

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Insurance Company	)	GMCB-011-15rr
First Quarter 2016 and Second Quarter	)	
2016 Grandfathered Small Group	)	SERFF No.: MVPH- 130186136
EPO/PPO Rate Filing	)	
	)	

**DECISION & ORDER**

Introduction

Vermont law requires that health insurers submit major medical rate filings to the Green Mountain Care Board which shall approve, modify, or disapprove the filing within 90 calendar days of its receipt. 8 V.S.A. § 4062(a)(2)(B). On review, the Board must determine whether the proposed rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading or contrary to Vermont law. 8 V.S.A. § 4062(a)(3).

Procedural History

On July 29, 2015, MVP Health Insurance Company (MVPHIC) submitted its First Quarter 2016 (1Q16) and Second Quarter 2016 (2Q16) Grandfathered<sup>1</sup> Small Group EPO/PPO Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF). [http://ratereview.vermont.gov/sites/dfr/files/GMCB\\_011\\_15rr\\_SERFF\\_7\\_30\\_15.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMCB_011_15rr_SERFF_7_30_15.pdf). The Office of the Health Care Advocate (HCA), representing the interests of Vermont consumers of health insurance, entered an appearance as a party to this filing.

On September 8, 2015, the Board posted to the web the Department of Financial Regulation's (Department) analysis regarding the filing's impact on the insurer's solvency. [http://ratereview.vermont.gov/sites/dfr/files/GMCB\\_011\\_15rr\\_Solvency\\_Analysis.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMCB_011_15rr_Solvency_Analysis.pdf). (Solvency Analysis). On September 27, 2015, the Board posted to the web an actuarial memorandum provided by its contract actuaries, Lewis & Ellis (L&E). [http://ratereview.vermont.gov/sites/dfr/files/GMCB\\_011\\_15rr\\_Actuarial\\_Analysis.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMCB_011_15rr_Actuarial_Analysis.pdf). (L&E Analysis). The Board received no public comment on the filing.

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<sup>1</sup> To qualify as a grandfathered plan, a health plan must have been in effect on or before March 23, 2010, and have not been materially changed to reduce benefits or employer contributions since that time. Grandfathered plans are exempt from many changes required under the Affordable Care Act. 45 CFR 147.140.

The parties have waived a hearing pursuant to GMCB Rule 2.309(a)(1) and have filed memoranda in lieu of hearing.

#### Findings of Fact

1. MVPHIC is a for-profit New York health insurer that provides EPO and PPO products to individuals and employers in the small and large group markets in New York and Vermont. MVPHIC is owned by MVP Health Care, Inc. (MVP), a New York corporation that transacts health insurance business in New York and Vermont through a variety of for-profit and non-profit subsidiaries.

2. The present filing reflects the proposed 1Q15 and 2Q15 rates for MVPHIC's grandfathered small group EPO/PPO block of business. These rates will affect approximately 281 policyholders and 2,107 covered lives. This is a closed block of business, with declining membership.

3. MVPHIC proposes a 2.7% average annual rate increase for members renewing in 1Q16 and a 2.3% increase for those renewing in 2Q16, for an overall proposed rate increase of 2.6%.

4. MVPHIC utilized a 17.9% paid pharmacy trend factor in its rate development that was supplied by its newly-contracted pharmacy benefit manager (PBM) and which does not take into consideration MVPHIC's Vermont book of business. MVPHIC states that its PBM does not have enough data at this time to provide a credible drug trend and that historic trends are not reflective of the changing drug market; nor do they account for drugs coming off patent, changes in wholesale drug pricing, and new drugs entering the market.

5. The pharmacy trend used by the carrier in this filing is materially higher than the trend used in its 2016 Vermont Health Connect Rate Filing. In that docket, MVPHIC also used the pharmacy trend factor supplied by its PBM, which was not specific to the Vermont market. *See* Docket no. GMCB 007-15rr, *available at* [http://ratereview.vermont.gov/sites/dfr/files/GMCB\\_007\\_15rr\\_Decision.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMCB_007_15rr_Decision.pdf).

6. MVPHIC utilized experience period enrollment distribution to calculate its 2016 single conversion factor and made no adjustment to account for demographic shifts (age and gender) from the experience period membership to rating period.

7. In this filing MVPHIC assumes a general administrative expense load of 8.0%, which is 1.5% lower than its actual general administrative expense load for all markets of 8.5% as illustrated in MVPHIC's 2014 Supplemental Health Care Exhibit.

8. MVPHIC includes in this filing a 2.0% contribution to surplus.

9. MVPHIC anticipates a traditional medical loss ratio—the portion of premium income insurers pay out in the form of health care claims—of 83.8%.<sup>2</sup>

10. Pursuant to 8 V.S.A. § 4062(a)(2)(B), the Department assessed the impact of the proposed filing on the carrier's solvency. Noting that it is not MVPHIC's primary regulator, that New York State regulators have expressed no concerns about the company's solvency, and that all of MVP's health operations in Vermont account for approximately 5.3% of its total premiums earned, the Department determined that the carrier's operations in this state pose little threat to the company's solvency. *See Solvency Analysis at 2.*

11. On review, L&E recommends two modifications to the filing. First, because this is a closed block of business with declining membership, L&E recommends that the carrier use its most recently available membership distribution (June 2015) to develop the rate change and single conversion factor, which would increase the quarterly rate change for 1Q16 by 1.1%. *See L&E Analysis at 7.*

12. Second, L&E recommends that the pharmacy trend be reduced to conform to the pharmacy trend proposed by the carrier, and approved by the Board, in MVP's 2016 Vermont Health Connect rate filing. The modification would reduce the proposed rates by approximately 0.3% for 1Q16 and 0.1% for 2Q16. *Id.*

13. L&E makes no specific recommendation concerning the proposed 2.0% contribution to surplus, noting that the Board has reduced the contribution in the past two filings from 2.0% to 1.0%. L&E recommends that the Board consider DFR's solvency analysis when making changes to the assumption. *Id.* at 6.

14. MVPHIC requests that the Board ignore L&E's recommendation concerning the single conversion factor, which will result in smaller rate increase for its members.

15. MVPHIC disagrees with L&E's recommendation to reduce the pharmacy trend factor. The carrier explains that its PBM has provided the company with three pharmacy trend

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<sup>2</sup> As opposed to calculation of the traditional medical loss ratio, calculation of the federal minimum loss ratio under the ACA allows insurers to adjust for quality improvement activities and expenditures on taxes, licensing and regulatory fees, and is therefore slightly higher.

forecasts—low, best and high estimates—and that it utilized its low estimate in the exchange filing. Based on its observations over the past several months, however, MVPHIC contends that using its best estimate trend factor, rather than its low estimate, is more appropriate. *See* MVPHIC’s Memorandum in Lieu of Hearing, *available at* [http://ratereview.vermont.gov/sites/dfr/files/GMxCB\\_011\\_15rr\\_MVP\\_Memorandum.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMxCB_011_15rr_MVP_Memorandum.pdf).

16. *Id.*

17. The HCA agrees with both of L&E’s recommendations, and in addition requests that the Board reduce the contribution to surplus to no greater than 1.0%. *See* HCA Memorandum in Lieu of Appearance, *available at* [http://ratereview.vermont.gov/sites/dfr/files/GMxCB\\_011\\_15rr\\_HCA\\_Memorandum.pdf](http://ratereview.vermont.gov/sites/dfr/files/GMxCB_011_15rr_HCA_Memorandum.pdf).

#### Standard of Review

1. The Board reviews rate filings to ensure that rates are “affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust unfair inequitable, misleading, or contrary to the laws of this State.” 8 V.S.A. § 4062(a)(2)(B); GMxCB Rule 2.000, *Rate Review*, § 2.301(b). In addition, the Board takes into consideration changes in health care delivery, changes in payment methods and amounts, and other issues at its discretion. 18 V.S.A. § 9375(b)(6); GMxCB Rule 2.000 at § 2.401.

2. In arriving at its decision, the Board will consider the Department’s analysis and opinion of the impact of the proposed rate on the insurer’s solvency and reserves. 8 V.S.A. § 4062(a)(3).

3. The insurer proposing a rate change has the burden to justify the requested rate. GMxCB Rule 2.000 at, § 2.104(c).

#### Conclusions of Law

1. As we have stated in other decisions, we continue to disagree with MVPHIC’s reliance on a pharmacy trend that does not reflect its Vermont experience. Nonetheless, we agree with our actuary’s recommendation to reduce the trend factor to the same one that the carrier proposed, and which we approved, in MVP’s 2016 Vermont Health Connect rate filing. Although MVPHIC now states that its “best estimate” is more appropriate rather than its “low estimate,” it has failed to meet its burden to show that its experience has changed markedly over the few months since we approved the Vermont Health Connect filing, or why use of a “best”

estimate would not have produced a better (or best) estimate for that filing as well. Moreover, use of the lowest reasonable trend produces more affordable rates for Vermonter consumers.

2. We agree with the carrier and do not adjust the single conversion factor as recommended by L&E. Although we question MVPHIC’s methodology – it is more appropriate to use the recent membership distribution for this closed, declining book of business – MVPHIC’s calculation of the factor produces a lower rate for consumers.

3. Last, we conclude that the carrier has not adequately supported its request for a 2.0% contribution to surplus. The Department, whose analysis and opinion must be considered by the Board under 8 V.S.A. § 4062(a)(3) has not expressed any concern specific to this company’s solvency, instead noting that its operations in Vermont comprise only a small fraction of its overall business. Eliminating the contribution entirely is consistent with MVP’s requested and approved contribution to surplus in its recent 2016 Vermont Health Connect filing and results in a more affordable rate, albeit an increase, for plan members.

4. With the above-stated modifications, we estimate that the proposed rate changes will be reduced from the proposed 2.7% average annual rate increase to approximately 0.0% for members renewing in 1Q16, and from 2.3% to approximately -0.5% for those renewing in 2Q16.

Order

For the reasons discussed above, the Board modifies and then approves MVPHIC’s 1Q16 and 2Q16 Grandfathered Small Group EPO/PPO Rate Filing. Specifically, the Board orders that MVPHIC reduce its pharmacy trend to conform to the corresponding trend in its 2016 Vermont Health Connect rate filing, and reduce its contribution to surplus from 2.0% to 0.0%.

**SO ORDERED.**

Dated: October 27, 2015 at Montpelier, Vermont

s/ Alfred Gobeille \_\_\_\_\_ )  
 )  
s/ Cornelius Hogan \_\_\_\_\_ ) GREEN MOUNTAIN  
 ) CARE BOARD  
s/ Jessica Holmes \_\_\_\_\_ ) OF VERMONT  
 )

s/ Betty Rambur \_\_\_\_\_ )  
 )  
s/ Allan Ramsay \_\_\_\_\_ )

Filed: October 27, 2015

Attest: s/ Janet Richard \_\_\_\_\_  
Green Mountain Care Board, Administrative Services Coordinator

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by e-mail, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (E-mail address: [Janet.Richard@vermont.gov](mailto:Janet.Richard@vermont.gov)). Appeal of this decision to the Supreme Court of Vermont must be filed with the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*