

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: The Vermont Health Plan)	
First and Second Quarter 2014 Trend Filing)	GMCB-036-13-rr
)	
SERFF No. BCBSVT-129197313)	
Vermont Filing No. 68006)	

MEMORANDUM IN LIEU OF HEARING

I. Introduction

The Vermont Health Plan (TVHP) submitted its request for approval of proposed trends for this filing on September 10, 2013. In the filing, TVHP proposes a 4.1% medical trend factor, a 7.2% pharmaceutical trend factor, and a 4.6% combined medical and prescription drug trend factor for the first and second quarters of 2014. The filing affects 11,600 covered lives in the large group market. Recommendation at 6.

II. Background

This filing was deemed complete on November 21, 2013. Oliver Wyman, the contracted actuary for the Department of Financial Regulation (DFR), completed its review and written opinion (Opinion) for this filing on November 22, 2013. Oliver Wyman concluded that the proposed rates for this filing were reasonable. Opinion at 9. The Commissioner of DFR (the Commissioner) issued a Recommendation for Approval (Recommendation) of the filing on December 5, 2013. The Commissioner recommended that the Green Mountain Care Board (the Board) approve the rates as filed. Recommendation at 5.

The Office of the Health Care Ombudsman (the HCO) submitted a notice of appearance in this case on December 11, 2013 pursuant to GMCB Rule 2.000 §2.105(b). The parties have agreed to waive the hearing scheduled for this case on December 18, 2013.

III. Standard of Review

Health maintenance organizations operating in Vermont must obtain approval from the Green Mountain Care Board before implementing health insurance rates. 8 V.S.A. §§4062(a) and 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).

The Commissioner shall refuse to recommend that the Board approve any rate submitted by a health maintenance organization that is “excessive, inadequate or unfairly discriminatory, or fail[s] to meet the standard of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title.” 8 V.S.A. §5104(a)(2). The terms “excessive,” “inadequate,” or “unfairly discriminatory” each have well-accepted definitions that are codified in the insurance laws of most states and are described in the DFR Recommendation at page 2.

In making a decision on the rate filing, the Board may consider “the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, and other issues at the discretion of the board.” 18 V.S.A. §9375(b)(6). The record for rate review contains the rate review file, including any public comments received by the Department, and the Commissioner’s recommendation. GMCB Rule 2.000 §2.403(a). The Board will also review any public comments submitted under its separate process for public comment on rate filings. GMCB Rule 2.000 §2.200(b)-(d).

TVHP has the burden to justify its rate request. GMCB Rule 2.000 §2.104(d).

IV. Analysis and Argument

The HCO argues that the trend requested by BCBS and recommended by the Commissioner of DFR should be reduced in order to promote the Act 48 goals of promoting affordability and access to care.

The Commissioner's Recommendation that the Board approve BCBS's trend factors as filed is based on the opinion of Oliver Wyman that the proposed trends are actuarially reasonable, the fact they fall within the low to middle range of Oliver Wyman's independently calculated range of reasonable trends and the fact that the trend increases are at the bottom 25% of national trends. Recommendation at 5.

The Recommendation cautions that it is important for BCBS to maintain adequate surplus as a "critical consumer protection" and provides the following analysis of BCBS's current financial situation as it relates to this filing:

In evaluating the current financial position of TVHP, the Director of Company Licensing and Examinations has reviewed current surplus levels, the potential impact of past rate decisions not yet in effect and the uncertainty due to market and regulatory changes. Given these factors, he cautions that reducing trends in a manner that increases the company's exposure to unexpected adverse events is not advisable at this time. Id.

As part of its review of the filing, Oliver Wyman developed independent analysis of the range of reasonable rates for both medical and pharmacy trend. The independent uncapped medical trend rate estimates of 4.0% to 5.2% compare to TVHP's requested rate of 4.1%. Oliver Wyman's independent pharmacy trend rate estimate of 5.3% to 9.5% compares to the TVHP requested rate of 7.2%. Oliver Wyman has identified the question of "whether generic utilization will continue to grow as a percentage of the overall drug utilization" as key to how quickly the pharmacy trend will grow. Opinion at 9. The Opinion notes that over 80% of all prescriptions are currently being filled with generic drugs and that there has been significant growth in the utilization rate for generics of approximately four per cent per year. Although this rate "simply

cannot continue indefinitely” Oliver Wyman explains that “it is very difficult to predict when exactly the GDR growth will begin to slow down,” and opines that “recent trends could possibly continue for the next couple of years.” This type of growth would result in a trend at the low end of Oliver Wyman’s independent estimates. Opinion at 7.

The HCO asks the Board to modify the trend to incorporate the lowest uncapped medical and pharmacy trends within Oliver Wyman’s range of independently calculated reasonable trends. With respect to the pharmacy trend, TVHP has not met its burden of justifying a significantly higher trend rate based on its predictions of a low rate of growth in the utilization rate for generic products.

In the past, the Board has modified other trend requests to incorporate the lowest point in the range independently calculated as reasonable by Oliver Wyman. It has explained that “reducing the medical and pharmaceutical trends to the lowest point in the OW-recommended range provides rates that are the most affordable for subscribers, while allowing the carrier to charge rates which independent actuarial analysis indicates are appropriate.” GMCB-014-13-rr at 4.

The Commissioner’s Recommendation emphasizes that TVHP’s “proposed medical trend of 4.1% is well below the 25th percentile (6.2%) of nationwide HMO trends, based on a survey of 66 national health carriers covering 108 million lives conducted by Oliver Wyman in mid-2013. TVHP’s proposed pharmaceutical trend of 7.2% falls at approximately the 25th percentile (7.0%) of nationwide trends in the same survey.” Recommendation at 4, footnote 4. However, the HCO maintains that analysis showing that a carrier’s proposed trends are within reasonable limits compared to the national market is not sufficient to show that they meet the Act 48 tests of promoting affordability and access for Vermont consumers.

The HCO also notes that the Recommendation cautions against further trend reductions due to concerns that the current level of surplus, “the potential impact of past rate decisions not yet in

effect and prospective risks including membership growth and significant uncertainty due to market and regulatory changes.” Recommendation at 5. However, there is no detail indicating why the Board’s past decisions might result in inadequate rates or why the large group market affected by this filing is less stable than it has been in the past.

V. Conclusion

Based on the foregoing, the HCO asks the Board to modify the requested trends by adopting the lowest points in the range of independently calculated trends developed by Oliver Wyman.

Dated at Montpelier, Vermont this 20th day of December 2013.

s/ Lila Richardson _____

Lila Richardson
Staff Attorney
Office of Health Care Ombudsman

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, Green Mountain Care Board Health Policy Director, and Jacqueline Hughes, representative of TVHP, by electronic mail, return receipt requested this 20th day of December, 2013.

s/ Lila Richardson

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