

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield of Vermont)	GMCB-005-21rr
2022 Individual Market Rate Filing)	
)	SERFF No. BCVT-132829271
)	

In re: Blue Cross and Blue Shield of Vermont)	GMCB-006-21rr
2022 Small Group Market Rate Filing)	
)	SERFF No.: BCVT-132829562
)	

**ORDER DENYING BLUE CROSS AND BLUE SHIELD OF VERMONT’S MOTION TO
RECONSIDER AND AMEND OPINION**

The Green Mountain Care Board issued its opinion in the above-captioned rate filings on August 5, 2021. On August 17, 2021, Blue Cross and Blue Shield of Vermont (BCBSVT) filed a motion asking the Board to reconsider and amend the opinion to remove any findings or conclusions that BCBSVT’s proposed rates are “excessive.” BCBSVT argues that the term “excessive” is a defined actuarial standard and there is no competent evidence in the record to support a finding or conclusion that the proposed rates are excessive. The Office of the Health Care Advocate (HCA) responded to BCBSVT’s motion on August 18, 2021, urging the Board to deny BCBSVT’s motion. The HCA argues that there is substantial evidence in the record to support the Board’s findings and that the Board has the discretion to make such findings. As discussed below, we find no error in the opinion’s findings or conclusions. Accordingly, we deny BCBSVT’s motion.

The first conclusion BCBSVT takes issue with characterizes the proposed rates as excessive: “Based on our review of the record, the testimony, and evidence presented at a hearing that was held on July 21, 2021, we conclude that the rates proposed by BCBSVT are excessive.” Order at 13. Based on the way in which the term was used at the hearing and in its own post-hearing memorandum, BCBSVT concludes that “‘proposed rates’ means the rates proposed in Blue Cross’s filing as modified if L&E’s recommendations are accepted and as modified by Blue Cross’s adjustment reflecting hospital budget submissions.” BCBSVT Motion at 1 n.1. BCBSVT argues that all relevant evidence supports the conclusion that the proposed rates, as so defined, are

not excessive. *Id.* at 3. The HCA responds that the word “proposed” in the Board’s decision clearly refers to the rates as filed and that BCBSVT’s interpretation goes against the plain reading of the decision. HCA Response at 2.

BCBSVT’s argument regarding the first conclusion is without merit because, as the HCA notes, the “proposed rates” are the filed rates. This is the most natural meaning of the term as used in the opinion because the very next section of the opinion adopts L&E’s recommendations. The Board would not have needed to adopt L&E’s recommendations if the proposed rates already accounted for these recommendations.

The second conclusion BCBSVT takes issue with characterizes BCBSVT’s proposed contribution to reserves (CTR) as excessive:

Despite “catastrophic losses” in its pension assets, rate guarantees that it provided to keep certain large customers, and other factors that negatively impacted its surplus in 2020, BCBSVT is expected to be above the [risk-based capital (RBC)] target range DFR has set for it by the end of 2021. Given this fact, a CTR proposal of 1.5% strikes us as excessive during a time when individuals and small businesses are still struggling financially after a year-long economic slowdown.

Order at 14. BCBSVT argues that there is no evidence in the record that a 1.5% CTR is excessive because “no witness testified that the proposed rates are excessive.” BCBSVT Motion at 6. Without citing any authority, BCBSVT asserts that “to the extent the Board is applying defined actuarial standards, its decision must be based on relevant evidence from experts with appropriate education and experience to assess and apply those standards.” *Id.* The HCA disagrees with BCBSVT’s characterization of the record and asserts that the Board’s conclusion is supported by numerous written and oral statements in the record that BCBSVT is likely to exceed its target RBC range by the end of 2021. HCA Response at 2-3.

BCBSVT’s argument regarding the second conclusion is also without merit. The Board is not required to base its decisions on actuarial issues solely on expert testimony; it may consider any competent, credible evidence that bears on these issues. While no witness testified that the proposed CTR is excessive, the Board’s conclusion that BCBSVT’s CTR proposal is excessive is adequately supported by factual findings regarding BCBSVT’s anticipated reserve position that were clearly laid out in the opinion and that BCBSVT does not assert were erroneous.

Order

For the reasons discussed above, BCBSVT's Motion to Reconsider and Amend Opinion is denied.

SO ORDERED.

Dated: August 24, 2021 at Montpelier, Vermont

<u>s/ Kevin Mullin, Chair</u>)	
)	
<u>s/ Jessica Holmes</u>)	GREEN MOUNTAIN
)	CARE BOARD
<u>s/ Robin Lunge</u>)	OF VERMONT
)	
<u>s/ Maureen Usifer</u>)	
)	
<u>s/ Tom Pelham</u>)	

Filed: August 24, 2021

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