

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield Vermont)	
3Q 2018 Large Group Rating Program Filing)	GMCB-03-18-rr
)	
and)	
)	
In re: The Vermont Health Plan, LLC)	
3 rd Q 2018 Large Group Rating Program Filing)	GMCB-04-18-rr

Blue Cross and Blue Shield of Vermont’s Memorandum in Lieu of Hearing

Blue Cross and Blue Shield of Vermont (BCBSVT)¹ requests the Green Mountain Care Board (GMCB) approve its 3Q 2018 large group rating program filing as filed, without modification as recommended by the Board’s independent expert Lewis and Ellis (L&E). The change to the rating formula and rating factors, combined with an additional year of trend, contributes 11.2 percent toward proposed rate increases. The actual rate impact for any particular customer – and the overall average rate increase – will be driven by the claims experience in the period used to develop rates, premium currently in force, and underwriting judgment and management discretion applied to the case.

This filing provides the formula, manual rate and factors that will be used to determine the rates of experience rated groups, including large groups and grandfathered groups with 51-100 employees.² The factors in the filing are the medical and pharmacy trends, benefit relativities, administrative costs, federal fees, contribution to reserve, aggregate stop loss and large claim factors that will be applied to large group rates for the period covered by the filing.

L&E has recommended that the GMCB approve this rate request without modification.³ The Commissioner of the Department of Financial Regulation found that “any downward adjustments to the filing’s rate components that are not actuarially supported will

¹ The GMCB has indicated that it will combine these dockets and issue one decision covering both filings. As a result, for purposes of this memorandum, all references to BCBSVT are defined and intended to include TVHP.

² Grandfathered groups with 51-100 employees became reclassified as small groups by operation of Vermont law effective January 1, 2016. BCBSVT’s approach to rating them has not changed and their inclusion is immaterial to the rate calculation.

³ Lewis & Ellis May 14, 2018 actuarial reports and opinions on these dockets

reduce BCBSVT's surplus."⁴ BCBSVT has lost between 3.5 percent and 5.3 percent in each of the last three years,⁵ on this line of business, partially driven by an inadequate manual rate⁶ In order to rebase the manual rate to an adequate level, BCBSVT has included a one-time adjustment in its filing of 5.1 percent. The one-time adjustment, in conjunction with the other factors supported in the filing, is necessary to avoid further losses and instead produce results near the requested 1.5 percent contribution to reserve (CTR).

In its most recent large group decision, the Board departed from the recommendations of L&E and the Commissioner and imposed reductions to specific factors. While the recommendations of L&E and the Commissioner in conjunction with recent results are sufficient and reliable evidence to allow the Board to approve the formula and factors as filed, we address three additional points specifically that should be considered.

First, L&E's estimated range for the medical utilization trend is understated. Remarkably, their range of 1.5 percent to 3.0 percent is lower than the most recent result from experience.⁷ It is also lower than the results produced by many time series and regression analyses performed by BCBSVT. In the past, the Board has made adjustments to trend within L&E's expected range of results.⁸ In this instance, it would be inappropriate to make adjustments to medical utilization trend on the basis of a proposed range that fails to bracket the most recent demonstrable result.

Second, L&E's estimated range for pharmacy trend is based on a simplified analysis that includes a downward bias in results due to inappropriate methodology. BCBSVT provided substantial evidence supporting pharmacy utilization trends of 19.2 percent for specialty and 2.4 percent for non-specialty (both figures are before contract changes, which are considered separately from trend in the pharmacy development). Over time, simple algebra will show that overall pharmacy trend must necessarily converge toward the higher of those two trend components. By combining these two types of drug trends into a single analysis, L&E

⁴ Department of Financial Regulation May 15, 2018 solvency reports and opinions, p. 1 (hereinafter DFR)

⁵ See, BCBSVT actuarial memorandum, p.35 (loss and expense ratios were 103.6 percent in 2015, 103.5 percent in 2016 and 105.3 percent in 2017)

⁶ BCBSVT April 25 response to L&E interrogatories, question 6, pp. 4-5

⁷ L&E, p.8

⁸ BCBSVT has repeatedly made its position clear that the Board should not make any adjustment at all to an assumption that has been found by the Board's expert to be "reasonable and appropriate" and that it is empirically inappropriate to make adjustments to the bottom of the range.

erroneously produces a trend range that is understated by approximately 0.8 percent even with their simplified methodology. Reducing the BCBSVT trend below the filed level will result in reductions to BCBSVT's surplus.

Third, the GMCB should not further reduce BCBSVT's medical unit cost assumptions below those L&E determined to be reasonable and appropriate. The Board has previously cited BCBSVT's "negotiating leverage" as a reason to reduce unit cost trend. However, this Board assumption is directly contradicted not only by BCBSVT's repeated testimony on this point but also by testimony of the largest Vermont hospital system during recent hospital budget overage hearings.⁹

We will explore each of these three points as well as the other factors in further detail immediately below, followed by a review of the key findings and recommendations made by L&E and the Commissioner. We will conclude with our request to approve the formula and factors as filed.

Factor-By-Factor Analysis

The key findings and recommendations in L&E's May 14, 2018 report to the GMCB with respect to this filing (and BCBSVT's rebuttal to two faulty implicit assumptions made by L&E on medical trend and pharmacy trend) are as follows.

Medical Trend: L&E found that BCBSVT's underlying data "supports a substantial, non-zero utilization trend." L&E, p. 8. L&E provided its best estimate for projected utilization trend as 2.25 percent but did not explain why the most recent data point – an observed 3.6 percent utilization trend in the most recent 12-month period analyzed – fell outside their expected range of results. *Id.* Furthermore, several time series and regression analyses performed by BCBSVT produced results that are higher than L&E's range. As a result of these contradictions, the range that L&E provides of 1.5 to 3.0 percent is much more likely to be inadequate at the lower end than L&E has projected. L&E also examined the projected unit cost trend of 2.8 percent and found it to be reasonable and appropriate. *Id.* If GMCB-ordered increases vary materially from what we have filed, the appropriate remedy would be to submit an interim trend filing that follows the methodology L&E found reasonable and appropriate but includes actual ordered increases. Note that UVMMC has testified before the GMCB that negotiated increases do not vary from the GMCB order. See footnote 9. Taking these two inputs, L&E provided a total allowed medical trend range of 4.1 percent to 6.1 percent, but this range is based on the faulty input noted above and is extremely likely to be inadequate at the lower end given L&E's disregard of the higher, most recently observed, utilization trend. L&E concludes that BCBSVT's proposed trend of 5.9 percent is reasonable and

⁹ Testimony of Todd Keating before GMCB regarding FY 2017 Actual Results, February 28, 2018.

appropriate but is on the high side of L&E's range. Id. Had L&E given appropriate weight to the most recent utilization trend results, its own range would have been higher. Given this information, it would be at best imprudent for the Board to select any point below the point selected by BCBSVT. We urge the Board to review this L&E finding and request that L&E revise its report.

- Pharmacy Trend: L&E found that BCBSVT's allowed pharmacy trend of 9.7 percent was reasonable and appropriate. Id., p. 9. L&E also reviewed BCBSVT's adjustment for the generic dispensing rate and found BCBSVT's approach to be reasonable and appropriate. It also reviewed BCBSVT's adjustment for expensive specialty drugs and found BCBSVT's projections to be reasonable and appropriate. Id. L&E performed calculations to determine its best estimate of pharmacy trend and derived a result of 7.8 percent. Unfortunately, L&E's calculations failed to account for the fact that specialty and non-specialty drugs are trending at two very different rates (with specialty much higher than non-specialty) and, mathematically, this means that the overall trend will tend toward the higher of the two trends over time. As a result, L&E's best estimate for pharmacy trend is demonstrably understated by at least 0.8 percent. We urge the Board to review this L&E finding and request that L&E revise its report. Furthermore, the Board should not place weight on a simplistic methodology as opposed to the far more sophisticated BCBSVT methodology that L&E has found (for many years) to be "reasonable and appropriate." Any reduction below the filed pharmacy trend is extremely likely to result in reductions to BCBSVT's surplus.
- Leveraged Adjustments to Allowed Trends: L&E found that BCBSVT's approach to adjust allowed trends to paid trends is reasonable and appropriate. Id.
- Administrative Costs: L&E found that BCBSVT's increase in administrative costs of 16.6 percent (which translates to an increase of 1.2 percent to premiums) to be reasonable and appropriate. Id., p. 10. The increase was attributable to the following components: administrative trend, decrease in BCBSVT membership, as well as correcting an earlier misapplication of trend and the prospect that 64 large groups expected to renew in 2019 have higher administrative costs than the average across all large groups. L&E also found that BCBSVT's assumptions for each component was reasonable and appropriate. Id.
- Federal Fees: The federal insurer fee has been suspended for 2019, so BCBSVT estimated that the fee will decrease premiums by 2.1 percent in 2019. L&E found this change to be reasonable and appropriate. Id.
- Contribution to Reserve: CTR supports the overall financial health of the company for the benefit of all members. BCBSVT proposed a reduction of CTR to 1.5 percent for fully insured groups and 0.375 percent for Cost Plus groups due to the Tax Cuts and Jobs Act of 2017 which is expected to reduce taxes to 0.0 percent for 2018. While L&E found that a CTR of 1.8 percent is required to maintain Risk Based Capital levels at the midpoint of BCBSVT's target range merely for expected increases in claims volume, it

also found that the proposed CTR of 1.5 percent for fully insured groups and 0.375 percent for Cost Plus groups to be reasonable. Id.

- Finally, L&E found that BCBSVT had revised its premiums to a reasonable and adequate level to account for the 5.3 percent loss that it experienced in 2017 on this business. L&E found this revision to be reasonable and appropriate. Id.

Recommendations by L&E and DFR Commissioner Pieciak

L&E recommendations and opinion: L&E found the development and support of each component of BCBSVT's factors in the filing to be reasonable and appropriate. L&E concluded that the BCBSVT request for an overall increase of 11.2 percent would not produce rates that were excessive, inadequate or unfairly discriminatory and should be approved without modification. Id., p. 11. L&E did not suggest any reductions below the filed factors but rather recommended that the filing be approved as filed.

DFR Solvency Opinion and recommendations: On page 1 of his May 15 solvency opinion in this docket, the Commissioner of the Department of Financial Regulation (DFR) found:

DFR does not expect the proposed rate will have a significant impact on our overall solvency assessment of BCBSVT. However, as explained below, any downward adjustments to the filing's rate components that are not actuarially supported will reduce BCBSVT's surplus and over time could negatively impact its solvency. BCBSVT's Risk Based Capital ("RBC") ratio has been in decline since 2014 and is near the bottom of the Company's targeted range. If this trend continues it will negatively impact BCBSVT's solvency position.

The Commissioner also made clear that the Department actively monitors BCBSVT's surplus and solvency as well as potential threats to surplus and solvency, using all available tools. Id. The Commissioner further determined that the range of surplus targeted by BCBSVT is reasonable and necessary for the protection of its members and that BCBSVT is within the range determined to be necessary. Id. The Commissioner urged caution in any reduction of rate components that are not actuarially supported. Id., p. 3

In establishing Vermont's rate review process, the General Assembly explicitly recognized DFR's vital role in supervising the solvency of BCBSVT. DFR examines and monitors BCBSVT for the protection of the insurance buying public who ultimately will be adversely affected by inadequate rates. To this end, the GMCB's rate determination must, among other things, protect insurer solvency. 8 V.S.A. § 4062 (a)(3). DFR Commissioner

Pieciak concluded his opinion by stating that “DFR does not expect the proposed rate will have a significant impact on our overall solvency assessment of BCBSVT. However, any downward adjustments to the rate filing’s components that are not actuarially supported will reduce BCBSVT’s surplus and over time could negatively impact [BCBSVT’s] solvency, thus impacting access to health insurance in Vermont.” Id.

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BCBSVT, a nonprofit hospital and medical service corporation, exists to make necessary health care affordable for Vermonters. By pooling the populations covered by its products, it protects individuals from the unaffordable and potentially ruinous costs associated with significant illnesses or injuries. Its products promote preventive care, health maintenance and health improvement, and it has in place strong utilization management programs that support members who require medical care and assure that they have access to high value care while avoiding unnecessary costs.

BCBSVT also works with providers to dampen cost increases through reimbursement strategies that include capitation and incentives to both provide and properly manage care. BCBSVT has embarked on a relationship with Vermont’s accountable care organization, OneCare, but it is too early to know whether this new approach will reduce costs in the long term or at all. Nonetheless, BCBSVT has engaged with this potential payment reform partner in good faith.

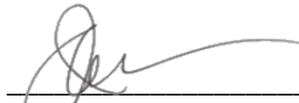
BCBSVT also strives to be a strong partner with the state in its other health reform efforts by its participation in Vermont Health Connect, by offering direct individual and small group qualified health plans, Blueprint, and other programs designed to afford Vermonters access to well-designed insurance products that offer delivery of affordable and appropriate care. BCBSVT is supportive of GMCB efforts at containing provider cost—both professional and facilities—as those efforts should assist BCBSVT in offering the most affordable products possible to its members.

These and other efforts would be seriously undermined without a financially strong BCBSVT, and that requires that BCBSVT be allowed to charge rates that cover the medical and drug expenses of the populations it serves, as well as the Plan’s own administrative expenses, which are among the lowest in the industry, and its capitalization needs. BCBSVT agrees with

both the Department and L&E that the filing supports the requested rates and, further, that the rates meet the applicable standards and are not excessive, inadequate or unfairly discriminatory.

BCBSVT has fully justified and supported the rate factors before the Board as evidenced by the recommendations of the Board's own actuarial consultant and the Commissioner of Department of Financial Regulation's solvency opinion. There is no evidence in the record that would justify reducing the requested rates especially in view of the oversights made by L&E on utilization trend and pharmacy trend. Therefore, BCBSVT asks that the Board approve the filing, without modification.

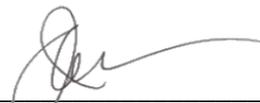
Dated at Berlin, Vermont, this 31st day of May, 2018.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Memorandum in Lieu of Hearing has been duly served upon Judith Henkin, General Counsel to the Green Mountain Care Board, and Kaili Kuiper and Eric Schultheis, Office of Vermont Health Advocate, by electronic mail, return receipt requested, this 31st day of May, 2018.



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