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February 15, 2017

Mr. Larry Carbonneau, MBA, CPA, CGFM
Senior Healthcare Financial Analyst
Maine Department of Health and Human Services
Division of Licensing and Regulatory Services
State House Station #11
41 Anthony Avenue
Augusta, Maine 04333-0011

Re: Request for Certification Under 22 M.R.S.A. § 4204(2-A)

Dear Mr. Carbonneau:

Empire HealthChoice HMO, Inc. ("Empire") currently has an application for Certificate of Authority pending before the Maine Bureau of Insurance. The purpose of this letter is to request a determination that Empire does not require a Certificate of Need ("CON"), and that Empire satisfies the obligations necessary to operate as an HMO in Maine.

BACKGROUND:

The purpose of Empire's application is in support of an effort to gain operational efficiencies and reduce the number of Centers for Medicare and Medicaid Services ("CMS") contracts held by Empire and its affiliates in the Anthem enterprise. The CMS contracts to be consolidated are those in New York and Maine. The New York contract is held by Empire and the Maine contract is held by Empire's affiliate, Anthem Health Plans of Maine, Inc. ("Anthem"). Under CMS regulations, in order to accomplish a contract consolidation of the CMS contracts of Empire and Anthem, Empire must be licensed by the Maine Bureau of Insurance.

If this consolidation of CMS contracts is approved by CMS, all operations of the Medicare Advantage business will be transferred to Empire, but there will be no change in the design of plan benefits, in the service area, or in the network of providers who provide services to plan members.

ANALYSIS

First, Empire suggests that the transaction described in this letter is not subject to review under Maine Revised Statutes Title 22, Chapter 103-A, and may proceed without the issuance of a Certificate of Need ("CON").

Provisions of the Maine Insurance Code governing the issuance of a certificate of authority to an HMO impose two conditions that involve the Department. Specifically, 24-A M.R.S.A. § 4204(2-A) conditions the issuance of a certificate of authority upon: (1) a certification by the Commissioner of

Mr. Larry Carbonneau, MBA, CPA, CGFM

February 15, 2017

Page 2

Health and Human Services either that the application HMO has received a CON or that a CON is not required pursuant to Title 22, Chapter 103-A; and (2) if a CON is not required, a certification by the Commissioner of Health and Human Services that the HMO has established procedures that ensure health care services are provided consistent with reasonable standards of quality of care and that the HMO maintains an ongoing internal quality assurance program to monitor and evaluate its health care services, which quality assurance program must include certain specified elements.

We respectfully submit that the proposed consolidation of CMS contracts may proceed without the necessity of a CON because, notwithstanding the general provisions of 22 M.R.S.A. § 329, the requirements of Title 22, Chapter 103-A do not apply to activities of a health maintenance organization (*see* 22 M.R.S.A. § 330(2)). We therefore request a certification from the Department that a CON is not required in this instance.

Second, Empire suggests that it satisfies certain requirements described in 24-A M.R.S.A. § 4204(2-A) relating to standards of patient care and maintenance of an internal quality assurance program, and we respectfully request the Department certify that the procedures governing the provision of services and the quality assurance program of Empire satisfy the requirements of 24-A M.R.S.A. § 4204(2-A). We note that Empire is accredited by the National Committee for Quality Assurance ("NCQA"). In order to obtain NCQA accreditation, Empire was required to establish and maintain standards for patient care and an ongoing internal quality assurance program that meet NCQA criteria and which parallel or exceed the requirements of 24-A M.R.S.A. § 4204(2-A).

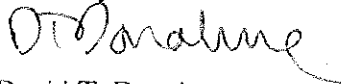
Thus, we also respectfully request a certification from the Department of Health and Human Services (the "Department") that Empire satisfies certain requirements described in 24-A M.R.S.A. § 4204(2-A) relating to standards of patient care and maintenance of an internal quality assurance program.

CONCLUSION:

Based on the foregoing analysis and representations, we respectfully request confirmation that licensing Empire and transferring the Medicare Advantage HMO business from Anthem to Empire is not subject to CON review. We also respectfully request the Department certify to the Maine Bureau of Insurance that Empire meets the applicable requirements of 24-A M.R.S.A. § relating to procedures for standards of service and quality assurance programs.

If any additional information or document is required in order to complete your consideration of the requests contained herein, please do not hesitate to contact me or Judy Deckard. Thank you for your assistance.

Sincerely,



David T. Donahue

DTD/jad

Enclosures