

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield Vermont	)	
3Q 2015 Large Group Rating Program Filing	)	GMCB-03-15-rr
	)	
In re: The Vermont Health Plan, LLC	)	
3Q 2015 Large Group Rating Program Filing	)	GMCB-04-15-rr

**MOTION FOR RECONSIDERATION**

Blue Cross and Blue Shield of Vermont and The Vermont Health Plan, LLC (Companies) move for reconsideration of the Board decisions in the above captioned dockets (Dockets) with respect to contribution to reserve (CTR).

In reviewing the Board’s decisions, the Companies are concerned that the Board did not give appropriate weight to the Department of Financial Regulation’s (DFR) Solvency Analysis or Lewis and Ellis’ (L&E) related recommendations. We are also concerned with the unintended impact this decision will have on future filings.

In addition to its role as the Companies’ solvency regulator generally, the Vermont Legislature has tasked DFR with providing the Board with an analysis and opinion on the impact on the insurer's solvency and reserves of each proposed rate filed with the Board. 8 V.S.A. § 4062 (a)(2)(B). This analysis is performed so that the Board can meet its obligation to protect the Companies’ solvency in accordance with the rate review law, § 4062 (a)(3).

In both Dockets, the Commissioner performed that analysis and the DFR opinions explained that:

*DFR believes that the range of surplus targeted by BCBSVT is reasonable and necessary for the protection of policyholders and BCBSVT is within the range determined to be necessary. There is a significant risk that the sufficiency of BCBSVT’s surplus erodes due to continued medical trend growth and membership growth unless applicable rates are adequate and set at a level that maintains adequate surplus to keep pace with those trends.*

*Unless GMCB’s consulting actuary explicitly opines that this filing will produce rates that are inadequate or excessive, DFR’s opinion is that these rates as filed likely will have the impact of sustaining the current level of solvency, which DFR has determined to be appropriate and necessary.*

DFR April 5, 2015 Opinions (emphasis supplied).

Elsewhere in her opinion, the Commissioner makes clear that her previous detailed analyses remain applicable to these filings. *Id.* As the Board will recall, the Commissioner provided more detail on the need for an adequate CTR in her earlier opinions. In her opinion in connection with the Companies' requested CTR a year ago in Dockets 15-14rr and 16-14rr, the Commissioner stated:

Because of the many threats to solvency, the strength of a company's surplus may erode even when its rates are adequate. Consequently, *analysis of a contribution to surplus is equally as important as rate analysis when determining solvency. BCBSVT's current surplus level is appropriate and necessary. This filing includes a contribution of 2% of premium for insured plans, and .5% of equivalent premium for cost plus plans, to BCBSVT's surplus. DFR has reviewed and analyzed the filing's proposed contribution to surplus, and is of the opinion that it would support and maintain the surplus targets of BCBSVT within the range that DFR deems reasonable and necessary for the protection of policyholders. If GMCB reduces the proposed contribution to surplus, the reduction will contribute to an erosion of the sufficiency of BCBSVT's surplus, which could threaten BCBSVT's solvency.*

DFR April 30, 2014 Opinions in Dockets 15-14rr and 16-14rr, p. 4 (emphasis supplied).

The Board's own actuary, L&E, recommended a CTR of 2 % and found that a CTR of 2% was supported by the Companies' filings. L&E's opinions stated in relevant part:

Using the revised allowed trend of 6.4%, a CTR of 1.1% is required to maintain RBC levels at their current levels due to the impact trend. *L&E believes the proposed CTR of 2.0% is reasonable in order to maintain RBC levels in light of medical trend and provide an adequate margin over and above the minimum to keep appropriate RBC levels in the case of an adverse event without being excessive.* The Company described the potential impact of PCSK9 inhibitors being used more widely than anticipated as an example for why they need to set the CTR higher than the minimum needed to cover trend.

While L&E believes the proposed CTR of 2.0% is reasonable, reviewing the Company's current level of reserves is beyond the scope of this review. Therefore, *the results of the Department of Financial Regulation's Solvency Analysis should also be considered.*

L&E Opinions, page 9 (emphasis supplied).

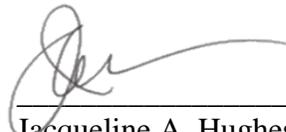
Both the DFR opinions and the L&E opinions recognize that the requested CTR is designed to both allow RBC to keep pace with trend and cover *unforeseen adverse events*. The Board states in its decision that it is reducing the requested CTR amount because "the carrier has not provided sufficient, specific support that an adverse event is likely to occur during the projection period." GMCB decisions, p. 5. This statement fails to recognize the role played by risk in the concept of Risk Based Capital. If the Carriers *knew* in advance what unforeseen adverse events were going to occur, we would price for them in rates (and, of course, under that circumstance, the events

would not be “unforeseen”). However, because by definition no carrier knows in advance what unforeseen future adverse events will occur, they need adequate surplus to maintain solvency in the event an unforeseen material adverse event occurs. Providing protection against an unforeseen but possible event is at the very core of what insurance is. L&E’s opinion recommends the approval of a 2 % CTR, while clearly contemplating the necessity of maintaining surplus that is adequate to protect the Companies’ abilities to pay claims on behalf of members in the event of unforeseen events that are not contemplated in premium. Neither DFR nor L&E suggested that a 1.1% CTR would be adequate to preserve the Companies’ solvency.

All subscribers have an equal interest in the solvency of the Companies and therefore all subscribers must be expected to contribute a fair share to surplus. If the Board fails to address that expectation, future filings could be inadvertently impacted by inadequate funding of needed surplus in these Dockets.

We ask that the Board reconsider and revise its decision to approve a CTR of 2 % for insured large groups and .5 % for cost plus groups, consistent with both DFR’s and L&E’s recommendations and opinions.

Dated at Berlin, Vermont, this 6<sup>th</sup> day of May, 2015.

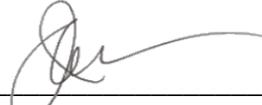


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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of BCBSVT's and TVHP's Motion for Reconsideration has been duly served upon Michael Donofrio, General Counsel to the Green Mountain Care Board, and Kaili Kuiper, Office of Vermont Health Advocate, by electronic mail, return receipt requested, this 6<sup>th</sup> day of May, 2015.



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