

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: The Vermont Health Plan Fourth)
Quarter 2014 through Third Quarter 2015) GMCB-015-14-rr
Administrative Charges and Contribution to)
Reserve Rate Filing)
)
)
SERFF No. BCBSVT-129486804)

DECISION & ORDER

Introduction

As of January 1, 2014, Vermont law requires that health insurers submit major medical rate filings with the Green Mountain Care Board which shall approve, modify, or disapprove the filing within 90 calendar days of its receipt. 8 V.S.A. § 4062(a)(2)(B) (*as amended by 2013, No. 79, §5c*). On review of the filing, the Board must determine whether the rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading or contrary to Vermont law. 8 V.S.A. § 4062(a)(3).

Procedural History

On April 4, 2014, The Vermont Health Plan (TVHP) submitted its Fourth Quarter 2014 (4Q14) through Third Quarter 2015 (3Q15) Administrative Charges and Contribution to Surplus Rate Filing via the System for Electronic Rate and Form Filing (SERFF). The Office of the Health Care Advocate (HCA), representing the interests of Vermont consumers of health insurance, entered an appearance as a party to this filing.

On June 3, 2014, the Board posted to the web the actuarial memorandum of its contract actuaries, Lewis & Ellis (L&E),

http://ratereview.vermont.gov/sites/dfr/files/015_14rr_Act_Memo_Final.pdf (L&E Actuarial Letter) and the Vermont Department of Financial Regulation's (Department) analysis and opinion regarding the impact of the proposed filing has on the insurer's solvency. *See* http://ratereview.vermont.gov/sites/dfr/files/015_14rr_Solvency_Analysis.pdf (DRF Solvency Impact Statement).

The Board received no public comments.¹ The parties have waived a hearing pursuant to GMCB Rule 2.000 and each has filed a memorandum in lieu of hearing.

¹ The period during which the Board accepted comments ran from April 8 through June 18, 2014.

Findings of Fact

1. TVHP is a licensed health maintenance organization (HMO) and for-profit subsidiary of Blue Cross and Blue Shield of Vermont (BCBSVT) that provides large group coverage to employers in Vermont.

2. This filing will be used to determine the administrative expenses and contribution to reserve for large groups that renew or enroll from the 4Q14 through 3Q15. This filing impacts 5,610 policyholders and 10,743 covered lives.

3. TVHP developed the administrative charges for this filing using expense data from BCBSVT's data warehouse and accounting records,² and an experience period from January 2013 to December 2013. The carrier trended forward its 2013 costs using historical Consumer Price Index (CPI) for All Urban Consumers – Northeast Region data (CPI-U),³ which produced an estimated annualized trend factor of 1.2%.

4. TVHP proposes a 2.0% contribution to reserve. In support of its request, TVHP explained that the proposed contribution must be sufficient to both offset any rate increase due to trend and the effects of unanticipated events that have long term negative impacts. As illustrative of the latter, TVHP estimated the impact of a major flu epidemic in Vermont and the number of years required to recover from its effects.

5. L&E analyzed the filing and supplementary information provided by the company and recommends that TVHP apply a 0.0% trend, rather than the requested 1.2%, to the company's actual 2013 administration expenses. L&E reasons that future administrative costs are more accurately estimated using TVHP's actual expenses than by using the CPI-U data, and that increased overall membership will allow TVHP to spread its fixed administrative costs over a larger population. L&E Actuarial Letter at 2.

6. L&E also recommends reducing the proposed contribution to reserve from 2.0% to 1.0% stating that the company "did not provide any support for the frequency of an event such as a major flu epidemic or the current need to recover costs from recent experience." *Id.*

² Here, "BCBSVT" refers to both BCBSVT and TVHP, since the data warehouse and accounting systems span both entities.

³ The Consumer Price Index – All Urban Consumers, Northeast Urban, All items, 1982-1984=100, data through February 2014), can be found online at <http://www.bls.gov/data/#prices>.

7. If the Board were to approve the filing as modified per its recommendations, L&E concludes that the filing would produce rates that are not excessive, inadequate or unfairly discriminatory. *Id.* at 3.

8. In its review of the filing's potential impact on carrier solvency,⁴ the Department concludes that the carrier's surplus is adequate and "does not justify a heightened level of regulatory concern." The Department does not support a reduction in administrative charges, however, and states that the charges should be reduced only if "absolutely necessary to prevent the resulting rate from being excessive (i.e., only if GMCB's consulting actuary has expressly opined that the filing will produce rates that are excessive and has therefore proposed adjustments)." DFR Solvency Impact Statement at 3-4, *available at* http://ratereview.vermont.gov/sites/dfr/files/015_14rr_Solvency_Analysis.pdf. In addition, the Department states that reducing the requested 2.0% contribution to surplus "will contribute to an erosion of the sufficiency of BCBSVT's surplus, which could threaten BCBSVT's solvency." *Id.* at 4.

9. TVHP has filed a memorandum of law in which it contends that L&E mischaracterizes the filing's impact because administrative costs have decreased from the previous filing for January renewals, and that membership gains and losses should not be considered when projecting administrative costs because they "have not historically been considered." The Vermont Health Plan, LLC's Memorandum in Lieu of Hearing at 4, *available at* http://ratereview.vermont.gov/sites/dfr/files/15_14rr_TVHP_Memo_AdminCTR.pdf. TVHP further maintains that its proposed contribution to reserve is appropriate because the type of event that may affect the company's reserves "*does not necessarily lend itself to computational determination*" and is therefore best left to the judgment of company management, and that the Department's solvency analysis supports approval of the requested 2.0% contribution to reserve. *Id.* at 2 (emphasis in original).

Standard of Review

1. Vermont law provides that rates submitted by a health maintenance organization must not be "excessive, inadequate or unfairly discriminatory," must protect insurer solvency, must meet standards of affordability, promote quality care and access to health care, and cannot be

⁴ Because TVHP is a wholly owned subsidiary of BCBSVT, the Department's solvency review encompasses both entities.

unjust, unfair, inequitable, misleading or contrary to Vermont law. 8 V.S.A. §§ 5104(a)(2); 4062(a)(3).

2. In arriving at its decision, the Board will consider the analysis and opinion of the Department of Financial Regulation on the impact of the proposed rate on the insurer's solvency and reserves. 8 V.S.A. § 4062(a)(3).

3. The insurer proposing a rate change has the burden to justify the requested rate. GMCB Rule 2.000: Rate Review, § 2.104(c).

Conclusions of Law

4. On review of this filing, we conclude that TVHP has not met its burden for the requested increase in administrative costs. Though we acknowledge that the CPI-U may be a relevant factor to consider when determining trend, we must take into consideration other indicators of actual administrative cost changes. Here, historical data indicates that per-member administrative expenses have been on the decline, and an increase in overall membership allows the company to spread its fixed costs over a larger population base. Accordingly, we agree with our actuaries that administrative expenses should be trended forward at 0.0%, the same trend we employed in our review of TVHP administrative expenses for the last period. *See* Docket no. GMCB-23-13rr, TVHP 4Q13-3Q14 Administrative Expense and Contribution to Reserve Filing, available at <http://gmcboard.vermont.gov/sites/gmcboard/files/023-13-rrDec.pdf>.

5. We also do not find adequate support for the company's 2.0% requested contribution to reserve. TVHP has provided neither quantitative nor qualitative support for the likelihood of a major catastrophe such as a flu epidemic. Absent such support, we cannot defer to the insurer's expertise and judgment based solely on the premise that catastrophes are by their nature unpredictable. Although our actuaries recommend a reduction of TVHP's proposed contribution from 2.0% to 1.0%, we conclude that a 0.5% contribution to reserve both provides the carrier with an adequate buffer against a rise in costs or unexpected expenses, and results in more affordable rates for Vermont health insurance consumers.

Order

For the reasons discussed above, the Board modifies TVHP's 4Q14 through 3Q15 Administrative Charges and Contribution to Reserve Filing by reducing the administrative trend factor to 0.0% and reducing the contribution to reserve to 0.5%, and then approves the filing.

So ordered.

Dated: July 1, 2014 at Montpelier, Vermont.

s/ <u>Alfred Gobeille</u>)	GREEN MOUNTAIN CARE BOARD OF VERMONT
)	
s/ <u>Karen Hein</u>)	
)	
s/ <u>Betty Rambur</u>)	
)	
s/ <u>Allan Ramsay</u>)	

Note: Board member Cornelius Hogan did not participate in the review of this rate filing.

Filed: July 1, 2014

Attest: s/ Janet Richard
Green Mountain Care Board, Administrative Services Coordinator

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by e-mail, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (E-mail address: Janet.Richard@state.vt.us). Appeal of this decision to the Supreme Court of Vermont must be filed with the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.