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November 15, 2021

Debra Dodge
Maine Health Data Organization
151 Capital Street
102 State House Station
Augusta, Maine 04333-0102

RE: 90-590-120 Maine Health Data Organization

Dear Ms. Dodge,

Thank you for the opportunity to comment on the revised Maine Health Data Organization (MHDO) regulations. We hope the following comments serve as a vehicle for open dialogue and continued communication about how best to implement the revised regulations for the MHDO. If beneficial, we would be open to discussing further in a follow up call.

Non-Claims-Based Payments

- With the addition of non-claims-based payments to the MHDO data collection regulation, we understand that the MHDO desires to understand the payment methodologies used in the state more fully. However, MHDO's inclusion of this new information as part of data sets that it will release to external parties is particularly concerning given the MHDO's repeated willingness to release competitive financial information to competitor payers and providers in the state.
- This type of information is considered proprietary financial information and is not normally disclosed by payers without adequate protections and restrictions on use. Forced release of proprietary financial information potentially conflicts with long-established limits on the forced disclosure of trade secrets, and may harm competition in Maine.
- To account for these risks, the MHDO should enhance its protections on data releases to adequately protect proprietary financial information to ensure that this type of information is not released by the MHDO in a manner inconsistent with legal precedent. Removing this information from MHDO's data release schedule would be an important first step to ensure MHDO has acceptable protections in place for proprietary financial information.
- As MHDO continues to consider the collection of non-claims-based payments, we would also welcome additional discussion on the way potential opportunities to

standardize this reporting. We have experience in other states where claims databases have started collecting this type of information and believe our experiences could help further MHDO's goals to better understand the payment methodologies.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Sebastian". The signature is stylized with a large initial "S" and a long horizontal stroke at the end.

Scott Sebastian
Associate General Counsel