



PRIMMER PIPER
EGGLESTON &
CRAMER PC

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

June 16, 2017

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

Re: MVP Health Care 2018 Vermont Health Connect
Rate Filing – Docket No. GMCB-007-17rr

Dear Hearing Officer Hudson:

On behalf of MVP Health Plan, Inc. enclosed please find *MVP's Objection to HCA's June 12 Suggested Questions* along with a *Certificate of Service*.

Respectfully submitted,



Gary F. Karnedy

Cc: Susan Gretkowski
Judith Henkin
Lila Richardson
Kaili Kuiper

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Care 2018)
Vermont Health Connect Rate Filing) DOCKET NO. GMCB-007-17rr
)
SERFF No. MVPH-131034103)
)

MVP’S OBJECTION TO HCA’S JUNE 12 SUGGESTED QUESTIONS

NOW COMES MVP Health Plan, Inc., by and through Primmer Piper Eggleston & Cramer PC and hereby object to the Health Care Advocate’s (“HCA”) June 12 Suggested Questions.

The HCA’s extraordinary request that the Green Mountain Care Board (“Board”) forward 39 suggested interrogatories (a total of 76 including sub-parts and sub-questions) to Lewis & Ellis (“L&E”) to submit to MVP should be denied for the following reasons:

1. The Board should fairly cap the number of interrogatories posed for this half-day administrative hearing. The number and scope of the 76 interrogatories is broad, deep and unreasonable, and not consistent with the Board’s simple, compressed administrative process. The Board rate hearings are meant to have a relatively short and simple administrative process without extensive discovery. Differences between the actuaries are fleshed out the old-fashioned way, through cross-examination. The interrogatories have historically served as a vehicle for L&E and the HCA actuary to ask MVP clarifying questions about the rate filing, all within the four corners of the filing and within the scope of statutory information required by federal and State law.

2. Even complex federal litigation cases spanning 8 or more months of discovery are capped at 25 interrogatories, which include subparts. *See F.R.C.P. 33*. The Board should strike all the objectionable interrogatories listed below on the ground that they are simply too broad and numerous, and requiring MVP to complete all of the responses would be unreasonably onerous.

MVP estimates it will take three weeks to answer the agreed upon interrogatories, let alone the objectionable interrogatories.

3. The Board has the discretion to limit suggested questions “regarding the request”. *GMCB Rule, Rate Review § 2.202(c)*. The Board should not allow requests for information outside of the actuarial data set dictated by state and federal law for MVP contained in its 2018 filing. The Board sets the scope of what information it wants MVP to provide in its rate filing each year. In past filings, the Board has declined to pose questions proffered by the HCA that appear to not be questions about the actual filing. *See Ruling Regarding HCA’s Suggested Questions to MVP, In re: MVP Health Plan, Inc. 2015 Vermont Health Connect Rate Filing, GMCB-17-14rr (July 8, 2014) (“2015 Order”)*. The Board has also declined to forward HCA requests for information that is already in the public domain. *See 2015 Order*. The Board’s own demand for information is limited in scope by Rule to information “concerning any rate filing”. *GMCB Rule, Rate Review § 2.304*. The HCA has no superior right to the Board to seek information beyond the scope of the rate filing. Requests that are not reasonably calculated to lead to the discovery of admissible evidence should be denied. *See V.R.C.P. 26*. (Referred collectively below as “Beyond the Scope”).¹

4. Rather than sending out a few questions at a time in intervals over the past 30 days since the filing (which is the practice of the Board’s actuary) the HCA instead waited until the 30th day to pose these 76 questions. Requests for information that are unreasonably cumulative, duplicative, or obtainable from some other source that is more convenient, less burdensome, and less expensive should be denied. *See V.R.C.P. 26*. The Board is free to consider whether a request is unduly burdensome or expensive taking into account the needs of the case and the

¹ Although the Board is not bound by the Vermont Rules of Civil Procedure, they do provide a helpful guide for determining the scope of a reasonable request in this instance.

importance of the particular issue at stake in the rate filing. *See V.R.C.P. 26.* (Referred collectively below as “Unduly Burdensome or Obtainable From Another Source”.)

5. MVP does not object to reasonably answering HCA’s relevant questions that fall within the four corners of the rate request, as it has done in prior years. MVP will endeavor to respond to a total of 32 interrogatories. Interrogatories 3(a), 3(b), 3(c), 4, 5 (all questions), 6, 7 (first question), 9 (all questions), 15 (first two questions), 16, 17(a)-(c), 18, 19, 20, 21(b) confidential, 30, 33(b), in three weeks, **on July 5, 2017.** MVP will respond to Interrogatories 29, 32, 35 in response to similar questions already posed by L&E prior to that date.

6. MVP Objects to the balance of the Interrogatories correspondingly numbered below as follows:

- 1(a-d). Objection. Vermont Health Connect was not operational in 2013, making 2013 information Beyond the Scope. The balance of the information sought is historical information which the new HCA expert can obtain from prior rate filings and his client (Unduly Burdensome or Obtainable From Another Source).
2. Objection. This information is not relevant to the basis of the rate increase request set forth in the filing. It is Beyond the Scope of information required by the Board and federal law to be included in a rate filing. Furthermore, much of what is requested is public information the HCA expert can obtain himself (Unduly Burdensome or Obtainable From Another Source).
7. Objection to the second and third sentences which are Beyond the Scope.
8. Objection, not part of what is required in a rate filing and therefore Beyond the Scope.
10. Objection, Beyond the Scope, methodology agreed upon by MVP and GMCB Actuary.
11. Objection, Beyond the Scope, methodology agreed upon by MVP and GMCB Actuary.

12. Objection, Beyond the Scope, clinical team plays no role in rate filing. Unduly Burdensome or Obtainable From Another Source, information already in rate filing.
13. Objection, Beyond the Scope, Unduly Burdensome or Obtainable From Another Source, information already in this and other rate filings.
14. Objection, Beyond the Scope, Unduly Burdensome, and not an amount material to actuarial calculations in this rate filing.
- 15 (3). Objection, Beyond the Scope.
- 21(a). Objection, Beyond the Scope.
- 21(c). Objection, Unduly Burdensome given the importance of the issue, applicable to less than 1% of cost.
22. Objection, Beyond the Scope and Unduly Burdensome.
23. Objection, Beyond the Scope and Unduly Burdensome.
24. Objection, Beyond the Scope and Unduly Burdensome, and proprietary.
25. Objection, Beyond the Scope and Unduly Burdensome, and proprietary. The Board is addressing and managing these public policy questions.
26. Objection, Beyond the Scope and Unduly Burdensome, and proprietary. The Board is addressing and managing these public policy questions.
27. Objection, apparently Beyond the Scope, but we do not understand the question.
28. Objection, BCBS related question Beyond the Scope, also premature to answer regarding the Risk Adjustment.
29. Objection, Cumulative, L&E has propounded a similar question which will be responded to on or before June 23rd. The Board will dictate how MVP will address these issues, and we will follow that direction.

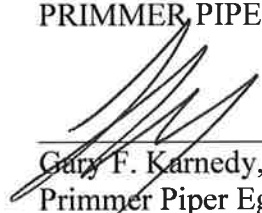
31. Objection. Beyond the Scope.
32. Objection, Cumulative, L&E has propounded a similar question which will be responded to on or before June 23rd.
- 33(a). Objection, Beyond the Scope. MVP's filing is compliant with New York law as New York does not use RBC to consider solvency, and the Board has also accepted the form and content of information provided.
- 33(c). Objection, Beyond the Scope. MVP's filing is compliant with New York law as New York does not use RBC to consider solvency, and the Board has also accepted the form and content of information provided.
34. Objection, Beyond the Scope, Unduly Burdensome or Obtainable From Another Source.
35. Objection, Cumulative, L&E has propounded a similar question which will be responded to on or before June 23rd.
36. Objection. Duplicative and Unduly Burdensome, see information in MVP filing.
37. Objection. Beyond the Scope, Unduly Burdensome or Obtainable From Another Source. MVP already provides required information regarding executive compensation to the Board pursuant to Act 152.
38. Objection. Beyond the Scope, Unduly Burdensome or Obtainable From Another Source. MVP already provides required information regarding executive compensation to the Board pursuant to Act 152.
39. Objection. Beyond the Scope, Unduly Burdensome or Obtainable From Another Source. MVP already provides required information regarding executive compensation to the Board pursuant to Act 152.

Wherefore, MVP requests that the Board deny the HCA's request for responses to the suggested interrogatories, except that MVP will respond to the 32 interrogatories MVP has agreed to respond to, identified herein, no later than July 5, 2017.

Dated at Burlington, Vermont, this 16th day of June, 2017.

PRIMMER, PIPER EGGLESTON & CRAMER PC

By:



Gary F. Karnedy, Esq.
Primmer Piper Eggleston & Cramer PC
150 South Champlain Street
P.O. Box 1489
Burlington, VT 05602-1489
(802) 864-0880
gkarnedy@primmer.com

Attorneys for MVP Health Plan, Inc.

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Care 2018)
Vermont Health Connect Rate Filing) DOCKET NO. GMCB-007-17rr
)
SERFF No. MVPH-131034103)
)

CERTIFICATE OF SERVICE

I, Gary F. Karnedy, Esq., hereby certify that I have served MVP Health Plan, Inc.'s ***Objection to HCA's June 12 Suggested Questions*** via first-class mail, postage prepaid, upon the following on the date stated below:

Judith Henkin, Esq.
Green Mountain Care Board
89 Main Street, Third Floor
Montpelier, VT 05620
Judy.Henkin@vermont.gov

Lila Richardson, Staff Attorney
Office of the Health Care Advocate
P.O. Box 606
Montpelier, VT 05601
lrichardson@vtlegalaid.org

Kaili Kuiper
Vermont Legal Aid, Inc.
7 Court Street
P.O. Box 606
Montpelier, VT 05601-0606
kkuiper@vtlegalaid.org

Dated at Burlington, Vermont, this 16th day of June, 2017.

PRIMMER PIPER EGGLESTON & CRAMER PC

By: _____

Gary F. Karnedy, Esq.
Primmer Piper Eggleston & Cramer PC
150 South Champlain Street
P.O. Box 1489
Burlington, VT 05602-1489
(802) 864-0880
gkarnedy@primmer.com

Attorneys for MVP Health Plan, Inc.