

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc.)
2020 Vermont Health Connect Rate Filing) GMCB-005-19rr
)

**RESPONSE TO MVP’S MOTION FOR CLARIFICATION
REGARDING L&E’S JUNE 18, 2019 OBJECTION LETTER NO. 3**

The Office of the Health Care Advocate (HCA) requests that the Green Mountain Care Board (Board) direct MVP Health Plan, Inc. (MVP) to respond fully to Question 1 of Objection Letter No. 3 as propounded to MVP, through Lewis & Ellis (L&E), on June 18, 2019 (Question 1). Specifically, we ask the Board to direct MVP to provide its actual medical unit cost and medical utilization for the plan year covered by the filing captioned GMCB-007-17rr.

Actual medical unit cost and medical utilization—which are not available until after the insurer submits its projected trends to the Board—is vitally important information for the Board to consider in evaluating the reasonableness of an insurer’s proposed rate increase. Both the medical unit cost and medical utilization an insurer’s actuary assumes in its rate filing and any adjustments to those trends recommended by the Board’s actuary are guesses: they are educated guesses, but they are guesses. Only after the actuary has assumed a medical unit cost and medical utilization are the actual trends known. MVP now knows its actuals for the plan year covered by the filing captioned GMCB-007-17rr, and there is no credible basis on which it may withhold that information. Knowing how an insurer’s projected trends for prior years compare to the actual trends for those years will significantly enhance the Board’s ability to evaluate the credibility of the projections an insurer makes in its current filing.

Procedural History

1. On May 10, 2019, MVP filed its 2020 Vermont Health Connect Filing (MVP VHC Filing).¹
2. On May 31, 2019, the HCA submitted to the Board for consideration an actuarial question about historical rate and rate component data (Historical Data Question).
3. On June 5, 2019, MVP objected to the Historical Data Question on four grounds.²
4. On June 11, 2019, the HCA responded to MVP's objections.³
5. On June 18, 2019, the Board asked MVP, through L&E, Question 1.⁴ Question 1 was a reduced version of the HCA's suggested Historical Data Question. L&E directed MVP to respond to Question 1 by June 25, 2019.
6. On the June 25, 2019 deadline, roughly twenty six days after MVP first saw the Historical Data Question, MVP failed to answer Question 1.⁵ Specifically, MVP did not provide actual medical utilization or unit cost for the plan year covered by the filing captioned GMCB-007-17rr, instead choosing to simply fill the in fields with "N/A."
7. On June 26, 2019, one day after the deadline to provide a response to Question 1, MVP submitted a "Motion for Clarification" requesting the Board to allow it to not fully answer Question 1. This motion was, in all but name, a new objection to Question 1 in which MVP asserted that a full answer to Question 1 would entail violating the actuarial professional code of conduct (Actuarial Conduct Code), because providing single numbers for actual medical utilization and medical unit cost would be "misleading."⁶ MVP did not explain how answering Question 1 would be "misleading" or why, even assuming single numbers would

¹ GMCB-005-19rr, SERFF Filing.

² GMCB-005-19rr, MVP's Objection to the HCA's Suggested Interrogatories at 4-5.

³ GMCB-005-19rr, Response to MVP's Objection to the HCA's Suggested Questions – Set 1 at 1.

⁴ GMCB-005-19rrm, Objection Letter #3.

⁵ GMCB-005-19, MVP Response to Objection Letter #3 at Question #1 Attachment.

⁶ GMCB-005-19, MVP's Motion for Clarification Regarding L&E's June 18, 2019 Objection Letter No. 3 at 3.

be “misleading”, MVP could not provide additional information to make an answer not “misleading.” MVP also did not ask a question for clarification, as far as we are aware, but rather simply asked the Board for post-hoc approval for its failure to answer Question 1.

Discussion

The Board should direct MVP to fully answer Question 1. MVP asserts that the provision of single numbers for actual medical utilization and medical unit cost is “misleading”, without providing any support for that assertion. Moreover, it fails to explain why it could provide such numbers in its 2020 VHC Filing but not in answer to Question 1.⁷ MVP should not be allowed to evade a question validly posed as part of a legislatively-defined regulatory process.

In addition, MVP took the opportunity to object to the HCA’s questions when they were first posed. MVP is therefore wasting the Board’s time in a short litigation process by asking to rehash an issue that has been settled. If MVP needed clarification on the expectations of a full answer to Question 1, it had ample time to ask questions in order to make a good faith effort to provide a response before the answer was due.

Further, the newly asserted argument that MVP presents is unsound. The Actuarial Conduct Code states that, “Where requirements of Law conflict with the [Actuarial Conduct Code], the requirements of Law shall take precedence.”⁸ As such, even if MVP could not answer Question 1 without violating the Actuarial Conduct Code, compliance with the Board’s regulatory process supersedes any conflicting Actuarial Conduct Code directives.

For the above reasons, the HCA respectfully asks the Board to direct MVP to fully answer Question 1.

⁷ See, e.g., GMCB-005-19rr, MVP Actuarial Mem. at 5, 7, 11.

⁸ Actuarial Code of Professional Conduct, 1, https://www.actuary.org/sites/default/files/files/code_of_conduct.8_1.pdf.

Dated at Montpelier, Vermont this 28th day of June, 2019.

s/ Jay Angoff

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CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above RESPONSE TO MVP'S MOTION FOR CLARIFICATION REGARDING L&E'S JUNE 18, 2019 OBJECTION LETTER NO. 3 on Michael Barber, Green Mountain Care Board General Counsel; Amerin Aborjaily, Green Mountain Care Board Staff Attorney; and Gary Karnedy and Ryan Long, Primer Piper Eggleston & Crammer PC, representatives of MVP, by electronic mail, return receipt requested, this 28th day of June, 2019.

s/ Eric Schultheis

Eric Schultheis

Staff Attorney

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