

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield of Vermont	)	GMCB-007-22rr
Q4 2022 Large Group	)	
Rate Filing	)	SERFF No.: BCVT-133270497
	)	
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In re: The Vermont Health Plan	)	GMCB-008-22rr
Q4 2022 Large Group	)	
Rate Filing	)	SERFF No.: BCVT-133270485

**DECISION AND ORDER**

**Introduction**

Health insurers must submit major medical rate filings to the Green Mountain Care Board (GMCB or Board). 8 V.S.A. §§ 4062, 4515a, 4587, 5104. This decision pertains to the large group rating program filings of Blue Cross and Blue Shield of Vermont (BCBSVT), a non-profit hospital and medical service corporation, and The Vermont Health Plan (TVHP), a licensed health maintenance organization and for-profit subsidiary of BCBSVT. The approved rates will be used by BCBSVT and TVHP to determine the premiums of experience-rated fully insured large groups with over 100 employees.

**Procedural History**

On May 20, 2022, BCBSVT and TVHP (hereinafter referred to collectively as “the carrier,” except when specified) submitted Large Group Rating Program rate filings to the Board via the System for Electronic Rate and Form Filing (SERFF). Because the filings incorporate the factor and rate development from combined BCBSVT and TVHP experience, we review both filings concurrently.

On May 26, 2022, the Office of the Health Care Advocate (HCA), a special project within Vermont Legal Aid that represents the interests of Vermont health insurance consumers, entered an appearance as a party to the filings. On July 19, 2022, the Department of Financial Regulation (DFR) filed its analysis and opinion regarding the impact of the filings on the carrier’s solvency (BCBSVT Solvency Opinion and TVHP Solvency Opinion). On July 19, 2022, Lewis & Ellis, the Board’s contract actuary, submitted an actuarial memorandum evaluating the filings. On July 25, 2022, the carrier submitted a letter expressing concerns about L&E’s memorandum. L&E responded to these concerns on July 28, 2022, and on August 10, 2022, L&E issued a revision to its July 19, 2022 memorandum (Revised L&E Memo). Each of these documents was subsequently posted on the Board’s rate review website.<sup>1</sup>

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<sup>1</sup> 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>.

The Board solicited public comments on the filings through August 3, 2022. No member of the public provided comment. The parties waived a hearing, and the carrier filed a memorandum of law on August 5, 2022 (Carrier Memorandum in Lieu of Hearing). *See* GMCB Rule 2.000, § 2.309(a)(1), (c).

### **Findings of Fact**

1. BCBSVT is a non-profit hospital and medical service corporation that provides coverage to individuals, small and large group employers, and Medicare enrollees in Vermont. TVHP is a licensed health maintenance organization and a for-profit subsidiary of BCBSVT. TVHP provides large group coverage to employers in Vermont. Revised L&E Memo, 1.

2. This filing addresses BCBSVT and TVHP Insured and Cost Plus large groups and is projected to affect 6,396 members (3,563 subscribers) in 38 groups. Revised L&E Memo, 1; BCBSVT and TVHP Actuarial Memorandums (Carrier Memos), 1.

3. Two filings were previously submitted and approved that established the formula, manual rate, and accompanying factors that the carrier will use to establish premiums for large group renewals. *See In re Blue Cross and Blue Shield of Vermont Third Quarter 2022 Large Group Rating Program Filing*, GMCB-001-22rr, and *In re The Vermont Health Plan Third Quarter 2022 Large Group Rating Program Filing*, GMCB-002-22rr, Decision and Order (May 18, 2022) (Carrier 3Q 2022 LG Orders). This filing modifies the trend and manual rate figures from that filing to reflect updated hospital budget information. The previous filing, approved with modification on May 18, 2022, resulted in an average premium change of approximately 7.6%. *See* Revised L&E Memo, 1.

4. All rating components other than the prospective unit cost trend assumptions and manual rate were recently reviewed by L&E and considered by the Board; therefore, L&E did not repeat that analysis for this rate filing and instead focused on the impact of the hospital budget submissions on the medical unit cost trend. Revised L&E Memo, 2.

5. During the year ended August 2021, approximately 52 percent of total claims dollars were related to facilities impacted by the Board's hospital budget review process. Carrier Memos 1 – 2.

6. This filing initially proposed a further change of 2.9% to average premiums to reflect the impact to medical unit cost factors and manual rates of updated hospital budget information. This 2.9% would impact groups beginning in the fourth quarter (4Q) of 2022 in addition to the 7.6% rate change approved in the third quarter (3Q) of 2022. Groups would thus experience a year-over-year change of, on average, 10.7% beginning in 4Q 2022. Revised L&E Memo, 1 – 2.

7. Vermont hospitals began submitting their proposed fiscal year 2023 (FY 2023) budgets to the Board on July 1, 2022. These submissions reflect requests for increases higher than those originally estimated by the carrier. On July 15, 2022, L&E asked the carrier to respond to an interrogatory regarding the hospital budget submissions. The carrier responded to this interrogatory on July 19, 2022. *See* Carrier July 19, 2022, Interrogatory Response.

8. The carrier calculated that the additional 4Q 2022 rate increase would be 5.9%, rather than 2.9%, if hospital budgets were approved as filed. That is, the year-over-year change experienced by groups would be approximately 13.9%. Revised L&E Memo, 2.

9. The premium ultimately charged to a particular group is a function of the experience for that group for the most recent period available. For that reason, the rate change for any particular group is likely to differ from the 13.9% figure calculated. The approved rate change should be understood as the rate change for a group with no claims experience, or as the expected average for all groups combined. *See* Revised L&E Memo, 2.

10. As part of the hospital budget process, the Board establishes a ceiling or cap on the amount each hospital's rates can increase. *See, e.g., In re Central Vermont Medical Center Fiscal Year 2022*, 21-002-H, FY 2022 Hospital Budget Decision and Order (Oct. 1, 2021), 12 (approving Central Vermont's Medical Center's charge increase "at *not more than* 6.0% over current approved levels.") (emphasis added).

11. In the past, filed hospital budget submissions have not always been approved as requested. In particular, high requested budgets tend to be reduced in GMCB orders. Revised L&E Memo, 3.

12. The rate increases requested by hospitals for FY 2023 are unprecedentedly high. Revised L&E Memo, 3. Many of the hospital proposals also reflect growth in net patient revenue and fixed prospective payments that exceeds the two-year 8.6% guidance established by the Board. Green Mountain Care Board, Preliminary Review of FY2023 Hospital Budget Submissions (July 27, 2022), 12 – 14.

<https://gmcboard.vermont.gov/sites/gmcb/files/documents/Preliminary%20Review%20FY2023%20Hospital%20Budgets%20%281%29.pdf>; Green Mountain Care Board, FY 2023 Hospital Budget Guidance and Reporting Requirements (eff. March 31, 2022), 5.

<https://gmcboard.vermont.gov/sites/gmcb/files/documents/FY23%20Hospital%20Budget%20Guidance-%20FINAL.pdf>.

13. The Board is scheduled to hold hearings on Vermont hospitals FY 2023 budgets between August 15 and 23, 2022. The Board must establish hospitals' FY 2023 budgets by September 15, 2022, and issue written decisions by October 1, 2022. 18 V.S.A. § 9456(d)(1).

14. 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.<sup>2</sup> DFR noted that BCBSVT's surplus and Risk Based Capital (RBC) ratio, two important indicia of solvency, have improved compared to the prior year-end. BCBSVT's RBC ratio was within the targeted range as of December 31, 2021. DFR cautions that any downward adjustments to the rate that are not actuarially supported would likely erode BCBSVT's surplus and RBC ratio, but DFR states that it does not expect the proposed rate to have a significant impact on its overall solvency assessment of BCBSVT. BCBSVT Solvency Opinion, 1; TVHP Solvency Opinion, 1 – 2.

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<sup>2</sup> The solvency analysis of TVHP and BCBSVT concentrates on the financial position of the parent, BCBSVT. TVHP Solvency Opinion, 1.

15. In its Memorandum in Lieu of Hearing, the carrier argues that the filings produce rates that are affordable, promote quality care, promote access to health care, protect insurer solvency, are not unjust, unfair, inequitable, misleading or contrary to law, and are not excessive, inadequate, or unfairly discriminatory. The carrier encourages the Board to “approve unit cost trends that reflect submitted hospital budgets reduced in the same manner that they have been modified in the ACA rates.” Carrier Memorandum in Lieu of Hearing, 2 – 3.

### **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**

In reviewing a rate filing, we must consider whether the proposed rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, is not unjust, unfair, inequitable, misleading, or contrary to the laws of Vermont, and is not excessive, inadequate, or unfairly discriminatory. As we have recognized in prior decisions, these factors are interrelated and often in tension with one another. *See, e.g., In re MVP Health Plan, Inc. 2022 Individual and Small Group Market Rate Filings*, GMCB-007-21rr & GMCB-008-21rr, Decision and Order (Aug. 5, 2021), 16. Neither our statute nor our rule specifies how much weight we should give to any one factor, and we seek to find the most appropriate balance we can amongst them based on the facts and circumstances before us.

As our contract actuaries observed, all rating components other than the prospective unit cost trend assumptions and manual rate were recently reviewed and an Order was issued in May of this year. *See Carrier 3Q 2022 LG Orders*. Therefore, this Order will address only the impact of the FY 2023 hospital budget submissions on the prospective unit cost trends.

The Board also recently engaged in an analysis of the likely outcome of hospital budget decisions on the medical unit cost trend for BCBSVT’s individual and small group health

insurance plans. *See In re Blue Cross and Blue Shield of Vermont 2023 Individual and Small Group Market Rate Filings*, GMCB-003-22rr & GMCB-004-22rr, Decision and Order (August 4, 2022), 17 – 18 (BCBSVT 2023 QHP Order). In those Orders, we directed carriers to assume that the Board will reduce the rate increases requested by Vermont hospitals in their FY 2023 budget proposals by 17%. *See BCBSVT 2023 QHP Order*, 18, 20. In this docket, the carrier requests that we approve unit cost trends that have been reduced in the same manner. Findings, ¶ 15. We agree that taking the same approach to the treatment of hospital budget submissions in this docket is appropriate.

As we did in the Individual and Small Group Rate Filings, we will reduce hospitals' proposed rates by the average percentage rate reduction that the Board has imposed over the past five years, which we calculate as approximately 17%. We think this is a reasonable approach because reductions in recent years have tended to be larger for larger budget requests and this year's requests are historically high. Furthermore, this year's requests reflect budgeted revenue growth for many hospitals that exceeds the two-year revenue guidance set by the Board. Findings, ¶ 12.

**ORDER**

For the reasons discussed above, we modify and then approve BCBSVT's and TVHP's Q4 Large Group Rate Filings. Specifically, we order BCBSVT and TVHP to assume that the Board will reduce the rate increases requested by Vermont hospitals in their FY 2023 budget proposals by 17% and approve the carrier's filings as modified. We anticipate that the modification will result in an overall average rate increase for Large Group plans to be approximately 4.7% (\$ 32.77 PMPM).

**SO ORDERED.**

Dated: August 18, 2022 at Montpelier, Vermont

<u>s/ Jessica Holmes, Interim Chair</u>	)	
	)	
<u>s/ Robin Lunge</u>	)	
	)	
<u>s/ Tom Pelham</u>	)	
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<u>s/ Thom Walsh</u>	)	

GREEN MOUNTAIN  
CARE BOARD OF  
VERMONT

Filed: August 18, 2022  
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](mailto: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.*