

STATE OF MAINE
DIRIGO HEALTH AGENCY

RE: DETERMINATION OF) MAINE STATE CHAMBER
AGGREGATE MEASURABLE) OF COMMERCE RESPONSE TO
COST SAVING FOR THE FOURTH) DIRIGO HEALTH AGENCY'S MOTION
ASSESSMENT YEAR (2009)) FOR ORDER REQUIRING MORE
) SPECIFIC DISCLOSURE OF TESTIMONY

FILING COVER SHEET

TO: Board of Directors, Dirigo Health Agency
Attn: Ruth Ann Burke
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DATE FILED: June 30, 2008

PARTY: Maine State Chamber of Commerce

DOCUMENT: Response to Dirigo Health Agency's Motion for Order Requiring More
Specific Disclosure of Testimony

DOCUMENT TYPE: Designation

CONFIDENTIALITY: None.

/s/ William H. Stiles
William H. Stiles, Bar No. 8123

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The Maine State Chamber of Commerce ("Chamber") hereby responds to the Dirigo Health Agency's ("DHA") Motion for an Order requiring the Chamber to provide more specific disclosure of expert testimony.

Although the Chamber has clearly stated that it will meet the pre-filed testimony and exhibits deadline on July 9, 2008, the DHA complains that it does not have a meaningful opportunity to prepare its case. The DHA does not make this argument with clean hands. The DHA's disclosure on June 2, 2008 took the needle in a haystack approach by providing hundreds of documents that it neglected to cross-reference in its Report. Subsequently, on June 3, the DHA provide hundreds of pages of additional documents, again with no cross-walk to the Report. Following the Intervenors' inquiries as to the completeness of the prior disclosures, the DHA provided a third disclosure, again containing hundreds of pages and a very limited (and incomplete) cross-walk to the Report. The Intervenors' experts spent two weeks attempting to find the needle hidden the haystack, only to find out that even additional information and documentation was required. On June 18 and 19, 2008, the DHA provided additional documentation and information that was relevant to a complete analysis of the DHA's methodology, including the step sheet with the specific queries used by the DHA to run its calculations from the various data bases. Accordingly, the DHA cannot complaint the Chamber's summaries of testimony were incomplete when necessary information was provided only one or two business days prior to the deadline. There was simply not enough time to develop and document specific positions.

Again, the Chamber will provide the prefiled testimony and exhibits supporting the Chamber's experts' opinions on or before July 9, 2008. The Rule 26 disclosures now requested by

the DHA (which were not required by the Procedural Order dated May 20, 2008) are not necessary as the prefiled testimony will address our experts' opinions.

With respect to the testimony of Mr. Green, the Chamber intends to ask him questions regarding Medicaid/Maine Care reimbursement during the time period covered by the DHA's CMAD methodology. The Chamber notes that Mr. Green has testified in past hearings on behalf of the DHA, although he was not listed for the current proceeding. The Chamber anticipates asking Mr. Green to explain several Medicaid-related conclusions set forth in the Report, apparently based on information provided by him or his staff. Mr. Green, according to discovery provided by the DHA, has been involved in the creation and/or documentation of the DHA's methodology, and therefore would not be a friendly witness for the Chamber. The Chamber, therefore, will not be in the position to submit prefiled testimony for Mr. Green, but anticipates only engaging in cross-examination type questioning during the hearing.

In summary, there is nothing to be gained by requiring the Chamber to file and serve expert disclosures meeting the requirements of Rule 26, as the information deemed relevant by the DHA's Motion (a complete description of the experts' testimony and opinion) will be contained in the Chamber's prefiled testimony on July 9, 2008. The DHA Motion should be denied.

Dated: June 30, 2008

Respectfully submitted,

/s/ William H. Stiles
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CERTIFICATE OF SERVICE

I, William H. Stiles, attorney for the Maine State Chamber of Commerce, hereby certify that on this date I caused to be served electronically a copy of the foregoing document upon the following:

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Dated: June 30, 2008

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