STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Connecticut General Life Insurance Company 2014 Large Group PPO Manual Rate Filing	))))))	GMCB-008-14rr SERFF No.: CCGP-129378365

MEMORANDUM IN LIEU OF HEARING AND RESPONSE TO CGLIC

I. Introduction

In Connecticut General Life Insurances Company (CGLIC)'s 2014 Large Group PPO Manual Rate Filing, CGLIC proposes a revised rate increase of 0.9%[1] over current rates. Approximately 10,100 Vermonters will be affected by this filing. This is CGLIC's first rate request in two years.

II. Background

CGLIC originally submitted its request for approval of proposed rates for this filing to the Department of Financial Regulations (DFR) on November 13, 2013. It subsequently resubmitted the filing to the Green Mountain Care Board (the Board) on January 16, 2014. The Office of the Health Care Advocate (the HCA) submitted a notice of appearance in this case on January 31, 2014. The Commissioner of DFR issued a Solvency Analysis of the filing on March 14, 2014. Lewis and Ellis (L&E), the Board's contracted actuary, completed its review and written opinion (Opinion) for this filing on March 17, 2014. The filing was posted on the Board's website on March 17, 2014.

[1] CGLIC confirms the 0.9% rate request in its April 2, 2014 memorandum in lieu of hearing. CGLIC originally requested a 3.8% rate increase. Lewis and Ellis calculates the rate change to be 1.3%. See section on Lewis and Ellis's Actuarial Opinion.

III. Lewis and Ellis's Actuarial Opinion

L&E's review of the filing uncovered a number of problems with the rate request. L&E found based on CGLIC's results for medical trend assumptions, medical area factors, and methodology, CGLIC should have proposed a 1.3% rate increase for the filing; and CGLIC inaccurately calculated its medical trend assumption, medical area factors, and pharmacy trend to determine its proposed rate increase.

First, L&E established that CGLIC intends its current rate request to apply a 0.9% increase over two years: 2013-2014. Id. Although CGLIC had requested a 3.8% rate increase to be implemented on January 1, 2014, the request was coupled with CGLIC's request to reduce its rates in 2013 by 2.8%, which CGLIC never implemented. Opinion at 3. Combining the 2.8% decrease for 2013 with the 3.8% increase for 2014 yields a 0.9% increase.

Next, L&E found CGLIC's estimate of a 0.9% increase over two years to be flawed due to CGLIC's use of assumed experience data and CGLIC's "unorthodox" computation methods. Opinion at 3. L&E points out that CGLIC did not base its original 3.8% increase for 2014 on actual 2012 or 2013 data. Id. Instead, CGLIC based the increase on assumed experience over those two years. Id. Further, CGLIC estimated its 2013 experience on the idea that CGLIC would decrease its 2013 rates by 2.8%, which did not occur. L&E advises that "an ideal method would have been to analyze the actual experience relevant to the proposed rate change." Id.

Further, L&E disagrees with CGLIC's method for calculating its 0.9% average rate increase from medical trend, medical area, and methodology changes. Id. at 4. Using CGLIC's numbers for medical trend, medical area, and methodology, L&E determines a 1.3% overall change from current rates. Id.

After establishing that CGLIC should have proposed a 1.3% increase based on CGLIC's determinations for medical trend, medical area, and methodology, L&E then assesses the accuracy of each of those determinations. L&E finds that CGLIC inaccurately calculated its medical trend assumption, medical area factors, and pharmacy trend for its proposed rate increase.

Initially, L&E calculates that CGLIC's medical trend assumptions are too high. CGLIC assumed an 8.2% and 7.1% trend respectively for 2013 and 2014. Opinion at 4. L&E uncovers that the actual experience trend for 2013 was 5.9%. Id. Because of the difference between CGLIC's assumed medical trend experience and actual experience for 2013 and because CGLIC did not provide sufficient evidence to support a different experience for 2014, L&E recommends reducing CGLIC's trend assumption to 5.9% for both years. Id.

Next, L&E finds that while CGLIC combined CGLIC (Connecticut General Life Insurance Company) and CHLIC (Cigna Health and Life Insurance Company) data to calculate its experience reviews and pricing analyses, CGLIC did not look at equivalent experience periods for CGLIC and CHLIC to determine its medical area factors. Opinion at 4. L&E states that it does not know how CGLIC reconciled the difference in these periods of time in its calculations. Id. However, both CGLIC and CHLIC data included the first six months of 2012. Because CGLIC conducted its most recent and "rigorous" review in the spring of 2012, L&E recommends that CGLIC base its 2013 medical area factor only on its spring 2012 review. Id. This change results in an 8.8% area factor decrease to the current rates. Id.

Additionally, L&E found problems with CGLIC's methodology for calculating prescription drug trends. CGLIC proposed prescription drug trend assumptions of 7.2% for 2013 and 9.1% for 2014 while the actual trend for 2012 was 4.4%. Opinion at 4. CGLIC claimed it increased the trends based on “new HIV drugs, utilization of Hepatitis C drugs, and patent expirations,” but CGLIC did not include data to support these speculations. Id. Because of the discrepancy between the actual 2012 trend and the assumed 2013 and 2014 trends, CGLIC’s lack of data to demonstrate that the trend is increasing, and L&E’s independent analysis of assumptions employed by other Vermont carriers, L&E recommends a 7.2% prescription drug trend for both 2013 and 2014. Id. 4-5.

L&E concludes that in contrast to CGLIC’s proposed rate *increase* of 1.3% (as calculated by L&E), L&E recommends a *decrease* of 4.7%. Opinion at 5.

IV. DFR’s Solvency Analysis

DFR found that neither CGLIC’s proposed rate nor Lewis and Ellis’s recommended rate will materially impact CGLIC’s or Cigna Holding Company’s solvency and surplus. Solvency Analysis p. 1.[2]

V. CGLIC’s Failure to Meet Minimum MLR Ratios

The Patient Protection and Affordable Care Act requires insurance companies to meet a minimum Medical Loss Ratio (MLR). 45 C.F.R. 158; and 42 U.S.C. 300gg-18. MLR reflects the amount of money an insurer spends on overhead expenses, such as marketing, profits, salaries, administrative costs, and agent commissions, which do not correspond to added value for policyholders. See definition of “Medical Loss Ratio.” Healthcare.gov. If an insurer fails to meet the minimum MLR by not spending enough money on its policyholders in proportion to the amount of money the insurer collects from them, it must provide rebates. 45 C.F.R. 158.

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[2] Although DFR’s Analysis refers to L&E’s draft Opinion, it is our understanding that there was no material change between L&E’s draft and final Opinions.

Because the Affordable Care Act is recent legislation and because 2013 data has not yet been analyzed, insurers have currently been held to a minimum MLR only for years 2011 and 2012; CGLIC did not meet the MLR threshold in Vermont in either year. See *List of Health Insurers Owing Rebates in 2012*. Center for Medicare and Medicaid Services;[3] and *Issuers Owing Rebates for 2012.* The Center for Medicare and Medicaid Services.[4] CGLIC had to return $2,346,018 in rebates to CGLIC large group policyholders in Vermont in 2011 and $126,810 in rebates to large group policyholders in Vermont in 2012. Id. CGLIC was the only Vermont insurer who had to extend rebates for MLR shortcomings in 2012. Id.

VI. Standard of Review

Health insurance organizations operating in Vermont must obtain approval from the Green Mountain Care Board before implementing health insurance rates. 8 V.S.A. §4062(a); 8 V.S.A. §5104(a). The Green Mountain Care Board has the power to approve, modify, or disapprove requests for health insurance rates." 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a). The insurer carries the burden to show that its rates are reasonable. GMCB Rule 2.104(c).

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." GMCB Rule 2.000 §2.301(b); GMCB Rule 2.000 §2.401; 8 V.S.A. §4062(a)(3). In addition, the Board shall take into consideration the requirements of the underlying statutes; changes in health care delivery; changes in payment methods and amounts; DFR's Solvency Analysis; and other issues at the

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[3] https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/mlr-issuer-rebates-20121126.pdf;

[4] http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2012-mlr-issuer-rebates-06042013.pdf.

discretion of the Board. GMCB Rule 2.000 §2.401; *see also* 18 V.S.A. §9375(b)(6). Further, the Board "shall consider any comments received on a rate filing and may use them to identify issues." GMCB Rule 2.000 §2.201(d). The record for rate review includes the entire SERFF filing submitted by the insurer; questions posed by the Board to its actuaries; questions posed to the insurer by the Board, its actuaries, and DFR; DFR's Solvency Analysis; and the Board's actuary's Opinion. GMCB Rule 2.000 §2.403(a).

The Board shall modify or disapprove the rate request if it is "unjust, inequitable, misleading, or contrary to the law of the State or plan of operations, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the organization's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access." 8 V.S.A. §5104(a)(2).

VII. Analysis

In order to increase affordability and avoid excessive rates, the HCA urges the Board to adopt L&E's recommendation to decrease CGLIC's current rates by 4.7%. CGLIC has the burden to prove that its rates are appropriate, and it has not met that burden. For the reasons L&E lays out its Opinion, which include CGLIC's lack of data to support the proposed rate, unorthodox computation methods, and predictions based on conditions that never occurred, we believe CGLIC significantly overestimated the 2014 costs for this filing.

Our concern that CGLIC's proposed rates should be carefully scrutinized to avoid excessive rates and increase affordability is reinforced by CGLIC's record of deficient MLRs. Although CGLIC paid rebates to its policyholders for the deficient MLRs, the rebates only returned policyholders to the bare minimum MLR value allowed by the Affordable Care Act. Lowering the rates on this filing in line with L&E's Opinion will help insure that these policyholders have more affordable insurance going forward. Further, DFR found that L&E's recommendation can be implemented without negatively impacting CGLIC's solvency. It is the HCA's position that insurance rates should be kept as affordable for Vermonters as possible and when appropriate, the rates should increase very little or decrease. Here, a decrease is appropriate.

VIII. Response to CGLIC's Memorandum

We believe L&E's assessment of this filing is correct, despite CGLIC's opposition in its April 2, 2014 memorandum in lieu of hearing. In the memorandum, CGLIC argues that L&E did not correctly assess its recommended rates for this filing. Again, CGLIC carries the burden of proof to show its proposed rates are appropriate. L&E states repeatedly in its Opinion that CGLIC did not provide adequate data to support its presumptions for this filing. Further, CGLIC's memorandum does not argue against L&E's recommendation that CGLIC's pharmacy trend should be reduced from 9.1% in 2014 to 7.2%.

IX. Conclusion

For the reasons stated above, the HCA asks the Board to decrease the current rates for this filing by 4.7%.

Dated at Montpelier, Vermont this 4th day of April, 2014.

/s/ Kaili Kuiper________________________

Kaili Kuiper
Staff Attorney
Office of Health Care Ombudsman

CERTIFICATE OF SERVICE

I, Kaili Kuiper, hereby certify that I have served the above Memorandum on Michael N. Donofrio, General Counsel to the Green Mountain Care Board, Judith Henkin, Green Mountain Care Board Health Policy Director, and William Swacker, Actuarial Director for CGLIC Health Plan, by electronic mail, return receipt requested this 4th day of April, 2014.

/s/ Kaili Kuiper________________________

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