

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).

The carrier has the burden of justifying its requested rate. GMCB Rule 2.000 §2.104(c).

IV. Review of Actuarial Opinion and DFR Solvency Analysis Letter

DFR has reviewed both the solvency of TVHP and how the particular filing could affect that solvency. DFR’s solvency analysis of TVHP concentrates on the financial position of the parent company, BCBSVT. GMCB-013-14-rr Solvency Analysis at pages 1, 2

DFR has emphasized in its analysis of BCBSVT’s solvency 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.” DFR finds BCBSVT’s current surplus to be

“sufficient” and “reasonable,” and at a level that “provides necessary protection to policy holders.” GMCB-013-14-rr Solvency Analysis, pages 2, 3.

L & E has analyzed the medical and pharmacy trends proposed by TVHP in the filing. The analysis combined all of the allowed medical claims for the prior 36 months and modeled per member per month claims using an exponential regression, resulting in an allowed trend of 4.7% equivalent to the TVHP requested allowed medical trend. The L & E estimated range for actual results is 3.5% to 5.8%, and they consider the 4.7% requested medical trend “appropriate and reasonable.” GMCB-013-14-rr Actuarial Opinion at pages 6 to 7. Its review of pharmacy trends for 36 months of data resulted in higher trends than those requested in the filing. The L & E estimated range for actual pharmacy results is from 5.9% to 10.5% and the proposed 7.6% trend “fits comfortably within” that estimated range. *Id.* at page 8.

The GMCB’s actuary has opined that the proposed rates will not be “excessive, inadequate or unfairly discriminatory” and has recommended approval of the filing as filed. DFR has opined that “the trend factors as filed likely will have the impact of sustaining the current level of solvency” but that downward adjustments should not be made “unless absolutely necessary to prevent the resulting rate from being excessive.” GMCB-013-14-rr Actuarial Opinion at page 9; GMCB-013-14-rr Solvency Analysis at pages 3 to 4.

V. Argument

The L & E analysis of this filing focuses on whether the proposed trend factor will produce rates that are excessive, inadequate or unfairly discriminatory. It does not include a consideration of some of the other factors to be 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 section 15 of Act 48, An act relating to a universal and unified health system, of the 2011-2012 legislative session.

Since this is a factor filing, the requested trend factor cannot be directly compared to the 10% rate increase threshold which requires a review for reasonableness under the Patient Protection and Affordable Care Act of 2010 (PPACA). However, the HCA believes that the requested trend in this filing should be reduced to help produce rates which are more affordable.

The proposed trend is significantly above the average national increase in medical costs. According to the Consumer Price Index, the cost of medical care commodities rose 1.3% and medical care services rose 2.4% on average between April 2013 and March 2014. Consumer Price Index. *Economic News Release*, April 15, 2014.

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

The HCO therefore asks the GMCB to modify the requested trend by incorporating the lowest end of the medical and pharmacy trends calculated by L & E. The GMCB has modified requests based on the lowest end of independently calculated ranges in prior filings. GMCB 14-13-rr; GMCB 35-13-rr; GMCB 36-13-rr. This approach will best promote the Act 48 goal of promoting affordability of health insurance rates.

Dated at Montpelier, Vermont this 22nd day of April, 2014

s/ Lila Richardson _____
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CERTIFICATE OF SERVICE

I, Lila Richardson, 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 Jacqueline Hughes, representative of The Vermont Health Plan, LLC, by electronic mail, return receipt requested, this 22nd day of April, 2014.

s/ *Lila Richardson*
Lila Richardson
Staff Attorney
Office of Health Care Advocate