, 117 F. Supp. 2d 61 (D. ME 2000). First, the organization must demonstrate that “its members would otherwise have standing to sue in their own right.” *Id.* Second, the interests that the organization “seeks to protect” must be “germane to the organization’s purpose.” *Id.* Third, “neither the claim asserted nor the relief requested

¹ The organization and business members, include consumer organizations such as the Maine Council of Senior Citizens, labor unions and organizations including the Maine AFL-CIO, small businesses, faith-based organizations including the Maine Council of Churches and the Roman Catholic Diocese of Portland, and health care provider associations such as the National Alliance for the Mentally Ill/Maine, the Maine Chapter of the National Association of Social Workers, and many others.

² CAHC recently represented its members who are DirigoChoice enrollees in an administrative appeal to the Kennebec County Superior Court (Docket No. AP-07-18) which was an appeal of the Superintendent’s approval of Anthem Health Plans of Maine’s rate increase for the DirigoChoice individual product. Affidavits of individual CAHC members who are DirigoChoice enrollees were filed in that case.

requires the participation of individual members in the lawsuit.” *Id.* CAHC’s application meets all three of these requirements.

[5] CAHC’s members meet the “direct and substantial” requirement to intervene as of right on their own behalf as ratepayers of DirigoChoice since the funding of Dirigo directly affects their health insurance coverage. Maine courts and administrative agencies have long held that ratepayers are entitled to intervene in rate cases as of right. *Central Maine Power v. Public Utilities Commission*, 405 A.2d 153, at 163 (1979) citing *Gifford v. Central Maine Power*, 217 A.2d 200 (1966). Second, ensuring that these member consumers, and others like them, can obtain and retain access to affordable, quality and accessible health care coverage is a key part of CAHC’s organizational mission and purpose. Finally, there is nothing about the claims or relief that requires the participation of individual members in the proceeding. Indeed, allowing CAHC to represent its membership as a whole is more efficient than each of them representing their own individual interests independently.

[6] CAHC has substantial experience in adjudicatory matters of this nature. CAHC was a party as of right in the Determination of Aggregate Measurable Cost Savings before the Dirigo Health Agency, Board of Directors in the second and third assessment years and has participated in the litigation that ensued from each of the Savings Offset Payment proceedings.

For all of the above reasons, CAHC requests that its application to intervene as a matter of right be GRANTED.

Dated: Friday, May 02, 2008

Respectfully submitted,

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