



THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

21 SOUTH FRUIT STREET SUITE 14
CONCORD, NEW HAMPSHIRE 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

November 14, 2013

John Malmberg
Orr & Reno
45 S. Main Street,
PO Box 3550
Concord, NH 03302-3550

Re: Petition of Frisbie Memorial Hospital et al.

Dear Attorney Malmberg:

The Insurance Department has reviewed the petition you filed on November 6, 2013, on behalf of Frisbee Memorial Hospital and Margaret McCarthy. The petition seeks a hearing under RSA 400-A:17, and an order from the Department requiring Anthem to contract with Frisbee to provide services under the qualified health plans Anthem is offering on the New Hampshire Health Marketplace.

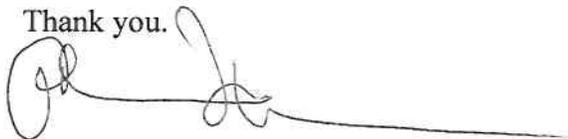
As the Department informed you last week, Commissioner Sevigny intends to hold a hearing in response to the petition. Prior to scheduling a hearing, however, the commissioner must determine what type of hearing it will be. The insurance commissioner has authority under RSA 400-A:17 to hold two types of hearings. The first is a discretionary public informational hearing: the commissioner *may* hold a hearing "for any purpose within the scope of this title as he may deem advisable." RSA 400-A:17, I. The second is an adjudicative hearing involving a determination of the rights of particular parties: the commissioner *shall* hold a hearing "upon written application for a hearing by a person aggrieved by any act or impending act, or by any report, rule regulation, or order of the commissioner." RSA 400-A:17, II.

In sum, there is a preliminary question of whether either of the petitioners has standing to pursue an appeal of the commissioner's decision to approve Anthem's network. In order to determine whether a petitioner is an aggrieved party entitled to an adjudicative hearing, the commissioner has authority to require the submission of additional information, including a sworn affidavit. RSA 400-A:17, III. In this case, the question of standing includes both legal and factual components. While the petition does make some factual assertions purporting to explain each

petitioner's interest in this matter, it does not identify the nature of the legal interest that would give each standing as an aggrieved party, nor does it identify any provision within the Insurance Code that would authorize the commissioner to grant the relief each has requested.

So as to enable the commissioner to determine what type of hearing to schedule, please submit your legal arguments on the issue of standing, together with any affidavits, no later than December 1, 2013. The Department has copied Anthem on this letter, and will also consider any arguments the company may wish to submit by that date.

Thank you.

A handwritten signature in black ink, appearing to be 'CD', with a long horizontal line extending to the right.

Chiara Dolcino
General Counsel

cc Lisa Guertin, Anthem