

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: BlueCross and BlueShield Vermont	)	
2013 Vermont Automobile Dealers' Association	)	GMCB-034-13-rr
Rate Filing	)	
	)	
SERFF No. BCBSVT-129124084	)	
Vermont Filing No. 67217	)	

**DECISION & ORDER**

**Introduction**

On November 25, 2013, the Commissioner of the Department of Financial Regulation recommended that the Green Mountain Care Board modify and then approve BlueCross and BlueShield Vermont's (BCBSVT) Vermont Automobile Dealers' Association (VADA) Rate Filing. In this Decision and Order, the Board accepts the Commissioner's recommendation. The Commissioner shall apply this decision pursuant to 8 V.S.A. § 4062(a).

**Background**

Until January 1, 2014, Vermont law requires a two-step regulatory process for health insurer rate requests: (1) The Department of Financial Regulation reviews each request and makes a recommendation to the Board, 8 V.S.A. § 4062(a); and (2) the Board reviews and approves, modifies, or disapproves the request. 8 V.S.A. § 4062(a)(2)(B); 18 V.S.A. § 9375(b)(6). The Board introduces to this process considerations related to the broad aims of Act 48 such as the extent to which rates are consistent with the goals of containing costs, improving quality of care, and improving the health of the population.

**Procedural History**

On July 19, 2013, BCBSVT submitted its VADA Filing to the Department via the System for Electronic Rate and Form Filing (SERFF). The Department deemed the filing complete on October 28, 2013.

On November 25, 2013, the Commissioner forwarded to the Board a recommendation that it modify and then approve BCBSVT's filing, accompanied by an Opinion letter from Oliver Wyman (OW), the Department's contract actuary. *See* Recommendation for Modification and Approval of BCBSVT 2013-2014 Vermont Automobile Dealers' Association Rate Filing (Recommendation), *available at*

[http://gmcboard.vermont.gov/sites/gmcboard/files/034\\_13rrComRec.pdf](http://gmcboard.vermont.gov/sites/gmcboard/files/034_13rrComRec.pdf); Oliver Wyman Opinion Letter (OW Letter), *available at*

[http://gmcboard.vermont.gov/sites/gmcboard/files/034\\_13rrOpinion.pdf](http://gmcboard.vermont.gov/sites/gmcboard/files/034_13rrOpinion.pdf). BCBSVT and the Office of the Health Care Ombudsman (HCO)<sup>1</sup> filed notices of appearance. A hearing was scheduled for December 11, 2013; both parties waived the hearing and filed Memorandum of Law in lieu of hearing.

The Board has reviewed and considered all materials submitted by the Department and the parties.

### **Findings of Fact**

#### Nature of the filing

1. BCBSVT is a non-profit hospital and medical service corporation that provides major medical, Medicare supplement, and prescription drug coverage to approximately 140,000 Vermonters. The company offers a variety of plans and products in the individual, group and association markets in Vermont. Recommendation at 2.

2. The present filing is a premium rate filing that covers premiums developed by BCBSVT for its business with VADA. VADA offers small group health insurance plans to its member employers and is an exempt association pursuant to 8 V.S.A. § 4080a(h)(3) (repealed effective January 1, 2014). In addition to being an exempt association, VADA meets the definition of a Multiple Employer Welfare Arrangement (MEWA) under the Employee Retirement Income Security Act of 1974 (ERISA), is self-insured and liable for all health insurance claims, and sets its own rates. Recommendation at 2.

3. This rate filing contains premiums developed for a full year effective November 1, 2013. There are 1,407 contracts and 2,301 lives covered under the plan.<sup>2</sup> *Id.*

#### Summary of the Data and Analysis

4. In developing the rates for VADA, BCBSVT used incurred claims for the period March 1, 2012 through February 28, 2013 as the base period experience, with payments through April 30, 2013. VADA chose to purchase stop-loss coverage from BCBSVT for claims in

---

<sup>1</sup> Pursuant to rule, the HCO may participate in the review of rate requests as a party. GMCB Rule 2.000: Rate Review, § 2.105(b).

<sup>2</sup> These numbers are contained in the Commissioner's Recommendation, and are consistent with the numbers in the SERFF filing. The OW opinion differs slightly, stating that "[a]s of February 2013 there were 1,376 contracts in force with 2,257 members." OW Letter at 1.

excess of \$300,000, increasing from the 2012 stop-loss level of \$260,000. This constitutes additional risk for VADA, which BCBSVT states VADA is able to assume. During the base period experience, no claims exceeded \$300,000. OW Letter at 2.

5. BCBSVT adjusted the experience for new mandates and charges, and projected the claims forward to the new rating period using a 4.8% annual trend assumption. VADA chose to lower the expected claims costs by 1.2% based on its opinion the claims were “atypically high.” *Id.* at 2-3.

6. VADA actively negotiates administration fees with BCBSVT each year. The parties have agreed to cap the fee at 10%, resulting in an approximate 12% reduction from the originally proposed administrative expense rates. *Id.* at 4.

7. BCBSVT calculated a rate change of 8.2%, which does not include the cost of the federal transitional reinsurance fee equal to \$5.25 per member per month (PMPM) which will be collected effective January 1, 2014. *Id.* at 5.

8. VADA proposes to increase its rates by 1.9%, rather than the 8.2% calculated by BCBSVT. VADA’s final rates include a 2.5% allowance to VADA that covers consultant fees and administrative support from VADA staff. VADA also intends to provide a 7.0% rate subsidy,<sup>3</sup> and to apply the same increase to all benefit plans rather than vary the increase based on plan design. *Id.*

9. Because it is the primary insurer of its claims, VADA has provided a statement to the Department confirming that it has the reserves to fund claims if the premium rate estimates prove deficient. *Id.* at 5-6. In addition, the Department’s Chief Examiner has concluded that the VADA insurance trust is sufficiently capitalized to support the rate subsidization and financial risk assumed by VADA. Recommendation at 6.

10. OW opines that the BCBSVT calculated rates are reasonable in relation to the benefits and should produce premiums that are not excessive, deficient, or unfairly

---

<sup>3</sup> Explaining how the calculated 8.2% increase relates to the proposed 1.9% change in rate, OW states that the 8.2% change assumed that VADA kept its allowance and subsidy amounts at the same level as those that utilized in 2012. See Finding of Fact ¶ 9, above. Those amounts were 3.2% and 2.0% respectively, as opposed to 2.5% and 7.0% in the current filing. Were the 2012 allowance and subsidy amounts not included in the 2013 rates, the net increase would have been 6.9%. Applying the 2013 adjustments to the 6.9% increase, the result is a net change relative to the prior billed rates of 1.9%. See Recommendation at 6, and Exhibit 1, available at [http://gmcboard.vermont.gov/sites/gmcboard/files/034\\_13rrComRec.pdf](http://gmcboard.vermont.gov/sites/gmcboard/files/034_13rrComRec.pdf).

discriminatory. OW did not opine on the rates expected to be charged by VADA, which include the 2.5% allowance and 7.0% subsidy. OW Letter at 6.

11. The Commissioner recommends that the Board modify the filing by requiring that “all billing statements break out and disclose the total amount of the service charge and not characterize that charge as being part of the approved rate,” and then approve the filing. Recommendation at 6. BCBSVT points out that it does not bill individual VADA group members, and that any order should reflect its existing billing practice and relationship with VADA. BCBSVT Memorandum in Lieu of Hearing, *available at* [http://gmcboard.vermont.gov/sites/gmcboard/files/034\\_13rrBCBS\\_Memo.pdf](http://gmcboard.vermont.gov/sites/gmcboard/files/034_13rrBCBS_Memo.pdf).

### **Standard of Review**

1. Under Vermont law, the Board must “approve, modify, or disapprove requests for health insurance rates” within thirty (30) days of receiving the Commissioner’s Recommendation. 18 V.S.A. § 9375(b)(6); 8 V.S.A. § 4062(a)(2)(B).

2. In reaching a decision, the Board shall consider “the requirements of the underlying statutes; changes in health care delivery; changes in payment methods and amounts; and other issues at the discretion of the Board.” 18 V.S.A. § 9375(b)(6).

3. In addition, the Board reviews the Commissioner’s recommendation for compliance with the standards imposed on the Department under Vermont law. Specifically, the Commissioner’s review must ensure that a rate is “affordable, promotes quality care, promotes access to health care, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this state.” 8 V.S.A. § 4062(a)(3).

### **Conclusions of Law**

4. The Board accepts the Commissioner’s recommendation to approve the 1.9% increase for the groups affected by this filing. The 1.9% increase is well below BCBSVT’s calculated rate increase. Moreover, according to the Department, VADA is sufficiently capitalized for the rate subsidization proposed in the filing.

5. We agree that policy holders must be made aware that the 2.5% VADA service charge is not considered part of the “rate” reviewed by the Department or by the Board. Accordingly, BCBSVT must break out and disclose, on each member group’s billing statement, that there is a 2.5% service charge that is outside of the premium. Rather than require it to do so

retroactively, however, the Board agrees with BCBSVT that it is reasonable to begin such notification in the February 2014 billing, for coverage beginning in March 2014.

**Order**

For the reasons discussed above, the Board modifies BCBSVT’s VADA Filing by requiring that the carrier break out and disclose the 2.5% service charge on each of its member group’s billing statement, and then approves the filing. The Commissioner shall apply this decision pursuant to 8 V.S.A. § 4062(a)(2)(C).

**So ordered.**

Dated: December 24, 2013 at Montpelier, Vermont.

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

Filed: December 24, 2013

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](mailto: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.*