



The Board states in its opinion, paragraph 3 on page 6, that MVPHIC and AgriServices have alternatively described as a grandfathered plan and a transitional plan. The Board provided no instances where this was described as a transitional plan. In fact, last year the Board accepted AgriServices assertion that it is a grandfathered plan and approved a modified rate filing (see Decision and Order of the Board, dated October 23, 2014, in GMCB Docket #019-14rr). Moreover, its actuary describes it as a grandfathered association in its opinions. MVPHIC had made clear to the Board that DFR determined that this is a grandfathered plan which may continue to operate post 2014 (see MVPHIC's Memorandum in Lieu of Hearing in GMCB docket #019-14rr on page 3). The Board has nothing to rely on to base its determination that this is a transitional plan and may not disapprove the filing on that ground.

### **The Board's decision sets a dangerous precedent**

The Board stated in paragraph one of its Conclusions of Law, that the requested rate increase is substantial and it far exceeds any rate previously approved by the Board. This may be so, but is no reason to deny the filing. The Board may not deny a filing because the rate requested (and needed as noted by the Board's own actuary) because it is large, or greater than any other rate reviewed. The Board may only adjudicate a rate request based on sound actuarial principles. Such a judgment by the Board creates uncertainty and instability in the health insurance marketplace in that insurers who need a substantial rate increase will be left to speculate whether the Board will approve it, simply because it is substantial. This decision tells insurers they cannot count on the actuarial analysis and opinion of the Board's own actuary. How are insurers to function effectively and continue operate in the market with this uncertainty?

Moreover, it is not the appropriate role of the Board to attempt to force discontinuance of a product offering by denying a needed rate increase. The Board stated in paragraph 7 of its Conclusions of Law that it "encourage(s) the carrier to evaluate the plan's continued viability and affordability prior to any future request for additional rate increases". As stated in its Memorandum in Lieu of a Hearing, MVPHIC pointed out the members of AgriServices have the option to stay with an AgriServices plan offering or leave to obtain coverage in the Exchange. No member is forced to stay with the AgriServices plan. Continuing to offer the AgriServices plan gives those members who choose to stay another option. It is not the role of a regulator to tell insurers which plans they can offer or not. The insurer and the marketplace make that decision.

### **Conclusion**

For all of the reasons stated above, MVPHIC asks that the Board reconsider its decision and approve the filing.

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January 11, 2016

### **Certificate of Service**

I, Susan Gretkowski, hereby certify that I have served the above Memorandum on Michael Donofrio, General Counsel to the Green Mountain Care Board, and Lila Richardson and Kaili Kuiper, counsel of record for the Office of the Health Care Advocate, by electronic mail this 11th day of January, 2016.

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