STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc.	)	
VT Health Connect 2021 Filing	)	GMCB-006-20rr
	)	

OFFICE OF THE HEALTH CARE ADVOCATE POST-HEARING MEMORANDUM

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to respond to the MVP Health Plan, Inc. (MVP) 2021 Vermont Health Connect (VHC) filing (Filing). Vermonters and Vermont have admirably controlled the Covid-19 pandemic, but at a significant financial cost. At the same time, MVP has benefited from lower claims due to reduced non-essential care. It is in this context that MVP proposes to increase the premium price it charges its 36,980 members by 7.34%, by incorporating unsubstantiated speculation into its premium price calculations.[1] Vermonters and Vermont small businesses are in crisis and affordability and access issues are at an all-time high. As such, it is not the time to ask Vermonters to pay ahead for uncertain future costs. We respectfully ask the Board to implement no rate increase for 2021.

I. STATUTORY BACKGROUND

MVP bears the burden of demonstrating that its proposed rate meets the multi-faceted test governing the lawfulness of a rate increase in Vermont: that the requested rate is affordable; promotes quality care; promotes access to health care; protects insurer solvency; is not unjust, unfair, inequitable, misleading, or contrary to law; and is not excessive, inadequate, or unfairly discriminatory.[2]

[1] GMCB-006-20rr, Ex. 1 at 3.
[2] 8 V.S.A. §4062; 18 V.S.A. §9375.

When deciding whether to approve, modify, or disapprove a rate request, the Board must consider whether the insurer has met each of the statutory criteria listed above.[3] The Board may modify the proposed rate or any element of the rate. 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.[4]

The Board must accept comments from the public and from the HCA on all topics relevant to the proposed rate, and from the Department of Financial Regulation (DFR) on the limited subject of the impact of the filing on the insurer's solvency and reserves.[5] The Board is not bound by the views of DFR, the public, or the HCA but must consider them. The Board is also not bound by the opinion of its consulting actuary.[6]

II. MVP HAS FAILED TO CARRY ITS BURDEN WITH RESPECT TO THE CRITERIA ON WHICH THE BOARD MUST MAKE A DETERMINATION.

A. The Rate Increase is Not Affordable and Does Not Promote Access to Care

Vermonters are in a true crisis, as evidenced by the over 970 public comments on the 2021 VHC proposed price increases - the most the Board has ever received. As the Board is aware, we are faced with a tragic scenario of existing and impending mass household insolvency. In public comments, Vermonters reported on the current affordability and economic crisis created by Covid-19,[7] how premiums and deductibles eclipse Vermonters' ability to pay for them,[8] and the high percentage of Vermonters' incomes being taken up by premiums and deductibles,[9] amongst other things. MVP seeks to avoid a true assessment of affordability by defining affordable as "not

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[3] 8 V.S.A §4062(a)(3).
[4] 18 V.S.A. §9375(b)(6).
[5] 8 V.S.A §4062(a)(2)(B); 8 V.S.A §4062(c); 8 V.S.A §4062(e)(1)(B).
[6] See 8 V.S.A §4062.
[7] E.g., GMCB-006-20rr, Pub. Comment 26, 43, 81, 184, 216, 224, 245, 374, 478, 559, 894, 907, 931.
[8] E.g., GMCB-006-20rr, Pub. Comment 33, 101, 110, 168, 359, 457, 503, 615, 621, 668, 740, 867, 953.
[9] E.g., GMCB-006-20rr, Pub. Comment 148, 150, 333, 486, 519, 594, 742, 757, 866.

excessive."[10] This is not Vermonters' reality: Actuarial justification does not reflect whether or not Vermonters have enough money to buy and use health insurance.

As evidence of Vermonters' inability to afford health insurance continues to mount, we again present Vermont real GDP growth and Vermont real wage growth over the last several years compared to MVP's VHC premium price growth.[11] Pre-Covid-19, Vermont-specific data demonstrate that MVP's VHC premiums have grown far faster than Vermont's economy or Vermonters' wages, leaving Vermont businesses and households paying an increasing and unsustainable share of their income towards health insurance.

MVP's VHC premium price growth has substantially outpaced Vermont's economy as measured by real GDP. From 2014 to 2019, MVP's VHC premium prices grew a staggering 301% more than real GDP.[12] MVP's VHC premium price growth has also outpaced real wage growth in Vermont: 29.93% vs 6.68% respectively, from 2014 to 2019.[13]

The proposed premium price increase only exacerbates the issue. Assuming the Filing's proposed increases are implemented, from 2014 to 2021 the cumulative nominal premium price growth is an alarming 53.50%, far higher than any reasonable prediction of Vermont income or GDP growth.[14] When these facts are considered together with the current economic crisis, it is no wonder that Vermonters spoke out against this year's rate increases in such large numbers.

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[10] E.g., GMCB-006-20rr, Hr'g Tr. at 128 (Lombardo Test.) ("The rate is set to be affordable in the sense that it is an actuarially sound rate where we are doing everything we can to manage costs to be as low as possible…").

[11] Real wages and real GDP are adjusted for differences in price levels (using the Consumer Price Index) between time periods.

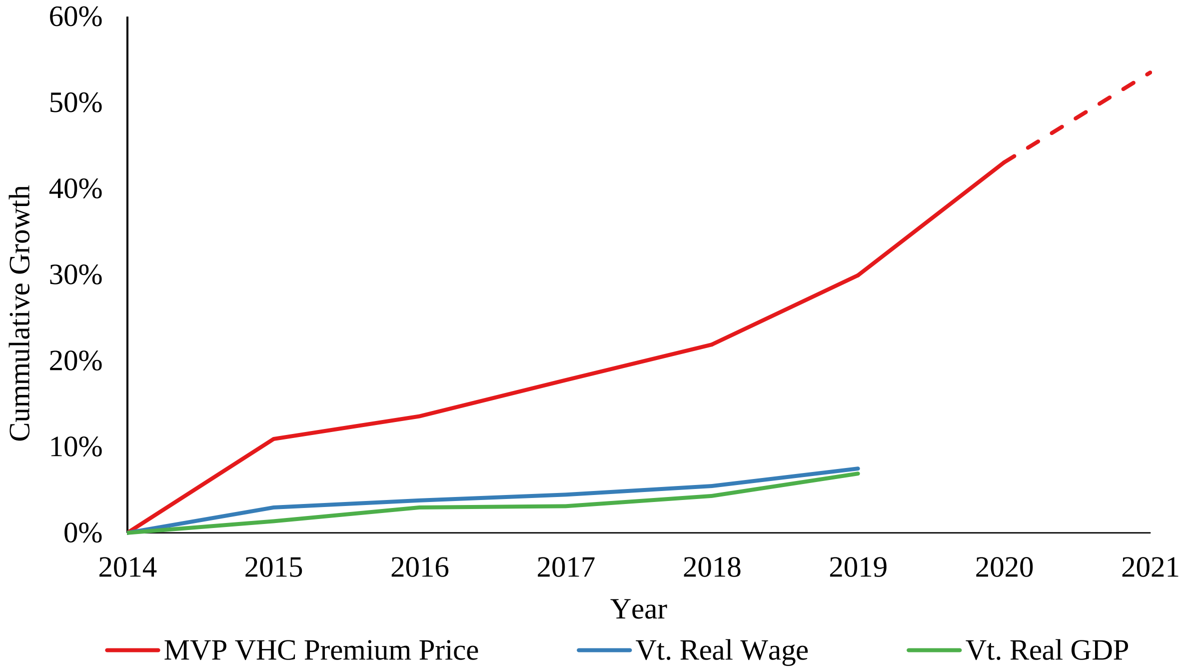
[12] 2014 to 2019 is the period starting with the first year that average rate increase for the book of business is available on the Board's website and ending at the most recent year for which annual Vermont real GDP data is available. GMCB-006-20rr, Ex. 18.

[13] 2014 to 2019 is the period starting with the first year that average rate increase for the book of business is available on the Board's website and ending at the most recent year for which Vermont real wage growth data is available. GMCB-006-20rr, Ex. 19, Ex. 25.

[14] GMCB-006-20rr, Ex. 10 at 2; GMCB-005-19rr, Order; GMCB-008-18rr, Order; GMCB-007-17rr, Order; GMCB-007-16rr, Order; GMCB-007-15rr, Order; GMCB-018-17rr, Order.

In Chart 1**,** we present the unsustainable trend of MVP's VHC premium price growth compared to the growth of the economy and wages in Vermont. Chart 1 includes the most recent year for which each data point is available. The dashed red line segment represents a proposed increase whereas the solid segments indicate approved premium price growth.

Chart 1. MVP VHC rate growth, real GDP growth, and real wage growth (Base = 2014).[15]



Due to data lag, the wage and GDP growth numbers presented above are for periods before the Covid-19 crisis. Vermonters and small businesses now face unprecedented economic straits that have not been seen for decades, if ever: the Covid-19 crisis is causing unemployment to increase, incomes to decline, and prices for basic necessities to rise.

Also due to the Covid-19 crisis, major Vermont industries critical to Vermonters' personal financial security and the state's economy have experienced substantial contraction. For instance,

[15] Id; GMCB-006-20rr, Ex. 18, Ex. 19, Ex. 25.

Vermont's Accommodation & Food Services industry has shed 45.6% of its workforce since this time last year (June 2019).[16]

Among Vermonters who are still employed, many have experienced a loss of income due to the Covid-19 crisis. A new weekly federal survey that produces state-level estimates, the Household Pulse Survey, provides near-real time household experience data during the Covid-19 crisis. That survey reports that 50% of Vermonters over 18 years of age lost income from March 13, 2020 through June 30, 2020.[17] This statistic obscures substantial variation in income loss by educational attainment and race. Among Vermonters who have lost income, 48% have a Bachelor's degrees or higher compared to 52% with less than a Bachelor's degree. The loss of income variation is even more pronounced for some non-White Vermont populations: 55% of Black Vermonters, 68% of Latino or Hispanic Vermonters, 49% of Asian Vermonters, and 89% of multi-racial Vermonters over age 18 lost income during that period compared to 48% of White Vermonters over age 18.[18]

At the same time that incomes have dropped and Vermont's unemployment rate has risen, the cost of basic necessities has increased. The food-at-home price index rose 5.6% over the 12-month period ending June 2020.[19] The 12-month averages obscure the substantial price shocks Vermonters are facing right now for certain essential items. Whether indicated by unemployment, business contraction, lost income, or the cost of basic necessities such as food, Vermonters are facing unprecedented financial hardships with no clear end in sight.

The high cost of MVP's VHC premium prices compound these hardships and impede access to care: as premium prices balloon, Vermonters have less money left to pay for the care they need.

[16] GMCB-006-20rr, Ex. 26.
[17] Subsequent to when this data was admitted into evidence, more current data was released.
[18] GMCB-006-20rr, Ex. 20.
[19] GMCB-006-20rr, Ex. A.

Combining the ACA premium affordability threshold and the Vermont Household Health Information Survey's underinsurance metric captures the dual burden of premiums and deductibles - an insurance plan is affordable if a household (1) does not pay more than 9.78% of their income for premiums or (2) have a combined deductible equal to or greater than 5% of their income.[20]

Using this test, the dual burden premiums and deductibles place on Vermonters is evident. The 2020 MVP Standard Silver plan is unaffordable to most Vermonters not income-eligible for Medicaid even accounting for premium subsidy, cost-sharing benefits, and Dr. Dynasaur eligibility: for individuals whose annual income is roughly between $18,737 and $21,017 or between $24,982 and $71,702; for couples whose annual income is roughly between $25,367 and $143,112; and for families whose annual income is roughly between $38,627 and $42,042 or between $51,502 and $201,492.[21] The proposed rate increases would mean that the 2021 MVP Standard Silver plan is unaffordable to even more Vermonters.

The 2020 MVP Standard Silver plan is particularly unaffordable for Vermonters whose income is slightly above the premium tax credit threshold. For example, assuming the purchase of the MVP Standard Reflective Silver plan, in order to pay their premiums alone, individuals, couples, and households of four at 401% FPL ($50,085, $67,809, and $103,258, respectively), must pay roughly 15%, 23%, and 21% of their income, respectively. The public comments reinforce the grave lack of affordability for Vermonters not receiving subsidies.

[20] As presented, this test assumes that households with incomes not eligible for APTC purchase a reflective silver plan and that households that are income-eligible for APTC purchase from VHC. Further, if income eligible, a household is assumed to take advantage of premium tax credits, Vermont premium subsidies, cost-sharing reductions, and/or, if minor children are present in the household, Dr. Dynasaur.

[21] The assumed family composition is two adults and two dependent children under 19 years of age.

The over 970 public comments submitted to the Board prove the affordability crisis and its deleterious effect on Vermonters,[22] small businesses, [23] and non-profit organizations.[24] To be sure, any proposed rate increase will be affordable for some people and unaffordable for others. However, the proposed rate increase would be unaffordable to Vermonters who earn the 2018 Vermont median income for an individual ($30,728), couple ($71,908), or household of four ($98,630).[25] In fact, the Standard Silver Plan is unaffordable for individuals, couples, and families who earn *twice* the median income. A rate that roughly half of the population could not afford pre-Covid-19 is surely neither affordable now nor within the plain-language meaning of the rate review statute.

B. The Requested Increase is Excessive and Unjust, Unfair, and Misleading

The Board is required to consider the actuarial criterion, along with all of its other statutory criteria, in its review of the proposed premium price increase. But there is no requirement for the Board to assume that there must be a premium price increase every year. The insurers are inclined to adopt assumptions that raise their prices in order to have the strongest financial positions possible. To offset this, the Board has the authority to adopt rational assumptions that do not predict higher costs.

There are many reasons why the Board should carefully scrutinize MVP's requested premium price increase. Actuarial predictions are highly speculative every year, but particularly this year in light of the Covid-19 pandemic. As Vermont is in an abnormal situation, adopting standard actuarial assumptions about items such as cost and utilization in 2021 may not be

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[22] E.g., GMCB-006-20rr, Pub. Comment, 16, 119, 317, 331, 342, 455, 588, 726, 823, 892, 939.
[23] E.g., GMCB-006-20rr, Pub. Comment, 128, 257, 261, 322, 372, 377, 394, 450, 727, 832.
[24] E.g., GMCB-006-20rr, Pub. Comment, 130, 941, 966, Rural Vermont Letter (7.15.2020).
[25] 2018 is the most recent year that the U.S. Census Bureau produces estimates for median household income by household size.

reasonable. In addition, more than one assumption can be deemed actuarially reasonable as shown by the fact that L&E found both MVP's and BCBSVT's Covid-19 assumptions reasonable despite the fact that they conflict. Finally, due to the pandemic and the uncertainty it brings, a large number of the predictions in the filing require public health expertise, not actuarial expertise. As such, the Board is as qualified or more qualified than the actuaries to determine what predictions are reasonable.

The Board should particularly examine MVP's projection about the course of Covid-19 for 2020 and 2021 as MVP's projections incorporate unreasonable assumptions and misleading information. Matt Lombardo testified that it is too early to say what the ultimate results for 2020 will be, and therefore too early to order a rebate.[26] Using the same logic, it is also too early to make the many assumptions that would increase premium prices. For example, MVP assumes providers will operate at 110% of capacity beginning in August, but they have provided no evidence to support this assumption. It will take providers time to adjust to new safety protocols and Vermont's gradual reopening plan's requirements. It will be difficult enough for many practices to operate at pre-Covid-19 normal capacity let alone 110% of their pre-Covid-19 capacity. Therefore, a gradual return to full capacity that will reach 100% some time in 2021 is a more reasonable assumption.

Also, MVP's assumption that a vaccine will be given to 80% of MVP's policyholders on January 1, 2021 – five months from now – is simply unreasonable. First, MVP misleadingly attempts to support the 80% assumption with a Wakely paper that simply provided an example of what the total vaccine costs would be if 80% of members were vaccinated.[27] There is nothing in the paper that supports or recommends an 80% vaccination rate assumption. Further, in order

[26] GMCB-006-20rr, Hr'g. Tr. at 83.
[27] GMCB-006-20rr, Ex. 6 at 5.

for the vaccine to be given to MVP’s members on January 1, 2020, not only does the vaccine have to be developed and federally-approved, but an adequate amount of it needs to be produced and available and a decision has to be made that MVP's Vermont policyholders are among those who will get the vaccine first. Based on current information, it is much more reasonable to not incorporate vaccine costs for 2021, an assumption Blue Cross Blue Shield of Vermont made, and L&E agreed with.

Further, the Board could reasonably consider MVP’s rate base to include the $1.75 million that MVP is certain to get because of the Supreme Court’s recent decision regarding risk corridor payments. It is also unjust and unfair for MVP to assume higher administrative costs for 2021, even though MVP continues to increase its Vermont membership and therefore can spread administrative costs over a wider base. As it has done in past years, the Board should order MVP to lower its per member per month (PMPM) administrative costs.

Finally, L&E and MVP have predicted that MVP’s utilization trend will increase in 2020 and 2021 without proof that this will occur. This is especially problematic in light of the fact that the Covid-19 epidemic is reducing demand and need for medical care due to lifestyle changes and fear of exposure to infection. It is more reasonable for the Board to assume a utilization trend in the center of the -7.5% to 4.9% range rather than accepting MVP's proposed 1% trend.

C. Solvency

DFR’s solvency opinion notes that “MVPHP’s Vermont operations pose little risk to its solvency.”[28] Because MVP’s Vermont premium constitutes such a small percentage of its written premium, 5.7%,[29] it is undisputed that the premium prices MVP charges in Vermont will have no

[28] GMCB-006-20rr, Ex. 11 at 2.
[29] GMCB-006-20rr, Ex. 11 at 2.

material impact on its overall solvency. In addition, MVP will soon receive significant monies from its risk corridor and cost sharing reduction litigations, increasing its reserves.

III. Conclusion

Many Vermonters are experiencing financial devastation in order to protect each other from Covid-19. At the same time, MVP is saving money from lower utilization. Further, MVP has included questionable assumptions to justify its proposed premium price increase, many of which would be better settled by public health experts than actuaries. This is not the time for conjecture that results in Vermonters and small businesses paying higher premium prices. This year more than ever, MVP is in a better position than policyholders to cover uncertain expenses. In light of these facts and the significant affordability crisis Vermonters are facing, we ask the Board to resolve unsettled assumptions in favor of policyholders and implement no rate increase for 2021.

Dated at Montpelier, Vermont this 28th Day of July, 2020.

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CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above Office of the Health Care Advocate Post-Hearing Memorandum on Michael Barber, Green Mountain Care Board General Counsel; Amerin Aborjaily, Green Mountain Care Board Staff Attorney; and Gary Karnedy, Ryan Long, and Michelle Bennett, representatives for MVP Health Plan, Inc., by electronic mail, return receipt requested, this 28th day of July, 2020.

s/ Eric Schultheis
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