STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT

In Re: Frisbie Memorial Hospital, et al.

INS No. 13-038-AR

Ruling on Request for Rehearing

On January 10, 2014, Petitioners filed a Request for Rehearing of the Department's December 11, 2013 Order ruling that they lack standing for an adjudicative hearing. In their rehearing request, Petitioners allege that it is unreasonable and/or unlawful for the Department to require them to demonstrate standing for purposes of their entitlement to an adjudicative hearing, without first affording them the opportunity to review records associated with the Department's approval of Anthem's narrow network.

Unlike their Petition and their briefs on standing, Petitioners' rehearing request asserts that Anthem's Marketplace plans do not meet state network adequacy standards. Additionally, Petitioners assert that "without any data, and without access to Anthem's submissions, there is no record upon which they – or the public – can determine whether Anthem's plans are network adequate." Rehearing request at 1. Petitioners further allege that, with access to these documents, they will be able to demonstrate the necessary injury in fact to show standing for an adjudicative hearing. Rehearing request at 7.

On January 14, 2014, in response to a right-to-know request filed by Petitioner Frisbie, the Department pursuant to RSA 420-J:11 made public substantially all of its records relating to the network adequacy review it conducted between May 1 and July 31, 2013 for the Anthem plans. On January 16, 2014, the Department scheduled a public hearing pursuant to RSA 400-A:17, I on its network adequacy review process, and specifically on its review of the Anthem plans, for February 10, 2014.

RSA 541:5 provides that, upon the filing of a motion for rehearing, an agency "shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the commission may prescribe."

I disagree with Petitioners' contention that their original Petition alleged that the Anthem plans do not meet network adequacy standards. Nevertheless, Petitioners are now clearly making this allegation, and, in the interest of procedural fairness, I am persuaded by Petitioners' assertion that they should have the opportunity to make further arguments and factual assertions regarding

the issue of standing after having had the opportunity to review Anthem's network adequacy submissions and the other records regarding the Department's network adequacy review process recently made public by the Department.

Therefore, pursuant to RSA 541:5, the Department hereby GRANTS Petitioners' request for reconsideration, and SUSPENDS its December 11, 2013 order to allow for the submission of additional pleadings and affidavits on the issue of standing, in light of the Department records released on January 14, 2014. Such additional submissions must be made no later than February 17, 2014, with any replies submitted no later than February 24, 2014.

SO ORDERED.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 1-17-14

Roger A. Sevigny, Insurance Commissioner