

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc.)	
2017 Vermont Health Connect Rate Filing)	
)	GMCB-07-16rr
)	
SERFF No. MVPH-130558905)	

HCA POST-HEARING MEMORANDUM

We ask the Board to adopt Lewis and Ellis’s (L&E’s) recommendation to lower MVP’s average rate increase to 3.7%. L&E’s recommended method for projecting MVP Health Plan Inc.’s (MVP’s) future risk adjustment costs is based on more reliable data and therefore results in a more precise prediction than MVP’s. Further, L&E’s recommendation will lower MVP’s rate increase, which will increase affordability for Vermonters.

I. Background

On May 11, 2016, MVP submitted its 2017 Exchange filing, requesting an average rate increase of 8.8% across plans. On July 8, 2016, the Vermont Department of Financial Regulation (DFR) submitted its Solvency Analysis for the filing. DFR stated in the Solvency Analysis that because MVP’s primary regulators in New York have not given any indication that they are concerned about MVP’s solvency and MVP’s Vermont business makes up only 3.7% of MVP’s total premiums, “DFR has determined that [MVP’s] Vermont operations pose little risk to its solvency.”

On July 11, 2016, Lewis and Ellis (L&E), the Board’s actuarial firm, submitted its recommendation for the filing.¹ L&E came to two conclusions both lowering MVP’s rate increase: 1) MVP should “modify the normalization for AV and induced utilization to be the

¹ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion.

weighted average of the combined factor (rather than combined impact of the weighted averages). This change results in a decrease in the proposed rates of 0.5%”; and 2) MVP should “[r]educe the projected risk adjustment payment from \$29.42 to \$9.75. This change results in a decrease in the proposed rates of 4.2%.”²

MVP responded to L&E’s recommendation by submitting an amended proposal on July 13, 2016, which requested an average rate increase of 6.3%. In the letter, MVP agreed with L&E’s first recommendation which reduced the rates by 0.5%.^{3, 4} In reaction to L&E’s second recommendation, MVP proposed another method of projecting its risk adjustment payment, different than MVP’s original method and L&E’s recommended method. MVP’s new method reduced MVP’s original proposed increase by 1.8%.⁵

II. Standard of Review

Health insurance organizations operating in Vermont carry the burden to justify their proposed rates.⁶ Before implementing rate changes in Vermont, insurers must obtain the Green Mountain Care Board’s approval.⁷ The Board has the power to approve, modify, or disapprove requests for health insurance rates.⁸

When “deciding whether to approve, modify, or disapprove each rate request, the Board shall determine whether the requested rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency; is not unjust, unfair, inequitable, misleading, or contrary to law, and is not excessive, inadequate, or unfairly discriminatory.”⁹ In addition, the Board must

² GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 10.

³ GMCB-07-16rr, Exhibit 11: July 13, 2016 MVP Letter to GMCB re: MVP Proposed Rate Increase Modification.

⁴ As MVP has agreed to this change, this memo will not address the issue further.

⁵ GMCB-07-16rr, Exhibit 11: July 13, 2016 MVP Letter to GMCB re: MVP Proposed Rate Increase Modification.

⁶ GMCB Rule §2.104(c).

⁷ 8 V.S.A. §4062 (a); 8 V.S.A. §5104(a).

⁸ 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a).

⁹ GMCB Rule §2.301(b); GMCB Rule §2.401; 8 V.S.A. §4062(a)(3).

consider the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, the Department of Financial Regulation's Solvency Analysis; and other issues at the discretion of the Board.¹⁰ Further, the Board "shall consider any [public] comments received on a rate filing and may use them to identify issues."¹¹

III. Analysis

MVP's risk adjustment prediction is inflated by unreliable data from 2014 and results in an unaffordable rate increase. It is therefore an unjustified cost to policyholders.

The Center for Medicare and Medicaid Services (CMS) states that the federal government created the risk adjustment program "[t]o minimize the negative effects of adverse selection and foster a stable marketplace."¹² The risk adjustment program works by transferring money on a yearly basis "from issuers with lower risk enrollees to issuers with higher risk enrollees."¹³

a. MVP's Methodology

MVP methodology for estimating its 2017 risk adjustment payments raises MVP's rates compared to L&E's method.¹⁴ MVP argues that its method is superior because MVP incorporates its 2014 risk adjustment data while L&E does not.¹⁵ MVP originally estimated its 2017 risk adjustment payment would equal 2/3 of its 2014 payment.¹⁶

¹⁰ GMCB Rule §2.401; *see also* 18 V.S.A. §9375(b)(6).

¹¹ GMCB Rule §2.201(d).

¹² Centers for Medicare and Medicaid Services, Risk Adjustment Implementation Issues, https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/risk_adjustment_implementation_issues.html.

¹³ Centers for Medicare and Medicaid Services, Risk Adjustment Implementation Issues, https://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/risk_adjustment_implementation_issues.html.

¹⁴ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 8; GMCB-07-16rr, Exhibit 11: July 13, 2016 MVP Letter to GMCB re: MVP Proposed Rate Increase Modification.

¹⁵ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 9, lines 9-14.

¹⁶ GMCB-07-16rr, Exhibit 1: May 11, 2016 MVP Rate Filing, p. 25.

An interim report by CMS released March 18, 2016, warned MVP that the 2015 risk adjustment results would drastically reduce the amount of money MVP had to pay into the risk adjustment program compared to the 2014 results.¹⁷ Yet, after MVP received the final 2015 risk adjustment results from CMS on June 30, 2016, MVP originally refused to lower the estimated 2017 risk adjustment payment incorporated into its rates. When L&E asked MVP about the 2015 results, MVP stated that the new results “do not raise any concerns for MVP related to our proposed rates.”¹⁸ Finally, after MVP received L&E’s Actuarial Opinion that concluded that MVP’s method for projecting its risk adjustment payment methodology was unsound, MVP submitted a revised rate proposal.¹⁹ MVP’s revised proposal created a new way to project its 2017 risk adjustment payment by putting 1/3 weight on the 2014 results and 2/3 weight on the 2015 results.²⁰

Although MVP tried to avoid using the 2015 data, and MVP argues that its risk adjustment methodology is superior to L&E’s solely because MVP incorporates the 2014 data, MVP has consistently stated that the 2014 data is not reliable. MVP did not incorporate the 2014 data into its risk adjustment payment projections for 2016.²¹ When L&E asked MVP about its choice not to use the 2014 data last year, MVP responded that it “did not believe that 2014 risk adjustment results should be used to indicate a carrier’s relative risk position in 2016 for a number of reasons” which included, 1) many members in 2014 were not enrolled for a full year, which could “skew” MVP’s relative risk position; 2) the 2014 results do not reflect the small

¹⁷ Centers for Medicare and Medicaid Services, March 18, 2016, Interim Summary Report on Risk Adjustment for the 2015 Benefit Year, available at https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/InterimRAReport_BY2015_5CR_032816.pdf

¹⁸ GMCB-07-16rr, Exhibit 6: July 5, 2016 MVP Response Letter #5, p. 1, Q1.

¹⁹ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 7-8; GMCB-07-16rr, Exhibit 11: July 13, 2016 MVP Letter to GMCB re: MVP Proposed Rate Increase Modification.

²⁰ GMCB-07-16rr, Exhibit 11: July 13, 2016 MVP Letter to GMCB re: MVP Proposed Rate Increase Modification.

²¹ GMCB-07-15rr, MVP’s Response to Objection Letter, July 1, 2015, p.1, Q2.

group expansion to 100 employees; 3) 2/3 of the membership that MVP included in the experience period data to calculate MVP's proposed 2016 rates was not enrolled in ACA compliant plans; and 4) CMS's risk adjustment model is changing for 2016 dates of service.²²

This year, MVP again responded to questions from L&E about its risk adjustment assumptions by saying that 2014's "extended open enrollment period...puts a high degree of uncertainty around every carrier's relative risk position in 2014."²³ MVP's actuary repeated this view at the hearing stating, "2014 risk adjustment results...weren't as trustworthy because a lot of people did not enroll in the exchange until May of 2014. So that could skew the risk score of the members."²⁴

Further, MVP cannot explain why it weighs the 2014 data by 1/3 and the 2015 data by 2/3. When MVP's attorney asked its actuary at the hearing how he came up with this methodology, he responded that the choice "is a little bit more of an art than a science."²⁵

Jackie Lee, Vice President and Principal from L&E, testified at MVP's hearing that it is not appropriate for MVP to hedge on the side of higher risk adjustment costs to guard against possible volatility.²⁶ She explained that the practice for the Vermont Health Insurance Exchange plans has been for insurers to guard against volatility through their contributions to reserve, not by padding assumptions in the filing.²⁷ She further testified that she believes MVP's contribution to reserve of 1% is reasonable.²⁸

²² GMCB-07-15rr, MVP's Response to Objection Letter, July 1, 2015, p.1, Q2.

²³ GMCB-07-16rr, Exhibit 2: June 1, 2016 MVP Response Letter #1, p. 6, Q16.

²⁴ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 31, lines 18-21.

²⁵ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 56-57, lines 5-7.

²⁶ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 85-86, lines 14-24: 1-9.

²⁷ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 85-86, lines 14-24: 1-9.

²⁸ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 85-86, lines 14-24: 10-13.

b. L&E's Methodology

In contrast, L&E's method for calculating MVP's 2017 risk adjustment payment applies ample, reliable data, resulting in a more accurate projection: MVP's risk adjustment payments should be "substantially lower" than the amount MVP had proposed in either its original filing or its amendment.²⁹ L&E chose to avoid the flawed 2014 data.³⁰ Instead, L&E started with benefit year 2015 risk adjustment data from both BCBSVT and MVP, more information than either carrier had available.³¹ L&E's method incorporated "known changes to premium levels and Exchange eligibility, as well as other shifts in the Vermont healthcare market."³²

Jackie Lee from L&E testified that L&E's risk adjustment calculation used "plan-by-plan risk scores including membership, and we took that data in conjunction with all of the other data that we had for them."³³ Rather than making assumptions, the confidential information from both insurers allowed L&E to map a particular group into a particular plan, resulting in "very precise calculations."³⁴

c. Affordability

Both MVP's original rate increase request of 8.8% and its modified proposal of 6.3% far outpace average wage growth in Vermont in recent years. The Vermont Department of Labor posts information on average per capita personal income in Vermont up until 2015.³⁵ From 2012-2015, average wages increases in Vermont have ranged from 1.2% to 3.5%.³⁶ According to the

²⁹ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 8.

³⁰ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 7-8; GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 108, lines 13-23.

³¹ GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 8.

³² GMCB-07-16rr, Exhibit 9: July 11, 2016 Lewis & Ellis Actuarial Opinion, p. 8.

³³ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 81, lines 14-20.

³⁴ GMCB-07-16rr, 2017 MVP Exchange Hearing Transcript, July 21, 2016, p. 89-90, lines 9-25: 1-7.

³⁵ Per Capita Personal Income, Vermont Department of Labor, Economic & Market Information, <http://www.vtlmi.info/pcpivt.htm>.

³⁶ Per Capita Personal Income, Vermont Department of Labor, Economic & Market Information, <http://www.vtlmi.info/pcpivt.htm>.

most recent consumer price index, prices for “all items” have increased an average of 1% in the past 12 months, and prices for “medical care services” have increased 3.8%.³⁷

The Green Mountain Care Board has received over a hundred public comments on the proposed rate increases for the Exchange plans. Overwhelmingly, these Vermonters call attention to the lack of affordability and access to care for individuals, families, and small businesses, resulting from the high proposed increases for the only plans many are eligible to purchase in Vermont. A few excerpts:

- “I work 2 jobs sometimes 3 which is why I can currently afford health insurance. But I’m not sure I will be able to afford it if it keeps going up. It’s the most expensive bill I have besides my mortgage.”³⁸
- “Every time insurance rates increase, my family is forced to make decision about whether to continue to pay for health insurance, whether to pay utility bills, and if we can afford the groceries and [our other expenses]. This is an embarrassing and unsustainable state of affairs. This is not the type of decision any family should be forced to make.”³⁹
- “We have been forced to purchase from the Exchange with the promise of reduced health care insurance premiums going forward. Please deliver on that promise.”⁴⁰

³⁷ CPI Detailed Report, Data for June 2016, U.S. Bureau of Labor Statistics, <http://www.bls.gov/cpi/cpid1606.pdf>.

³⁸ Green Mountain Care Board Public Comments: Meg McGuire, July 26, 2016 at 3:19pm.

³⁹ Green Mountain Care Board Public Comments: Emily Dwyer, July 26, 2016 at 3:39pm.

⁴⁰ Green Mountain Care Board Public Comments: Joyce Dicianna, July 22, 2016 at 3:20pm.

IV. Conclusion

By using 2014 data that it admits is unreliable to predict its 2017 risk adjustment payments, MVP has not met its burden of proof. We ask the Board to apply L&E's risk adjustment payment methodology to better determine MVP's future costs and increase affordability for Vermonters.

Dated at Montpelier, Vermont this 29th Day of July, 2016.

/s/ Kaili Kuiper
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CERTIFICATE OF SERVICE

I, Kaili Kuiper, 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 Gary Karnedy, MVP Health Plan representative, by electronic mail, return receipt requested, this 29th day of July, 2016.

/s/ Kaili Kuiper
Kaili Kuiper
Staff Attorney
Office of the Health Care Advocate