

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re:)	
BCBSVT 2022 Individual Group VHC Filing)	GMCB-005-21rr
BCBSVT 2022 Small Group VHC Filing)	GMCB-006-21rr

**OFFICE OF THE HEALTH CARE ADVOCATE RESPONSE TO MOTION TO
RECONSIDER AND AMMEND**

The Office of the Health Care Advocate (HCA) opposes Blue Cross and Blue Shield of Vermont (BCBSVT)’s Motion to Reconsider and Amend (Motion), dated August 13, 2021. The insurer argues that the Green Mountain Care Board (Board)’s use of the word “excessive” in its decisions in the above captioned matters is not supported by the record. To the contrary, there is substantial evidence in the record supporting the Board’s findings, and it is well within the Board's discretion to make such findings.

BCBSVT objects to two statements in the Board’s decisions that include the word “excessive.” Specifically, it objects to the Board’s statements that: (1) “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”;¹ and (2) “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.”² We address each of these two statements separately and in order.

¹ Dec. at 13.

² Dec. at 14.

BCBSVT's objection to the Board's first statement turns on BCBSVT's assertion that the word "proposed", as used by the Board in its decisions, must refer to the rates after Lewis and Ellis's (L&E) recommendations are implemented. This goes against the plain reading of the Board's decisions on these filings. In these decisions, the Board clearly and reasonably uses the term "proposed rates" to refer to the initially filed rates. The Board specifically describes BCBSVT's proposed rates as excessive in the context of arguments for reducing the initially filed rates. These arguments include L&E's recommendations for reducing the rates.

BCBSVT cannot interject its own definition of the word "proposed" to then declare that the Board's use of the word "excessive" in reference to the proposed rates is unsupported. In this context, it is irrelevant whether evidence shows that the rates are excessive after L&E's reductions, so we do not address that issue. Given that the term "proposed rates" in the Board's decisions clearly means the rates as initially filed, the record in support of the Board's findings that the proposed rates are excessive is robust, and BCBSVT's argument should be rejected.

The Board's later statement that the insurer's contribution to reserves (CTR) proposal of 1.5% is excessive is also well supported by the record. Numerous written and oral statements on the record for these filings, including from BCBSVT, exposed the fundamental fact that BCBSVT is likely to exceed its target risk-based capital (RBC) range by the end of 2021—meaning the insurer will hold more reserves than the Department of Financial Regulation (DFR) has determined it should hold. The full statement by the Board regarding BCBSVT's CTR points to this evidence: "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 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.”³ BCBSVT’s assertion that there is no evidence that its CTR is excessive is patently wrong.

We therefore ask the Board to deny, in its entirety, BCBSVT’s Motion.

Dated at Montpelier, Vermont this 18th Day of August, 2021.

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³ Dec. at 14.

CERTIFICATE OF SERVICE

I, Kaili Kuiper, hereby certify that I have served the above HCA Response to BCBSVT Motion to Reconsider and Amend on Michael Barber, Green Mountain Care Board General Counsel; Laura Beliveau, Green Mountain Care Board Staff Attorney; and Michael Donofrio and Bridget Asay, Stris & Maher LLP, representatives of BCBSVT, by electronic mail, return receipt requested, this 18th day of August, 2021.

s/ Kaili Kuiper
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