



- whether it is not excessive, inadequate, or unfairly discriminatory.<sup>2</sup>

Absent such a demonstration, the Board may, in its discretion, modify the proposed rate or any element of the rate.<sup>3</sup> When “deciding whether to approve, modify, or disapprove each rate request, the Board must make a determination on each of the statutory criteria.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup>

## ***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 proposed profit margin of 3.5% will ultimately be borne by Vermonters who were already struggling to afford and use health insurance before the Covid-19 pandemic and related economic downturn.

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<sup>2</sup> 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).

<sup>3</sup> 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).

<sup>4</sup> 8 V.S.A §4062(a)(3).

<sup>5</sup> 18 V.S.A. §9375(b)(6).

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

<sup>7</sup> See, 8 V.S.A §4062.

CHLIC has asked the Board for similarly large profit margins for the last several years. In 2014, CHLIC proposed a 3% profit margin.<sup>8</sup> In 2015, 2016, 2017, 2018, and 2019 its proposed profit margin for this product was 3.5%.<sup>9</sup> In 2020, CHLIC again proposes a 3.5% profit margin.<sup>10</sup>

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%.<sup>11</sup> In 2017, the Board reduced the proposed profit margin from 3.5% to 2%.<sup>12</sup> In 2015, 2016, and 2018 the Board reduced the proposed profit margin from 3.5% to 1%.<sup>13</sup> In 2019, the Board reduced the proposed profit margin from 3.5% to 1%.<sup>14</sup>

Even with the Board ordered reductions and the volatility attendant to CHLIC's small membership in this book of business, actual CHLIC profits have largely been in excess of the Board ordered profit margin. In 2014, 2015, 2016, 2017, 2018, and 2019 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 2% ordered, 5.2% versus the ordered 1%, and -2% versus the ordered 1% respectively.<sup>15</sup> Although, as L&E has noted CHLIC's profits have been variable due to its small block of Vermont members, it realized a profit in excess of Board ordered profit in five of the last seven years. Based on this evidence, it appears that CHLIC has consistently, with the exceptions of 2017 and 2019, under-predicted the size of its profit margin.

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<sup>8</sup> GMCB-007-14rr, Decision at 5.

<sup>9</sup> GMCB-006-15rr, Decision at 4; GMCB-001-16rr, Decision at 4; GMCB-001-17rr, Decision at 5; GMCB-001-18rr, Decision at 5; GMCB-001-19rr, Decision at 5.

<sup>10</sup> GMCB-001-20rr, Actuarial Mem. at 2.

<sup>11</sup> GMCB-007-14rr, Decision at 5.

<sup>12</sup> GMCB-001-17rr, Decision at 5.

<sup>13</sup> GMCB-006-15rr, Decision at 5; GMCB-001-16rr, Decision at 5; GMCB-001-18rr, Decision at 5.

<sup>14</sup> GMCB-001-19rr, Decision at 5.

<sup>15</sup> GMCB-001-19rr, Lewis & Ellis Actuarial Mem. at 8; GMCB-001-20rr, 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; GMCB-001-19rr at 5.

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.

## **B. Affordability**

Missing in CHLIC's actuarial memorandum is any discussion of the burden premium prices place on Vermonters. Given the magnitude of the increase it proposes: 15%, CHLIC's omission is particularly troubling.

Pre-Covid 19, Vermont-specific data demonstrates that affordability was a pressing problem even in the realm of employer sponsored insurance (ESI). For instance, 28% of uninsured full- and part-time workers had access to ESI.<sup>16</sup> Of these uninsured Vermonters with access to ESI, 25% indicated that they were not able to afford the cost of ESI health insurance premiums.<sup>17</sup> Unfortunately, even if Vermonters were able to purchase insurance, 24% of underinsured Vermonters struggled to pay medical bills and 4% of the underinsured are unable to pay for basic necessities due to medical bills.<sup>18</sup>

It is reasonable to expect that many of the affordability issues Vermonters have been facing will only get worse as unemployment increases, incomes decline, and prices for basic necessities rise due to the Covid-19 pandemic and the related economic downturn. In April, 15.6% of the Vermonters in the labor forces were unemployed (April unemployment in the US is 14.7%). To put this in context, Vermont unemployment was 2.3% in February and 3.1% in March.<sup>19</sup>

Even assuming a Vermonter is still able to be employed, many Vermonters have experienced a loss of income due to the Covid-19 crisis. The HCA conducted a large-*n* (*n* = 2051) but non-representative online survey to better understand how the Covid-19 pandemic and the related economic

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<sup>16</sup> VT Dept. of Health, Vermont Household Health Insurance Survey 2018 Report 16 (2018), [https://www.healthvermont.gov/sites/default/files/documents/pdf/VHHIS\\_Report\\_2018.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/VHHIS_Report_2018.pdf).

<sup>17</sup> *Id.* at 19.

<sup>18</sup> *Id.* at 36.

<sup>19</sup> VT Dept. of Labor, Vermont's Unemployment Rate Increases to 15.6 in April (May 22, 2020), <http://www.vtmi.info/press.pdf>.

downturn is affecting Vermonters' health care experiences. Of the survey respondents who were insured (2440), roughly 42% (1036) indicated they had lost income due to the Covid-19 crisis.<sup>20</sup>

At the same time that incomes have dropped and Vermont's unemployment rate has had a historic increase, the cost of basic necessities has dramatically increased. Food prices rose 3.5% over the 12 months ending April 2020. This increase was the largest 12-month increase since February 2012. The 12-month average partially obscures the substantial price increases Vermonters are facing right now. For instance, in April 2020, the index for eggs rose over 16% in one month and the index for meats, poultry, fish, and eggs rose over 4% in one month.<sup>21</sup> Whether indicated by unemployment, lost income, or the cost of basic necessities, Vermonters are facing unprecedented financial hardships. These hardships will likely persist for several quarters, if not longer.

In sum, the proposed rate is not affordable to Vermont policy holders and members.

### **C. Access to Care**

One of the fundamental measurable indicators of access to care is Vermonters' ability to pay for needed care. Vermonters already struggled to access care due to cost before the Covid-19 crisis and related economic downturn. These struggles are borne out in their public statements.<sup>22</sup> CHLIC's proposed 15% rate increase will only have one effect on Vermonters; it will further erode their ability to access care by increasing premium prices.

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<sup>20</sup> Office of the Health Care Advocate, April 2020 Covid-19 Survey: Summary Findings (May 2020), [https://www.vtlegalaid.org/sites/default/files/OfficeOfTheHealthCareAdvocate\\_April2020Covid19Survey\\_SummaryResults.pdf](https://www.vtlegalaid.org/sites/default/files/OfficeOfTheHealthCareAdvocate_April2020Covid19Survey_SummaryResults.pdf).

<sup>21</sup> U.S. Bureau of Labor Statistics, April Consumer Price Index Summary (May 2020), <https://www.bls.gov/news.release/cpi.nr0.htm>.

<sup>22</sup> *E.g.*, Judith, GMCB-005-19rr & GMCB-006-19rr, Pub. Comment at 107 (Comment # 516) (“Despite the fact that I have employer-provided insurance and pay a premium, I STILL cannot afford to go to the doctor”); Becky Castle, GMCB-005-19rr & GMCB-006-19rr, Pub. Comment at 76 (Comment # 386) (“While I don't scrimp on bringing my kids to the doctor, my husband and I frequently decide not to go to the doctor ourselves because it is just more out-of-pocket expense”); Emily, GMCB-005-19rr & GMCB-006-19rr, Pub. Comment at 44 (Comment # 235) (“The high cost of insurance combined with lack of adequate coverage has resulted in us skipping annual physicals and largely avoiding the health care system. We would like to start a family in the near future, however, even an uncomplicated hospital birth would potentially result in thousands of dollars of medical bills”).

#### **D. Quality of Care**

CHLIC has not demonstrated that the proposed rate promotes quality care. For instance, CHLIC has, for successive years, failed to detail any programs to encourage its members to use preventive care or to incentivize 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.<sup>23</sup> Because its Vermont premium constitutes such a small percentage of its written premium, less than 1%, 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 indicates that the proposed increase is unjust, unfair, inequitable, and misleading in at least three ways. Specifically, as described in sub-sections A, B, and C above, CHLIC asked the Board to approve an excessive profit margin, proposed a rate that is unaffordable to Vermonters, and proposed a rate that does not promote access to care. As such, the proposed rate is neither just nor fair.

### **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 and historically

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<sup>23</sup> GMCB-001-20rr, Dep’t Fin. Regulation Solvency Op. at 2.

overestimated the overall rate increase it needs to meet claims costs. 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 0.5%;
- Reduce the overall rate by an additional 1% to provide greater affordability for Vermonters.

Recalculating the rates as proposed, will not fully address the challenges Vermonters face due to rising premium prices and deductibles. However, the recalculation will mitigate the harm to Vermonters of the proposed rate increase in the current time of crisis. Further, such a recalculation would reflect a balancing of all the factors the Board is statutorily charged to consider.

Dated at Montpelier, Vermont this 1<sup>st</sup> Day of June, 2020.

/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 Michael Barber, Green Mountain Care Board General Counsel; Amerin Aborjaily, Green Mountain Care Board Staff Attorney; and Mary Clark and Paul Shaeffer, CIGNA representatives of record, by electronic mail, return receipt requested, this 1st day of June, 2020.

/s/ Eric Schultheis

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