STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: BCBSVT 3Q 2015	)	
Large Group Rating Program Filing	)	
	)	GMCB 03-15-rr
	)	
SERFF No. BCVT-129910512	)	

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 lowering the medical trend to 5.5%, lowering the drug trend to 8.8%, and lowering the contribution to reserves for Insured Large Groups to 1.1%.

I. Introduction

For its Third Quarter 2015 Large Group Rating Program Filing, covering an estimated 26,900 lives, Blue Cross Blue Shield of Vermont (BCBSVT) proposes a rate increase which results in an expected average paid trend of 8.1%. GMCB 03-15-rr, SERFF Filing, Actuarial Memorandum. The paid trend directly impacts the premiums employers are charged. GMCB 03-15-rr, Actuarial Memorandum, p. 1. BCBSVT filed this rate request for review by the Green Mountain Care Board (the Board) on February 4, 2015. GMCB 03-15-rr, SERFF Filing. On March 27, 2015, the Department of Financial Regulation (DFR) submitted its review of BCBSVT's financial solvency, and on April 6, 2015, Lewis and Ellis (L&E), the contracted actuaries for the Board, presented its Actuarial Memorandum on this filing. GMCB 03-15-rr, DFR Solvency Analysis and L&E Actuarial Memorandum.

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. The parties have agreed to waive the hearing for the filing.

II. Standard of Review

Health insurance organizations operating in Vermont carry the burden to show that their rates are reasonable. GMCB Rule 2.104(c). Insurers in Vermont must obtain approval from the Green Mountain Care Board before implementing health insurance rates. 8 V.S.A. §4062(a); 8 V.S.A. §5104(a). The Green Mountain Care 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).

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). The record for rate review includes the entire System for Electronic Rate and Form Filing (SERFF filing) submitted by the insurer; questions posed by the

Board to its actuaries; questions posed to the insurer by the Board, its actuaries, and DFR; DFR's Solvency Analysis; and the Opinion from the Board's actuary. GMCB Rule 2.000 §2.403(a).

III. Actuarial Opinion and Solvency Analysis

L&E analyzed the filing to assist the Board in determining whether the requested rate is "affordable, promotes quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the law, and is not excessive inadequate, or unfairly discriminatory." GMCB 03-15-rr Actuarial Analysis at page 2. However, it limits its recommendation to whether the filing produces rates that are "excessive, inadequate, or unfairly discriminatory." GMCB 03-15-rr Actuarial Analysis at page 10. L&E found that BCBSVT did not use updated information on the cost of hepatitis C treatment, and as a result recommends that the Board decrease the pharmacy trend from 10.0% to 8.8%. GMCB 03-15-rr Actuarial Analysis at page 8, 10. L&E's analysis additionally uncovered that BCBSVT made an error in its calculation of the medical trend and as a result recommends that the Board decrease the medical trend from 6.5% to 5.8%. GMCB 03-15-rr Actuarial Analysis at page 7, 10.

DFR's Solvency Opinion is limited to "an analysis and opinion on the impact of the filing as proposed on the solvency and reserves of BCBSVT." GMCB 03-15rr Solvency Opinion, p.1. The Opinion does not address consumer affordability, quality care, access to care, or whether the filing is unjust, unfair, or inequitable. DFR does not express concerns regarding BCBSVT's financial stability. GMCB 03-15rr Solvency Opinion.

IV. Analysis

The HCA asks the Board to incorporate L&E's best estimates of upcoming trends for this filing which reduces the drug trend from 10.0% to 8.8%, reduces the medical trend from 6.5% to 5.5%, and reduces the contribution to reserves from 2% to 1.1% for Insured Groups. These modification would diminish the high rate increase proposed, helping to avoid excessive rates, promote access to care, and result in a more affordable product for Vermont policyholders.

Medical and Drug Trends

The HCA agrees with L&E's recommendation to reduce the drug trend from 10.0% to 8.8%, which incorporates updated drug pricing information. In addition, the HCA asks the Board to adopt L&E's best estimate for the medical trend for the filing, which results in a 5.5% medical trend. When analyzing BCBSVT's medical trend, L&E noted that it did not believe that BCBSVT's assumption of a 0.0% utilization trend to develop its medical trend was accurate. GMCB 03-15-rr Actuarial Analysis at page 7. L&E's independent calculation found a -0.3% utilization trend, resulting in an overall 5.5% medical trend, to be more likely to occur. GMCB 03-15-rr Actuarial Analysis at page 7. BCBSVT's estimated 5.8% medical trend is at the high end of the range L&E calculated, whereas 5.5% is directly in the middle. GMCB 03-15-rr Actuarial Analysis at page 7. L&E noted that "[e]ach of the numbers within the estimated range are not equally likely, that is the trends on the low and high end are not as likely to occur as the trends in the middle of the range." GMCB 03-15-rr Actuarial Analysis at page 7.

In developing its medical trend, BCBSVT did not specifically calculate its 0% utilization trend, but based its utilization trend on the idea that the historical negative trend cannot continue indefinitely. L&E "took a more discrete approach," using the historical trend and other relevant factors to calculate a -0.3% trend. L&E did not ask the Board to adopt this lower utilization trend. However, the HCA believes L&E's utilization calculations result in a more accurate estimation of future costs and should be incorporated into the rates, resulting in a 5.5% medical trend.

The HCA would like to note that both L&E and BCBSVT agree that the current negative utilization trend is in part due to the large groups buying plans with lower actuarial value over the last several years. L&E specifically removed the impact of this trend from its calculation of the overall utilization trend, and BCBSVT did not incorporate it into its projected 0.0% utilization trend. Yet this trend of large groups purchasing plans with lower actuarial value could continue, resulting in further decreases in utilization.

BCBSVT in fact argues that the trend is likely to continue. L&E's first set of questions to BCBSVT for this filing, dated February 20, 2015, asked BCBSVT to include its paid trends in its plain language summary for this filing. BCBSVT responded that it believes that "allowed trends represent the most pertinent information," because "groups can and often do buy down their benefit levels from year to year." GMCB 03-15rr February 27, 2015 BCBSVT Responses, p. 5. In other words, BCBSVT believes that rate increases in allowed trends, which incorporate both cost sharing and insurer payments, are more significant to this filing than paid trends, which only reflect what the insurer pays, because there is a good chance that employers will purchase plans with higher cost-sharing in order to lower premiums. As discussed by L&E, higher cost sharing results in lower utilization. If BCBSVT is correct and large groups continue to buy plans with lower actuarial value, both L&E and BCBSVT have overestimated the utilization trend, inflating the medical trend further.

Contribution to Reserves

The HCA asks the Board to reduce the CTR to 1.1% for this filing. While BCBSVT proposes a 2% Contribution to Reserves (CTR) for this filing, L&E states that BCBSVT only needs 1.1% CTR to maintain its current levels of reserves. GMCB 03-15-rr Actuarial Analysis at page 9. While BCBSVT had originally asserted that it needed a 1.34% CTR to maintain its current RBC level, L&E calculated that after incorporating the revised 5.8% medical and 8.8% drug trends, BCBSVT needs a 1.1% contribution to reserve (CTR) for Insured Groups to maintain its current reserve level. GMCB 03-15-rr Actuarial Analysis at page 9. The HCA notes that BCBSVT found a 1% CTR to be sufficient to sustain its risk-based capital level for its 2015 Vermont Exchange Products, which cover almost 60,000 members, and the Board agreed. GMCB 18-14-rr SERFF Filing, Actuarial Memorandum p. 26-27; GMCB 18-14rr Decision.

BCBSVT's current RBC level is near the top of the company's target RBC range. GMCB 18-14rr Hearing Transcript, p. 31, lines 12-15; BCBSVT 2014 Annual Statement, p. 29. It is therefore much closer to a level that the company considers too high than to a level that the company considers insufficient. Further, its current RBC level is significantly higher than it has been in the past three years. BCBSVT 2014 Annual Statement, p. 29. Yet, BCBSVT argues that it should receive a CTR that would increase its RBC. The company points out that if CTR was insufficient, and all other assumptions in the filing were found to be true, the company would eventually become insolvent. GMCB 03-15rr SERFF Filing, Actuarial Memorandum. While this is a reasonable argument, it is equally true that if BCBSVT receives a CTR that is above what it needs to maintain current levels, the nonprofit company will stockpile excessive reserves and policyholders will be charged excessive rates.

BCBSVT further argues that it needs a CTR that is higher than what is necessary to maintain current RBC levels because, "unexpected events or periods of sustained losses may lead to financial deterioration of sufficient magnitude to render a company insolvent." GMCB 03-15rr SERFF Filing, Actuarial Memorandum. It is true that the purpose of a nonprofit company holding reserves is to guard against unexpected losses. However, BCBSVT's current RBC level is sufficient as measured by the company's target RBC range. Therefore, BCBSVT is essentially asking for an additional safeguard to add to its ample existing financial safeguard. While it is understandable that BCBSVT would like to increase its RBC, BCBSVT has not demonstrated that its request is a necessity rather than a luxury. While current RBC levels are sufficient, BCBSVT should not charge policyholders extra money to further increase its RBC.

Consumer Affordability

The proposed rate increase for this filing will be difficult for its policyholders to afford and therefore the increase should be kept to the lowest reasonable level. A significant portion of employed Vermonters struggle to afford their health insurance. According to the Vermont Department of Financial Regulation 2014 Vermont Household Health Insurance Survey, almost 60% of uninsured working Vermont residents report that they did not enroll in their employer's health plan because it was too expensive. Comprehensive Report, 2014 Vermont Household Health Insurance Survey, p. 46. Similarly, other than having health insurance through another source, the main reason Vermonters turn down employer sponsored health insurance is because it costs too much. Survey, p. 66. This is demonstrated by the fact that almost a quarter of uninsured adults work for employers that offer health insurance, and slightly more than a quarter of working adults with uninsured children, work for companies that offer some type of health insurance. Survey, p.13, 24.

The fact that many Vermonters find their employer sponsored health insurance to be unaffordable is especially concerning because federal rules disqualify most people who are offered employer sponsored health insurance from receiving premium subsidies for health insurance purchased on the state health insurance exchange. Unless the actuarial value of the employer sponsored insurance is below 60% or the employee's share of the premium to cover just the employee (not including the expense of covering family members) exceeds 9.5% of the employee's income, the employee is not eligible to receive premium tax credits through the state insurance exchange. Survey, p. 38.

In addition, wages in Vermont have not increased enough in recent years to allow Vermonters to afford more than very modest increases in insurance costs. Wages in Vermont increased just 2.3% between 2012 and 2013, the most recent period where data is available. Vermont Department of Labor, Economic & Labor Market Information, 1929-2013 revised, Per Capita Personal Income. Despite common belief, employees who receive employer sponsored health insurance are responsible for the full cost of health insurance premium increases. They inevitably pay the increase either through increased employee contributions to insurance or through lost wages, or both. Sarah Kliff, The Washington Post, You're Spending Way More on Your Health Benefits than You Think, August 30, 2013.

V. Conclusion

The HCA asks the Board to utilize L&E's best estimates for this filing by reducing the drug trend to 8.8%, reducing the medical trend to 5.5%, and reducing the CTR to 1.1%. This will produce a more justified rate increase and increase affordability for policyholders.

Dated at Montpelier, Vermont this 21st day of April, 2015.

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 Jacqueline Hughes, representative of Blue Cross Blue Shield of Vermont, by electronic mail, return receipt requested, this 21st day of April, 2015.

s/ *Kaili Kuiper*____________________
Kaili Kuiper
Staff Attorney
Office of the Health Care Advocate