STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross Blue Shield of Vermont	)	
2020 Vermont Health Connect Filing	)	GMCB-006-19rr
	)	

OFFICE OF THE HEALTH CARE ADVOCATE POST HEARING MEMORANDUM

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to respond to the Blue Cross Blue Shield of Vermont (BCBSVT) 2020 Vermont Health Connect filing (Filing). BCBSVT proposes to increase the premium rates of 43,939 Vermonters by an average of 15.6 percent.[1] BCBSVT's rate is unaffordable to Vermonters and it does not promote access to care or quality care. Further, BCBSVT has not met its burden to show that the proposed rate is not unfair, unjust, inequitable or misleading, and is not excessive, inadequate, or unfairly discriminatory. BCBSVT has also not demonstrated that it has complied with its statutory mandate to provide plans at minimum cost and under efficient management. Most significantly, the evidence shows that BCBSVT's proposed increase will worsen Vermont's affordability crisis. For these reasons, the HCA respectfully requests that the Board reduce BCBSVT's proposed rate as detailed below.

I. STATUTORY BACKGROUND

BCBSVT bears the burden of demonstrating that its proposed rate meets the multi-faceted test governing the lawfulness of a rate increase in Vermont: 1) whether the requested rate is affordable; 2) whether it promotes quality care; 3) whether it promotes access to health care; 4) whether it is not unjust, unfair, inequitable, misleading, or contrary to law; 5) whether it is not excessive, inadequate, or unfairly discriminatory, and 6) whether it protects insurer solvency. [2]

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[1] GMCB-006-19rr, BCBSVT Ex. 14 at 1, 3.
[2] GMCB Rule 2.104(c); GMCB Rule 2.301(b); GMCB Rule 2.401; see also 8 V.S.A. §4062(a)(3); In re MVP Health Insurance Company, 203 Vt. 274 (2016).

Absent such a demonstration, the Board may, in its discretion, modify the proposed rate or any element of the rate.[3] When "deciding whether to approve, modify, or disapprove each rate request, the Board must make a determination on each of the statutory criteria."[4] Vermont law also directs the Board to consider "changes in health care delivery, changes in payment methods and amounts …" and other issues at its discretion.[5]

Further, Vermont law requires BCBSVT to provide health insurance coverage "at minimal cost under efficient and economical management."[6] Lastly, Vermont law authorizes the Board to refuse rate approval if the "Board finds that the rates submitted… fail to meet the standards of affordability, promotion of quality care, and promotion of access."[7]

II. BCBSVT HAS FAILED TO OFFER RATES THAT ARE AFFORDABLE AND PROMOTE ACCESS TO CARE OR TO CARRY ITS BURDEN WITH RESPECT TO EACH OF THE OTHER CRITERIA ON WHICH THE BOARD MUST MAKE A DETERMINATION.

A. Affordability

Public comments from more than 600 Vermonters expressing the current affordability crisis,[8] the high rate at which premiums and cost sharing are outpacing Vermonters' ability to pay,[9] and the high percentage of Vermonters' incomes being taken up by premiums and deductibles.[10] BCBSVT seeks to define affordability as "not excessive" and conflates medical loss ratio with affordability.

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[3] E.g., GMCB-009-18rr, Decision at 17 (reducing a proposed rate in recognition that "health care costs remain unaffordable for too many Vermonters, impeding their access to care"); GMCB-016-14rr, Decision at 4 (disapproving an insurer's proposed administrative costs and contribution to reserve based on the insurer failing to meet "its burden for the requested increase…").

[4] 8 V.S.A §4062(a)(3).

[5] 18 V.S.A. §9375(b)(6).

[6] 8 V.S.A. §4512(c); 8 V.S.A. §4584(c).

[7] 8 V.S.A. §4512(c).

[8] E.g., GMCB-006-19rr, Pub. Comment 1, 9, 50, 86, 89, 158, 353 (comments stating the lack of affordability from a consumer perspective); GMCB-006-19rr, Pub. Comment, 99, 114, 275, 311, Vermont Chamber of Commerce Comment, Northeastern Jury Research Project Comment (comments stating the lack of affordability from the perspective of Vermont business).

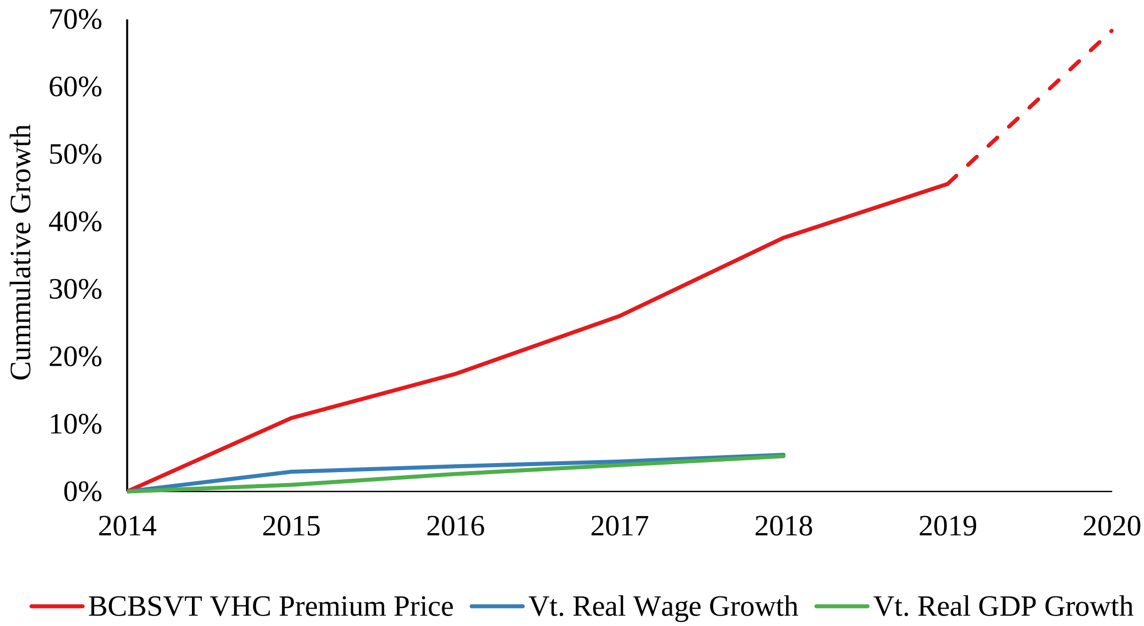
[9] E.g., GMCB-006-19rr, Pub. Comment 77, 148, 162, 187, 315, 407, 500.

[10] E.g., GMCB-006-19rr, Pub. Comment 45, 162, 215, 233, 430.

However, actuarial justification and federal medical loss ratio requirements do not reflect whether or not Vermonters have enough money to buy insurance.[11]

If BCBSVT's 15.6% rate increase is approved for 2020, BCBSVT's rates will have cumulatively increased by almost 70% since 2014, the first year for this product.[12] BCBSVT's rate increases for this book of business have far outpaced both Vermont GDP and Vermont wage growth: between 2014 and 2018, BCBSVT VHC premium price growth was 717% larger than Vermont real Gross Domestic Product (VTRGDP) growth.[13] During the same period, BCBSVT VHC premium price growth was 696% larger than Vermont real wage growth (VTRWG).[14]

Chart 1. BCBSVT VHC premium price growth compared to VTRGDP growth and VTRWG. [15]



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[11] E.g., GMCB-006-19rr, Hr'g Tr. at 79 ([ANGOFF] "You believe that the MLR uses the term 'affordability' and defines that?" [SCHULTZ] "No, it doesn't.").
[12] GMCB-006-19rr, BCBSVT Ex. 14 at 2; GMCB-009-18rr, Decision; GMCB-008-17rr, Decision; GMCB-008-16rr, Decision; GMCB-008-15rr, Decision; GMCB-018-14rr, Decision.
[13] VTRGDP, as opposed to nominal Vermont gross domestic product, accounts for inflation. GMCB-006-19rr, HCA Ex. 6; GMCB-008-17rr, Decision; GMCB-008-16rr, Decision; GMCB-008-15rr, Decision; GMCB-018-14rr, Decision.
[14] VTRWG, as opposed to Vermont nominal wage growth, accounts for inflation. GMCB-006-19rr, HCA Ex. 7; GMCB-008-17rr, Decision; GMCB-008-16rr, Decision; GMCB-008-15rr, Decision; GMCB-018-14rr, Decision.
[15] Note 13, 14.

Additionally, the comments of Vermonters and Vermont businesses highlight their struggles to pay premiums and deductibles. The qualitative evidence of the dual burden of premiums and deductibles on Vermonters can be quantified using the ACA premium affordability threshold and Vermont's Household Health Information Survey underinsurance metric. Combining this threshold and metric to capture the dual burden of premiums and deductibles, an insurance plan is affordable if a household (1) does not pay more than 9.86% of their income for premiums or (2) have a combined deductible equal to or greater than 5% of their income.[16]

Using this test, the 2019 BCBSVT Standard Silver plan is unaffordable to large numbers of Vermonters not income-eligible for Medicaid. It is unaffordable, accounting for premium subsidy, cost-sharing benefits, Medicaid eligibility and Dr. Dynsaur eligibility, to large numbers of Vermonters: individuals whose annual income is between $18,200 and $19,017 or between $24,282 and $69,452. It is unaffordable to couples whose annual income is between $24,692 and $138,904. And it is unaffordable for families whose annual income is between $37,656 and $38,036 or between $50,201 and $195,161.[17] The proposed rate increases will mean that the 2020 BCBSVT Standard Silver plan is unaffordable to even more Vermonters.

The 2019 plan is particularly unaffordable for Vermonters whose income is slightly above the premium tax credit threshold. For example, assuming the purchase of the standard reflective Silver plan, in order to pay their premium and meet their deductible, individuals, couples, and households of four at 401% FPL ($48,681, $66,004, and $100,651, respectively), must pay 20%, 30%, and 25%

[16] As presented, this test assumes that households with incomes not eligible for APTC purchase a reflective silver plan and that households that are income eligible for APTC receive the advanced premium tax credit.
[17] The assumed family composition is two adults and two dependent children under 19 years of age. GMCB-006-19rr, HCA Ex. 1, 2, 9-14.

of their income, respectively.[18] The comments submitted reinforce the gravity of how unaffordable the rates are for Vermonters not receiving subsidies.[19]

The over 600 public comments submitted to the Board prove the affordability crisis and its deleterious effect on Vermonters,[20] local government, [21] businesses, [22] and non-profit community organizations.[23] To be sure, any proposed rate increase will be affordable for some people and unaffordable for others. However, the proposed rate increase would be unaffordable to Vermonters who earn the 2017 median income for an individual ($28,454), couple ($66,421), or household of four ($89,391).[24] In fact, it would be unaffordable for individuals, couples, and families who earn twice the median income. A rate that over half of the population cannot afford is not affordable within the meaning of the rate review statute.

B. Access to Care

As health insurance rates increase, Vermonters are forced to purchase lower value plans with higher out-of-pocket costs to be able to afford the monthly premiums as is evidenced by both Vermont Department of Health (VDH) statistics the public comments.

According to VDH, the number of underinsured Vermonters who purchase private insurance is rapidly rising: 27% in 2014 to 40% in 2018.[25] Further, in 2018, the average amount of money underinsured Vermonters ages 18-64 spent on out-of-pocket medical costs over the past year was $4,072.[26] Of underinsured Vermonters, a shocking 13% reported using all or most of their savings

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[18] Id.
[19] E.g. GMCB-005-19rr, Pub. Comment, 160, 233, 407, 409, 442.
[20] GMCB-005-19rr, Pub. Comment, 1-600.
[21] GMCB-005-19rr, Pub. Comment, 206.
[22] GMCB-005-19rr, Pub. Comment, 99, 114, 275, 311, 353, 497, Vermont Chamber of Commerce Comment, Northeastern Jury Research Project Comment, Lake Champlain Regional Chamber of Commerce Comment, Rural Vermont Comment.
[23] E.g., GMCB-005-19rr, Pub. Comment, 277, 290, 402, 502.
[24] 2017 is the most recent year that the U.S. Census Bureau produces estimates for median household income by household size. GMCB-006-19rr, HCA Ex. 17.
[25] GMCB-006-19rr, HCA Ex. 5 at 3.
[26] GMCB-006-19rr, HCA Ex. 5 at 34.

to pay medical bills.[27] The rapid growth of underinsured Vermonters is particularly troubling because uninsured and underinsured Vermonters delay seeking care at a significantly higher rate than Vermonters with adequate insurance.[28]

Vermonters' comments ground-truth the VDH statistics and further illuminate the reality of Vermonters struggling to access care in an environment of rapidly increasing premiums and deductibles.[29]

C. Quality of Care

The evidence before the Board demonstrates that the proposed rate does not promote quality care. Numerous public comments stated that Vermonters are afraid to go to the doctor due to high out of pocket expenses.[30]

D. Not Unjust, Unfair, or Misleading

The proposed rate increase is unjust, unfair, and misleading in several ways. First, although BCBSVT will receive $16.6 million in alternative minimum tax (AMT) refunds in 2019 under the Trump tax bill,[31] BCBSVT does not choose to use this windfall to lower its premiums. Instead, in an attempt to rationalize keeping the refund in full, BCBSVT asked for and was granted an exemption from standard statutory accounting principles.[32] In addition, BCBSVT asked DFR for and was allowed to increase its target risk-based capital (RBC) range from 500-700 to 590-745 even though BCBSVT's own consultant found that it overstated its reserves by 15%, which artificially deflated surplus.[33] After successfully raising its target RBC range, BCBSVT now claims that it must raise rates and keep all of the future AMT money to reach its new, higher target RBC range.[34]

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[27] GMCB-006-19rr, HCA Ex. 5 at 36.
[28] GMCB-006-19rr, HCA Ex. 5 at 29-30.
[29] E.g., GMCB-006-19rr, Pub. Comment 73, 235, 258, 289, 386, 392, 435, 516, 525.
[30] Id.
[31] GMCB-006-19rr, BCBSVT Ex.10 at 2.
[32] GMCB-006-19rr, HCA Ex. 23.
[33] GMCB-006-19rr, Hr'g Tr. at 171-172; GMCB-006-19rr, BCBSVT Ex. 1 at 128, BCBSVT Ex. 17.
[34] GMCB-006-19rr, BCBSVT Ex. 1 at 126-128.

Second, BCBSVT has acknowledged that it intends to use its AMT refunds to offset its for-profit subsidiaries tax liabilities.[35] This directly contradicts BCBSVT's representation that it intends to use its AMT refunds to benefit its policyholders.[36]

Third, BCBSVT has doubled down on bad predictions in the Filing. Last year, BCBSVT's actuary, as well as L&E, predicted that the removal of the individual mandate penalty would increase the rate. They were wrong, but BCBSVT chose to resubmit the argument to increase rates in its 2020 filing.[37] Similarly, BCBSVT's actuary argued that the existence of Association Health Plans (AHPs) should increase its individual and small group plan premiums. When AHPs were banned for 2020, BCBSVT chose not to remove this assumption from the filing, but instead asserts that a significant number of healthy groups that were going to AHPs will now self-insure.[38] In contrast, L&E testified that groups under 100 are very unlikely to self-insure.[39] We note that MVP removed both its individual mandate and AHP assumptions when it became clear that these assumptions were incorrect. The unfairness of BCBSVT's positions on AHPs and the individual mandate is compounded by the fact that BCBSVT benefitted financially from AHP business while they were in existence, which included former small group members, and will benefit financially from administrative-services-only agreements if they convince former AHP groups to self-insure.[40]

Fourth, BCBSVT blames the repeal of the individual mandate penalty and AHPs as reasons it needs to raise rates claiming these issues will cause Vermonters to drop coverage.[41] In reality, it is

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[35] GMCB-006-19rr, BCBSVT Ex. 10 at 2 ("BCBSVT will utilize a portion of its AMT credit balance to offset subsidiary income tax liabilities each year.").
[36] GMCB-006-19rr, BCBSVT Ex. 1 at 137 (AMT credits "will also be used for the direct benefit of [BCBSVT's] customers as they are received from the IRS.")
[37] GMCB-006-19rr, BCBSVT Ex. 1 at 29.
[38] GMCB-006-19rr, BCBSVT Ex. 8 at 5.
[39] GMCB-006-19rr, Hr'g Tr. at 281-282 (Dillon testimony).
[40] GMCB-006-19rr, Hr'g Tr. at 88 (Schultz testimony) ([LUNGE] "Does your company work with current clients to choose what product they would enroll in in the following year?" [SHULTZ] "Yes, I believe they do.")
[41] GMCB-006-19rr, Hr'g Tr. at 37-38.

BCBSVT's rising rates that causes people to drop coverage.[42] Many Vermonters said they will have to drop insurance coverage if this increase is implemented, because they simply cannot afford it.

Fifth, BCBSVT's rate does not account for the new Green Mountain Surgery Center, despite the fact that BCBSVT submitted a letter in support of the surgery center stating that they believe their contract with the surgery center will help "reduce overall health care expenditures in Vermont."[43]

Finally, BCBSVT emphasizes that carrier solvency and rate adequacy are primary aspects of the Board's review of the proposed rate. However, these factors must be balanced with, amongst other factors, consumer affordability. The ability of Vermonters to afford health insurance is not only important to individual Vermonters but to the stability of insurers and of our health care system as a whole. Insofar as the filing is designed to maximize insurer surplus over consumer affordability it is unjust, unfair, and misleading to Vermonters.

E. Not excessive, Inadequate, or Unfairly Discriminatory

Actuaries estimate how much the carrier is likely to pay, based on both estimates and hard numbers. 2018 risk adjustment program payables and receivables are based on hard numbers.

The other elements of the rate filing, however, are projections, not hard numbers. In selecting a reasonable projection for each of those elements, we ask that the Board keep the following in mind: it is impossible to know now how much insurers will pay out in claims next year. All any of us—actuary and non-actuary alike—can do is to make our best projection—our best guess. Actuaries have tools that allow them to make educated guesses, but they're still

[42] E.g., GMCB-006-19rr, Pub. Comment 10, 488, 505, 521, Rural Vermont Comment.
[43] June 24, 2019 Letter from BCBSVT to the Green Mountain Surgery Center, https://gmcboard.vermont.gov/sites/gmcb/files/BCBSVT%20Letter%20Condition%2012%206.24.19%20%28002%29.pdf.

guesses. And in many cases—assuming all good faith and the best of intentions—those guesses are wrong. To cite one example, the actuaries' educated guesses regarding the impact of individual mandate were substantially wrong.[44]

Keeping in mind the inherent unknowability in 2019 of an accurate rate for 2020, and the mixed record of both the carrier's and the state's actuaries in making estimates that turn out to be accurate, the HCA asks the Board to consider the following:

First, BCBSVT's trend should not exceed MVP's approved trend. As L&E emphasized, BCBSVT separately raised the rate to account for the worse health status, i.e., the greater morbidity, of its subscribers. For BCBSVT to adjust for worse health status and additionally have a higher unit cost trend than MVP simply means that BCBSVT is not doing as good a job as MVP in negotiating with providers. This should not be the case, because BCBSVT has greater market share and therefore greater bargaining power than MVP. And after separately accounting for morbidity, BCBSVT should not have a higher utilization trend than MVP, because it has more covered lives and therefore more opportunity to control utilization: if a carrier has one thousand diabetics it is easier to control utilization than if it has ten.

Second, BCBSVT's non-specialty drug utilization trend is too high when compared to recent trends. L&E notes that the non-specialty drug utilization trend was 2.8% in 2017 and 0.5% in 2018.[45] Although the more recent data shows a much lower trend than the old data, L&E picked a trend near the middle of the two numbers. It is just as reasonable, if not more reasonable, to assume that the most recent data is part of a downward trend. Even if the Board

[44] GMCB-006-19rr, Hr'g Tr. at 72-73.
[45] GMCB-006-19rr, Ex. 14 at 12.

does not wish to assume a further reduction in trend from 2018, it should not increase trend beyond what it was in the most recent year, i.e., 0.5%.[46]

Third, BCBSVT is not sufficiently aggressive in its negotiations with providers. While more aggressive negotiating is a necessary step to improve affordability for consumers and for making the rate less excessive, it is not sufficient. The Board must use its authority in its other regulatory processes to ensure that provider rates within the Board's jurisdiction are set at a level to address Vermont's affordability crisis. BCBSVT correctly noted that, in building a health care system, "we've all got to be at the table, contributing resources."[47] Vermont's largest hospital, UVMMC, cannot be allowed to implement at 6% commercial rate increase while Vermonters are facing a crisis of unaffordability and insurers are being asked to tighten their belts.

Fourth, L&E noted that various time-series methods of projecting specialty-drug trend produced estimates of between 3.7% and 15.6%, but L&E picked a trend of 20% - approximately 28% higher than the high end of the range. Even L&E conceded that the high end of the range rather than 20% could be reasonable.[48]

F. Solvency

BCBSVT reports that it is in dire financial straits due to the Board's regulation. However, the alleged crisis is largely manufactured by BCBSVT. There are several reasons why BCBSVT's financial position is better than BCBSVT presents it to be. First of all, although DFR permitted BCBSVT to withhold its AMT refund from its accounting statements, Commissioner Pieciak acknowledges that under SSAP 101, deferred tax assets (DTA) should be included in surplus.[49] Ruth Greene agreed.[50] Yet, the Commissioner has authorized a permitted practice for

[46] GMCB-006-19rr, BCBSVT Ex. 14 at 12.
[47] GMCB-006-19rr, Hr'g Tr. at 218.
[48] GMCB-006-19rr, Hr'g Tr. at 280.
[49] GMCB-006-19rr, HCA Ex. 23 at 1; hearing transcript at 299.
[50] GMCB-006-19rr, Hr'g Tr. at 154.

BCBSVT to non-admit all its AMT credits.[51] Nevertheless, even under the standard he applied, using the term "next year,"[52] the 2019 and 2020 amounts should be admitted. Admitting the 2019 and 2020 amounts increases BCBSVT's surplus by $26.6 million, and its RBC ratio to 609.[53]

Whether it was proper for BCBSVT to non-admit the remainder of BCBSVT's AMT credits is unclear. BCBSVT claims it was "required" to non-admit the remainder, but provided no authority for that claim. Absent such authority, the Board may wish to include the entire $34 million in AMT credits in surplus, which, by a conservative estimate, would increase its RBC by 136 points. At a minimum, however, it should include the 2019 and 2020 amounts in surplus.

In addition, Axene Health Partners, an actuarial firm hired by BCBSVT, noted that BCBSVT has been substantially over-reserving.[54] It has been deliberately setting aside, not its bests estimate of the amount it will need to pay claims, but rather 15% more than its best estimate.[55] That 15% is an amount that should properly go into surplus, and Axene expressly found that "BCBSVT could potentially lower its explicit level of provisions for adverse deviations which would result in both a higher surplus level and higher HRBC ratio."[56] The Board should include that 15% in its surplus calculation.

There are several additional factors that mitigate the risk that BCBSVT faces and thus should reduce any solvency concerns the Board might otherwise have: 1) The federal reinsurance program. Under this program all individual and small group insurers can recoup 60% of any claim they have of over $1 million. All insurers pay into this program, which BCBSVT has already factored into the rate by increasing it by 0.25%. Thus, this 0.25% serves the same

[51] GMCB-006-19rr, HCA Ex. 23.
[52] GMCB-006-19rr, Hr'g Tr. at 299, 302.
[53] GMCB-006-19rr, BCBSVT Ex. 1 at 128, BCBSVT Ex. 10 at 2.
[54] GMCB-006-19rr, BCBSVT Ex. 17 at 37.
[55] GMCB-006-19rr, BCBSVT Ex. 17 at 37-38.
[56] GMCB-006-19rr, BCBSVT Ex. 17 at 38.

function as surplus: it protects BCBSVT in case of an unexpected high claim. In addition, BCBSVT's experience under this program should also reassure the Board: BCBSVT has had no claim exceeding $1 million during the entire time the reinsurance program has been in effect.[57] 2) There is no chance that the company will grow too fast.[58] To the contrary, the company is contracting. 3) Vermont is not a hypercompetitive environment.[59] Vermont is simply too small a market to be attractive to the major national carriers. 4) As BCBSVT testified, its imminent 2018 risk adjustment payment will resolve half of its losses from 2018.[60] Further, if BCBSVT loses additional membership, its risk adjustment payments will be spread across fewer members, having a bigger impact per member per month. 5) Finally, as mentioned above, BCBSVT is on track to receive over $7 million in lost CSR payments which were a significant cause of its losses in 2018 and at the end of 2017.[61]

Finally, BCBSVT needs to take responsibility for many of the causes of its recent losses. Here are a few examples: 1) BCBSVT lost money on this product by failing to require Medicare to be the primary payer for consumers who have Medicare coverage.[62] 2) Fraud, waste, and abuse recapture has historically been and is still low and BCBSVT's fraud recovery rates have plateaued.[63] 3) BCBSVT lost money in recent years from its large group filing due to a flaw in its ratings methodology.[64] 4) BCBSVT's investment portfolio declined in value by $10 million

[57] GMCB-006-19rr, Hr'g Tr. at 72.
[58] GMCB-006-19rr, BCBSVT Ex. 17 at 15.
[59] GMCB-006-19rr, BCBSVT Ex. 17 at 15.
[60] GMCB-006-19rr, Hr'g Tr. at 200, Greene Testimony.
[61] GMCB-006-19rr, BCBSVT Ex. 10 at 3; Transcript at 200, Greene Testimony.
[62] GMCB-006-19rr, BCBSVT Ex. 1 at 32.
[63] GMCB-006-19rr, BCBSVT Ex. 1 at 37.
[64] GMCB 003-18rr, April 10, 2018 Response to L&E Objection Letter, at 3 (stating that their previous methodology, "resulted in a materially lower amount than if projected claims were developed using exclusively experience claims…we believe the change in manual rate methodology will produce more accurate and sustainable rates for large groups.").

dollars in 2018 which lowered its surplus.[65] 5) BCBSVT's losses were caused in part by lost market share. [66] As public comments show, the unaffordability of BCBSVT's rates is causing BCBSVT's members to drop coverage.

III. CONCLUSION

BCBSVT's rate is unaffordable to Vermonters and it does not promote access to care or quality care. Further, BCBSVT has not met its burden to show that the proposed rate is not unfair, unjust, inequitable or misleading, and is not excessive, inadequate, or unfairly discriminatory. BCBSVT has also not demonstrated that it has complied with its statutory mandate to provide plans at minimum cost and under efficient management. The proposed increase will only exacerbate Vermonters' health care affordability struggles and destabilize Vermont's health care system. As a result, we respectfully request that the Board recalculate the proposed rate as follows:

- Adopt L&E's recommendation to adjust risk adjustment amounts receivable;
- Limit BCBSVT's medical trend to, at a maximum, MVP's trend;
- Implement a non-specialty drug utilization trend of no more than 0.5%;
- Select a specialty drug trend in the middle of the 3.7%-15.6% trend range projected by L&E's time series methods. Or, if L&E can demonstrate that 3.7% is a statistical outlier, which it has not in its report, the halfway point between the next-lowest estimate and 15.6%;
- Select trends at the 25th percentile of L&E's "reasonable" ranges;
- Reduce the rate by at least 1% to incorporate affordable provider rates that the Board will set in the hospital budget process as insurer negotiations with hospitals under the Board's

[65] GMCB-006-19rr, Hr'g Tr. at 167-170.
[66] GMCB-006-19rr, Hr'g Tr. at 98.

jurisdiction have not achieved affordable prices. This reduction would additionally incentivize BCBSVT to negotiate stringently with providers outside the Board's jurisdiction.

- While a negative CTR factor could easily be justified in view of the AMT refunds BCBSVT will be receiving, set the CTR factor for this filing no higher than 0%. There is no principled basis for permitting BCBSVT to charge rate payers for an additional contribution to surplus on top of the AMT credits it is receiving this year and will be receiving through 2022.
- Due to Vermont's affordability crisis and in recognition of Vermonters' demonstrated lack of access to care due to unaffordability, reduce the rate by at least 1.5%.

Recalculating the rates as proposed will not fully address the pain and challenges Vermonters and Vermont small businesses face due to rising premiums and deductibles. Neither will it fully address the harms of unaffordable health insurance on Vermont's economy and health care system. However, the recalculation will mitigate the harm of a rate increase. Further, such a recalculation would reflect a reasonable balancing among all the factors that the Board is statutorily charged to consider. In addition, such a recalculation would better align BCBSVT's rate growth with Vermont's 3.5% ceiling for annual health care cost growth under the all-payer model.

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Dated at Montpelier, Vermont this 30th Day of July, 2019.

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CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above OFFICE OF THE HEALTH CARE ADVOCATE POST HEARING MEMORANDUM on Michael Barber, Green Mountain Care Board General Counsel, Amerin Aborjaily, Green Mountain Care Board Staff Attorney; and Michael Donofrio and Bridget Asay, representatives of BCBSVT, by electronic mail, return receipt requested, this 30th day of July, 2019.

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