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June 10, 2020

VIA E-MAIL ONLY – Michael.Barber@vermont.gov

Michael Barber, Esq.
General Counsel
Green Mountain Care Board
144 State Street
Montpelier, VT 05602

Re: MVP Health Plan, Inc. 2021 Vermont Health Connect
Rate Filing – Docket No. GMCB-006-20rr

Dear Hearing Officer Barber:

On behalf of MVP Health Plan, Inc., enclosed please find *MVP's Objections to the HCA's Suggested Non-Actuarial Interrogatories and Certificate of Service*.

Respectfully submitted,

Gary F. Karnedy

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Cc: **(VIA E-MAIL ONLY)**
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STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc 2021)	
Vermont Health Connect Rate Filing)	DOCKET NO. GMCB-006-20rr
)	
SERFF No. MVPH-132371260)	
)	

**MVP’S OBJECTIONS TO THE HCA’S SUGGESTED
NON-ACTUARIAL INTERROGATORIES**

MVP Health Plan, Inc., (“MVP”) by and through Primmer Piper Eggleston & Cramer PC hereby objects to the Health Care Advocate’s (“HCA”) suggested Non-Actuarial Interrogatories submitted to the Green Mountain Care Board (“Board”) on June 3, 2020 as follows:

1. On May 11, 2020, MVP filed its 2021 Rate Filing. The HCA has thirty days to submit Requests for Information to the Board to propound to MVP. *State of Vermont Green Mountain Care Board Rule 2.000: Health Insurance Rate Review, Rule 2.202(c): Public Access to Information.*

2. On June 3, 2020, the HCA requested that the Board propound to MVP three Non-Actuarial Interrogatories.

3. The Board has the discretion to limit suggested Requests for Information. *Rule 2.202(c).*

4. In past rate filings, the Board has exercised its discretion and eliminated or narrowed the HCA’s suggested Requests for Information before propounding the HCA’s Requests for Information to MVP.

5. The Board is free to consider whether a Request for Information is beyond the scope of relevancy to this rate filing docket, unduly burdensome or overly broad taking into account the needs of the case and the importance of the particular issue at stake in the rate filing.

See V.R.C.P. 26. Requests for Information that are unreasonably cumulative, duplicative, or obtainable from some other source that is more convenient, less burdensome, and less expensive should be denied. *See id.* Although the Board is not bound by the Vermont Rules of Civil Procedure, they do provide a helpful guide for determining the scope of a reasonable request in this instance.

6. The Board should exercise its discretion and decline to propound Interrogatory No. 1 and Interrogatory No. 2 of the HCA's Requests for Information to MVP, as set forth below:

NON-ACTUARIAL INTERROGATORIES

1. Last year, MVPHP provided information regarding its pending action against the federal government, *Common Ground Healthcare Cooperative v. United States*, in its June 21, 2019 response to question #2 of HCA non-actuarial questions in GMCB-05-19rr. Please provide an update including any changes in the nature and amount of damages you are seeking in the case; the status of the proceedings; and the timeframe within which you expect the claim to be resolved.

Response to Non-Actuarial Interrogatory No. 1: MVP objects to Non-Actuarial Interrogatory No. 1 as (1) not relevant to the Board's consideration of this rate request, and (2) unduly burdensome since the HCA attorneys can readily access the information requested via PACER.

First, the information sought has absolutely no impact on the amount or basis of MVP's 2021 rate increase. MVP has received no court award. In past filings, the Board has declined to pose questions proffered by the HCA that appear to not be questions about the actual filing. *See Ruling Regarding HCA's Suggested Questions to MVP., In re: MVP Health Plan, Inc. 2015 Vermont Health Connect Rate Filing, GMCB-17-14rr (July 8, 2014).* This rate filing docket is not a vehicle for the HCA to inquire about non-rate-related information. The Board should exercise its authority here, as it has in the past, and decline to propound the HCA's Non-Actuarial Interrogatory No. 1.

Pursuant to *Board Rule 2.202(c)*, “the Advocate may submit to the Board . . . suggested questions regarding the request . . .” Pursuant to the *Rules*, the HCA is not authorized to suggest this Interrogatory seeking information outside the rate filing. The Board’s own demand for information is limited in scope by its *Rules* to information “concerning any rate filing”. *Rule 2.304*. Certainly, the HCA cannot ask the Board to propound an Interrogatory that exceeds the Board’s own authority under its *Rules*.

Second, even if the information was relevant to this rate filing, Non-Actuarial Interrogatory No. 1 seeks information entirely in the public domain readily available to the HCA attorneys. Without waiving the foregoing objections, MVP is an opt-in class member of the cost-sharing reduction class action captioned *Common Ground Healthcare Cooperative v. United States*, Case No. 1:17-cv-00877-MMS (Fed. Cl.). With the docket number and MVP’s response last year,¹ the HCA attorneys have sufficient information to get answers to its questions on PACER. In past proceedings, the Board has declined to propound HCA Requests for Information that are already in the public domain.

2. Please specify whether MVPHP has a pending case against the federal government to recoup unpaid risk corridor payments and the amount, if any, MVPHP is seeking to recover.

Response to Non-Actuarial Interrogatory No. 2: MVP objects to Non-Actuarial Interrogatory No. 2 as (1) not relevant to the Board’s consideration of this rate request, and (2) unduly burdensome since the HCA attorneys can readily access the information requested via PACER and the public domain.

¹ See *MVP’s Responses To The Green Mountain Care Board’s 2020 Vermont Health Connect Filing Non-Actuarial Interrogatories*, at Response No. 2 (June 21, 2019), *In re: MVP Health Plan, Inc. 2020*, Vermont Health Connect Rate Filing, GMCB-005-19rr.

First, the information sought has absolutely no impact on the amount or basis of MVP's 2021 rate increase. MVP has received no court award. In past filings, the Board has declined to pose questions proffered by the HCA that appear to not be questions about the actual filing. *See Ruling Regarding HCA's Suggested Questions to MVP., In re: MVP Health Plan, Inc. 2015 Vermont Health Connect Rate Filing, GMCB-17-14rr (July 8, 2014).* This rate filing docket is not a vehicle for the HCA to inquire about non-rate-related information. The Board should exercise its authority here, as it has in the past, and decline to propound the HCA's Non-Actuarial Interrogatory No. 2.

Pursuant to *Rule 2.202(c)*, "the Advocate may submit to the Board . . . suggested questions regarding the request . . ." Pursuant to the *Rules*, the HCA is not authorized to suggest this Interrogatory seeking information outside the rate filing. The Board's own demand for information is limited in scope by its *Rules* to information "concerning any rate filing". *Rule 2.304*. Certainly, the HCA cannot ask the Board to propound an Interrogatory that exceeds the Board's own authority under its *Rules*.

Second, even if the information was relevant to this rate filing, Non-Actuarial Interrogatory No. 2 seeks information entirely in the public domain readily available to the HCA attorneys. Without waiving the foregoing objections, the U.S. Supreme Court has recently remanded the case and it is far from over. The HCA attorneys have sufficient information to get answers to its questions on PACER. In past proceedings, the Board has declined to propound HCA Requests for Information that are already in the public domain.

WHEREFORE, MVP requests that the Board exercise its discretion and decline to propound the HCA's Non-Actuarial Interrogatories Nos. 1-2.

Dated at Burlington, Vermont, this 10th day of June 2020.

PRIMMER PIPER EGGLESTON & CRAMER PC

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CERTIFICATE OF SERVICE

I, Gary F. Karnedy, Esq., hereby certify that I have served a copy of *MVP Health Plan, Inc's Objections to the HCA's Suggested Non-Actuarial Interrogatories* via e-mail upon the following:

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Dated at Burlington, Vermont, this 10th day of June, 2020.

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