

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: BCBSVT 2017 Vermont)
Health Connect Rate Filing) GMCB 08-16-rr
SERFF No. BCVT-130567350)

HEALTH CARE ADVOCATE RESPONSE TO BLUE CROSS BLUE SHIELD
MOTION FOR RECONSIDERATION

Blue Cross Blue Shield of Vermont (BCBSVT) filed its Motion for Reconsideration of the Green Mountain Care Board’s (the Board’s) August 9, 2016 Decision in this matter on August 16, 2016. BCBSVT asks the Board to reconsider the modifications to the carrier’s requested rate contained in the decision that reduced the FY 2017 assumed increase in unit cost trend attributable to Vermont providers subject to the Board’s hospital budget review from 2.9% to 2.2% and reduced the assumed utilization component of medical trend from 1.0% to 0.5%. The Office of the Health Care Advocate (HCA) opposes this Motion for Reconsideration.

The Board’s Health Insurance Rate Review Rule, Rule 2.00, does not describe the process or criteria for filing a Motion for Reconsideration of a Board decision. The Board’s August 16, 2016 order states simply that *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.* A motion for reconsideration “should not be granted where the moving party seeks solely to relitigate an issue already decided.” *Shrader v. CSX Transp. Inc.*, 70 F.3d 255, 257 (1995). See also *V.R.C.P. 59(e)*; *Rubin v. Sterling Enterprises, Inc.*, 164 Vt. 582, 588 (1996). “The motion for granting such a motion is strict and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that

the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” Id.

The Board’s Decision was based on all of the evidence at the July 20, 2016 hearing in this matter and on Responses to questions the Board posed to BCBSVT after the hearing that were provided in a letter from BCBSVT actuary Paul Schultz on August 2, 2016. The Motion for Reconsideration, in arguing against the Board’s reduction of unit cost trend assumptions from 2.9% to 2.2% simply repeats the arguments provided by BCBSVT in Mr. Schultz’s letter and considered by the Board in making its decision and is an attempt to relitigate the issue decided by the Board. Similarly, BCBSVT’s argument against the proposed reduction in medical trend does not contain any new information that the Board overlooked in its decision.

The HCA agrees with the Board that “[b]ased on its substantial market share, efficient financial management, status as a non-profit entity operating in the best interest of its subscribers, and ability to influence both the timing and outcome of contract negotiations, we believe that BCBSVT must work to reduce premium growth by placing reasonable and measured limits on provider rate increases.” Decision at pages 8-9. The reduction of BCBSVT’s unit cost growth to the 2.2% commercial rate increase reflected in the current hospital budget submissions is a reasonable limit on provider rate increases. If the Board simply approves the carrier’s unit rate assumptions, this will signal to providers that they can and will receive the rate increases included in a rate review filing. Conversely, modifications to the amount allowed for provider increases in this filing should enhance BCBSVT’s negotiating power with the providers.

We also agree with the Board’s decision to reduce the medical trend utilization component. As the Board found, “the carrier’s ability to target a lower utilization level than

reflected in recent member experience is indicative of its overall capacity to impact utilization levels” and BCBSVT’s “integrated health management practices” initiative is an example of a program the carrier uses to affect utilization. Decision at page 9.

BCBSVT argues in its Motion for Reconsideration that the modifications included in the Board’s decision “effectively reduce BCBSVT’s CTR to 1 percent.” This is true only if BCBSVT cannot reduce unit cost trend and/or the assumed utilization portion of medical trend. Moreover, as discussed in the HCA’s Post Hearing Memorandum, due to its strong financial position, BCBSVT does not require the 2% CTR requested in the filing.

The Board’s modifications to the rate increase requested for this filing will make the rate more affordable which will in turn promote access to health care. These factors are not addressed in the BCBSVT rate development or in the actuarial analysis of the rate filing by Lewis & Ellis, but they are factors that the Board must consider in reviewing BCBSVT’s request for a rate increase. 8 V.S.A. §§ 4512(b); 4062(a)(2), (3); GMCB Rule 2.000, §§ 2.301(b), 2.401. For the reasons discussed in the HCA’s Post Hearing Memorandum, even the 7.3% rate increase approved by the Board will be very difficult for Vermonters to afford in the current economic climate.

For all of these reasons, the HCA asks the Board to deny BCBSVT’s Motion for Reconsideration of the August 9, 2016 decision in this filing.

Dated at Montpelier, Vermont this 19th day of August, 2016.

s/ Lila Richardson
Lila Richardson

CERTIFICATE OF SERVICE

I, Lila Richardson, hereby certify that I have served the above Memorandum on Judith Henkin, General Counsel to the Green Mountain Care Board, Noel Hudson, Health Policy Director of the Green Mountain Care Board, and Jacqueline Hughes, representative of Blue Cross Blue Shield of Vermont, and Paul Schultz and Martine Brisson-Lemieux of Blue Cross and Blue Shield of Vermont by electronic mail, return receipt requested this 19th day of August, 2016.

s/ Lila Richardson

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