

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield of Vermont	)	
2020 Large Group Rating Program Filing	)	GMCB-002-20rr
	)	
<i>and</i>		
	)	
In re: The Vermont Health Plan	)	GMCB-003-20rr
2020 Large Group Rating Program Filing	)	
	)	

**MEMORANDUM IN LIEU OF HEARING**

Blue Cross and Blue Shield of Vermont (BCBSVT)<sup>1</sup> requests the Green Mountain Care Board (GMCB) approve the filing reflected in the Blue Cross and Blue Shield of Vermont and The Vermont Health Plan Q3 2020 Large Group Rating Program Filing Actuarial Memos, (BCBSVT Memo), with the two modifications recommended by the Board’s independent actuarial expert Lewis and Ellis (L&E).

This filing provides the formula, manual rate and factors that will be used to determine the rates of experience-rated fully-insured groups, including large groups with over 100 employees and grandfathered groups with 51-100 employees. The factors in the filing are medical and pharmacy trends, benefit relativities, administrative costs, federal fees, contribution to reserves, aggregate stop loss and large claim factors that will be applied to large group rates for the period covered by the filing. The actual rate impact for any particular customer – and the overall average rate increase – will be driven by the claims experience in the period used to develop rates, premium currently in force, and underwriting judgment and management

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<sup>1</sup> Historically, the GMCB has issued one decision for the BCBSVT and The Vermont Health Plan large group filings. *See, e.g.*, GMCB-003-18r and GMCB-004-18r. As such, all references herein to BCBSVT are intended to include TVHP, unless the context clearly states otherwise.

discretion applied to the case. The factors included in the filing as applied to a large group customer's claims experience will produce a set of rates reasonably expected to cover the costs of providing a group's benefits.

## **ARGUMENT**

### **I. This filing is actuarially justified and reasonably expected to produce rates that are not excessive, inadequate, or unfairly discriminatory.**

L&E has recommended that the GMCB approve this formula and factor filing with three modifications.<sup>2</sup> (L&E Actuarial Memorandum dated June 22, 2020, hereinafter L&E Memo, at page 9.) L&E concludes that each factor in this filing is reasonable. Specifically:

- L&E noted the filed medical trend is reasonable and recommend no changes (L&E Memo, p. 4);
- L&E found the pharmacy trend is reasonable (L&E Memo, p. 7);
- L&E found BCBSVT administrative costs are reasonable and appropriate, subject to a minor \$0.20 reduction (L&E Memo, p. 8);
- L&E found federal fees are reasonable (L&E Memo, p. 19);
- L&E opined that the filed contribution to reserves is reasonable without being excessive (L&E Memo, p. 9); and
- L&E found that the filed manual rate is reasonable. (L&E Memo, p.10.)

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<sup>2</sup> L&E noted three proposed changes: 1) the minor amendment to administrative charges related to the HCA billback (noted above); 2) update unit cost trend to remove the immaterial formula error for BCBSVT Non-Managed Care groups; and 3) consider FY2019 Year-End Actuals Hospital Budget reporting and COVID disruptions in unit cost trend assumptions. (L&E Memo, p. 9). BCBSVT has agreed to the first two and the third is discussed in more detail in Section III below.

Thus, from an actuarial perspective, this filing is actuarially sound and should be approved as modified.

**II. The GMCB must approve the filing because it will produce rates that are affordable for the benefits provided, while promoting quality care and ensuring access to health care.**

On review, the Board must determine whether the proposed formula and factors will produce rates that are 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. GMCB Rule 2.000, § 2.401. This formula and factor filing meets all these criteria and must be approved.

These rate review factors must be balanced against each other, but ultimately a premium must cover the costs of providing the health care that the insureds, as a whole, consume. This formula and factor filing is intended to produce such premiums, consistent within the parameters of the GMCB rule.

The BCBSVT actuarial memorandum also provides a Medical Loss Ratio (MLR) projection of 90.1% for BCBSVT and 89.1% for TVHP. (BCBSVT Memos, pgs. 30-31.) As this filing covers the insured large group market, BCBSVT is subject to a minimum MLR requirement of 85 percent. 45 C.F.R. § 158.210(a). The anticipated MLRs significantly exceed the state and federal requirement. This reflects that the cost of insurance – that is, the portion of premium that will cover expenses other than medical care and health care quality improvement – is much lower than the level deemed unaffordable by state and federal minimum MLR requirements. This further supports a finding that the rates produced by this formula and factors filing are affordable. It is true that some groups may ultimately pay more in premium than the employees and dependents consume in health care services. It is also true that some groups will

pay less in premium. This is the benefit of being a fully insured group – costs are predictable, irrespective of actual medical costs incurred. Insureds are protected from the financial impact of catastrophic medical expenses. However, for this model to work, an insurer must have sufficient reserves to cover the health care costs that exceed the premium collected.

BCBSVT Risk Based Capital (RBC) remains below its targeted range as of December 31, 2019 and downward adjustments to this filing – to the extent not actuarially supported – will erode surplus further. DFR Solvency Impact of “3Q20 Large Group Rating Program Filing (SERFF # BCVT-132350241) of Blue Cross and Blue Shield, June 22, 2020, at page 1 (hereinafter “DFR Solvency Opinion”). Insurer solvency is not about the insurer, but about the consumer who purchases the insurance as protection against financial harm resulting from medical expenses that cannot be paid. As DFR notes: “DFR considers insurer solvency to be the most fundamental aspect of consumer protection.” (DFR Solvency Opinion, p. 2.) Consistently underfunding rates is unsustainable and puts consumers at risk of harm. This is particularly dangerous when Vermonters are facing the possibility of catastrophic health care costs arising from the ongoing pandemic.

L&E has determined that the factors included in this filing are reasonable and appropriate. As such, they are best suited to ensure that both BCBSVT the large groups who purchase insurance from BCBSVT will be able to withstand the upcoming period of uncertainty. As DFR notes, it is impossible to predict with certainty correct rates and charging a higher or lower rate simply makes it more or less likely the premium will be sufficient to cover the claims costs. (DFR Solvency Opinion, p. 2.)

Finally, the dynamics of large group market dictate that rates remain affordable. Large group employers have many choices when it comes to providing health care to their employees.

They can choose among several insured products offered by BCBSVT or its competitors, or they can choose to forgo insurance altogether and fund the claims on a pay-as-you-go basis. The Vermont large group market is dynamic and competitive. If BCBSVT offers a rate that is not competitive, a group, through its broker, will solicit quotes from BCBSVT's competitors. If none of the quoted rates are affordable, the group can self-insure. Therefore, there is no reason for the GMCB to reduce the filed factors below actuarially justified levels in the name of affordability, because the competitive market ensures that a rate can only be sold if it is affordable.

There is no actuarially supported reason to disapprove this filing. The GMCB should approve this filing to ensure Vermonters continued access to care in a time of great uncertainty.

**III. The Hospital Budget Process and COVID-19 Do Not Require Amendment to this Filing.**

L&E recommends the GMCB approve the filing subject to three modifications. (L&E Memo, p. 9.) BCBSVT agrees to the first two modifications. L&E also recommends the Board: “Consider the impact of FY2019 Year-End Actuals Hospital Budget reporting as well as potential disruptions from COVID when reviewing the medical unit cost assumptions.”

BCBSVT added 2.1 percent to anticipated hospital budget increases due to our observations about FY 2019 hospital expense overages. (BCBSVT June 18 interrogatory response.) The University of Vermont Medical Center recently released a notice to payers that they intend to implement a 9.7 percent chargemaster increase pending the GMCB decision in its upcoming budget proceeding. The notice is attached to this Memorandum as Exhibit A. This increase, which is significantly higher than the estimated increase included in this formula and factor filing, suggests that the filed unit cost assumptions may be inadequate.

Furthermore, this filing did not anticipate GMCB hospital budget guidance allowing for a temporary upward adjustment to FY21 revenue “to reflect the unique circumstances caused by the pandemic and the associated decreased revenue and utilization experienced by the hospitals in FY20.” (GMCB Hospital Guidance, Effective May 31, 2020, p. 4.)<sup>3</sup> This temporary increase is intended to “compensate [hospitals] for FY20 utilization that was not realized due to COVID-19.” (GMCB Hospital Guidance, Effective May 31, 2020, p. 5.) Should hospitals take advantage of the temporary increase, the FY21 unit cost assumptions in this filing will once again prove to be inadequate.

BCBSVT echoes L&E’s recommendation to consider FY19 fiscal results and the recent hospital budget guidance in issuing a decision on the medical unit cost assumptions submitted in these filings. Furthermore, given the strong indications that hospitals will submit budgets in excess of those assumed within the filings, we urge the Board to avoid exacerbating the likely medical unit cost inadequacy by reducing the filed factors below actuarially adequate levels.

#### **IV. The Board should proceed with caution in light of the COVID-19 pandemic.**

Due to the uncertain nature of the COVID-19 pandemic, this filing does not include potential COVID-19 impacts. As DFR notes, it is too soon to tell the impact of COVID-19 on BCBSVT’s financials or solvency. (DFR Solvency Opinion, p.1.) This is a period of substantial uncertainty in which it is extremely challenging to predict BCBSVT’s RBC levels over the next 12 to 24 months. As discussed in more detail in response to GMCB inquiries, BCBSVT continues to monitor the impact of COVID-19 and is modeling numerous scenarios. “The overall financial impact of the pandemic on BCBSVT will include numerous factors that

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<sup>3</sup> <https://gmcbboard.vermont.gov/sites/gmcb/files/Hospital-Budgets/FY21%20Hospital%20Budget%20Guidance-%20Final.pdf>

remain unknown, such as: additional expenses related to the pandemic and emergency state mandates; forgiven premiums through extended grace periods and employer outreach; deferred and foregone health care; the performance of financial markets, which amount thing direct impacts our reserves; and the unknown future curve of COVID-19 infections.” (BCBSVT June 9, 2020 Letter at p. 1.)

The flip side of the FY20 hospital revenue shortages is a likely 2020 underwriting gain for BCBSVT and other insurers. However, it is too early to tell with certainty what the long term consequences of COVID-19 will have on the health care spending of BCBSVT’s large group fully insured clients, and particularly how the pandemic will impact 2021 health care expenditures. The filed formula and factors are intended to cover the costs of the care required irrespective of these dynamics, while also ensuring that reserves are adequate. Inadequate reserves in the event that the pandemic reaches a catastrophic level in Vermont, such as seen in New York, will destabilize the health care system and could lead to resources being unavailable to meet the health care needs of Vermonters. BCBSVT will continue to closely monitor the situation and model potential impact on long-term RBC, but proceeding with caution is the only responsible approach based on the data available today.<sup>4</sup>

Furthermore, we remind the Board that BCBSVT has never increased rates to make up for previous years’ losses, despite significant and persistent losses in the lines of business considered in these filings. It would be inappropriate to impose on 2021 rates a carry-forward of any 2020 gain realized by BCBSVT without also considering the cumulative losses over the previous several years, along with BCBSVT’s current RBC position. We reiterate that BCBSVT

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<sup>4</sup> To that end, on June 26 BCBSVT informed the Board and the HCA that it intends to submit the results of its current efforts to model the pandemic’s impact over time on RBC and reserves this week in the 2021 Vermont Individual and Small Group docket.

has committed to using any increase to policyholder reserves to mitigate future rate increases. BCBSVT's primary responsibility to Vermonters is to maintain continuity of coverage and claims payments for the duration of the COVID-19 crisis. This necessitates that we are allowed to rate appropriately so that we can provide extra flexibility to customers and providers who are struggling financially.

BCBSVT has fully justified the formula and factors before the Board as evidenced by the recommendations of Board's own actuarial consultant and the Department of Financial Regulation's solvency opinion. Therefore, the Board must approve the filing, after amending in accordance with the modification recommended by L&E.

Dated at Berlin, Vermont this   5   day of July, 2020.

A handwritten signature in black ink, appearing to read 'Rebecca C. Heintz', written over a horizontal line.

Rebecca C. Heintz  
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Tel. (802) 371-3256  
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## CERTIFICATION OF SERVICE

I, Rebecca Heintz, hereby certify that I have served the above MEMORANDUM IN LIEU OF HEARING on Amerin Aborjaily, Green Mountain Care Board Staff Attorney; Thomas Crompton, Green Mountain Care Board Health Systems Finance Associate Director; Christina McLaughlin, Green Mountain Care Board Health Policy Analyst; Michael Barber, Green Mountain Care Board General Counsel; Kaili Kuiper and Eric Schultheis, Office of Health Care Advocate in the above-captioned matter, by electronic mail, return receipt requested, this 1<sup>st</sup> day of July, 2020.

A handwritten signature in black ink, appearing to read "Rebecca C. Heintz", written over a horizontal line.

Rebecca C. Heintz  
Blue Cross and Blue Shield of Vermont  
P.O. Box 186  
Montpelier, VT 05601  
Tel. (802) 371-3256  
[heintzr@bcbsvt.com](mailto:heintzr@bcbsvt.com)

# **Exhibit A**

**UVMHN  
 CONTRACTING &  
 PAYER RELATIONS**

40 IDX Drive, Suite 107  
 So. Burlington, VT 05403  
**PHONE 802-847-8051**  
**FAX 802-847-2406**

***Delivered Via E-Mail***

BCBSVT  
 Lou McLaren  
[McLarenL@bcbsvt.com](mailto:McLarenL@bcbsvt.com)

June 30, 2020

Re: Notice – Charge Master Update

The purpose of this letter is to communicate charge master updates for the Affiliates of The University of Vermont Health Network (“UVMHN”). UVMHN currently includes six hospital systems, Alice Hyde Medical Center (“AHMC”), Central Vermont Medical Center, Inc. (“CVMC”), Champlain Valley Physicians Hospital (“CVPH”), Elizabethtown Community Hospital (“ECH”), Porter Hospital (“Porter”), and The University of Vermont Medical Center, Inc. (“UVMHC”) and their various subsidiaries.

The UVMHN Affiliates’ charge master updates applicable to contracted arrangements are listed by effective date, tax identification number, service type (inpatient, outpatient, professional, SNF) and aggregate adjustment and are as follows:

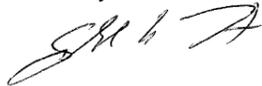
<b>Effective Oct. 1, 2020</b>	<b>Total Aggregate</b>	<b>Facility Inpatient</b>	<b>Facility Outpatient</b>	<b>Professional</b>	<b>SNF</b>
CVMC / 22-2547186	6.00%	6.00%	6.00%	6.00%	6.00%
Porter / 03-0181058	0.00%	0.00%	0.00%	0.00%	0.00%
Helen Porter Healthcare & Rehabilitation Center / 03-0306549					
UVMHC / 03-0219309	9.70%	10.68%	10.68%	5.98%	N/A
UVMHN Critical Care Transport / 04-3691034					

**Note:** Each estimate above is in aggregate; actual results might differ slightly based on utilization mix of services

The Green Mountain Care Board (“GMCB”), in accordance with 18 V.S.A. § 9375(b)(7), reviews and establishes annual hospital budgets effective each October 1 and will include approved hospital charge master updates for CVMC, Porter, and UVMHC. The above percentages for CVMC, Porter, and UVMHC are expected to be submitted to the GMCB July 31, 2020. Should the submitted or approved aggregate charge master updates materially differ from the above percentages, UVMHN will provide appropriate notice.

Please contact Carmone Austin at (802) 847-8051 or [Carmone.Austin@uvmhealth.org](mailto:Carmone.Austin@uvmhealth.org) with any questions.

Sincerely,



Todd Keating  
Chief Financial Officer, UVMHN

cc: Carmone Austin, VP, Network Contracting & Payer Relations, UVMHN  
Director, Contracting & Revenue Strategy, UVMHC

*Please note, due to COVID-19 circumstances, this electronic communication will serve as our sole means of notification.*