STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: BCBSVT 2017 Vermont Health Connect Rate Filing	)	GMCB 08-16-rr
SERFF No. BCVT-130567350	)	

POST HEARING MEMORANDUM

I. Introduction

Blue Cross Blue Shield of Vermont (BCBSVT) filed its request for approval of proposed rates for products to be sold on the Vermont Health Care Exchange known as Vermont Health Connect (VHC) in 2017 on May 11, 2016. System for Electronic Rate and Form Filing (SERFF), Hearing Exhibit 1. The filing was amended on May 31, 2016 to revise BCBSVT's nonstandard Cost Sharing Reduction Plan as required by federal regulations. This amendment did not affect the rate calculations in the filing. Exhibit 2.

The filing requests an average 8.2% rate increase. It will apply to rates for the period from January 1, 2016 to December 31, 2016. In 2017, there will be an estimated 77,538 members insured under contracts in the plans BCBSVT offers on VHC. Exhibit 1 at page 50. This represents more than 90% of the total number of members that will be covered on VHC.[1]

The Office of the Health Care Advocate (HCA) entered an appearance in this matter on May 20, 2016, pursuant to GMCB Rate Review Rule 2.00, §2.105(b).

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[1] The only other carrier offering plans on VHC, MVP Health Plan, will cover an estimated 6,614 members. GMCB 07-16-rr SERFF filing Consumer Disclosure at page 178.

The filing was reviewed by the contracted actuary for the Green Mountain Care Board (the Board), Lewis & Ellis (L&E). L& E issued its actuarial opinion on July 11, 2016. Exhibit 13. The Department of Financial Regulation (DFR) issued a solvency opinion on July 8, 2016. Exhibit 12. The actuarial opinion from L & E recommended a small modification to the requested rate increase which would result in an additional .07% average rate increase from an average of 8.17% to 8.24%. Exhibit 13 at page 190, Transcript (TR) at pages 126-27. BCBSVT has agreed to this modification. TR at pages 9, 30.

The hearing for this filing was held before the Board on July 20, 2015. The Board heard testimony from Ruth Greene, CFO of BCBSVT; Paul Shultz, the Actuarial Director for BCBSVT; Ryan Chieffo, Assistant Director of Rates and Forms at DFR; David Dillon, an actuary from L&E; and Donna Novak, an independent actuary providing expert testimony for the HCA. Ms. Novak is an expert with extensive expertise with reviewing health care insurance rate filings and reviewing the solvency of health insurance carriers. Exhibit 14 at pages 207-11, TR at pages 144-46. Eleven members of the public also testified at the hearing. TR at pages 174-206.

II. Standard of Review

Health insurance organizations operating in Vermont must obtain approval from the Board before implementing changes to health insurance rates. 8 V.S.A. §4062(a). The Board has the power to approve, modify, or disapprove requests for health insurance rate changes. 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a).

In making its decision, the Board must consider the requirements of the underlying statutes, changes in health care delivery, changes in payment methods and

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amount, the Solvency Analysis prepared by DFR in connection with each filing and other issues at the discretion of the Board. GMCB Rule 2.000 §2.401; 18 V.S.A. §9375(b)(6). Further, the Board "shall consider any [public] comments received on a rate filing and may use them to identify issues." GMCB Rule 2.000 §2.201(d). "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).

BCBSVT has the burden of justifying its proposed 8.2% rate increase in this filing. GMCB Rule 2.000 §2.104 (c).

III. Analysis and Argument

The HCA asks the Board to adopt modifications to the rate for this filing to reduce the rate increase requested by carrier and recommended by L & E in order to make the BCBSVT VHC rates more affordable for Vermonters and thereby to promote access to health care.

The Board should reduce the medical and pharmacy trend to the lowest levels that are in L& E's best estimate range.

BCBSVT's filing includes a requested 4.3% medical trend and a 10.2% pharmacy trend. L & E has calculated an estimated range (1.7% to 6.9% and 7.8% to 12.6% respectively) and a best estimate range (4.2% to 4.4% and 10.1% to 10.3% respectively for each of these trends. Exhibit 13 at page 187, Testimony of David Dillon, TR at pages 115-16, 142. In order to make the rates more affordable, the HCA asks the Board to

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reduce the medical trend amount to 4.2% and the pharmacy trend to 10.1%, the lowest figures in L & E's best estimate range.

The Board should reduce the requested 2% CTR

BCBSVT has requested a 2% Contribution to Reserves (CTR) for this filing. It explains this request as "the amount needed in the long term to maintain a level of solvency that was deemed appropriate by our regulator in the face of health care cost increases, membership increases[2], and potential adverse events." Testimony of Paul Schultz, TR at page 22. BCBSVT attempted to calculate the change in authorized control level (ACL) brought about by an increase of health care claim costs for the qualified health plan (QHP) line of business. TR at 23. The carrier is requesting a CTR lower than the amount it calculated as the amount needed to maintain a 600% RBC level because it has determined that it is appropriate to avoid rate fluctuation and consistently file a long term CTR that keeps it "within the range of solvency that's been deemed appropriate" by DFR. TR at 24-25. BCBSVT manages to a target range of 500 to 700 RBC. TR at page 54.

The Board has found in past decisions that BCBSVT can afford a lower CTR than the amount requested by the carrier. It reduced the CTR from 1% to .5% in its Decision in the BCBSVT 2014 Exchange filing, GMCB 16-13-rr and from 2% to 1% in its Decision in the 2016 Exchange filing, GMCB 08-16-rr. In its 2015 Exchange Filing, BCBSVT requested and received a 1% CTR. A reduction of CTR is also justified for the instant filing given BCBSVT's financial strength and the need to maintain access to affordable health care for Vermonters.

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[2] BCBSVT has estimated that membership in its QHP line of business will increase to approximately 75,538, primarily because of the anticipated migration of Medicaid recipients to the BCBSVT QHPs. The estimate that 6500 new members will move to the plans is based on a series of assumptions about the number of Medicaid terminations and the number of terminated Medicaid beneficiaries who will purchase plans through VHC. Exhibit 1 at pages 17, 27, 50.

During the testimony and examination of Ryan Chieffo, Assistant Director of Rates and Forms at DFR, Board member Rambur asked Mr. Chieffo whether there would be "a point…. at which DFR would consider it to be an excessive amount of risk-based capital?" He replied:

> Yes. Actually the top of that [500 to 700 RBC] range is where we would fall on that. My understanding, and it's the range of risk-based capital I think predates my involvement here, is that that was something, you know, presented to the Department by Blue Cross, and something that we sat down with them and discussed and agreed to. And those quarterly meetings that I mentioned are much in service of making sure that Blue Cross can continue to satisfy us that that's an appropriate range. TR at page 95.

Mr. Chieffo testified that there were a number of other factors beyond RBC that DFR might be concerned about in assessing a carrier's solvency including whether there were any negative indications in areas such as "lines of business, management, membership." TR at 98. When asked whether DFR had concerns about any negative indicators for BCBSVT, Mr. Chieffo replied "in general, broadly speaking, Blue Cross is a healthy solvent company, and we don't have those concerns." TR at 99.

Donna Novak, the HCA's expert witness, considers RBC when reviewing a rate filing. She has calculated BCBSVT's RBC from 2011 to 2015 by using data from the Five Year Historical Data chart in the carrier's 2015 Annual Statement, Exhibit 18 at page 231. RBC is calculated for each year by dividing the total adjusted capital (line 14) by the authorized control level risk–based capital (line 15). TR at pages 152-53. According to Ms. Novak's historical chart including these calculations, BCBSVT's RBC level has been within the top 25% its target range of 500 to 700 in both 2015 and 2014. Exhibit 14 at page 203, TR at pages 155-56.

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Ms. Novak has opined based on her review of BCBSVT's solvency that the requested 2% CTR could be reduced without posing a threat to the carrier's solvency. Exhibit 14 at page 203, TR at pages 156-57.

BCBSVT's estimates of the CTR factor it needs to maintain a target RBC of 600 does not take into account the fact that its RBC at the end of 2015 was substantially higher than 600. According to the financial data contained in the BCBSVT 2015 Annual Statement, Exhibit 18 at page 231, the carrier's ACL at the end of 2015 was $22,381,451. The 600 RBC number for that amount is $134,288,706. Subtracting that amount from the 2015 total adjusted capital shows a difference of $14,135,049, the amount that BCBSVT exceeded a target 600% RBC in 2015. BCBSVT has determined it needs $17,436,082 in CTR in 2017, Hearing Exhibit 1, Exhibit 7B at page 75. If the excess $14,135,039 is subtracted from this figure, the amount needed is reduced to $3,301,033. This represents .7% of the amount BCBSVT projects as the 2017 premium for its QHPs.

In the recent BCBSVT 3Q Rating Program (covering 15,500 lives) and the TVHP 3Q Large Group Rating Program filings (covering 4500 lives)[3], BCBSVT estimated that it needed a 1.3% CTR in order to maintain its RBC at a 600 RBC target but requested and obtained a 2% CTR. GMCB-003-16rr, GMCB 005-16-rr. This should create an additional margin of surplus for the carrier.

Based on all of the financial information in the record, the HCA urges the Board to reduce the 2% CTR level requested by the carrier to .7%.

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[3] TVHP is a for profit subsidiary of BCBSVT. GMCB 005-16-rr.

Modification of the proposed rates will promote affordability and access

The L & E analysis of this rate filing does not include any discussion of some of the important factors considered by the Board 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, An act relating to a universal and unified health system, of the 2011-2012 legislative session. Lowering the rate increase for this filing will make the rate more affordable which will in turn promote access to health care. An 8.2% rate increase will be very difficult for Vermonters to afford in the current economic climate.

BCBSVT's requested rate increase far exceeds the average national increase in other consumer costs for the past year. According to the Consumer Price Index, the cost of all items rose 1% in the 12 month period ending June 2016. Consumer Price Index. *Economic News Release.* July 15, 2016. http://www.bls.gov/news.release/cpi.nr0.htm

Although lower income Vermonters receive subsidies to help pay for the cost of their premiums, other Vermonters must pay the full price for non- group coverage. The cost of premiums is only one part of their overall health care expenses. They must also pay cost sharing amounts when they actually use health care services.

Small employers purchasing plans on the exchange experience the full impact of any rate increase. Increases in the rates charged to employers who purchase products in the group insurance market make it difficult for the businesses to continue to offer affordable health insurance and other compensation to their employees. Higher premium costs typically passed on to the employees through increased employee contributions to insurance or decreased wages or a combination of the two. According to the 2014

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Vermont Household Health Insurance Survey, 59.1% of working uninsured adults who have access to employer sponsored insurance indicated that they did not purchase their employer's health insurance plan because it was too expensive. Survey at page 48. http://hcr.vermont.gov/sites/hcr/files/2015/2014%20VHHIS%20Comprehensive%20Report%20.pdf

In Vermont, personal income increased only an estimated 3.5% between 2013 and 2014 and 3% between 2014 and 2015. Department of Labor, Economic & Labor Market Information. *Per Capita Personal Income, Vermont and the United States.* September 30, 2014, http://www.vtlmi.info/pcpivt.htm . Clearly, BCBSVT's requested 8.2% rate increase, especially when it is combined with the rate increase of 5.9% approved by the Board for 2016, far outstrips these modest increases in income.

In response to questions from Board member Holmes, David Dillon, the actuary who testified for L & E at hearing, confirmed that health care exchange carriers in other states have requested increases that are far larger than the one requested by BCBSVT. TR at 133. The HCA contends that any national data about rate increases is irrelevant to the Board's review of the affordability of rates requested in the instant filing. BCBSVT has the burden of proving that its own requested rates are actuarially reasonable and affordable and promote access to care. Moreover, as discussed by Mr. Dillon, there are differences in the rate development market, such as the presence of a merged market, the existence of a hospital budget process and an unusual family tier pricing structure that make an "apples to apples" comparison between different state products very difficult. TR at pages 134-37.

In its Decision on the 2016 BCBSVT filing, the Board emphasized that it must balance protecting insurer solvency with keeping affordable rates: "The Legislature has

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charged this Board with ensuring that all Vermonters gain access to affordable, quality health care. Exerting downward pressure on health insurance rates, while remaining mindful of our obligation to protect insurer solvency, is one of the ways that we continue to move closer to achieving that goal." GMCB 08-16-rr Decision at page 11. The same rationale applies to the instant rate filing and supports the need for a rate modification.

IV. Public comment

The Board has received more than 100 written comments concerning the exchange rate filings and has heard testimony from 11 individuals at the public hearing held on July 20, 2016. The comments come from people purchasing in the non-group market, from small business owners buying coverage for their employees and from employees covered by these small group policies. Vermonters who have written and testified have taken the time to express concern that the cost of products on VHC is already too high and that the 2017 rate increase requested by BCBSVT in this filing is not affordable.

V. Conclusion

For all of the reasons set forth in this Memorandum, the HCA asks the Board to modify BCBSVT's requested rate increase to provide policy holders with the most affordable rates possible. Specifically, we ask the Board to reduce the rate increase to reflect slightly more affordable and still reasonable assumptions about trend costs in plans on VHC and to reduce the CTR from 2% to .7%.

Dated at Montpelier, Vermont this 28th day of July, 2016.

s/ *Lila Richardson*_____
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CERTIFICATE OF SERVICE

I, Lila Richardson, hereby certify that I have served the above Memorandum on Judith Henkin, General Counsel to the Green Mountain Care Board, Noel Hudson, Health Policy Director of the Green Mountain Care Board, and Jacqueline Hughes, representative of Blue Cross Blue Shield of Vermont, by electronic mail, return receipt requested this 28th day of July, 2016.

s/ *Lila Richardson*_____
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