

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: The Vermont Health Plan)
First and Second Quarter 2014 Trend Filing) GMCB-036-13-rr
)
)
SERFF No. BCVT-129197313)
Vermont Filing No. 68006)

DECISION & ORDER

Introduction

On December 6, 2013, the Commissioner of the Department of Financial Regulation recommended that the Green Mountain Care Board approve The Vermont Health Plan's (TVHP) First Quarter 2014 (1Q14) and Second Quarter 2014 (2Q14) Trend Filing.¹ In this Decision and Order, the Board modifies, and then approves the filing. The Commissioner shall apply this decision pursuant to 8 V.S.A. § 4062(a)(2)(C).²

Background

For major medical rate filings submitted prior to January 1, 2014, Vermont law requires a two-step regulatory process for health insurer rate requests: (1) The Department of Financial Regulation reviews each request and makes a recommendation to the Board, 8 V.S.A. § 4062(a); and (2) the Board reviews and approves, modifies, or disapproves the request. 8 V.S.A. § 4062(a)(2)(B); 18 V.S.A. § 9375(b)(6). The Board reviews rate requests taking into consideration the broad aims of Act 48, including the extent to which rates are consistent with the goals of containing costs, improving quality of care, and improving the health of the population.

Procedural History

On September 10, 2013, TVHP submitted its 1Q14 and 2Q14 Trend Filing to the Department via the System for Electronic Rate and Form Filing (SERFF). The Department deemed the filing complete on November 21, 2013.

¹ Although the Commissioner's Recommendation bears the date of December 5, 2013, it was not forwarded to the Board until December 6, the date shown on the attached cover letter.

² In Act 79, the Vermont Legislature amended Section 4062 of Title 8, effective for rate filings submitted on or after January 1, 2014. Because this filing was made prior to that date, the citations in this decision reference the earlier version of the statute.

On December 6, 2013, the Commissioner forwarded to the Board a recommendation that it approve TVHP's filing, accompanied by an Opinion letter from Oliver Wyman (OW), the Department's contract actuary. *See Recommendation for Approval of TVHP First and Second Quarter 2014 Trend Filing (Recommendation), available at* http://gmcboard.vermont.gov/sites/gmcboard/files/03613rr_ComRec.pdf*; Oliver Wyman Opinion Letter (OW Letter), available at* <http://gmcboard.vermont.gov/sites/gmcboard/files/036Opinion.pdf>*. TVHP and the Office of the Health Care Ombudsman (HCO)³ waived the hearing scheduled for December 18, 2013. Both parties filed Memorandum of Law in lieu of hearing.*

The Board has reviewed and considered all materials submitted by the Department and the parties.

Findings of Fact

Nature of the filing

1. TVHP is a licensed health maintenance organization (HMO) and for-profit subsidiary of BlueCross BlueShield of Vermont (BCBSVT) that provides HMO, point of service and Medicare supplement coverage to approximately 41,200 Vermonters. The company offers a variety of plans and products in the group market in Vermont. Recommendation at 2.

2. The present filing is a trend filing that sets forth the percentage by which TVHP expects its per capita twelve-month medical and prescription drug costs to increase for large group policyholders. If approved, the trends will be applied as a multiplier to the medical and pharmacy claims component of the company's existing rates in order to determine the price charged for each medical and pharmacy product renewed or sold in the large group market during 1Q14 and 2Q14. *Id.*

3. There are 5,794 contracts and 11,642 members currently enrolled in a TVHP large group plan with renewal dates during 1Q14 and 2Q14. *Id.*, Attachment 1 (Factor Filing Summary).

³ Pursuant to rule, the HCO may participate in the review of rate requests as a party. GMCB Rule 2.000: Health Insurance Rate Review, § 2.105(b). Starting in January 2014, the HCO's name will be changed to the Office of the Health Care Advocate (HCA).

Summary of the Data and Analysis

4. TVHP is proposing base annual uncapped allowed trend factors of 4.1% for medical claims and 7.2% for pharmacy claims, for a combined factor of 4.6% for members renewing in 1Q14 and 2Q14. OW Letter at 1.

5. Even though the proposed trends will be used primarily for the development of large group premiums, the data underlying the development of these trends includes large group, small group, and nongroup products. The inclusion of data pertaining to these groups is reasonable because it boosts credibility; in addition, the service dates for this filing predate the Affordable Care Act, when the market undergoes considerable changes. *Id.* at 2-3.

6. In developing its medical trend, TVHP examines claims separately for its consumer driven health plans (CDHP) and non-CDHP blocks for the period June 2010 through May 2013, with payments through July 2013. Mental health and substance abuse fee-for-service equivalent claims are included in the historical experience. *Id.* at 3.

7. OW independently estimated a range of uncapped medical trend from 4.0% to 5.2%. TVHP's proposed 4.1% uncapped medical trend falls at the lower end of this range. *Id.* at 7.

8. In developing its proposed drug trend, the data used by the carrier reflects claims experience for both TVHP and BCBSVT, which uses the same reimbursement fee schedules and claims adjudication process. *Id.*

9. TVHP anticipates that its generic drug dispensing rate (GDR)⁴ will not continue to increase at its current annual growth rate of 4.0%. Rather, TVHP assumes the GDR will increase at an annual rate of approximately 1.0%. According to its actuarial memorandum, TVHP's expected GDR for April 2014 through March 2015 will be 83.4%; for the twelve months ending June 2013, the GDR was 82.3%. *Id.* at 4.

10. OW independently calculated an estimated range of drug trend of 5.3% to 9.5%, with TVHP's proposed trend falling in the middle of the range. The lowest point in the OW range assumes that GDR will continue to increase at a rate of approximately 4.0%. Although OW agrees that the 4.0% GDR cannot continue indefinitely, it "believe[s] recent trends could possibly continue for the next couple of years." *Id.* at 7.

⁴ The generic dispensing rate is equal to the number of generic scripts divided by the total number of drug scripts. OW Letter at 4, n. 4. A higher GDR signifies that more drugs are shifting from brand to generic script types in the future. Because generic scripts are lower in cost than brand scripts, a shift from brand to generic scripts results in a lower trend rate. *Id.* at 4.

11. OW opines that the proposed trend factors are reasonable and should generate premium that is not excessive, deficient, or unfairly discriminatory. Moreover, viewed in light of Oliver Wyman’s semi-annual carrier trend survey that reflects pricing trends used by 66 participating companies in the development of their July 2013 rates, TVHP’s proposed medical trend is below the 25th percentile for medical trends, and proposed drug trend only slightly above the 25th percentile for pharmacy trends. *Id.* at 9-10.

12. The Commissioner recommends that the Board approve the trend factors as filed. The Commissioner notes that the Department’s Director of Company Licensing and Examinations “cautions that reducing trends in a manner that increases the company’s exposure to unexpected adverse events is not advisable at this time.” Recommendation at 5.

Standard of Review

1. Under Vermont law applicable to rate requests filed through the end of 2013, the Board must “approve, modify, or disapprove requests for health insurance rates” within thirty (30) days of receiving the Commissioner’s Recommendation. 18 V.S.A. § 9375(b)(6); 8 V.S.A. § 4062(a)(2)(B).

2. The burden of proof to justify a requested rate increase falls on the insurer. Rule GMCB 2.000: Health Insurance Rate Review, § 2.104(c) (effective for filings submitted prior to Jan. 1, 2014).

3. In reaching a decision, the Board shall consider “the requirements of the underlying statutes; changes in health care delivery; changes in payment methods and amounts; and other issues at the discretion of the Board.” 18 V.S.A. § 9375(b)(6).

4. The Board also reviews the Commissioner’s recommendation for compliance with the standards imposed on the Department under Vermont law. Specifically, the Commissioner’s review must ensure that a rate is “affordable, promotes quality care, promotes access to health care, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this state.” 8 V.S.A. § 4062(a)(3).

Conclusions of Law

5. The Board accepts the Commissioner’s recommendation that the medical trend rate of 4.1% be approved as submitted by the carrier. The trend is at the low end of OW’s independently calculated range of reasonable medical trends and is consistent with the last TVHP medical trend approved by this Board. *See* Docket no. GMCB 14-13-rr (TVHP Third

Quarter 2013 and Fourth Quarter 2013 Trend Filing); available at http://gmcboard.vermont.gov/sites/gmcboard/files/014_13rr_Dec.pdf.

6. We are not persuaded, however, that TVHP has met its burden of proof to justify its proposed drug trend. Although we agree that that GDR is not likely to continue at its current rate of increase indefinitely, the carrier has not presented evidence that the growth rate will slow in the near future. Indeed, as noted by OW, recent trends may “continue for the next couple of years.” OW Letter at 7. Accordingly, we modify the drug trend to the lowest point in the range considered reasonable, as independently calculated by OW.

7. Finally, while mindful of the Commissioner's cautionary language regarding the uncertainties that accompany an evolving healthcare landscape, we believe that this relatively small change in trend factor – a change that promotes affordability for members renewing in the first two quarters of 2014 – will not appreciably impact the company's financial stability.

Order

For the reasons discussed above, the Board modifies TVHP's 1Q14 and 2Q14 Trend Filing by accepting the medical trend of 4.1% as proposed by TVHP and reducing TVHP's proposed pharmaceutical trend from 7.2% to 5.3%, and then approves the filing.⁵ The Commissioner shall apply this decision pursuant to 8 V.S.A. § 4062(a)(2)(C).

So ordered.

Dated: January 6, 2014 at Montpelier, Vermont.

s/ Alfred Gobeille)
s/ Karen Hein)
s/ Cornelius Hogan)
s/ Betty Rambur)
s/ Allan Ramsay)

GREEN MOUNTAIN
CARE BOARD
OF VERMONT

Filed: January 6, 2014

Attest: s/ Janet Richard

Green Mountain Care Board, Administrative Services Coordinator

⁵ As appropriate, deductible leveraging factors and base stop loss dampening trends should be recalculated using the trends as modified.

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by e-mail, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (E-mail address: Janet.Richard@state.vt.us).

Appeal of this decision to the Supreme Court of Vermont must be filed with the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.