

June 10, 2020

VIA ELECTRONIC MAIL

Michael Barber
General Counsel
Amerin L. Aborjaily
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Green Mountain Care Board
144 State Street
Montpelier, VT 05602

**Re: Blue Cross and Blue Shield of Vermont Large Group Filing (GMCB-002-20rr)
The Vermont Health Plan Large Group Filing (GMCB-003-20rr)
Blue Cross and Blue Shield of Vermont Association Health Plan Filing (GMCB-004-20rr)
Blue Cross and Blue Shield of Vermont Ind. and Small Group Filing (GMCB-005-20rr)**

Dear Michael and Amerin,

This letter provides BCBSVT's responses to the questions set forth in your letter dated June 1, 2020, to be filed in all of the dockets listed above.

- 1. Please provide more details on the status of BCBSVT's accrued corporate alternative minimum tax (AMT) credits, specifically:**
 - a. the amounts of each payment that has been and will be received,**
 - b. the date or expected date of receipt for each of the listed payments, and**
 - c. if any of BCBSVT's AMT rebates were offset by tax liabilities, the extent of the offset, and which products the tax liability applied to.**

BCBSVT received its first AMT credit refund payment, in the amount of \$17,894,693, on October 2, 2019. That amount represented 50 percent of BCBSVT's AMT credit balance as of December 31, 2018. The remaining balance was originally expected to be refunded over the course of the years 2020, 2021 and 2022. Under a provision in the recently passed CARES Act, BCBSVT will be able to receive the entire remaining balance in 2020. On a preliminary basis, that refund is expected to be just under \$17.8 million, although the exact amount is subject to change based on BCBSVT's final 2019 tax return. BCBSVT plans to file the 2019 return by July

15, 2020; under this assumption, the remaining AMT credit refund would likely be received by mid-September.

Based on the preliminary 2019 tax provision, approximately \$880,000 of BCBSVT's AMT credit balance is being applied to the 2019 tax liabilities of two subsidiary entities, Catamount Insurance Services, Inc. and Health and Wellness Partners, Incorporated Cell (HWP). However, nearly \$780,000 is being added to the AMT credit balance due to net operating loss carrybacks that are related to BCBSVT's insured segments; thus, the net offset is approximately \$100,000.

2. On page 27 of the BCBSVT/TVHP large group actuarial memorandum, you predict that BCBSVT's membership will decrease in 2020. Please explain the basis for this prediction, which plan/s you expect will lose members, and how many members you expect each of those plans to lose.

We used actual enrollment through March 2020 to project the full calendar year 2020 by multiplying the March enrollment by 10 and adding actual January and February enrollment.

Total BCBSVT and TVHP membership in March 2020 was 10,939 lower than December 2019 membership. The losses were on the VISG, BCBSVT Large Group insured and TVHP Large Group Insured lines of business. The table below compares December 2019 enrollment to March 2020 enrollment.

Line of Business	December 2019	March 2020	Change in Enrollment
VISG	42,537	38,786	-3,751
AHP	5,513	0	-5,513
Large Group Insured	12,953	8,894	-4,059
Self-Funded	113,940	116,197	2,257
Medicare Supplement	12,318	12,445	127
Total	187,261	176,322	-10,939

- 3. BCBSVT created a new captive insurance product, BlueEdge, and began offering these plans in 2020. Please describe any reserves that have been specifically set aside to back the new captive insurance product and any short-term impacts of the captive product (including TVHP and BCBSVT selling stop loss to the captive) on the following:**
- a. BCBSVT's reserves,**
 - b. BCBSVT's authorized control level (ACL), and**
 - c. BCBSVT's overall RBC level.**

BCBSVT incorporated HWP in 2016 and began selling the original Blue Edge product as of December 2016. BCBSVT created two new Blue Edge products within HWP, our captive cell, for 2020, and contributed aggregate capital of \$1,707,000 to HWP in late 2019 to back them. Because HWP is wholly owned by BCBSVT, these transactions had zero (\$0) impact on BCBSVT's reserves.

The 2019 transaction increased BCBSVT's authorized control level (ACL) by approximately \$98,000, resulting in a reduction in BCBSVT's overall RBC level of approximately 2.4 percentage points as of December 31, 2019.

There was no stop loss activity related to the new products in 2019, and thus no impact on BCBSVT's December 31, 2019 reserves, ACL, or RBC level. The full year, pro forma impact of stop loss agreements between BCBSVT, TVHP and HWP related to the new products in 2020 has not been estimated at this point. However, we note that running stop loss through HWP as opposed to writing it directly through BCBSVT is favorable to BCBSVT's RBC position and therefore to our customers.

Because both TVHP and HWP are wholly owned by BCBSVT, the net impact of the intercompany agreements on BCBSVT's reserves will be zero (\$0). The impacts of the stop loss transactions on BCBSVT's ACL will generally be offsetting, resulting in a similarly immaterial impact on BCBSVT's overall RBC level in 2020. The impact of the new products on BCBSVT's RBC will ultimately be based on performance. However, we reiterate that none of the intercompany transactions or new capitalization had a material impact on BCBSVT's reserves, ACL, or RBC.

4. Please provide more details on the current status of your pending action against the federal government to recover lost cost sharing reduction monies, *Blue Cross & Blue Shield of Vermont v. United States*, including:

- a. the nature and amount of damages you are currently seeking in the case,**
- b. the status of the proceedings, and**
- c. your best estimate as to the timeframe within which you expect the claim to be resolved.**

The pending action against the federal government seeks recovery of unpaid cost-sharing reduction (CSR) payments for the fourth quarter of 2017 and all of 2018. Based on data submitted to CMS, we currently estimate these unpaid CSR amounts at approximately \$7.2 million. If successful, BCBSVT's recovery would be reduced by attorneys' fees and expenses paid to litigate the case. The federal government continues to take the position that it is not obligated to make these payments.

CSR lawsuits brought by other carriers were consolidated on appeal at the Federal Circuit Court of Appeals. BCBSVT's lawsuit is stayed in the trial court pending a ruling in that appeal. We anticipate that the Federal Circuit will issue a decision at some point during the summer of 2020, but it could take longer.

We do not anticipate any resolution in BCBSVT's lawsuit until 2021. If an appeal is taken to the US Supreme Court, a final resolution could be delayed until the end of 2021 or later.

5. Please specify the amount of 2014 through 2016 unpaid risk corridor payments that BCBSVT will receive from the federal government assuming that its case will be resolved in line the Supreme Court of the United States' recent holding in *Maine Community Health Options v. United States*.

BCBSVT's position is that the federal government owes it \$11,095,529 for unpaid risk corridor payments. BCBSVT's risk-corridor lawsuit was stayed pending the outcome of *Maine Community Health* at the Supreme Court. We do not yet know whether the federal government will stipulate to damages amounts or if further proceedings will be required to obtain a final judgment against the government. While we hope that the trial court will enter final judgment within the next few months, we have no firm date for a final resolution. Nor can we say when any recovery would be paid to BCBSVT. Any recovery in this case will be reduced by attorneys' fees and expenses paid to litigate the case.

- 6. Please provide more detail on the extent to which BCBSVT expects to participate in OneCare Vermont in 2021. Separately for Vermont Individual and Small Group (VISG), Association Health Plan (AHP), BCBSVT large group, TVHP large group, and Administrative Services Only (ASO) populations, please describe the following:**
- a. whether you expect to include the population in an agreement with OneCare;**
 - b. whether you expect to include upside risk, downside risk, or both;**
 - c. whether you plan to implement fixed prospective payments;**
 - d. your reasoning for variations between the populations in your answers to a.-c.; and**
 - e. any impact you expect your OneCare participation to have on rates for each population, if not already specified in the relevant filing.**

BCBSVT has already established agreements with OCV that include upside and downside risk for all non-Medicare lines of business that we write directly. We expect all such agreements to renew in 2021. Terms of the different arrangements vary based on the size of each population and the funding mechanism (self-funded, insured, level-funded).

BCBSVT has developed the operational capability to administer fixed prospective payments for hospitals in the OneCare VT network. To date, only one hospital has elected to transition to the prospective payments for the VISG population. We anticipate that more hospitals will choose to participate in this program in 2021.

Fixed prospective payments are initially being piloted in the VISG population because it represents a significant pool of membership and does not include any claims billing adjustments for self-funded clients. Once a significant number of Vermont hospitals have elected to participate in fixed prospective payment program for VISG, we will begin working to extend the program to other populations.

BCBSVT consistently includes any and all expected impacts of OneCare participation in the relevant filing.

Sincerely,

/s/ Bridget Asay

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