

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re:  
BlueCross and BlueShield Vermont  
2021 Individual and Small Group Rate Filing  
  
SERFF No. BCVT-132371410

GMCB-005-20rr

**RESPONSE TO JULY 7 NON-SERFF INQUIRIES**

On June 26, 2020, BCBSVT advised the Board that its pension assets recently experienced a substantial loss in value. As of June 2, 2020, the loss was approximately \$40.6 million, representing a 58.5% decline in value.<sup>1</sup> BCBSVT explained that the investigation of the loss is in its earliest stages and that BCBSVT is unlikely to have additional significant information prior to the July 20, 2020 hearing in this docket. BCBSVT provided this information consistent with its policy of transparency. Nothing in the proposed rates reflects the pension loss.

BCBSVT asked that, given the potential for legal action related to this loss, BCBSVT be given the opportunity to respond to questions in writing in advance of the hearing. On July 7, 2020, the Board served a set of 18 questions seeking further information. The responsive information below, and the accompanying documents, are provided on behalf of BCBSVT and Ruth Greene, its Treasurer and Chief Financial Officer. Because many of the questions posed by the Board overlap and all require similar background information, BCBSVT is providing a

---

<sup>1</sup> To clarify the information provided in the June 26 letter: the loss in value as of June 2, 2020 was \$40.6 million. Measured as of May 31, 2020, the loss was \$40.9 million. BCBSVT realized this distinction when it received the month-end statements for May.

narrative response, rather than a question-by-question response, with references to accompanying documents that provide further information. This approach also allowed for a timely response.

Before providing BCBSVT's substantive responses, we note three limiting principles we applied in preparing them. First, the questions seek a good deal of information that is not relevant to the Board's review of the proposed VISG rate. The actuarial calculations and projections underlying the proposed rate were largely completed before BCBSVT even knew about the pension loss. No element of the proposed rates is based on this loss; therefore, the premiums that would result from approving the proposed rates would not require policyholders to pay one penny towards covering any part of the loss. For example, the proposed 1.5% CTR is consistent with BCBSVT's longstanding philosophy that CTR should be managed to an adequate long-term level and with the need to move BCBSVT towards the RBC level ordered by the Department of Financial Regulation (DFR). The only potential relevance of the pension loss to this proceeding is that it exemplifies the purpose of adequate reserves: to provide a financial buffer against uncertainty and risk. In that regard, however, what is relevant is the existence of the loss and its current, known amount, which has been disclosed, and the timing and amount of any recovery, which is presently unknown and unknowable. BCBSVT therefore objects to the extent the questions seek information that is not relevant, as defined above.

Second, DFR has primary regulatory authority over BCBSVT's solvency and market conduct. On July 8, DFR Commissioner Michael Pieciak issued a Target Examination Order and Certificate of Appointment ordering an examination, focused on BCBSVT's pension fund, pursuant to DFR's authority under 8 V.S.A. § 3563. Many of the Board's inquiries seek information squarely within the regulatory authority of DFR and therefore fall outside the Board's role in assessing whether a proposed 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 laws of this State.” 8 V.S.A. § 4062(a)(3). Questions about how the pension plan and its assets are managed, overseen, and invested fall well outside this regulatory scope and, as noted above, do not bear on BCBSVT’s development and justification of the proposed rates under review. BCBSVT objects to the extent the questions seek information outside of the Board’s regulatory purview.

Third, BCBSVT objects to the extent the questions seek information protected by the attorney-client privilege and/or work-product doctrine. As Don George’s June 26 letter explained, and as noted below, legal counsel has been retained to investigate the loss and advise the plan administrator on potential legal action.

### **RESPONSE TO QUESTIONS 1-18**

Subject to the objections above, the following information and documents respond to the questions posed by the Board. Because the questions posed by the Board overlap substantially and require similar background information, BCBSVT is providing a narrative response, rather than a question-by-question response, with references to accompanying documents that provide further information.

BCBSVT offers a noncontributory retirement plan to most of its employees. The plan is governed by ERISA. BCBSVT is providing copies of the form 5500 annual report for its plan for the years 2014-2018. (The 2019 form has not yet been filed.) The form 5500 contains an annual statement of the plan’s assets and other information about the plan. BCBSVT is also providing a copy of the current summary plan description provided to participants and the 2019 Annual Funding Notice for participants.

BCBSVT's plan participates in the National Retirement Trust administered by the National Employee Benefits Committee of the Blue Cross Blue Shield Association. The Trust holds funds from separate pension benefit programs of several Blues organizations, including BCBSVT, that have opted to participate in the Trust. It allows participating programs to obtain certain economies of scale through the consolidated management of funds and administration of the plans.

BCBSVT is also providing the form 5500 filings for the National Retirement Trust (filing as DFE) for 2014-2018. (The 2019 form 5500 has not yet been filed.) The form 5500 lists the participating plans; provides a statement of assets and liabilities; includes audited financial statements; provides a description of the trust; and gives a detailed listing of assets and breakdown of the beneficial interests of each plan.

The Trust invests assets according to investment policies adopted by the National Employee Benefits Committee based on the recommendation of its investment advisors. Those investment policies are generally reflected in the form 5500 and the annual funding notice. BCBSVT has limited responsibility to make an election regarding overall asset allocation among classes of assets. BCBSVT does not select investments or investment advisors. BCBSVT regularly monitors the performance of its pension assets.

The Trust experienced a substantial decline in value in February and March 2020 due to the poor performance of assets invested in a series of funds managed by Allianz Global Investors. A substantial portion of the \$40.6 million loss suffered by BCBSVT as of June 2, 2020 reflects this investment loss. These losses are distinct from general market losses that resulted from the COVID-19 pandemic. The following table includes the pension asset balances at month end during 2020 and the one-month returns.

	Pension Assets (\$ millions)	1 Month Return
12/31/2019	\$ 69.4	2.29%
1/31/2020	\$ 68.4	-0.83%
2/29/2020	\$ 58.9	-13.79%
3/31/2020	\$ 25.5	-56.61%
4/30/2020	\$ 28.0	3.11%
5/31/2020	\$ 28.5	3.08%

The month-end figures for June 2020 are not yet available.

The impact of changes in the value of pension assets on BCBSVT's balance sheet is based upon the liability defined under accounting rules as the difference between the fair value of plan assets and the Projected Benefit Obligation (PBO) of the pension plan as of December 31 of each year. The PBO is the actuarially calculated present value of the ultimate benefits owed to plan participants. The change in the accounting liability each year is recorded in lines 23 and 31 of the Liabilities, Capital and Surplus exhibit (page 3) of the BCBSVT Annual Statement. That amount flows through line 47 of the capital and surplus reconciliation on page 5, and it is thus included in line 14 of the Five-Year Historical Data exhibit (page 29). A summary of the changes in the accounting liability related to the pension plan over the last five years is as follows:

**Pension Accounting Liability**  
(in millions)

Year	Change in Liability (Increase)/ Decrease	Cumulative Impact
2015	\$2.1	(\$11.3)
2016	(\$1.5)	(\$12.8)
2017	\$2.8	(\$10.0)
2018	(\$5.2)	(\$15.2)
2019	\$3.4	(\$11.8)

Required cash contributions to the plan and its funding target attainment percentage, or FTAP, are governed by separate IRS/ERISA requirements. Calculations of FTAP and required future contributions are made annually based on the pension funded status as of January 1.

The National Employee Benefits Committee is investigating the loss and has retained counsel to advise on the possibility of legal action to recoup all or a portion of the loss. That investigation is ongoing, and as a result, much of the information BCBSVT receives as a result of the investigation reflects attorney-client communications and work product.

The Department of Financial Regulation reviews and approves the investment policies for BCBSVT. Those policies govern BCBSVT's investment portfolio and are separate from the pension fund and the National Retirement Trust's investment policies.

Dated: July 16, 2020

*/s/ Ruth K. Greene*

---

Ruth K. Greene  
Treasurer and Chief Financial Officer  
Blue Cross and Blue Shield of Vermont

Dated: July 16, 2020

**STRIS & MAHER LLP**

*/s/ Bridget Asay*

---

Bridget Asay  
28 Elm Street  
Montpelier, VT 05602  
Telephone: (802) 858-4285  
[bridget.asay@strismaher.com](mailto:bridget.asay@strismaher.com)

*/s/ Michael Donofrio*

---

Michael Donofrio  
28 Elm St  
Montpelier, VT 05602  
Telephone: (802) 858-4465  
[michael.donofrio@strismaher.com](mailto:michael.donofrio@strismaher.com)

**CERTIFICATE OF SERVICE**

I certify that I have served the above Response to July 7 Non-SERFF Inquiries on Michael Barber, Amerin Aborjaily, Thomas Crompton, and Christina McLaughlin of the Green Mountain Care Board; and on Kaili Kuiper, Jay Angoff, and Eric Schultheis, counsel for the HCA, by electronic mail, Delivery Receipt requested via Microsoft Outlook, on July 16, 2020.

/s/ Bridget Asay

Bridget Asay

Stris & Maher LLP

28 Elm St

Montpelier, VT 05602

Telephone: (802) 858-4465

[michael.donofrio@strismaher.com](mailto:michael.donofrio@strismaher.com)