

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Insurance Company)
2015 AgriServices Rate Filing)

Docket No. GMCB-012-15-rr

MVP'S PROPOSED FINDING OF FACT AND CONCLUSIONS OF LAW ON REMAND

NOW COMES MVP Health Insurance Company ("MVPHIC"), and submits these proposed findings of fact and conclusions of law.

Proposed Findings of Fact

1. On September 9, 2015, MVPHIC filed its Electronic Rate and Form Filing (SERFF) for Agriservices 2016 coverage ("Agriservices Filing") with the Green Mountain Care Board ("GMCB").¹
2. The GMCB retained the actuarial firm Lewis and Ellis ("L&E") to review the Agriservices Filing in September of 2015.²
3. MVPHIC amended its filing on November 3, 2015.³
4. L&E typically sends multiple letter requests for information to health insurance carriers in Vermont that are seeking rate increases, as part of the GMCB actuary's due diligence in recommending an approval, modification, or denial of a rate request. MVP responded to L&E's six different letter requests for additional information on this filing.⁴

¹ *System for Electronic Rate and Form Filing (SERFF) MVP Health Insurance Company (MVPHIC) Rate Filing (9/9/2015), PC 01-18.*

² *L&E Objection Letter #1 (9/17/15), PC 19-20.* L&E has provided actuarial advice to the GMCB for many years.

³ *SERFF Objection Letter (11/3/15) requesting 11/2/15 email from Matt Lombardo w/attachments; MVPHIC Response (email from Matt Lombardo dated 11/2/2015 w/attachments), PC 53-59; MVPHIC Post Submission Update Submitted on 11/03/15 (corrected original submission), PC 60-66.*

⁴ *L&E Objection Letter #1 (9/17/15), PC 19-20; MVPHIC Response (9/22/15), PC 21-32; L&E Objection Letter #2 (9/29/15), PC 33-34; MVPHIC Response (10/10/15), PC 35-38; L&E Objection Letter #3 (10/14/15), PC 41-42; MVPHIC Response (10/19/15), PC 43-44; L&E Objection Letter #4 (10/22/15), PC 45-46; MVPHIC Response (10/26/15), PC 47; L&E Objection Letter #5 (10/22/15), PC 48-49;*

5. The Vermont Department of Financial Regulation (“DFR”) found that “the rate as proposed will have the impact of sustaining the current solvency of MVPHIC”, based on the entity-wide assessment and contingent upon the GMCB’s actuary’s finding that the proposed rate is not inadequate.⁵

6. L&E approved MVPHIC’s rate request, with modification, from 27.4% to approximately 25.9%.⁶ L&E’s opinion did not recommend any reduction to MVPHIC’s proposed contribution to surplus of 1%. *Id.*

7. “The proposed rate increase varies by plan, division, and contract tier, ranging from a minimum of 16.8% to a maximum of 40.7%.” *Id.*

8. “The substantial rate increase is driven primarily by actual trends far exceeding expectations. The observed trend between the 2014 experience period and the 2015 experience period is 30.4% for medical and 55.8% for Rx (total observed trend of 32.6%). This outpaces the premium increase from the same periods of less than 6%. The experience period medical loss ratio for members who are still active was 109.2%. A substantial rate increase is necessary to reduce this loss ratio back to sustainable levels.” *Id. at PC 67.* MVPHIC’s rate development methodology base period was reasonable and appropriate and incorporated sufficient runout time for claims to become completed. *Id. at PC 70.*

9. “[T]he sudden increase in experience claims PMPM on this block could indicate a lack of credibility. However, the 15,513 member months in the experience period qualifies as fully credible under MVPHIC’s large group rating manual, and ... this amount of member months should be considered fully credible.” *Id.* “(R)educing the credibility of the Agriservices

MVPHIC Response (10/26/15), PC 50-52; L&E Objection Letter #6 (11/4/15), PC 60-61; MVPHIC Response (11/5/15), PC 62-6.

⁵*Vermont Department of Financial Regulation Letter re: Solvency Impact of "2016 Agriservices Rate Filing (SERFF #MVPH-130236588)" of MVP Health Insurance Company (11/2/15), PC 64-65.*

⁶*L&E Actuarial Analysis (11/24/15), PC 66-75.*

experience would (not) increase the accuracy of the claims cost projection, and, as such, (L&E did) not recommend changing the credibility assumption at this time.” *Id.* “Reducing the base experience period claims by claims in excess of \$200,000 and accounting for the stop loss fee appears to be reasonable and appropriate and consistent with prior filings.” *Id.* “MVPHIC did not adjust the experience period claims for anticipated changes in demographics (age and gender) and utilized experience period contract distribution to calculate the projected single conversion factor. The experience period single conversion factor was 1.223, and the experience period demographic factor was 1.184.” *Id.*

10. “Because some members are known to have left the plan and the block is closed, (L&E believed) it is more appropriate to base these calculations on the most recent enrollment data available.” *Id.* “If June 2015 enrollment is used, the single conversion factor reduces to 1.219, and the demographic factor decreases to 1.178.” *Id.* “This results in a decrease in the proposed rate change of approximately 0.9%. (L&E) recommend(ed) that the Company use the updated enrollment data to calculate the single conversion factor and the demographic factor.” *Id.*

11. “While (L&E felt that) the overall rate increase requested for this filing is high, the observed claim trends have outpaced the premium increases. This can also be seen in the high loss ratio of 109.2% from the experience period for members who are still active.” *Id.* “The range in rate increases results from the "phasing in" of the new plan relativities that began in last year's filing. The relativities are based on MVP's commercial business across New York and Vermont, which is more credible than Agriservices experience by plan.” *Id.* MVPHIC's adjustment to benefit relativities are reasonable and appropriate at this time. *Id.* “The Standard of Review includes consideration of the affordability of the proposed rate increase. To that end, (L&E) believe(d) it necessary to comment on the proposed range of the rate increases, including

the 40.7% rate increase for plan VPHD-03L. This 40.7% rate increase is undoubtedly a significant increase, caused by the combination of bad experience and the phasing-in of new benefit relativities. For single coverage, the proposed Agriservices rates are noticeably higher than comparable rates on the Exchange. For example, the single rate for Agriservices plan VEHD-02L is \$80 higher per month than a similar Exchange plan with a lower deductible. However, the Agriservices family rate for the same plan is slightly lower.” *Id.* “While the relativity change pushes the increase up on the VPHD-03L plan, it reduces the necessary increase on the other plans, making their rate increase lesser. The proposed benefit relativities reduce the rate increases to the majority of members (over 700 of about 1,200), while being actuarially sound.” *Id. at PC 71.*

12. “Because of the observed high claims, a decrease in the proposed rate for one plan would need to be offset by an increase in the rate for another plan to be actuarially sound and maintain revenue neutrality. To maintain the viability of this program, any modifications to the proposed rates should be revenue neutral in aggregate.” *Id.* “With the recommended modifications to the single conversion factor and the demographic factor, ... the rate development methodology is reasonable and appropriate.” *Id.*

13. “*Medical Trend:* MVPHIC is requesting a paid medical trend of 6.6%. ... (T)he utilization assumption of 0% (is) consistent with recently approved medical trends (filed in 3Q15/4Q15 experience rated large group rate filing) and (is) reasonable and appropriate.” *Id.* “Upon request, MVP calculated the annual paid medical trends using the Agriservices-specific experience. The calculation of the difference resulted in a revised annual paid trend of 6.4%. (L&E) recommend(ed) that MVPHIC use the experience of the Agriservices block for the

projected trend, since this block is considered fully credible. This results in a decrease of 0.2% to the requested rate change.” *Id.*

14. Upon request, MVP also (re)calculated the annual paid Rx trends using the Agriservices-specific experience. The proposed annual paid trend reduced from 17.5 % to 17.1%. “(L&E) recommend(ed) that MVPHIC use the experience of the Agriservices block for the projected trend, since this block is considered fully credible. This results in a decrease of 0.1% to the requested rate change.” *Id.*

15. “*Administrative Expenses:* The total expense assumption is 15.9% or \$70.74 PMPM. The breakdown of the administrative expenses is shown below with a comparison to the assumptions used in the prior filing:

- The general administrative expense of 9.75% (\$43.32 PMPM), premium taxes of 2.0% (\$8.89 PMPM), ACA insurer fee of 2.0% (\$8.89 PMPM), and the PCORI fee of 0.04% (\$0.17 PMPM) have remained unchanged from the prior filing.
- The VT Vaccine Assessment of 0.6% (\$2.67 PMPM) was incorporated into the expenses in this filing.
- There was a reduction in the Transitional reinsurance fee from \$3.80 PMPM to \$2.37 PMPM (0.5%) due to changes in the federal requirements from the prior filing.
- The Contribution to Surplus reduced from 2.0% to 1.0% (\$4.44 PMPM) from the prior filing. *Id.*

(L&E) reviewed actual administrative expense ratio for MVP's large group market, as provided in the Supplemental Health Care Exhibit for the 2010-2014 time periods and note that the historical expense ratio decreased sharply in 2014: Year 2010 -- 11%; Year 2011 -- 11%; Year 2012 -- 10%; Year 2013 10.8%; Year 2014 -- 9.6%. *Id. at PC 71.*

16. “The proposed contribution to surplus is 1.0%. In the last two orders, the Board has reduced the proposed contribution to surplus from 2.0% to 1.0%. (L&E) recommend(ed) that the

solvency analysis performed by DFR be considered when making changes to this assumption. (L&E) found the administrative expense assumptions to be reasonable and appropriate.” *Id. at PC 71-72.*

17. **“Recommendation.** After modifications, L&E believes that this filing does not produce rates that are excessive, inadequate, or unfairly discriminatory. Therefore, L&E recommends that the Board make the following modifications:

- Calculate the single conversion factor and demographic factor based on June 2015 (or more recent) enrollment distribution. This change would reduce the requested rate change by approximately 0.9%.
- Weight the assumed allowed cost trends by Agriservices medical and Rx claims experience. This change would reduce the requested rate change by approximately 0.3%.” *Id. at PC 73.*

18. The above changes decreased the requested rate change from 27.4% to approximately 25.9%. *Id.*

19. Despite L&E noting that “some members would experience ‘undoubtedly a significant increase’ if the filing was approved, it concluded that the proposed rates as decreased were not excessive, inadequate, or unfairly discriminatory.”⁷ Other than the modifications referenced above, L&E found all of MVPHIC's assumptions and analysis reasonable and appropriate.⁸

20. Jacqueline B. Lee, FSA, MAA, (Vice President at L&E), and David M. Dillon, FSA, MAAA, MS, (Vice President & Principal at L&E) both reviewed and signed the L&E recommendation. *Id.* These actuaries made themselves available to the Board to provide supplementary information and explanation. *Id.* In its ten-page single spaced actuarial opinion, L&E confirmed that it received and considered all of the data that it requested from MVP, and

⁷ *In re MVP Health Insurance, 2016 VT 111, ¶6; Id. at PC 89.*

⁸ *L&E Actuarial Analysis (11/24/15), PC 66-75.*

placed no qualifications on its opinions or reservations about not having enough time to opine on the requested rate increase. *Id.*

21. In requesting that the GMCB disapprove or modify the requested rate increases, the Health Care Advocate (“HCA”) failed to offer its own expert actuarial evidence to substantively rebut L&E’s recommendation.

22. Agriservices Association is a grandfathered association of farmers (comprising of two divisions: Dairymen and ASA) offering 5 health plan options to its members. Agriservices experienced a 96.7% membership retention rate as of June 2015, prompting it to permit members to renew their plans in 2015.⁹ The proposed premium rates in this filing are for one full year, with an effective date of December 1, 2015, and will affect approximately 1,220 covered lives.¹⁰ Benefits are not being modified for this filing.¹¹ The rates filed for approval reflected MVPHIC’s estimate of the cost to provide health insurance for that coverage period at the time of filing. *Id. at PC 17.*

Conclusions of Law

The Board is empowered to modify or disapprove a health insurance 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.” *See* 18 V.S.A. § 9375(b)(6); 8 V.S.A. §§ 4062(a), 5104(a)(2).

The Vermont Supreme Court has provided the GMCB with clear direction on how it will freshly deliberate, solely consider material evidence that has a nexus to the proposed rates, and

⁹ *In re MVP Health Insurance, 2016 VT 111, ¶25, fn 7, PC 91.*

¹⁰ *L&E Actuarial Analysis at PC 66.*

¹¹ *MVPHIC Rate Filing, PC 15.*

provide specific findings for each statutory criterion.¹² The Board's discretion is curtailed by considerations of affordability, the promotion of quality care and access to care, insurer solvency, and fairness, as well as by the requirement that it consider the opinion of the DFR regarding the impact of the proposed rate on the insurer's solvency and reserves.¹³ The Supreme Court did not "find the fact that the rate increase is substantial or unprecedented alone sufficient reason to deny a rate increase."¹⁴

The GMCB should approve the 25.9% rate increase recommended by L&E, **or at least some portion of this increase**. The now closed record does not contain adequate material evidence to support a complete denial of any rate increase that would pass muster with the Vermont Supreme Court. L&E and MVPHIC's actuaries have both agreed that a significant rate increase is necessary to reduce the loss ratio level back to sustainable levels, after considerable and careful analysis of claim costs and every aspect of the filing. HCA did not proffer an actuarial expert to support its position. Consequently, the Board's actuary's report and recommended modified rate increase is not disputed by any other material evidence in the record. Even if the GMCB finds that its own actuary's recommendation is not credible evidence, and gives L&E's opinions absolutely no weight, there must be *other* adequate evidence to support the Board's findings.¹⁵ There is absolutely no other material evidence in the closed record for the Board to completely deny any increase.

¹² *In re MVP Health Insurance, 2016 VT 111, ¶18*. There is no basis in fact to find that the timing of MVP's filing and amendment in anyway undermined the Board's actuaries' ability to timely review all of the data they required and approve this filing. Furthermore, as a matter of law, the alleged lateness of the filing and calculation errors that resulted in amendment simply do not relate to the statutory standards, and should not be used as a basis to deny this rate increase. L&E made no such complaint, caveat, or reservation in its actuarial opinions that would provide a nexus between those events and the statutory rate consideration *In re MVP Health Insurance, 2016 VT 111, ¶24*.

¹³ 8 V.S.A. § 4062(a)(2)-(3); *In re MVP Health Insurance, 2016 VT 111, ¶3*

¹⁴ *MVP Health Insurance, 2016 VT 111, ¶23*.

¹⁵ *In re Quechee Lakes Corp.*, 154 Vt. 543, 555 (1990).

1. The Proposed Rate Is Not Unjust, Unfair, Inequitable, Or Misleading. 8 V.S.A. §5104(a)(2). The proposed rate is a fair reflection of the marketplace, and fairly imposes rate increases across all Agriservices insureds. The proposed rate was fully vetted and understood by L&E, and is a transparent, justified request to address rising claims costs.¹⁶

2. The Proposed Rate Is Not Contrary To The Law Of This State Or Plan Of Operations. As a matter of law, the Agriservices plan could continue to operate in 2016. Despite some timing concerns expressed by the Board regarding a November 2015 amendment to the filing to remedy an error, L&E and DFR were able to timely assess the proposed increase, allowing the Board to consider the rate increase, and meet its statutory charge.¹⁷

3. The Proposed Rate Is Not Excessive. The rate increase although relatively large, is justified by the actuarial evidence, and approved by L&E.¹⁸

4. The Proposed Rate Is Not Inadequate, and Meets The Standards Of Affordability. The rate increase provides for payment of claims, administrative expenses, costs and fees, and a reasonable contribution to surplus.¹⁹

5. The Proposed Rate Is Not Unfairly Discriminatory. The rate filing makes clear that increases do not treat Agriservices insureds differently based on protected class status such as gender, or on income differences. The proposed rate increase varies only by plan,

¹⁶ 8 V.S.A. §5104(a)(2). *See Findings 1-4, 6-22.*

¹⁷ 8 V.S.A. §5104(a)(2). The renewal of existing coverage is permitted under federal law by the CMS Bulletin issued on March 5, 2014. <http://www.cmsmov/CC110/Resources/Regulations-and-Guidance/Downloads/transition-to-compliant-policies-03-06-2015.odf>. In 2015, the Board accepted AgriServices indication that it is a grandfathered plan and approved a modified rate filing (see Decision and Order of the Board, dated October 23, 2014, in GMCB Docket #019-14rr). *See Findings 1-4, 6-22.*

¹⁸ 8 V.S.A. §5104(a)(2); *See Findings 1-22.*

¹⁹ 8 V.S.A. §5104(a)(2); *See Findings 1-22.*

division, and contract tier, and any premium differences covering insureds within similar risk categories are reasonable.²⁰

6. The Proposed Rate Protects Insurer Solvency. The Department of Financial Regulation found that “the proposed rate will have the impact of sustaining the current solvency of MVPHIC”. L&E did not recommend any reduction to MVPHIC’s contribution to surplus of 1%.²¹

7. The Proposed Rate Promotes Quality Care and Access to Health Care. This year’s filing and rate increase is based in part on increased actual claim trends that have outpaced premium. The high claims signify Agriservice membership’s need for quality care that is promoted by MVP funding for those services through this rate filing. Under this filing, Agriservices offers 5 health plans to its member groups. Agriservices decision to continue the plan was driven by consumer demand, resulting in greater access to health care.²²

Conclusion

MVP has met its burden of demonstrating that its rates satisfy the statutory standards, and based on the evidence in the closed record, the Board should approve at least some portion of the requested rate increase. *See Board Rule 2.104(c)*.

Dated at Burlington, Vermont, this 19th day of October, 2016.

PRIMMER PIPER EGGLESTON & CRAMER PC

By:



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²⁰ 8 V.S.A. §5104(a)(2); *See Finding 1; In Re MVP Health Plan, Inc. 2017 Vermont Health Connect Rate Filing, Decision and Order*, GMCB – 007-16rr (August 9, 2016); *See Findings 2-4, 6-22*.

²¹ *See Finding 5; see also Findings 1-4, 6-22*.

²² *See Findings 1-4, 6-22*.

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CERTIFICATE OF SERVICE

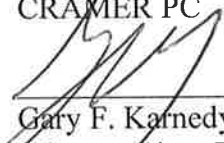
Now comes the undersigned and hereby certifies that *MVP's Proposed Findings of Fact and Conclusions of Law on Remand* was served via Electronic Mail and U.S. Mail, postage prepaid, upon the following:

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Dated: October 19, 2016.

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