STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield of Vermont 2022 Association Health Plan Rating Program Filing	))))	GMCB-004-21rr SERFF No.: BCVT-132760913

DECISION AND ORDER

Introduction

Health insurers must submit major medical rate filings to the Green Mountain Care Board (GMCB or "the Board"), which must approve, modify, or disapprove each filing within 90 calendar days. 8 V.S.A. §§ 4062(a), 4515a, 4587, 5104. On review, the Board must determine 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 Vermont law. 8 V.S.A. § 4062(a)(3).

This decision pertains to the association health plan rate filing of Blue Cross and Blue Shield of Vermont (BCBSVT), a non-profit hospital and medical service corporation. The approved rates will be used by BCBSVT to determine the premiums of association health plan groups beginning January 1, 2022.

Procedural History

On March 11, 2021, BCBSVT (also referred to hereafter as "the carrier") submitted its 2022 association health plan (AHP) rate filing to the Board via the System for Electronic Rate and Form Filing (SERFF).

On March 16, 2021, the Office of the Health Care Advocate (HCA), a special project within Vermont Legal Aid representing the interests of Vermont health insurance consumers, entered an appearance as a party to the filing. On May 7, 2021, the Department of Financial Regulation (DFR) filed its analysis and opinion regarding the filing's impact on the carrier's solvency (DFR Solvency Opinion). On May 11, 2021, the Board's contract actuary, Lewis & Ellis (L&E) submitted an actuarial memorandum evaluating the filing ("L&E Memo"). Each of these documents was subsequently posted on the Board's rate review website.[1]

The Board solicited written public comments on the filing through May 26, 2021; no member of the public provided comment. Pursuant to GMCB Rule 2.000, § 2.309(a)(3), the Board elected to render a decision based on the record, without a hearing, and invited the HCA and BCBSVT to submit memorandums in lieu of hearing.

[1] The SERFF filings, as well as all documents referenced in this Decision and Order, can be found in the rate review section of the Board's website at https://ratereview.vermont.gov/BCVT-132760913.

Findings of Fact

1. BCBSVT is a non-profit hospital and medical service corporation. BCBSVT provides coverage to individuals, small and large group employers, and Medicare enrollees in Vermont. L&E Memo at 1.

2. This filing updates the formula, manual rate, and accompanying factors that will be used to rate Pathway 1 AHPs[2] and includes support for key assumptions, such as trend, benefit relativities, administrative costs, and large claim factors. *Id.*; BCBSVT Actuarial Memorandum (BCBSVT Memo), 2.

3. BCBSVT currently has one AHP and projects that the filing will affect 1,592 members enrolled in that AHP. L&E Memo at 1; BCBSVT Memo at 2.

4. As originally submitted, the filing would have resulted in an expected average premium change of -0.3%. L&E Memo at 1.

5. Questions posed by L&E to the carrier led to the discovery of an error in the development of the administrative charge. After correcting the error, BCBSVT expects the filings, if approved, will result in an average premium change of -1.3%. The projected change results from a 0.3% increase to projected claims (premium impact of +0.3%), a 55.1% increase in projected pharmacy rebates (premium impact of -2.0%), a change to pediatric vision and dental benefits (premium impact of +0.3%), and a 1.5% increase in administrative charges (premium impact of +0.1%). *Id.* at 2; BCBSVT Response to Objection Letter 1 (March 31, 2021), 1.

6. BCBSVT calculated the expected average premium change of -1.3% for a hypothetical AHP that is renewing with zero experience credibility, exactly average demographics and industry, and no underwriting judgment or management discretion applied to the proposed or in-force rates. The actual rate change experienced by any specific AHP will be based on its own circumstances, including its claims data, and may differ from the -1.3% average premium change in the filing. *See* BCBSVT Memo at 3.

7. Source data for the manual rate is from BCBSVT Cost Plus groups; BCBSVT administrative services only (ASO) groups with less than 1,001 members; BCBSVT insured small and large groups, including small groups enrolled in qualified health plans; BCBSVT insured AHPs; and The Vermont Health Plan (TVHP) insured large groups. L&E Memo at 2. The claims used for medical trend analysis were incurred from March 1, 2016 to February 29, 2020 to exclude disruptions to utilization patterns resulting from the COVID-19 pandemic. The claims used for retail pharmacy trend analysis were incurred from March 1, 2016 to August 31, 2020. *See* BCBSVT Memo at 7-8; L&E Memo at 2.

8. For all products combined, the carrier is requesting a total allowed medical trend of 5.9% per year, broken down into 5.6% for hospital claims, 3.6% for professional claims, and 13.8% for

[2] *See In re: BCBSVT 2020 AHP Rate Filing,* Docket No. GMCB-004-19rr, Statement of Decision and Order, Findings of Fact (Findings), ¶¶ 2-13 (discussing Pathway 1 and Pathway 2 AHPs).

outpatient drugs. *Id.* at 3. Medical trend is composed of unit cost trends and utilization and intensity trends. *See* BCBSVT Memo at 8; L&E Memo at 3-5.

9. The unit cost trend for medical costs is projected to be 4.2%. Unit costs for facilities and providers subject to GMCB hospital budget review are projected to increase 4.7% and unit costs for other BCBSVT service area providers are projected to increase 3.7%. L&E Memo at 3. The 4.7% medical unit cost trend assumption for facilities and providers subject to GMCB hospital budget review reflects an assumption that commercial rate increases approved for hospital budgets in 2021 and 2022 will return to the levels approved in 2019, rather than the slightly elevated levels approved in 2020, which reflected impacts of COVID-19. *See id.* at 3-4; BCBSVT Memo at 8. Projected unit cost increases for providers outside the BCBSVT service area were derived from the confidential BlueCross BlueShield Association Blue Trend Survey. L&E reviewed confidential material provided by the carrier as support for the medical unit cost trend assumptions and found the assumptions to be reasonable and appropriate. L&E does not recommend any changes to the medical unit cost trend assumptions. L&E Memo at 4.

10. The carrier chose a utilization trend of 0.6% per year for facility claims and 1.1% for professional and ancillary claims, averaging to an overall non-drug medical utilization trend assumption of about 0.8% per year. The carrier normalized the allowed costs to remove the impact of unit cost changes and isolate the change in utilization and intensity of services. As in past filings, the carrier relied on historical utilization changes using various regression algorithms to project future utilization. The different methods produced varied results, indicating uncertainty in the projected utilization trend. Nevertheless, the data suggest that the underlying trend over the last four years has variability such that a 90% confidence interval would be from about 0.0% to 2.9% per year. L&E believes that BCBSVT's medical utilization trend assumption of 0.8% per year is reasonable. *Id*. at 3.

11. Consistent with last year's filing, BCBSVT isolated claims related to "outpatient drugs," which are pharmaceuticals that are typically dispensed in an outpatient medical facility, not a retail setting, and which are covered by the medical benefit and paid for by medical deductibles and cost sharing. The annual outpatient drug cost increases for the years ending in February 2018, 2019, and 2020 were 5.4%, 15.5%, and 8.4% respectively. The carrier assumed a 13.8% increase in cost per year for outpatient drugs. L&E noted that this increase is on the high end of trends observed in recent years but found it to be reasonable in light of the historical variability and the introduction of new drugs which were not available during the experience period. *Id*. at 4.

12. L&E's estimated range for the total allowed medical trend is 3.6% - 7.9%. L&E believes BCBSVT's assumed total allowed medical trend of 5.9% which falls near the middle of L&E's estimated range, is reasonable. *Id*. at 5.

13. BCBSVT requests a total allowed pharmacy trend of 11.0%, which includes the impact of contracting changes with the Pharmacy Benefit Manager. The aggregate assumption is composed of non-specialty utilization trend; generic cost trend, separately for new and established generics; brand cost trend, separately for new and established brands; impact of brands going generic; specialty trend; and vaccines, over the counter medications, and compounds. The utilization trend for non-specialty drugs is projected to be 3.5% per year based on historical utilization rising steadily during 2019 and 2020, even after the one-time effects from COVID-19 are taken into

account. *Id*. at 6. The carrier calculated unit cost trends of 1.1% for generic drugs, 7.1% for brand drugs, and -48.4% for brand drugs going generic during the projection period. *Id.* Due to the relatively low utilization and high-cost nature of specialty drugs, the carrier modeled only the total PMPM trends for these drugs and did not analyze utilization and unit cost separately. The carrier calculated a total annual trend of 4.5% for all non-specialty drugs and a total annual trend of 19.6% for specialty drugs. *Id.* at 6. L&E observed that historical costs for specialty drugs have increased at a steady, high rate for several years, with the years ending August 2018, 2019, and 2020 exhibiting cost increases of 21.0%, 20.2%, and 17.6% respectively. L&E found the total pharmacy allowed trend of 11.0% to be reasonable in aggregate, as well as when analyzed by the components described above. *Id.* at 7.

14. BCBSVT calculated a total allowed trend of 6.8%. *Id*. at 7. L&E took a long-term view of historical claims and estimated a likely range of annual allowed trends between 5.4% and 9.0%. L&E noted that BCBSVT's trend development, which considers other factors and short-term changes, produced an overall trend factor that is slightly below the midpoint of L&E's range, which L&E believes provides additional validation that BCBSVT's trend development is producing a reasonable overall result. *Id*.

15. To account for the leveraging effect of deductibles and copays, BCBSVT used its benefit relativity models to convert the allowed trends into paid trends. L&E concluded the carrier's approach to adjusting allowed trends to paid trends was reasonable and appropriate. The carrier calculated a 6.8% paid medical trend and an 11.6% paid pharmacy trend. *Id.* at 8.

16. The proposed administrative charge in this filing is $54.71 PMPM, having been reduced from $61.50 PMPM after questions from L&E led to the discovery of an error in the development of the administrative charge. The administrative experience for this filing is January 2020 through November 2020, although transitional costs related to one-time events such as enabling full-time remote work were removed. Those costs are allocated to groups on a per-account, per-member, or per-contract basis. The administrative charge has increased by $0.89 PMPM over last year. The increase is attributable to the interaction of three factors. First, the actual 2020 administrative costs were less than anticipated in the prior filing, which has a -$2.52 PMPM impact. Second, BCBSVT projects a 6.2% decrease in overall membership across all lines of business, resulting in fewer members over which to spread fixed costs. BCBSVT included the full amount of fixed costs in its calculation of the administrative charge but reduced the variable costs in line with the decrease in membership, resulting in a +$2.24 PMPM impact. Third, BCBSVT assumed administrative cost inflation of 2.2% based on its expectation that wages and benefits will rise by 3.0%[3] while other operating costs and membership will remain at current levels. This assumed cost trend has a +$1.17 PMPM impact on the administrative charge. *Id.*; BCBSVT Memo at 28.

17. The administrative charge in this filing is approximately 34% greater than the administrative charge of $40.85 PMPM in the Third Quarter 2019 Large Group filing. The increase is split about evenly between 1) a 15% increase in expenses driven by new operating systems, management software, IT security enhancements, and inflationary increases in vendor costs; and 2) a 16% change from reduced enrollment and a change in the mix of enrolled membership. The

[3] BCBSVT states that it applied the administrative trend increase through 2020 and from 2021 to 2022, but that it assumed no trend for 2021 given decisions regarding cost of living increases in 2021. *See* BCBSVT Memo at 28.

premiums will also include allowances for state mandates and assessments. L&E found the carrier's methodology appropriate for the components of the administrative charge and noted that an even higher increase to administrative costs would be supportable. L&E Memo at 9.

18. For federal fees, H.R. 1865- Further Consolidated Appropriations Act repealed the ACA's Section 9010 insurer fee for 2021. Therefore, the health insurance providers fee is not included in the proposed rates. The Patient-Centered Outcomes Research Institute Fee of $0.24 PMPM was found reasonable by L&E. *Id.*

19. BCBSVT proposes a 1.5% Contribution to Reserves (CTR), which is consistent with its prior AHP filing and its most recent large group filing. *In re: Blue Cross and Blue Shield of Vermont 2021 Association Health Plan Rating Program Filing,* Docket No. GMCB-004-20rr, Statement of Decision and Order (Aug. 28, 2020), Findings, ¶ 16; *In re: Blue Cross and Blue Shield of Vermont Third Quarter 2021 Large Group Rating Program Filing*, GMCB-001-21rr, and *In re: The Vermont Health Plan Third Quarter 2021 Large Group Rating Program Rate Filing*, GMCB-002-21rr, Statement of Decision and Order (July 17, 2020) (hereafter "2021 BCBSVT/TVHP LG Order"), Findings, ¶ 21. L&E believes the proposed CTR is reasonable to maintain Risk Based Capital (RBC) levels. L&E Memo at 10.

20. L&E recommends the Board approve the filing with the corrected administrative charge, resulting in an anticipated average premium change of -1.3%. L&E believes that, with the corrected administrative charge, the filing does not produce rates that are excessive, inadequate, or unfairly discriminatory. *Id*.

21. Pursuant to 8 V.S.A. § 4062(a)(2)(B), DFR provided the Board with its assessment of the impact of the proposed filings on the carrier's solvency. DFR noted that BCBSVT's surplus and RBC ratio, two important indicia of solvency, have worsened compared to the prior year end. The carrier's RBC ratio remains below its targeted range as of December 31, 2020. DFR noted that the second and final payment of BCBSVT's alternative minimum tax (AMT) refund, worth approximately $18 million, was not received in 2020 and is expected in the second quarter or early third quarter of 2021. DFR also noted the uncertainty caused by the COVID-19 pandemic, including the costs of treating COVID-19 infected patients in both the short and long term, the ability of individuals and businesses to afford health insurance premiums given current economic conditions, and whether the reduction of medical services during the pandemic reflects medical services deferred or permanently foregone. DFR cautions that any downward adjustments to the rate that are not actuarially supported would likely further erode the carrier's surplus and RBC ratio but does not expect the proposed rate to have a significant impact on its overall solvency assessment of BCBSVT. DFR Solvency Opinion at 1-2.

22. Neither BCBSVT nor the HCA submitted a memorandum in lieu of hearing.

Standard of Review

The Board reviews rate filings to determine 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" and is not "excessive, inadequate, or unfairly discriminatory." 8 V.S.A. § 4062(a)(3); GMCB Rule (Rule) 2.000, §

2.301(b). Although the latter terms - excessive, inadequate, or unfairly discriminatory - are defined actuarial standards, other standards by which the Board reviews rate filings are "general and open-ended," the result of "the fluidity inherent in concepts of quality care, access, and affordability." *In re MVP Health Insurance Co.*, 203 Vt. 274, 284 (2016). The Board additionally takes into considerations changes in health care delivery, changes in payment methods and amounts, and other issues in its discretion. 18 V.S.A. § 9375(b)(6); Rule 2.000, § 2.401.

In arriving at its decision, the Board must consider DFR's analysis and opinion regarding the impact the proposed rate will have on the insurer's solvency and reserves. 8 V.S.A. § 4062(a)(2)(B), (3). The Board must also consider any public comments received on a rate filing. 8 V.S.A. § 4062(c)(2)(B); Rule 2.000, § 2.201. The insurer bears the burden of justifying its requested rate. Rule 2.000, § 2.104(c).

Conclusions of Law

The ongoing pandemic serves to heighten the inherent tension in our standard of review, which we have noted in prior decisions. *See* 2021 BCBSVT/TVHP LG Order, 6. On the one hand, we are required, without specific statutory guidance or a standardized definition, to consider whether the proposed rate is affordable to Vermont consumers; on the other hand, we must consider whether the rate protects insurer solvency and is adequate to cover the costs of paying for members' claims and administering the plan. The failure of a rate to meet either criterion could imperil Vermonters' access to care, implicating yet another of our review criteria. Our task, then, is to strike an appropriate balance between achieving the most affordable rates possible, while also safeguarding the financial solvency of our health insurers. With that in mind, we will turn to the specific issues in BCBSVT's large group filing.

First, we accept our actuaries' assessment that, after correcting the administrative charge, the filing does not produce rates that are excessive, inadequate, or unfairly discriminatory. *See* Findings, ¶ 20.

L&E analyzed BCBSVT's development of allowed medical and pharmacy trends and found that the trends outlined in the filing are reasonable. *See* Findings, ¶¶ 9 - 13. L&E also noted that BCBSVT's projected total allowed trend of 6.8% is slightly below the midpoint of the range that L&E calculated by taking a long-term view of historical claims – a view that did not account for some of the factors and short-term changes that BCBSVT considered in its trend development. This provides additional validation that BCBSVT's methodology has produced a reasonable result. *See* Findings, ¶ 14. L&E also found that BCBSVT used a reasonable approach to adjusting allowed trends to paid trends. Findings, ¶ 15.

With respect to BCBSVT's development of the administrative charge increase of $0.89 PMPM, we note that BCBSVT made adjustments that prevented the increase from being higher. In particular, BCBSVT developed its proposed administrative charge as if it had reduced its variable costs consistent with a 6.2% decrease in membership. Findings, ¶ 16. Even with this adjustment, the proposed administrative charge in this filing is approximately 34% greater than the administrative charge of $40.85 PMPM in the carrier's Third Quarter 2019 Large Group filing. *See* Findings, ¶ 17.

Related to the affordability criterion in our standard of review is the expectation that BCBSVT provide benefits and services at minimum cost under efficient and economical management. *See* 8 V.S.A. §§ 4513(c), 4584(c). We have repeatedly encouraged BCBSVT to find innovative ways to increase efficiencies and limit increases in administrative expenses as the membership over which these costs are spread has decreased. *See* 2021 BCBSVT/TVHP LG Order, 7. While adjusting cost projections to reflect cost reductions that have not occurred will help limit administrative charge increases for this block of business in the short term, it is not a sustainable approach for the carrier. BCBSVT must take steps to realize actual cost savings equivalent to its ongoing, continuing membership declines. *See id*.

Approving the rates as filed is not expected to have a significant impact on BCBSVT's solvency. Findings, ¶ 21.

Due largely to increased pharmaceutical rebates, the filing is expected to make premiums more affordable, with the overall average premium change expected to be -1.3%. Findings, ¶ 5.

Finally, consistent with our duty to consider changes in health care delivery and changes in payment methods, we strongly encourage BCBSVT to change the way it pays health care providers. We believe such changes have the potential to enhance affordability, promote quality care, promote access to health care, and protect insurer solvency.

In its Plain Language Summary for this filing, BCBSVT describes its mission and vision as "giving our members access to high-value health care while responsibly managing healthcare costs." To that end, BCBSVT states that it "seeks to improve the health of Vermonters by promoting preventive care and healthy lifestyles . . . and work[s] with providers on strategies to improve health care services and reduce health care costs." The GMCB and the State of Vermont share the mission and vision outlined by BCBSVT. *See* 18 V.S.A. § 9372. Central to its achievement is accelerating the transition to fixed prospective payments across all payers in Vermont. With a true fixed prospective payment "there is no reconciliation of the prospective payment to the fee-for-service equivalent. Providers prefer this model because fixed prospective payments provide predictability, stability, and flexibility." Vermont Agency of Human Services, *Implementation Improvement Plan: Vermont All-Payer Accountable Care Organization Model Agreement* (Nov. 19, 2020), 9. "The pandemic has demonstrated that fixed prospective payments can create stability for the health care system and preserve access to care in-light-of changes in health care utilization." *Id.* at 5. "Because population-based payments are fixed and offered prospectively, they provide the strongest incentive for providers to engage in delivery system transformation." *Id.* at 11. Given the above, BCBSVT should substantially increase the percentage of claims paid through fixed prospective payments.

In addition to the specific areas discussed above, we remind the carrier of our expectation, voiced in prior decisions and again today, that the carrier should promote parity in reimbursements between academic medical centers, community hospitals and independent practices and that reimbursements should reflect actual costs of care, rather than site of service.

ORDER

For the reasons discussed above, we approve the BCBSVT 2022 AHP rate filing with the corrected administrative charge, resulting in an anticipated average premium change of -1.3%.

SO ORDERED.

Dated: June 1, 2021, at Montpelier, Vermont

s/ Kevin Mullin, Chair)
)
s/ Jessica Holmes)
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s/ Robin Lunge)
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s/ Tom Pelham)
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s/ Maureen Usifer)

GREEN MOUNTAIN CARE BOARD OF VERMONT

Filed: June 1, 2021

Attest: s/ Jean Stetter
Green Mountain Care Board
Administrative Services Director

NOTICE TO READERS: This document is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (Email address: Christina McLaughlin@vermont.gov). Appeal of this decision to the Supreme Court of Vermont must be filed with the Board within thirty days. Appeal will not stay the effect of this order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration, if any, must be filed with the Board within ten days of the date of this decision and order.