

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Insurance Company)	
2015 Agriservices Rate Filing)	GMCB-19-14-rr
)	
SERFF No. MVPH-129640114)	

MEMORANDUM IN LIEU OF HEARING

The Office of the Health Care Advocate asks the Green Mountain Care Board to modify the proposed rates for the above named filing by utilizing the first and second quarter 2015 trend assumptions, lowering the administrative trend, and eliminating the contribution to reserves. In addition, we ask the Board to require MVP to notify policyholders of any additional administrative charges associated with this plan and the circumstances under which they may purchase health insurance and obtain subsidies through Vermont Health Connect.

I. Introduction

For its 2015 Agriservices Association Rate Filing, submitted to the Green Mountain Care Board (the Board) on July 25, 2014 and covering an estimated 1,371 members, MVP Health Insurance Company (MVP) proposes an average 16% rate increase. On September 18, 2014, the Department of Financial Regulation (DFR) submitted its review of MVP's financial solvency for this filing and on September 23, 2014, Lewis and Ellis (L&E), the contracted actuaries for the Board, presented its Actuarial Opinion on this filing.

The Office of Health Care Advocate (HCA) entered an appearance in this matter pursuant to GMCB Rule 2.000 §§2.105(b) and 2.303 on July 31, 2014. The parties have agreed to waive the hearing for the filing.

II. Standard of Review

Health insurance organizations operating in Vermont must obtain approval from the Green Mountain Care Board (the Board) before implementing health insurance rates. 8 V.S.A. §4062(a). The Board has the power to approve, modify, or disapprove requests for health insurance rates.” 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a). The insurer carries the burden to show that their rates are reasonable. GMCB Rule 2.104(c).

When “deciding whether to approve, modify, or disapprove each rate request, the Board shall determine whether the requested rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, is not unjust, unfair, inequitable, misleading, or contrary to law, and is not excessive, inadequate, or unfairly discriminatory.” GMCB Rule 2.000 §2.301(b); GMCB Rule 2.000 §2.401; 8 V.S.A. §4062(a)(3). In addition, the Board shall take into consideration the requirements of the underlying statutes; changes in health care delivery; changes in payment methods and amounts; DFR’s Solvency Analysis; and other issues at the discretion of the Board. GMCB Rule 2.000 §2.401; 18 V.S.A. §9375(b)(6). Further, the Board “shall consider any comments received on a rate filing and may use them to identify issues.” GMCB Rule 2.000 §2.201(d).

III. Analysis

Affordability and Access to Care

L&E's and DFR's reviews of this filing do not include a consideration of some of the factors that the Board must consider when deciding whether to accept, modify, or reject proposed rates, such as whether those rates will be affordable, promote quality care, and promote access to health care. These additional criteria, set out in §4062(a)(3), were first incorporated into the rate review process in Vermont as part of Act 48, An act relating to a universal and unified health system. Lowering the rate increase for this filing will make the rate more affordable which will in turn promote access to health care.

The proposed 16% average rate increase for this filing is well beyond what is affordable for most Vermonters by any measure. The increase is 60% more than the 10% rate increase threshold which requires a review for reasonableness under the Patient Protection and Affordable Care Act of 2014 (ACA). The proposed increase for this filing is more than five times recent trends for wage increases in Vermont. Wages increased an estimated 2.8% in Vermont between 2012 and 2013, the most recent time period for which there is data. Department of Labor, Economic & Labor Market Information. Per Capita Personal Income, Vermont and the United States. March 28, 2014. <http://www.vtlmi.info/pcpivt.htm>. In addition, the proposed increase is more than eight times the Consumer Price Index (CPI)'s latest 12-month estimate of the increase in consumer goods of 1.7% from August 2013 to August 2014. Bureau of Labor Statistics, August 2014: <http://www.bls.gov/cpi/cpid1408.pdf>. The increase is also exponentially higher than the CPI's estimates for changes in the costs of Medical care services and Medical care commodities from August 2013 to August 2014: 1.9% and 2.6% respectively.

Medical and Pharmacy Trends

MVP's medical and prescription drug trends for this filing reflect MVP's trends for its latest 3Q/4Q 2014 trend filing (9.1%/3.5%) and not its more recent and lower 1Q/2Q 2015 trend filing (4.4%/4.1%). In the Board's 2012 and 2013 Agri Services filing decisions, GMCB 41-12rr and GMCB 28-13rr, the Board modified both Agri Services filings by requiring MVP to utilize the more recent 1Q/2Q medical and drug trends. To reflect the most recent trend assumptions, to increase affordability, and to remain consistent with precedent, we ask the Board to order the same modification for this filing.

Administrative Trend

In its Actuarial Analysis, L&E noted concern with MVP's administrative expense load of 9.5% for this filing compared to its historical expense ratio, which fell between 11.3% and 10.0% from 2010 to 2013. L&E wrote: "If [MVP]'s envisioned strategy to reduce its administrative expense does not materialize, future rate increases could be higher than anticipated." L&E Analysis, p. 5.

MVP should be encouraged to continue to lower its administrative expense load. The administrative expense load is made up of many factors, such as employee salaries and advertising costs that are within MVP's control.¹ Administrative costs are not tied to trends in the health care industry. Because MVP's administrative allocation is a percentage of the overall filing, MVP will receive a 16% increase towards its administrative costs if the filing is approved without changes. As stated above, this increase is more than eight times the Consumer Price Index's latest 12-month estimate of the increase in consumer goods of 1.7%. MVP has not provided any information to support why it specifically needs a 16% increase for its

¹ "MVP's administrative expense load covers "MVP's expenses to market, sell, and administer health insurance products." 17-14rr SERFF Filing, p. 97.

administrative costs. By designing its rate proposals to allow its administrative budget to increase at the same rate as its overall rate increases, MVP has an incentive to continue to implement high rate increases.

Contribution to Reserves

The HCA asks the Board to implement a 0% Contribution to Reserves (CTR) for this filing. MVP proposes a 2% CTR for this filing. The Board found a 1% CTR to be appropriate for MVP's 2015 Vermont Exchange Products, based on MVP's strong financial position, a holistic view of the company, the small impact of Vermont business on MVP's overall company, and the goal of increasing affordability for Vermont policyholders. GMCB 17-14-rr Decision p. 13-14. As this filing has 1371 members, it is significantly smaller than the Exchange filings and therefore has an even smaller impact on MVP's overall business. In addition, the policyholders are being asked to afford a significantly larger increase than the Exchange filings: an average 16% increase compared with the 10.9% increase that was implemented for the Exchange filings. Due to these factors, the HCA asks the Board to eliminate the CTR for this filing. In the alternative, if the Board is unwilling to eliminate the CTR altogether, the HCA asks the Board to implement a 0.5% CTR or the 1% CTR used for the Exchange filings.

Notifications of Additional Charges

In its decisions for the last two Agri Services filings, the Board ordered MVP to include in its billing statement language explaining the fact that the policy includes charges for services that are not reviewed as part of Vermont's rate review process. (GMCB 41-12rr and GMCB 28-13rr). We ask the Board to include this order again for the current Agri Services filing.

Notification of Right to Purchase on the Exchange

Because this filing is categorized as a large group, the members are not generally eligible to receive premium tax credits or cost sharing assistance if they purchase Vermont Health Connect insurance products. If this is the correct categorization for this group, the unaffordability of the proposed rate increase is especially significant. However, for several reasons, it appears that this filing may have been incorrectly categorized. The federal government released a rule in 2011 that stated, for the purposes of rate review, the definitions of “individual market” and “small group market” include coverage that would be regulated, respectively, as individual or small group if it were not sold through an association. 45 C.F.R. §154.102. The preamble to the rule implementing these definitions is clear that the rule trumps state law defining large insurance groups and indicates that one reason for incorporating associations into the individual and small group definitions is that “successful implementation of the Affordable Care Act depended on having a stable health insurance market, which could be jeopardized if issuers could avoid the various individual and small group market requirements by offering coverage through associations.” Federal Register, Vol. 76, No 172, September 6, 2011, 54969-70. Further, Vermont law currently categorizes all grandfathered association plans as “small group.” 8 V.S.A. §4080g(b)(1)(B)(ii).

For last year’s Agri Services filing, DFR explained in a footnote in its October 7, 2013 Recommendation that, “Pursuant to 8 V.S.A. §4080a(h)(A-C) (repealed effective January 1, 2014), the Department was allowed to exempt certain associations from compliance with Vermont’s small group requirements.” Recommendation, footnote 2. The Recommendation further states, “After December 1, 2014, Agri Service members will purchase their health insurance through the online health benefit exchange.” Recommendation at 2. The Board’s

Decision repeated this information, “Starting December 1, 2014, Agri Services members will purchase health insurance through the health benefit exchange.” November 5, 2013 Decision. MVP’s memo for last year’s filing also stated, “This will be the last such filing, as starting in December 2014, Agri Services members will have to purchase insurance coverage through the Exchange.” October 22, 2013 MVP Memo.

The HCA does not have sufficient information about the size of the employer groups comprising the Agri Services Association in order to establish whether or not the group is correctly defined as a large group or is in reality a collection of large groups, small groups, and/or individual policies. Further, according to a 2011 report on Vermont’s health insurance market by Bailit Health Purchasing, LLC, the state of Vermont “does not monitor which businesses purchases [sic] as part of associations.” The Current Vermont Health Insurance Market, Bailit Health Purchasing, LLC, May 20, 2011, p.10, <http://dvha.vermont.gov/administration/hbe-insurance-market-report-revised-10-10-11.pdf>.

The HCA thinks it is important for the groups and individuals who have been purchasing insurance through Agri Services to understand when they have the option to purchase health insurance on through Vermont Health Connect. We ask the Board to require MVP to notify Agri Services groups and members of the circumstances under which they may qualify to purchase insurance from Vermont Health Connect and the circumstances under which they may qualify to receive premium subsidies and cost sharing. Which rules apply will depend on the correct categorization of this association plan.

IV. Conclusion

For the preceding reasons, the HCA asks the Board to modify the proposed rates for the above named filing by utilizing the first and second quarter 2015 trend assumptions, lowering the administrative trend, and eliminating the Contribution to Reserves. In addition, we ask the Board to require MVP to notify policyholders of any additional administrative charges associated with this plan and the circumstances under which they may purchase health insurance and obtain subsidies through Vermont Health Connect.

Dated at Montpelier, Vermont this 6th day of October, 2014.

s/ *Kaili Kuiper*

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CERTIFICATE OF SERVICE

I, Kaili Kuiper, hereby certify that I have served the above Notice of Appearance on Michael N. Donofrio, General Counsel to the Green Mountain Care Board, Judith Henkin, Health Policy Director of the Green Mountain Care Board, and Susan Gretkowski, representative of MVP, by electronic mail, return receipt requested, this 6th day of October, 2014.

s/ Kaili Kuiper

Kaili Kuiper
Staff Attorney
Office of the Health Care Advocate