

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Insurance Company 3<sup>rd</sup> and 4<sup>th</sup> Quarter )  
2014 Small Group Grandfathered HIC Rate Filing ) GMCB-009-14-rr  
SERFF No. MVPH-129389265 )

MEMORANDUM IN LIEU OF HEARING

I. Introduction and Background

MVP Health Insurance Company (MVP) submitted its Third and Fourth Quarter 2014 Small Group Grandfathered HIC Rate Filing for review by the Green Mountain Care Board (GMCB) on January 24, 2014. MVP requested an average rate increase of 4.4%. The Actuarial Opinion by Lewis and Ellis (L&E), the contracted actuaries for the GMCB, and the review of financial solvency by the Department of Financial Regulation (DFR), were both filed on March 25, 2014.

The Office of Health Care Advocate (HCA) entered an appearance pursuant to GMCB Rule 2.000 §§2.105(b) and 2.303. The hearing for the filing has been waived by the parties.

II. Standard of Review

Health insurance organizations operating in Vermont must obtain approval from the GMCB before implementing health insurance rates. 8 V.S.A. §4062(a). The carrier has the burden of justifying its requested rate. GMCB Rule 2.000 §2.104(c).

The GMCB may approve, modify, or disapprove requests for health insurance rates. 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a). “In 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 making its decision, the GMCB must consider the requirements of the underlying statutes, changes in health care delivery, changes in payment methods and amount, the Solvency Analysis prepared by DFR in connection with each filing and other issues at the discretion of the GMCB. GMCB Rule 2.000 §2.401; *see also* 18 V.S.A. §9375(b)(6). Further, the GMCB “shall consider any [public] 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 System for Electronic Rate and Form Filing (SERFF filing) submitted by the insurer, questions posed by the GMCB to its actuaries, questions posed to the insurer by the GMCB, its actuaries, and DFR, DFR’s Solvency Analysis, and the Opinion from the GMCB’s actuary. GMCB Rule 2.000 §2.403(a).

### III. Review of Actuarial Opinions and DFR Solvency Analysis Letters

L&E, the contracted actuaries for the GMCB have analyzed the filing to determine whether the filing will produce rates that are excessive, inadequate, or unfairly discriminatory. GMCB-009-14-rr Actuarial Opinion at page 7. Its analysis does not include a consideration of some of the other factors considered by the GMCB in deciding whether to accept, modify or reject proposed rates, i.e. whether those rates will be affordable, promote quality care and promote access to health care. These criteria were first incorporated into the rate review process as part of Act 48 of the 2011-2012 legislative session, an act relating to a universal and unified health system.

DFR has reviewed both the solvency of MVP and how the particular filing could affect that solvency. In making its recommendations as to the effect of the particular filing, DFR has

reviewed a draft opinion by the GMCB actuary containing the actuary's analysis of the filing. GMCB-009-14-rr Solvency Analysis at pages 1-2.

DFR has emphasized in its analysis that it “considers the solvency of insurers to be the most fundamental aspect of consumer protection” and that solvency analysis involves “an intricate analysis of many factors.” New York rather than Vermont is MVP's primary regulator. DFR ensures that foreign companies like MVP “meet certain solvency-based licensing criteria necessary to continue to operate in Vermont” and, in analyzing MVP's solvency “has reached out to MVP's primary regulators in New York” and learned that they do not have any concerns about the company's solvency. Moreover, the company's Vermont operations, representing only a small percentage of the total premiums earned, “pose very little risk to its solvency. GMCB-009-14-rr Solvency Analysis at page 2.

GMCB 009-14-rr is MVP's Third and Fourth Quarter 2014 Small Group Grandfathered HIC Rate Filing. The GMCB's actuary has recommended approval of the filing without modifications and DFR has opined that “the proposed rate will likely have no impact on MVPHIC's solvency.” GMCB-009-14-rr Actuarial Opinion at page 7; GMCB-009-14-rr Solvency Analysis at page 2.

#### IV. Analysis

In order to increase affordability, the HCA asks the GMCB to decrease the contribution to surplus for this filing from 3% to 1%. Due to the current economic climate, it will be difficult for Vermont policyholders to financially absorb MVP's requested 4.4% increase. The majority of policyholders will not have experienced income growth in recent years comparable to MVP's requested rate increase. Nationally, salaries rose an average of only 2.8% in 2013 and are expected to rise an average of 2.9% in 2014. Mercer. *Pay Increases for US Employees Illustrates the “New Normal” by Staying the Course.* July 16, 2013. <http://www.mercer.us/press->

[releases/1539840](#). In Vermont, wages increased an estimated 2.8% between 2012 and 2013, the most recent time period for which there is data. Department of Labor, Economic & Labor Market Information. *Per Capita Personal Income, Vermont and the United States*. March 28, 2014.

<http://www.vtlmi.info/pcpivt.htm>

The HCA's request to lower MVP's contribution to surplus is reasonable considering average increases in medical costs, changes in rate review legislation, and the GMCB's previous rulings for similar filings. MVP's requested rate increase is significantly above the average national increase in medical costs. According to the Consumer Price Index, on average the cost of medical care commodities rose 1.7% and medical care services rose 2.4% between March 2013 and February 2014. Consumer Price Index. *Economic News Release*. March 18, 2014.

<http://www.bls.gov/news.release/cpi.nr0.htm>.

Further, the legislature has indicated that we should carefully scrutinize all requested rate increases. Before January 2014, the legislature required insurers to file a plain language summary and the Department of Financial Regulations to accept public comments only for requested rate increases of five percent or greater. See 8 V.S.A. §4062, *effective until January 1, 2014*. However, the new rules no longer distinguish between rate increases over and under five percent. See 8 V.S.A. §4062, *effective January 1, 2014*.

Finally, the GMCB has recently found that MVP can afford a lower contribution to surplus. In MVP's rate request filing for the First and Second Quarter 2014 Grandfathered Small Group EPO/PPO plans, the GMCB reduced the contribution to surplus from 3% to 1%. November 4, 2013 Decision, GMCB-026-13rr. Today's filing, covering the third and fourth quarter plans, makes up only 24% of MVP's overall Small Group block of business. MVP Actuarial Memorandum, January 24, 2014. The lower contribution to surplus should therefore be easy for

MVP to absorb for the third and fourth quarter plans, because they represent a small portion of MVP's business.

V. Conclusion

Based on the record for this filing and the HCA's examination of the affordability of the rate increase, the HCA asks the GMCB to modify the filing by reducing the contribution to surplus to 1%.

Dated at Montpelier, Vermont this 9th day of April, 2014.

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

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, Health Policy Director of the Green Mountain Care Board, and Susan Gretkowski, representative of MVP, by electronic mail, return receipt requested this 9th day of April, 2014.

s/ Kaili Kuiper  
Kaili Kuiper  
Staff Attorney  
Office of Health Care Advocate  
P.O. Box 606  
Montpelier, Vt. 05601  
Voice (802) 223-6377 ext. 329