

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan’s Third and Fourth )  
Quarter 2014 Large Group HMO Rate Filing) )  
SERFF No. MVPH-129877747 ) GMCB-05-15-rr

MEMORANDUM IN LIEU OF HEARING

I. Introduction and Background

In this filing, MVP Health Plan (MVP) has proposed an average rate increase for its Large Group Health Maintenance Organization (HMO) products renewing in the third quarter of 2015 of 5.5% and an increase for those renewing in the fourth quarter of 6.1%. There are only two MVP large HMO groups with only 219 members affected by the filing, and no groups are renewing in either the third or the fourth quarter. As noted in the System for Electronic Rate and Form (SERFF) Filing, “[m]any of the HMO members have migrated to MVP’s EPO/PPO products and the rest have left MVP.” SERFF filing at page 13.

MVP filed this Third and Fourth Quarter 2014 Large Group HMO Filing on February 5, 2015. The analysis of the filing includes an abbreviated actuarial opinion by Lewis and Ellis (L & E), the contracted actuaries for the Green Mountain Care Board (GMCB), and a review of financial solvency by the Department of Financial Regulation (DFR). Both were posted on April 6, 2015.

The Office of the Health Care Advocate (HCA) entered an appearance pursuant to GMCB Rule 2.000 §§2.105(b) and 2.303. The hearing for the filing scheduled for April 15, 2015 has been waived by the parties.

## II. Standard of Review

Health maintenance organizations operating in Vermont must obtain approval from the GMCB before implementing health insurance rates. 8 V.S.A. §5104(a), 8 V.S.A. §4062(a). The GMCB may approve, modify, or disapprove requests for health insurance rates. 18 V.S.A. §9375(b)(6); 8 V.S.A. §4062(a). “In 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 making its decision, the GMCB must consider the requirements of the underlying statutes, changes in health care delivery, changes in payment methods and amount, the Solvency Analysis prepared by DFR in connection with each filing and other issues at the discretion of the GMCB. GMCB Rule 2.000 §2.401; *see also* 18 V.S.A. §9375(b)(6). Further, the GMCB “shall consider any [public] 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 SERFF filing submitted by the insurer, questions posed by the GMCB to its actuaries, questions posed to the insurer by the GMCB, its actuaries and DFR, DFR’s Solvency Analysis, and the Opinion from the GMCB’s actuary. GMCB Rule 2.000 §2.403(a).

The carrier has the burden of justifying its requested rate. GMCB Rule 2.000 §2.104(c).

## III. Review of Actuarial Opinion and DFR Solvency Analysis Letter

DFR has reviewed both the solvency of MVP and how the particular filing could affect that solvency. DFR has emphasized in its analysis that it “considers the solvency of insurers to be the most fundamental aspect of consumer protection” and that solvency analysis involves “an

intricate analysis of many factors.” New York rather than Vermont is MVP’s primary regulator and has “not expressed any concerns to DFR about MVPHP’s solvency.” Moreover, the company’s Vermont operations, representing only a small percentage of the total premiums earned, “pose very little risk to its solvency, or to the solvency of MVP Holding Company.” DFR has opined that “the proposed rates will likely have no material impact on MVPHP’s solvency.” GMCB-05-15-rr Solvency Analysis at page 2.

L & E has opined that the proposed rates will not be “excessive, inadequate or unfairly discriminatory” and has recommended approval of the filing as filed. GMCB-05-15-rr Actuarial Opinion at page 4. L & E’s most significant concern with MVP’s methodology concerned the carrier’s calculation of pharmacy trend. L & E explained: “We consider MVPHP’s approach of using Rx trends from its vendor without accounting for its Vermont specific block of business to be a limitation on the reasonableness of their proposed Rx trend assumption.” GMCB 05-15-rr Actuarial Opinion at page 3. L & E also considered MVP’s “historic experience” and “the impact of new high cost specialty drugs” before determining that the requested pharmacy rate is reasonable. GMCB 05-15-rr Actuarial Opinion at pages 3-4.

#### IV. Argument

The L & E analysis of this rate filing does not include any discussion of some of the factors considered by the GMCB in deciding whether to accept, modify or reject proposed rates, i.e. whether those rates will be affordable, promote quality care and promote access to health care. These criteria were first incorporated into the rate review process as part of Act 48, An act relating to a universal and unified health system, of the 2011-2012 legislative session.

The proposed rate increases will be difficult for Vermonters to afford in the current economic climate. Increases in the rates charged to employers who purchase products in the large group

market make it difficult for the businesses to continue to offer affordable health insurance and other compensation to their employees. According to the 2014 Vermont Household Health Insurance Survey, 59.1% of working uninsured adults who have access to employer sponsored insurance indicated that they did not purchase their employer's health insurance plan because it was too expensive. Survey at page 48.

<http://hcr.vermont.gov/sites/hcr/files/2015/2014%20VHHIS%20Comprehensive%20Report%20.pdf>

In Vermont, wages increased only an estimated 2.3 % 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*. September 30, 2014 <http://www.vtlmi.info/pcpivt.htm> . The average national increase in medical and other costs for the past year are lower than the requested rate increases. According to the Consumer Price Index, the cost of all items rose 0%, medical care commodities rose 3.9% and medical care services rose 1.8% in the 12 month period ending February 2015. Consumer Price Index. *Economic News Release*. , March 24, 2015, <http://www.bls.gov/news.release/cpi.nr0.htm>.

In its decision on MVP's 2015 filing for Vermont Health Connect, the GMCB decreased the insurer's request for a 1.5% contribution to surplus to a 1% contribution. It explained that the modification would make the rate "more affordable for Vermonters, who are most directly impacted by each increase in the cost of health care premiums. This reduction strikes an appropriate balance between our statutory charge to determine whether rates are affordable, while protecting the solvency of insurers. 8 V.S.A. § 4062(a)(3)." GMCB 17-14-rr at page 14. In other filings in 2014, the GMCB reduced MVP's contribution to surplus from a requested 2% to 1%. See GMCB 20-14-rr, GMCB 21-14-rr, 23-14-rr and GMCB 24-14.rr.

MVP has requested a 2% contribution to surplus in this filing. SERFF filing at page 44. The carrier has not explained why this level is needed and has not met its burden of proof as to this component of the rate request.

In order to further promote affordability, the HCA asks the GMCB to reduce the contribution to surplus to no more than 1%. The anticipated federal medical loss ratio (MLR) for the rates proposed in the filings is 88.1%, slightly above the minimum MLR of 85%. SERFF filing at page 15. In addition, as described in the DFR solvency analysis, the filing represents a very small proportion of MVP's business in Vermont and an even smaller proportion of the carrier's overall business.

V. Conclusion

Based on the record for this filing, the HCA requests that the GMCB modify the rate increase by decreasing the contribution to surplus to no more than 1%.

Dated at Montpelier, Vermont this 20th day of April, 2015.

s/ Lila Richardson  
Lila Richardson  
Staff Attorney  
Office of the Health Care Advocate

CERTIFICATE OF SERVICE

I, Lila Richardson, hereby certify that I have served the above Memorandum 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 20th day of April, 2015.

s/ Lila Richardson  
Lila Richardson  
Staff Attorney  
Office of the Health Care Advocate  
P.O. Box 606  
Montpelier, Vt. 05601  
Voice: (802) 229-2027