

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Cigna Health and Life Insurance Company)
2019 Large Group Rate Filing) GMCB-001-19rr
)

OFFICE OF THE HEALTH CARE ADVOCATE MEMORANDUM IN LIEU OF HEARING

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to respond to the Cigna Health and Live Insurance Company (CHLIC) 2019 Vermont Large Group Rate filing (Filing). CHLIC proposes to increase the premium rates of 534 Vermonters.¹ Because CHLIC has failed to submit evidence supporting all factors on which the Board must make a determination, and because the company has not demonstrated that its proposed increase will produce rates that are affordable and not excessive, the HCA respectfully requests that the Board reduce CHLIC's proposed rate.

I. STATUTORY BACKGROUND

CHLIC bears the burden of demonstrating that its proposed rate meets the multi-faceted test governing the lawfulness of a rate increase in Vermont:

- whether the requested rate is affordable;
- whether it promotes quality care;
- whether it promotes access to health care;
- whether it protects insurer solvency;
- whether it is not unjust, unfair, inequitable, misleading, or contrary to law; and

¹ GMCB-001-19rr, Lewis & Ellis Actuarial Mem. at 1.

- whether it is not excessive, inadequate, or unfairly discriminatory.²

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

Additionally, the Department of Financial Regulation (DFR) must provide the Board with an “opinion on the impact of the proposed rate on the insurer’s solvency and reserves,” and the Board must accept comments from both the public and the Office of the Health Care Advocate on CHLIC’s proposed rate.⁶ The Board must consider the views of DFR, the public, and the HCA, but it is not bound by them. The Board is also not bound by the opinion of its consulting actuary.⁷

II. CHLIC HAS FAILED TO CARRY ITS BURDEN WITH RESPECT TO EACH OF THE CRITERIA ON WHICH THE BOARD MUST MAKE A DETERMINATION.

A. Not excessive, inadequate, or unfairly discriminatory

1. CHLIC incorporated an excessive profit margin into its rate filing

CHLIC requests a 3.5% profit margin. The proposal of similarly large profit margins has characterized CHLIC’s rate filings for the last several years. In 2014, CHLIC proposed a 3% profit

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).

³ E.g., GMCB-001-18rr, Decision at 4 (reducing a proposed profit margin to balance the interests of Vermont rate payers and shareholder profits); 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-003-15rr, Decision at 5 (reducing a proposed rate due to a carrier failing to meet its burden of proof).

⁴ 8 V.S.A §4062(a)(3).

⁵ 18 V.S.A. §9375(b)(6).

⁶ 8 V.S.A §4062(a)(2)(B); 8 V.S.A §4062(c); 8 V.S.A §4062(e)(1)(B).

⁷ See, 8 V.S.A §4062.

margin.⁸ In 2015, 2016, 2017, and 2018 its proposed profit margin for this product was 3.5%.⁹ In 2019, CHLIC again proposes a 3.5% profit margin.¹⁰

CHLIC continues to propose such large profit margins despite the fact that the Board has consistently reduced its proposed margin. In 2014, the Board reduced the proposed profit margin from 3% to 1%.¹¹ In 2015 and 2016, the Board reduced the proposed profit margin from 3.5% to 1%.¹² In 2017, the Board reduced the proposed profit margin from 3.5% to 2%.¹³ In 2018, the Board reduced the proposed profit margin from 3.5% to 1%.¹⁴

Even with the Board ordered reductions and the volatility attendant to CHLIC's small membership in this book of business, actual CHLIC profits, on the whole, have been in excess of the Board ordered profit margin. In 2014, 2015, 2016, 2017, and 2018 CHLIC realized a profit of 13.2% versus the ordered 1%, 5.6% versus the ordered 1%, 1.3% versus the ordered 1%, -19.8% versus the ordered 1% ordered, and 5.2% versus the ordered 1%, respectively.¹⁵ Based on this evidence, it appears that CHLIC has consistently, with the exception of 2017, under-predicted the size of its profit margin and exceeded the ordered profit margin.

The Filing continues the trend of proposing an excessive profit margin that unreasonably privileges CHLIC's interests at the expense of Vermonters' financial well-being.

⁸ GMCB-007-14rr, Decision at 5.

⁹ GMCB-006-15rr, Decision at 4; GMCB-001-16rr, Decision at 4; GMCB-001-17rr, Decision at 5; GMCB-001-18rr, Decision at 5.

¹⁰ GMCB-001-19rr, SERFF Filing.

¹¹ GMCB-007-14rr, Decision at 5.

¹² GMCB-006-15rr, Decision at 5; GMCB-001-16rr at 5.

¹³ GMCB-001-17rr, Decision at 5.

¹⁴ GMCB-001-18rr, Decision at 5.

¹⁵ GMCB-001-19rr, Lewis & Ellis Actuarial Mem. at 8; GMCB-007-14rr, Decision at 5; GMCB-006-15rr, Decision at 4; GMCB-001-16rr, Decision at 4; GMCB-001-17rr, Decision at 5.

B. Affordability

Missing in CHLIC’s actuarial memorandum is any discussion of the burden premium prices place on Vermonters which the Board’s rate review statute requires the Board to consider.¹⁶ Vermont-specific data demonstrates that affordability continues to be a pressing problem even in the domain of employer sponsored insurance (ESI). For instance, 28% of uninsured full- and part-time workers have access to ESI.¹⁷ Of these uninsured Vermonters with access to ESI, 26% indicate that they are not able to afford the cost of ESI health insurance premiums.¹⁸ Unfortunately, even if Vermonters are able to purchase insurance, 24% of underinsured Vermonters struggle to pay medical bills and 4% of the underinsured are unable to pay for basic necessities due to medical bills.¹⁹

The Filing fails to offer any evidence that the proposed rate is affordable to Vermonters.

C. Access to Care

One of the fundamental measurable indicators of access to care is Vermonters’ ability to pay for needed care. Substantial evidence demonstrates that Vermonters cannot afford premiums and medical care. For instance, according to a recent survey, uninsured and underinsured Vermonters delay seeking care at a significantly higher rate than Vermonters with adequate insurance.²⁰ This issue is not merely a statistic and Vermonters stories of struggling to access care while managing the cost is borne out in their public statements.²¹

¹⁶ GMCB Rule 2.104(c); GMCB Rule 2.301(b); GMCB Rule 2.401; see also, 8 V.S.A. §4062(a)(3); Vt. Senate Finance Committee, April 19, 2011, H.202: An Act Relating to a Single-Payer and Unified Health System, Exchange between Clifford Peterson, BISHCA counsel, and Senator Randy Brock.

¹⁷ VT Dept. of Health, Vermont Household Health Insurance Survey 2018 Report at 16 (2018).

¹⁸ Id. at 19.

¹⁹ Id. at 36.

²⁰ Id. at 29-30.

²¹ E.g., Kevin Wagner, GMCB-009-18rr, Pub. Hr’g Tr. at 36 (“The high deductible we pay for our plan like every time we need care it’s a matter of we’re going to be paying for it for months in the future, and that’s – it’s definitely a barrier for us and it does cause us to like restrict the care that we seek...”); Grace Beninson, GMCB-009-18rr, Pub. Hr’g Tr. at 29 (“I had a high deductible plan and wasn’t able to afford to go to the doctor... “); Cathy Steven, GMCB-009-18rr, Pub. Comment, July 23, 2018 (“We have had to make decisions to NOT go for care because we couldn’t afford it, even on a nice income.”).

The proposed rate does not promote access to care because it includes an excessive profit margin which diminishes premium affordability.

D. Quality of Care

CHLIC has not demonstrated that the proposed rate promotes quality care. For instance, CHLIC failed to detail any programs to encourage its members to use preventive care or how it incentivizes patients and providers to use the appropriate care at the appropriate time.

E. Solvency

The Department of Financial Regulations noted in its report on this filing that “CHLIC’s Vermont operations pose little risk to its solvency,” and no evidence was introduced supporting a contrary position.²² CHLIC’s Vermont premiums constitute an exceedingly small percentage of its written premium, less than 1%, and it is undisputed that the rates CHLIC charges in Vermont will not materially affect CHLIC's solvency one way or the other.

F. Not Unjust, Unfair, or Misleading

The evidence CHLIC has introduced indicates that the proposed increase is unjust, unfair, inequitable, and misleading in at least one way. As described in Section A above, although Vermonters struggle to afford premium, CHLIC asks the Board to approve an excessive profit margin.

²² GMCB-001-19rr, Dep’t Fin. Regulation Solvency Op. at 2.

III. CONCLUSION

CHLIC has not demonstrated that the proposed rate is affordable, promotes access to care, promotes quality care, is not unfair, unjust, inequitable or misleading, and is not excessive, inadequate, or unfairly discriminatory. In particular, it has requested an unreasonable profit margin. As a result, we respectfully request that the Board recalculate the proposed rate as follows:

- Reduce CHLIC's profit margin from 3.5% to a maximum of 1%;
- Decrease the rate by at least 0.5% in response to CHLIC's consistent inability to manage its profits to the Board ordered profit margin.

Recalculating the rates as proposed will not fully address the challenges Vermonters face due to raising premium prices and deductibles. However, the recalculation will mitigate the harm to Vermonters of the proposed rate increase.

Dated at Montpelier, Vermont this 23rd Day of April, 2019.

/s/ Eric Schultheis

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CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above Memorandum in Lieu of Hearing on Amerin Aborjaily, Green Mountain Care Board Staff Attorney; Thomas Crompton, Green Mountain Health Systems Finance Associate Director; Christina McLaughlin, Green Mountain Care Board Health Policy Analyst; Michael Kolosky, Cigna, and Paul Shaeffer, Cigna, by electronic mail, return receipt requested, this 23rd day of April, 2019.

/s/ Eric Schultheis

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