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Senator Laurie Monnes Anderson, Chair
Senate Committee on Health Care and Veterans' Affairs

Dear Chair Monnes Anderson:

I am writing this letter at the request of the Oregon Health Fund Board and the Office for Oregon Health Policy & Research to help inform you about all-payer/all provider claims databases. I am the Executive Director of the Maine Health Data Organization (MHDO), an agency of Maine State Government charged with the collection and distribution of health care data submitted by hospitals and payers. I am also the current Chairman of the National Association of Health Data Organizations' Board of Directors as well as a member of the Agency for Healthcare Research and Quality's HCUP Data Advisory Committee. Consequently, I am involved with a number of data collection and standards discussions at the national level.

In Maine, we have been collecting claims data from 53 commercial carriers and 45 third party administrators (TPA's), CMS (Medicare), and the ME Office of MaineCare Services (Medicaid) since January, 2003. Maine is currently the only state to have merged the private and public payer claims data into a comprehensive claims database. In addition, we also are collecting "pseudo-claims" for some of the uninsured population. The database is composed of an eligibility file, separate medical, pharmacy, and dental claims files, and other created tables (e.g.-provider identification tables). We estimate that we are receiving claims data for over 95% of Maine residents who have some type of health insurance coverage and plan on working with the hospitals to include additional "pseudo claims" to cover more of Maine's uninsured population (which is currently around 10%). Maine is also processing claims data in a standard format for the following states: MA, MN, NH, and VT. I have also provided assistance to NY, PA, TN, UT, and WV with their efforts to establish claims databases.

Specifically, the Oregon Health Fund Board and the Office for Oregon Health Policy & Research has asked that I summarize our experience with TPA's submitting claims data to the MHDO. First, let me begin by explaining that, due to the high cost of health care for their employees, some of the most ardent supporters of the establishment of a claims database in Maine were the large, self-insured employers (or plan sponsors), including: Bath Iron Works (a subsidiary of General Dynamics and Maine's largest private employer); Hannaford Bros. (a large East Coast grocery store chain); and L.L. Bean. There were no objections from the plan sponsors for their employee health data



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to be submitted to the MHDO. The only objection to collecting claims data from TPA's came from a Maine-based TPA, which took the position that ERISA pre-empted the MHDO from compelling TPA's to submit data. This particular TPA actually filed for injunctive relief in Federal Court. As a result of that filing, and the decision of the Federal Judge, case law now exists (Civil No. 03-118-P-H Patient Advocates vs. Prysunka) that concludes that data held by TPA's are not assets of plan sponsors and affirms the right of state government to compel TPA's to submit claims data. After the decision, the Maine TPA began submitting data and we have had no other legal challenges re: ERISA.

Second, although some costs were incurred by all payers to write the appropriate computer code to extract and submit the data from their data warehouses, there was no greater outcry from the TPA's vs. the carriers regarding those expenditures. This was probably the result of designing our data submission regulations to conform to national claims standards, the HIPAA mandated electronic claims standards (ASC X12 N) and, for paper claims, the CMS required UB-04 (facility claims) and CMS 1500 (professional claims). Just as all commercial carriers must conform to these standards, so too must TPA's. However, even though our data collection rules are based upon national standards and require data that are commonly available, there are some exceptions. Due to the characteristics of particular product types or benefit structures, situations do exist where some payers (TPA's included) are unable to submit complete data. In those cases, we have worked with the individual data submitters to ascertain the reasons for the omission. If the MHDO determines that the data will never be generated, a permanent data submission exemption is granted or, if system modifications can be made, a temporary exemption is granted (with a timeline for coming into compliance).

Third, the MHDO does possess the statutory/regulatory authority to impose fines against hospitals, carriers, and TPA's for failing to submit data. This is critically important in order to maintain equity and fairness among all of the data submitters. The MHDO has taken the position that receiving the data is more important than collecting dollars from fines. So, while approximately ten fines have been proposed since January of 2003 for failure to submit data, only one fine has been actually levied, and that fine was levied against a carrier with a voluminous amount of missing data, and not a TPA. All of the other payers submitted the data and the fines were waived.

I will conclude by pointing out that TPA's represent almost fifty percent of those entities submitting claims data to the MHDO. If TPA's data were not included in Maine's claims database, there would be a large void of data for a particular segment of covered lives – employees who are covered under a self-insured health plan. If the State of Oregon

hopes to create a meaningful all payer/all provider claims database, it is important that claims generated by TPA's are included – even with missing or incomplete data.

If you have any other questions, or if I can be of any other assistance, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Alan M. Prysunka".

Alan Prysunka
Executive Director
Maine Health Data Organization
Chair, National Association of Health Data Organizations