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MEMORADUM

To: Green Mountain Care Board

From: Susan L. Donegan
Commissioner, Department of Financial Regulation

Date: November 25, 2013

Re: Recommendation for Modification and Approval of BCBSVT 2013-2014 Vermont Automobile Dealers' Association Rate Filing (SERFF Tracking No. BCVT-129124084)

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1. Introduction

The Green Mountain Care Board (GMCB) was created by Act 48 of the Vermont Legislature in 2011 to oversee a broad range of health care reforms in Vermont as part of the eventual transition to a publicly-financed single payer system known as Green Mountain Care. The reforms mandated by Act 48 are designed to increase Vermonters' access to quality health care services while at the same time containing the rapid rise of health care costs. Although Act 48 will be implemented in coordination with the federal Affordable Care Act, its reforms go significantly beyond those required by federal law, particularly in the areas of payment reform and cost containment.

Through the remainder of 2013, rate filings for major medical health insurance policies will be reviewed by the Commissioner of Financial Regulation. If the Commissioner finds that the proposed rate satisfies the applicable statutory requirements (see "Standard of Review" below) the Commissioner is required to recommend approval of the rate to the GMCB. The Commissioner can also recommend that the GMCB modify or disapprove the rate. This represents a change from prior statutory procedure, which gave the Commissioner sole discretion to approve or disapprove health insurance rate filings. Once the Board has acted on the Commissioner's recommendation, the Commissioner is responsible for implementing the Board's decision.

2. Brief Description of Company and Filing

BlueCross BlueShield of Vermont (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.

The present filing is a premium rate filing made by BCBSVT on behalf of the Vermont Automobile Dealers Association (VADA). VADA is an "exempt association" of automobile distributors that offers small group health insurance plans to its member employers.[1] It does this through a "cost plus" arrangement with BCBSVT under which BCBSVT provides a variety of health benefit plans to VADA, along with administrative services and stop loss protection,[2] while VADA remains responsible for paying all claims up to the stop loss limit out of its own financial resources.

In addition to being an exempt association, VADA also meets the definition of a Multiple Employer Welfare Arrangement (MEWA) under the Employee Retirement Income Security Act of 1974 (ERISA).[3] As a MEWA, VADA is subject to regulation by the federal government as well as by the state. Applicable federal law includes ERISA's fiduciary protections for participants. These protections require that plan assets be held in trust and used for the exclusive purpose of providing benefits to participants in the plan (and their beneficiaries) and defraying the reasonable administrative expenses of the plan.[4] VADA has established a trust that controls how plan assets are to be used and how assets are to be returned to members in the event of dissolution.

The present filing sets forth the premiums developed by BCBSVT for VADA for the policy year beginning November 1, 2013 and ending October 31, 2014. The filing will affect 1,407 policy holders and 2,301 lives.

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[1] Pursuant to 8 V.S.A. §4080a(h)(3)(A-C) (repealed effective January 1, 2014), the Department was allowed to exempt certain associations from compliance with Vermont's small group requirements. The exemption allowed eligible associations such as VADA to base their premium rates on the claims experience of their members, rather than blending that experience with the experience of the entire small group community.

[2] Stop loss insurance provides a self-insured entity like VADA with protection against unexpectedly high claims. There are two kinds of stop loss insurance: specific and aggregate. Specific stop loss insurance protects employers against individual claims that exceed a chosen dollar threshold (e.g., $100,000). This threshold is known as the specific attachment point. Aggregate stop loss insurance protects employers against total claims that exceed a chosen threshold (e.g., 110% of expected claims liability), after the removal of any amounts that have been reimbursed by specific stop loss insurance.

[3] See 29 USC § 1002. A MEWA is generally an employee welfare benefit plan (also a defined term under ERISA) or any other arrangement that offers or provides benefits to employees of two or more employers, or to their beneficiaries. A MEWA does not include a plan or arrangement pursuant to a collective bargaining agreement, a rural electric cooperative, or a rural telephone cooperative association.

[4] 29 USC § 1103

3. Standard of Review

Section 4512(b) of Title 8 V.S.A. provides that rates submitted by a hospital service corporation such as Blue Cross Blue Shield of Vermont must not be "excessive, inadequate or unfairly discriminatory or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title."

The terms "excessive," "inadequate" and "unfairly discriminatory" all have well-accepted definitions that are codified in the insurance laws of most states. Thus, rates are generally considered excessive if they are likely to produce unreasonably high profits for the insurance provided or if expenses are unreasonably high in relation to services rendered. Rates are considered inadequate if they are insufficient to sustain projected losses and expenses in the class of business to which they apply. Finally, rates are unfairly discriminatory if price differentials for groups of insureds fail to reflect equitably the differences in projected losses and expenses for those groups.

For the purpose of applying the statutory criteria set forth in 8 V.S.A. §4062, the Department has adopted the following definitions.

A. Affordable: A rate change (or trend factor change) is affordable, if:

1. The overall proposed increase is less than 10.0% higher than previously approved overall change; and

2. Following review, the rate or trend factor change is found to be actuarially justified.

3. A proposed rate or trend factor increase of ten percent or greater over the previously approved change is presumptively not affordable, unless, following review, the Department finds that the proposed increase is actuarially justified and is necessary to sustain projected losses and necessary expenses for the class of business in question.

B. Promotes quality of care: The Department does not supervise providers. In the context of rate regulation, a rate or trend factor, whether new or a proposed change, promotes quality of care if the policy forms with which the rate or trend factor will be used have been filed with and approved by the Department. Department approval of the policy forms means that all health care benefits mandated by Vermont law have been provided.

C. Promotes access to health care: A rate or trend factor, whether new or a proposed change, promotes access to health care if it is affordable, as defined above, and if the policy forms with which the rate or trend factor will be associated provide consumers an opportunity to seek an independent review of adverse coverage determinations.

4. Analysis and Recommendation

a. Summary of Analysis by DFR Consulting Actuary, Oliver Wyman

In this filing, VADA is proposing to increase rates for the policy year from November 1, 2013 through October 31, 2014 by 1.9% over the approved 2012-2013 rates. As will be discussed more fully below, the actual rate increase calculated by BCBSVT is higher than 1.9%, but VADA plans to use a portion of its reserves to buy the increase down to a more affordable level.

In developing VADA's rates for the new policy year, BCBSVT used the association's incurred claims for the twelve months from March 1, 2012 through February 28, 2013 as the starting point (i.e., the base experience period). Large claims above VADA's individual stop loss level of $300,000 were removed from the base experience and a "pooling charge" was added that represents the expected amount of such claims during the new rating period.[5] BCBSVT adjusted the experience period claims upward to reflect the estimated cost of complying with new benefit mandates that were not fully effective during the base period (e.g., the women's wellness benefits mandated by the Affordable Care Act and the expanded coverage for autism spectrum disorders mandated by Vermont law). The adjusted claims for the base experience period were then projected forward to the new rating period using a trend factor of 4.8%.[6] To arrive at the final 2013-2014 rates, BCBSVT added to the projected

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[5] Large claim costs can vary significantly from year-to-year. If the experience period contains a higher-than-average number of large claims, an insurer's rate projections may wind up overstating such claims relative to the historical average. In order to reduce the distorting effects of large claim volatility, insurers typically remove such claims from the base experience and add a pooling charge that spreads these costs evenly across a number of years.

[6] A trend factor represents the percentage by which the insurer expects its per capita medical or pharmaceutical costs to increase for policyholders who enroll or renew coverage during the rating period. The 4.8% trend factor applied in developing VADA's new rates was derived from BCBSVT's approved 3Q13 trend filing.

Before incurred claims from the experience period were trended forward, they were first converted from paid claims to allowed claims by dividing them by the average benefit relativity factor for the underlying insurance plans held by VADA members during the experience period. (The term "allowed claims" refers to the total cost of a claim after reduction for provider discounts and includes both the portion of the claim paid by the insurer and the portion paid by the insured. A benefit relativity factor is a ratio that measures the richness of a particular health plan's benefits and cost-sharing features relative to a base or standard plan and that enables the insurer to calculate the premium rate that it should charge for that plan.) After the experience period's allowed claims were trended forward to the new rating period, they were then converted back to paid claims by multiplying them by the projected average benefit relativity factor for VADA plans during the new rating period. The purpose of this exercise is to ensure that the projected claims reflect not only the anticipated increase in medical and prescription claim costs a variety of other expenses including state and federal assessments, stop loss charges, administrative fees and a contribution to surplus representing 0.5% of premium.

Several details of the foregoing rate development need to be briefly noted:

- Based on its belief that the experience period claims underlying the rate development were atypically high, VADA requested BCBSVT to reduce its projected 2013-2014 claims costs by an additional 1.2%. Oliver Wyman compared claims for the experience period underlying this filing to those for the immediately preceding twelve months and concluded that the downward adjustment in expected claims was appropriate. (Actuarial Opinion at 3-4).

- The individual stop loss premiums included in the rate development were based on BCBSVT's proposed 2013 stop loss charges rather than the lower premiums subsequently approved by the Board. (GMCB-020-13rr). If the approved charges had been used, the calculated rate need for this block would have been 0.1% lower. (Opinion at 4). However, in light of the fact that VADA is dipping into its reserves to provide a 7.0% rate subsidy (see next full paragraph), using the approved rather than filed stop loss charges would have no effect on the rates to be charged to VADA members.

- Like other exempt associations that provide some administrative services to their members, VADA actively negotiates the administrative expense component of its rates with BCBSVT. This year the parties agreed to cap any increase in administrative fees at 10% above last year's rate. According to Oliver Wyman, the effect of this cap is that the administrative expenses loaded into the VADA rate by BCBSVT are approximately 9.5% lower than they would have been using BCBSVT's approved 4Q13-3Q14 administrative charges. (Opinion at 5).

- The final "billed rates" as set forth in Exhibit VIII of the filing include a 2.5% service charge that VADA assesses on its members to cover the cost of consultant and administrative services performed by VADA staff. (Opinion at 5-6). Such service charges are not unusual for exempt associations that provide separate administrative services to their members and this year's charge is 0.7% lower than last year's as a result of what VADA describes as lower overhead

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drug costs, but also anticipated changes in member cost sharing from the experience period to the new rating period.

costs and improved administrative efficiencies. (Opinion at 6). Since the Department does not review the reasonableness of the service charge, its practice for the last two years has been to recommend that such charges be broken out separately on the member's bill and not characterized as being part of the approved rate. The Commissioner will address this issue in her recommendation.

Using the methodology described above, the calculated rate increase for the VADA block is 6.9%. After adjusting for the 2.5% service charge and the 7.0% subsidy from reserves, however, the net increase over last year's rates is 1.9%.[7] As noted above, VADA's reserves are subject to the fiduciary protections imposed by ERISA and the association's own insurance trust. However, the Department's Chief Examiner has reviewed the most recent audited financial statements of the VADA Insurance Trust and discussed subsequent financial results with VADA's Executive Director. It is the opinion of the Chief Examiner that the trust is adequately capitalized for the rate subsidization proposed in this filing and has sufficient capital to bear the risk assumed through the cost-plus arrangement with BCBSVT.

b. Commissioner's Recommendation

Since the Department does not review the reasonableness of VADA's service charge, the Commissioner recommends that the Board modify the VADA 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.[8] After this modification is made, the Commissioner recommends approval of the 2013-2014 VADA rate filing. The proposed 1.9% rate increase is affordable and Oliver Wyman has stated that, from an actuarial standpoint, the rate is not excessive, inadequate or unfairly discriminatory. In addition, the Department's Chief Examiner has concluded that the VADA insurance trust is sufficiently capitalized to support both the proposed level of rate subsidization and the financial risk assumed through the cost plus arrangement with BCBSVT.

/s/ Susan L. Donegan
Susan L. Donegan, Commissioner

[7] The formula showing how the service charge and the subsidy interact with the calculated overall increase to produce a net increase of 1.9% is set forth in an e-mail from the Department's contract actuary attached to this recommendation as Exhibit 1.

[8] The Department recommended, and the Board required, similar disclosures in MVP Health Insurance Company's 2014 Agri Services rate filing (GMCB-028-13rr) and in BCBSVT's 2013 Vermont Association of Chamber Executives rate filing (GMCB-030-12rr).

SUPPLEMENTAL INFORMATION

1. Insurance Company's Plain Language Summary

Not applicable to this rate filing because there is not a proposed rate increase of 5.0% or greater. *8 V.S.A. §4062(c)*.

2. General Information Pertaining to Rate or Trend Filing

a. Company: BlueCross BlueShield of Vermont

b. Title of Rate Filing: 2013 Vermont Automobile Dealers Rate Filing.

c. Rate Proposal: VADA is proposing to increase its rates for the 2013-2014 policy year by 1.9%.

  i. New Rate: Yes.

  ii. Rate Change: Yes.

d. Range of Proposed Rate Change: 1.9%.

e. # of Policies Impacted: 1,407.

f. # of Covered Lives Impacted: 2,301.

3. Filing Information

1. Date of Submission: 7/19/2013.
2. Date Assigned to Rate Analyst: 7/19/2013.
3. Date Filing Deemed Complete: 11/6/2013.
4. Date Filing Posted on Dept. website: 7/19/2013.
5. Date Ending Public Comment: Not applicable.
6. SERFF Tracking Number: BCVT-129124084.

4. Actuarial Review

The rate filing was reviewed by the Department of Financial Regulation's contracted actuary. The actuary's opinion is included as an addendum to this report and marked as Attachment 1.

5. Public Comment

The filing was not subject to public comment because there is not a proposed rate increase of greater than 5.0%. *8 V.S.A. §4062(d)(2)*.

Phil,

In the VADA filing, with respect to your question regarding how the calculated 8.2% change relates to the proposed 1.9% change, please note that the 8.2% change is the calculated change that would be applied assuming that VADA kept its allowance and subsidy amounts at levels equal to those applied in the 2012 rates, which were 3.2% and 2.0% respectively. If those allowance and subsidy amounts were not included by VADA in the 2013 rates, the net increase over the prior rates would be reduced to 6.9% (i.e. [1.082 /(1.032 / 1.02)]). However, instead of removing these amounts, VADA is applying an allowance of 2.5% and subsidy of 7.0%. When these adjustments are applied to the 6.9% increase, they result in a net change relative to the prior billed rates of 1.9% (i.e. 1.069 x 1.025 x 0.93)

Ultimately, the difference between the 8.2% and 1.9% reflects the difference between VADA's allowance and subsidy amounts included in the 2012 filing relative to the comparable amounts included in the 2013 filing. For example:

- The difference between the proposed 1.9% increase and calculated 8.2% increase is approximately -5.8% (i.e. 1.019 / 1.082 - 1)
- The difference between the net result of VADA's allowance and subsidy amounts included in the 2012 filing and those proposed in the 2013 filing is also approximately -5.8% (i.e. [1.025 * 0.93] / [1.032 * 0.98] - 1).

Please let me know if you have any additional questions.

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