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PRIMMER PIPER EGGLESTON & CRAMER PC

150 SO. CHAMPLAIN ST. | P.O. BOX 1489 | BURLINGTON, VT 05402-1489

GARY F. KARNEDY
ADMITTED IN VT, NH AND DC
gkarnedy@primmer.com
TEL: 802-864-0880
FAX: 802-864-0328

August 21, 2014

VIA EMAIL AND HAND DELIVERY – *Judy.Henkin@state.vt.us*

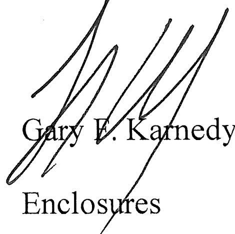
Judith Henkin, Esq., Health Policy Director
Green Mountain Care Board
89 Main Street, Third Floor
City Center
Montpelier, VT 05620

Re: MVP Health Care 2015 Vermont Health Connect Rate Filing – Docket No. GMCB-17-14-rr

Dear Judith:

Enclosed please find MVP's Post-Hearing Memorandum and Certificate of Service, for filing in the above-referenced matter.

Yours truly,



Gary F. Karnedy

Enclosures

Cc: Service List
Kelly Macnee

1783210.1

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Care 2015 Vermont Health Connect Rate Filing SERFF No. MVPH-129560321	)))))	DOCKET NO. GMCB-17-14-rr

CERTIFICATE OF SERVICE

I, Gary F. Karnedy, Esq., hereby certify that I have served a copy of MVP's Post-Hearing Memorandum via electronic mail and U.S. mail, on the following:

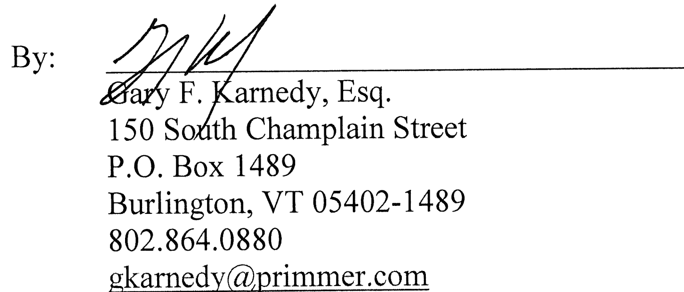
Kaili Kuiper, Staff Attorney
Office of the Health Care Advocate
Vermont Legal Aid
P.O. Box 606
Montpelier, VT 05601-0606
kkuiper@vtlegalaid.org

Lila Richardson, Staff Attorney
Office of Health Care Advocate
Vermont Legal Aid, Inc.
7 Court Street
P.O. Box 606
Montpelier, VT 05601-0606
lrichardson@vtlegalaid.org

Michael N. Donofrio, General Counsel
Green Mountain Care Board
89 Main Street, 3rd Floor
City Center
Montpelier, VT 05620
Michael.donofrio@state.vt.us

Dated at Burlington, Vermont, this 21st day of August, 2014.

PRIMMER PIPER EGGLESTON & CRAMER PC

By: 
Gary F. Karnedy, Esq.
150 South Champlain Street
P.O. Box 1489
Burlington, VT 05402-1489
802.864.0880
gkarnedy@primmer.com

Attorneys for MVP Health Plan, Inc.

1775119.1

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Care 2015 Vermont Health Connect Rate Filing SERFF No. MVPH-129560321	)))))	DOCKET NO. GMCB-17-14-rr

MVP'S POST-HEARING MEMORANDUM

MVP Health Plan, Inc. ("MVP"), by and through its counsel, Primmer Piper Eggleston & Cramer PC, submits this Post-Hearing Memorandum to the Green Mountain Care Board (the "Board"), pursuant to Board Rule 2.307(g), in support of its 2015 Vermont Exchange Rate Filing, to increase its rates by an average of 15.4% across all MVP Products.

A. STANDARD OF REVIEW.

Health insurance rates in Vermont must be approved before they are implemented. *See* 8 V.S.A. § 4062(a) and § 5104(a). The Board is empowered to approve, modify, or disapprove requests for health insurance rates. *See* 18 V.S.A. § 9375(b)(6); 8 V.S.A. § 4062(a). MVP bears the burden of demonstrating that its rates satisfy the statutory standards. *See* Board Rule 2.104(c). "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. . . ." Board Rule 2.401. The Board must take into consideration the requirements of the underlying statutes; changes in health care delivery; changes in payment methods and amounts; the Vermont Department of Financial Regulation's ("DFR") solvency analysis; and other issues at the discretion of the Board. *See id.*

The Board shall modify or disapprove a rate request only if it is "unjust, inequitable, misleading, or contrary to 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).

B. THE BOARD SHOULD ADOPT MVP'S PROPOSED 15.4% RATE INCREASE AS FILED.

In their original filings, the Board's actuary – Lewis & Ellis ("L&E"), and the Office of the Health Care Advocate's ("HCA") actuary – Donna Novak, raised five issues:

- A reduction in the pharmacy trend;
- A change in the demographic analysis;[1]
- Ms. Novak (but not L&E) believes that MVP made an error in calculating its manual rate;
- Ms. Novak (but not L&E) opines that MVP's administrative cost load is too high; and
- Ms. Novak (but not L&E) also opines that MVP's contribution to solvency could be reduced, but does not recommend that the Board do so.

See Exhibits 8 and 9; *Testimony of Jacqueline Lee* ("*Lee Testimony*") and *Testimony of Donna Novak* ("*Novak Testimony*").

L&E and the HCA proposed the following reductions at the time of their original filings:

<u>L&E OVERALL REDUCTION</u> 3.3%

DIFFERENCE FROM PHARMACY TREND	***0.1%***
DIFFERENCE REGARDING DEMOGRAPHICS	3.2%
DIFFERENCE FROM ALLEGED ERROR IN MANUAL RATE	0%
DIFFERENCE FROM ADMINISTRATIVE COSTS	0%

<u>HCA OVERALL REDUCTION</u> 2%

DIFFERENCE FROM PHARMACY TREND	0.5% (so 0.4% additional)
DIFFERENCE REGARDING DEMOGRAPHICS	0%
DIFFERENCE FROM ALLEGED ERROR IN MANUAL RATE	0.5%
DIFFERENCE FROM ADMINISTRATIVE COSTS	1.0%

See Exhibit 12.[2]

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[1] As discussed below, this recommendation was initially made only by L&E and not Ms. Novak. Just prior to the hearing, Ms. Novak changed her opinion on this topic.

The only proposed reduction that the HCA and L&E had in common in their original filings amounts to only **0.1%**. The Board should approve MVP's rates as filed because the best evidence contained in the original opinions of the experts (where two out of three actuaries agreed) showed that MVP'S proposed rates best satisfy Vermont statutory requirements.

L&E largely agreed with MVP on most issues. *See Exhibit 12.* On those few issues where MVP and L&E had a difference of opinion (0.1% reduction for pharmacy trend, 3.2% reduction for demographics), MVP would respectfully suggest that its opinions are supported by better evidence than L&E.

In contrast, after admitting errors and changing her mind, Ms. Novak disagreed with MVP on every single issue by the time the hearing commenced. After cross-examination, Ms. Novak changed her mind again, and withdrew her paper thin opposition to MVP's 1.5% contributions to reserves. In short, Ms. Novak should not be relied on by the Board, and the HCA offered no credible evidence to support its suggested 2% reduction.[3]

The average weighted increase of all of MVP's plans is 15.4%. As explained by MVP's chief actuary, Peter Lopatka, the range of increases is 10.7% to 18.3% across all of the different

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[2] Exhibit 1 is the June 2, 2014 MVP Rate Filing. To conserve space, MVP respectfully refers the Board to the table of contents for the Exhibit binder for the title of the exhibits cited herein.

[3] Ms. Novak is biased against health insurers, and was paid significant sums ($350 an hour, an expected the total bill of $25,000 - $30,000) for her opinions. *Novak Testimony.* She needed to justify her work by changing her opinions to maximize a proposed reduction. She admitted that in the last 100 rate reviews she has considered, she was in favor of a rate increase in only two cases. *Id.* She admitted that if she had agreed to MVP's 15.4 percent increase it would not have met the HCA's goals at the hearing. *Id.* Since 2002 she has worked primarily for government agencies, and is currently working for two public advocates in other jurisdictions. She admitted that her filing was inadequate and erroneous, despite having months to prepare it. Her company's internal review process failed. The peer reviewer that she hired to "make sure she didn't miss something", failed to find the purported 11th hour 3.2% error on demographics. She admitted to changing her opinion despite obtaining no new information upon which to opine. Her testimony at the hearing was very difficult to understand, and did not credibly identify an independent basis for her demographics opinion, other than "me too". She also admitted to (1) opining without all of the information she wanted, requiring her to provide an estimate rather than an actual calculation, and (2) failing to even speaking to the New York Department of Financial Services about MVP while attempting to opine on solvency. *Id.*

MVP products. *Testimony of Peter Lopatka* ("*Lopatka Testimony*"); Exhibit 1 at 59. MVP's 2015 proposed rates are based on sound actuarial principles and the product of extensive work and analysis by the MVP actuary team (approximately 500 hours). *Lopatka Testimony*. Approving MVP's rates will ensure that Vermonters will continue to have quality, affordable choices in health insurance.

1. MVP's Pharmacy Trend Is Properly Based On A Pharmacy Expert's View Of The Future, In Contrast To Historical Trends Relied On By Ms. Novak And L&E.

The only proposed reduction that L&E and Ms. Novak initially agreed upon is a 0.1% overall reduction based on the pharmacy trend. L&E suggests a 0.1% reduction and Ms. Novak suggests a 0.5% reduction. Both recommendations, however, should be rejected.

MVP's pharmacy trend is based on the analysis of its pharmacy benefits manager ("PBM") – CVS Care Mark - an industry expert. MVP appropriately relies on an expert view of what the pharmaceutical market will look like in 2015, taking into consideration new drugs coming onto the market, patent expiration, and other drug use trends. *Lopatka Testimony*; Exhibit 1; Exh. 2b (p. 52). MVP considers the trend for paid claims as opposed to allowed claims. *See* Exhibit 1, Exh. 2b. The trend is based on a review of national data adjusted for MVP's specific contracts, and is the lowest of three trend forecasts (low, middle, and high) provided by the PBM. *Lopatka Testimony*; Exhibit 3 at 5 (Q3(b)). Historical trends are of limited value because this is a dynamic and rapidly changing market. *Lopatka Testimony*. Accordingly, MVP's pharmacy trend is actuarially sound.

L&E begins by stating that MVP's PBM used national data and not Vermont specific data, which it considers to be "a limitation on the reasonableness" of MVP's trend assumption. *See* Exhibit 8 at 4. Next, L&E reviewed "36 months of MVP's historic pharmacy trend" for

allowed claims, and then concedes that historic trends may not be indicative of future trends. *See id.* at 4-5. Ultimately, L&E simply settled on using competitor BlueCross BlueShield of Vermont's ("BlueCross") pharmacy trend because it could not come up with a better approach. *See id.* L&E concedes that there are differences between BlueCross and MVP with respect to their pharmacy contracts and thus, it is not an apples-to-apples comparison. *Lee Testimony*.

Likewise, Ms. Novak conceded that historic trends are of limited value. *Novak Testimony*. Her written opinion, however, criticizes MVP for using trends that "did not have any relationship to MVP's historic prescription drug trends. . . ." Exhibit 9 at 9. Ms. Novak recommends a reduction for the 2013-2014 trend based on a historical view, and then to use the PBM's full trend for 2014-2015. *See id.*, at 10. In other words, Ms. Novak inappropriately uses a historical analysis to reduce year one, and properly accepts the PBM's expert views of the future with respect to year two.

The Board should reject both recommendations because MVP's expert analysis is superior to the apples-to-oranges comparison to BlueCross and Ms. Novak's reliance on historical trends. At the very least, the Board should find that Ms. Novak "loses two to one" in her proposal of an additional 0.4% reduction for the pharmacy trend.

2. MVP's Analysis Regarding Demographics And Morbidity Is Actuarially Sound, Based On Actual Claims Experience, And Superior To L&E's Recommendation.

As explained by Mr. Lopatka, the foundation for setting premiums is to look at the experience period and trend it forward. *Lopatka Testimony*. MVP looks at the age and gender of the population, and how sick the population is, or morbidity. *See id.* There is a high correlation between the two because as populations age they become less healthy. *See id.* These are not two separate considerations. Rather, age and gender provides a general health risk profile, which can

be further refined with actual claims and diagnosis data. *See id.* Accordingly, MVP took its 2013 experience and trended it forward by making a 2% adjustment for improved morbidity. *See* Exhibit 1 at 53 (Exh. 3), 61; *Lopatka Testimony*. This 2% reduction is consistent with the Board's Decision and Order regarding the 2014 filing and there is insufficient data to justify a change in this reduction for 2015. *See* Exhibit 1 at 61; *Lopatka Testimony*.

As explained by Mr. Lopatka, it is important to consider the 2013 experience period because it includes actual diagnosis information, which allows MVP to more accurately determine the actual health risk of the population. *See id.* Thus, the 2% reduction accounts for the age and gender of the population as well as more specific health risk data.

While agreeing with the 2% reduction for morbidity improvement, L&E recommends a 3.3% reduction of MVP's proposed rates as a result of changed demographics.[4] *See* Exhibit 8 at 5. Specifically, L&E recommends a 2.8% increase in the projected rate increase, and a reduction in the single contract conversion factor from 1.165 to 1.098. *See* Exhibit 8 at 5, 7; Exhibit 13. L&E ignores the actual claims and diagnosis data and relies solely on the age, gender and contract size for a snapshot in time in April 2014. This is not an appropriate analysis because a snapshot of the membership for a single month in 2014 is not a basis to predict what the 2015 population will look like or how healthy it will be. *Lopatka Testimony*.

In its analysis L&E concludes that the 2015 population will be healthier, but also ignores the fact that MVP has already accounted for this factor with the 2% morbidity. L&E does so based on the mistaken notion that age and gender are distinct from morbidity and that adjustments must be made for both. *Lee Testimony*. For the reasons discussed above, this is

[4] Exhibit 13 shows L&E recommending a 3.2% reduction. This difference is because L&E starts with an overall rate increase of 15.3% as opposed to MVP's 15.4%. MVP and L&E agree that the difference is caused by an immaterial averaging calculation across all products. *Lopatka Testimony*; *Lee Testimony*.

incorrect. Age and gender are highly correlated and the 2% adjustment by MVP accounts for both based on actual data. *Lopatka Testimony.*

Ms. Novak and her team had over two months to study and opine on MVP's rate filing. This process included a peer review of Ms. Novak's findings. In this process, Ms. Novak and her team did not identify any issue regarding demographics. In her August 5 opinion, she stated that "L&E did not provide quantitative support for its calculation of" these proposed changes and "I therefore cannot comment on" the adjustments. *See* Exhibit 9 at 14. Then, six days later and two days before the hearing, Ms. Novak purportedly changed her opinion, stating "I have now had time to research the methodology and assumptions behind these two recommendations" and that she is now in agreement with L&E on both recommendations. *See* Exhibit HCA-A.

Ms. Novak was unable to identify any new information that was not previously available to her, but stated that her initial opinion was deficient and based on a bad assumption. *Novak Testimony.* Without any new information or independent analysis, Ms. Novak now says "me too" with respect to L&E's recommendations. This newly found opinion is simply not credible.

In sum, MVP properly begins with the 2013 experience period, which it then trends forward using the 2% adjustment for improved morbidity - the same adjustment that was approved by the Board in the 2014 filing. L&E wrongly opines that the population as of April 2014 alone, without any claims or diagnosis information, is a better predictor of the 2015 population. Moreover, L&E fails to consider that MVP's 2% adjustment considers age/gender as well as morbidity. Accordingly, the Board should reject L&E's recommendations.

3. MVP And L&E Agree That MVP's Manual Rate Was Correctly Calculated.

L&E confirmed that MVP's manual rate was correctly calculated. *See* Exhibit 13; *Lee Testimony.* Ms. Novak, however, recommends a 0.5% reduction in MVP's proposed rates based

on her incorrect assertion that MVP made an error in calculating its manual rate. *See* Exhibit 9 at 8. As explained by Mr. Lopatka, there is indeed an error, but the error has no impact on the calculation of the manual rate because that particular section of the URRT – a federal form - was assigned zero percent credibility in the formula. *See* Exhibit 1 at 78; *Lopatka Testimony*.

At the hearing, Ms. Novak merely testified about the nature of the error and stated that MVP never informed her or L&E that the error was immaterial. *Novak Testimony.* Thus, there is no evidence to support this recommended reduction of 0.5%.

4. MVP And L&E Agree That MVP's Administrative Costs Are Appropriate And Reasonable.

The Board's actuary opines that that MVP's administrative cost changes are "reasonable and appropriate." Exhibit 8 at 6; *Lee Testimony.* The administrative load component of the rate request is insufficient to cover MVP's administrative costs. *Lopatka Testimony.* The actual administrative costs are $45.58 on a per-member/per-month basis (PMPM), while the administrative load built into the proposed rates is $40.60 PMPM. *See id.* As Mr. Lopatka further testified, including an administrative load that is lower than actual costs is done to keep rates as low as possible, with the goal of reducing costs to reach the $40.60 PMPM level. *See id.* Improving administrative efficiencies is a top priority of the company and several steps have already been taken to reduce costs. *See id.* For example MVP has renegotiated many contracts in all areas, reviewed its claims operations and member services operations, and reviewed banking and vendor relationships all in an effort to find savings. *See id.* Unfortunately, these efforts have also resulted in a reduction of force of approximately 100 full time employees.[5] *See id.*

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[5] During the hearing Board Members discussed MVP's low market share and how critical mass might impact administrative costs and overall affordability. Mr. Lopatka explained that while certain fixed costs are higher on a PMPM basis, these fixed costs are a very small percentage of administrative costs. *Lopatka Testimony.*

L&E agrees with MVP (and disagrees with Ms. Novak), and does not recommend any reduction in the administrative load. *See* Exhibit 8 at 6; *Lee Testimony*. Without taking any of this information into consideration, Ms. Novak contends in her report that the increase in administrative costs is too high based on the average increase in the wage/cost of living increases for Vermont from 2009 to 2012, and she recommends an adjustment to administrative costs and overall reduction of rates of 1%. *See* Exhibit 9 at 12-13. In her testimony, she further explains that this year's increase should be less, on a percentage basis, from past years because there are no longer broker commissions to pay in Vermont. *Novak Testimony*. However, this rationale was flawed. Broker and commission fees were not included in the administrative load in past years. *Lopatka Testimony*.

In sum, MVP is taking the long view with respect to its position in the Vermont market and is doing its best to keep rates as low as possible. *Lopatka Testimony*. MVP has focused on improving efficiencies with the goal of bringing its costs down to the level of its administrative load. *See id.* Accordingly, the Board should adopt the view of its own actuary with respect to administrative costs and reject the recommendation of Ms. Novak, which is not well founded.

5. MVP'S 1.5% Contribution To Reserves Is Uncontested, And Should Be Allowed By The Board.

At the hearing, Ms. Novak conceded that contribution to reserves is not at issue in this proceeding and that she is not recommending that the Board make any reduction to MVP's proposed contribution to reserves. *Novak Testimony*. Rather, Ms. Novak testified that she is merely pointing out that contribution to reserves could be reduced without a negative impact to MVP's solvency. *See id.* The Board should ignore this observation for two reasons.

Administrative costs are a very small percentage of overall premiums rates. *See id.* Thus, MVP's low market share does not result in higher premium rates with a disproportionate share of administrative costs. As Dr. Ramsey pointed out, it is health care costs that are the main driver of premium rates.

First, the DFR is the entity that is charged by statute to opine as to solvency issues. *See* 8 V.S.A. § 4062(a)(2)(B). As the General Counsel for DFR testified, solvency is not an actuarial issue, but is an issue that is much larger in scope than the information that is provided to actuaries in a rate filing. *Testimony of David Cassetty.* The DFR has opined "that the rates as proposed will not have a material impact on the solvency and surplus of MVPHP or MVP Holding Company." Exhibit 7. This opinion was based on a review of the entire rate filing, and specifically reviewing MVP's 1.5% contribution to reserves. *Cassetty Testimony.* The Board's actuary has likewise not recommended any changes to contribution to reserves, and properly refers the Board to DFR's analysis. *See* Exhibit 8 at 7.

Second, Ms. Novak's analysis of this subject is based entirely on a review of the Annual Statement of MVP Health Plan, Inc. for 2013 (Exhibit 10) and ignores the fact that MVP Health Plan, Inc. is only one entity of several that must be considered in determining the financial health of the company. *Lopatka Testimony.*

C. CONCLUSION.

For all of the reasons stated above, the Board should find that MVP has met its statutory burden, and approve MVP's rates as filed. To the extent that the Board is inclined to reduce MVP's proposed rates, L&E and Ms. Novak agreed upon only a 0.1% reduction.

Dated at Burlington, Vermont, this 21st day of August, 2014.

PRIMMER PIPER EGGLESTON & CRAMER PC

By: ________________________________

Gary F. Karnedy, Esq.
Kevin M. Henry, Esq.
Primmer Piper Eggleston & Cramer PC
150 South Champlain Street, P.O. Box 1489
Burlington, VT 05602-1489
(802) 864-0880
Attorneys for MVP Health Plan, Inc.