STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re:	MVP Health Plan, Inc.	)	GMCB-010-22rr
	2023 Large Group HMO Rate Filing	)	SERFF No.: MVPH-133347862
		)	

DECISION AND ORDER

Introduction

Health insurers must submit major medical rate filings to the Green Mountain Care Board, which must approve, modify, or disapprove each filing within 90 calendar days of receipt. 8 V.S.A. § 4062(a)(2)(A). On review, the Board must determine whether the 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 Vermont law. 8 V.S.A. § 4062(a)(3).

This decision pertains to the 2023 large group rate filing of MVP Health Plan, Inc. (GMCB-010-22rr). As explained below, we require MVP to make four modifications to the filing that were recommended by our contract actuaries and to reduce the contribution to reserve built into the filing from 2.0% to 1.0%.

Procedural History

On August 9, 2022, the Board received a rate filing via the System for Electronic Rate and Form Filing (SERFF) from MVP Health Plan, Inc. (MVP or "the carrier") for its 2023 large group HMO products.[1] On August 23, 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 October 10, 2022, the Board received an analysis prepared by the Vermont Department of Financial Regulation (DFR) regarding the impact of the filing on the carrier's solvency (Solvency Opinion), which the Board posted on its website. On October 11, 2022, the Board received an actuarial memorandum prepared by Lewis & Ellis (L&E Memo), the Board's contract actuaries, which the Board also posted on its website. The Board received no public comment on the filing. Pursuant to GMCB Rule 2.000, § 2.309(a)(1), the parties waived a hearing and filed memoranda or briefs in lieu thereof.

Findings of Fact

1. MVP is a nonprofit health insurer domiciled in New York state and licensed as a health maintenance organization (HMO) in New York and Vermont. MVP is a subsidiary of MVP Health Care, Inc., a New York corporation that transacts health insurance business through a variety of

[1] 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/MVPH-133347862.

for-profit and not-for-profit subsidiaries and provides health insurance coverage to individuals and employers in the small and large group markets in New York and Vermont. *In re MVP Health Plan, Inc. 2022 Large Group HMO Rate Filing*, GMCB-009-21rr, Decision and Order, Findings of Fact, ¶ 1 (Nov. 4, 2021).

2. This filing demonstrates the development of premiums for MVP's large group HMO product portfolio and includes proposed manual rates for all four quarters of 2023. MVP's large group HMO product portfolio consists of base major medical health plans – high-deductible health plans (HDHPs) and non-high-deductible health plans (Non-HDHPs) – and benefit riders. L&E Memo, 1. The manual rates are composed of a base rate change, an age/gender factor change, and a change in retention. *See* L&E Memo, 2.

3. As of April 2022, there were approximately 1,827 members enrolled in MVP's large group plans in Vermont, approximately 80% of whom have renewal dates in the first quarter of 2023 (1Q23). L&E Memo, 1. *See* MVP Actuarial Memorandum (MVP Memo), 1.

4. MVP proposes a 26.6% annual manual rate increase[2] for members renewing in 1Q23. This increase results from previously approved 2.0% quarterly rate increases for 2Q22 through 4Q22 combined with a proposed 19.6% base rate increase for 1Q23 and a 0.2% decrease for membership distribution shift. L&E Memo, 2. MVP also proposes 2.9% manual rate increases for each of the remaining quarters of 2023 to account for assumed quarterly trend. L&E Memo, 2. Together, these proposed increases would translate to an average annual manual rate increase of 30.0% for groups renewing in 4Q23. L&E Memo, 2; *see* MVP Actuarial Memo (MVP Memo), 1.

5. In practice, the large groups represented in this filing have premiums based on an average blend of their own claims experience at approximately 21% and the manual rate at approximately 79%. Therefore, groups will experience premium increases that are higher or lower than the manual rate increase approved in this filing. If a group experiences a higher increase, it is because that group's claims experience deteriorated relative to the other large groups in this block. All groups will experience the effect of changes in retention, as these components of the rate are added to the projected claims, whether those claims came from the manual rate or the group's experience. L&E Memo 2 – 3.

6. MVP utilized large group claim data for the period May 2021 through April 2022 and paid through May 2022 as the base period experience for this filing. The base period data is 100% credible. L&E Memo, 3.

7. MVP completed the base period claims using an incurred but not reported (IBNR) factor of 1.088, which was MVP's best estimate of its ultimate liabilities as of May 31, 2022. MVP Memo, 2; L&E Memo, 3. During the rate review process MVP disclosed that additional claims runout through July 2022 indicated that the best estimate of the IBNR factor is 1.054. L&E recommends that the IBNR factor be updated from 1.088 to 1.054, which would decrease the 1Q23 rates by 2.8%. L&E Memo, 3.

[2] This aligns with L&E's 26.7%; the difference is caused by rounding.

8. MVP uses a pooling charge to mitigate the impact of catastrophic claims (i.e., claims exceeding $250,000 per member per year) on premiums. Regardless of their actual value, catastrophic claims are removed from the experience period and replaced with a flat percentage. In this filing, MVP included a pooling charge equal to 4.6% of claims below the pooling limit. MVP developed the pooling charge based on historical experience for its large group population in New York, which is larger and more stable than its Vermont population. L&E found this pooling practice to be reasonable and appropriate. L&E Memo, 3.

9. MVP projected the adjusted claims forward to the midpoint of the 1Q23 rating period using an annual paid medical trend of 10.2% and an annual paid pharmacy (Rx) trend of 12.4%. MVP further adjusted the trended medical and Rx claims cost to account for things such as the projected cost of capitation, non-fee-for-service claim expenses, Rx rebates, newly added benefits, reductions in COVID-19 costs, and COVID-19 boosters. Reflecting these adjustments, the quarterly manual rate change suggested by the data was 19.6% for 1Q23 compared to 4Q22. Applying additional trend to the experience period claims, MVP calculated manual rate increases of 2.9% in each of the remaining quarters of 2023. That is, if the filing were approved without modification, groups renewing in April 2023 would be charged premiums based on manual rates 2.9% higher than the manual rates used for groups renewing in January 2023.

10. The 2.9% quarterly rate increases proposed by MVP for 2Q23 - 4Q23 assume that 2024 trend will be consistent with 2023 trend. Noting that record high unit cost increases were requested and approved for 2023, L&E concludes that 2023 is not an appropriate year to use and recommends that the quarterly trends be based upon 2022 trend data instead. *See* L&E Memo, 4; *see also* Green Mountain Care Board, FY 2023 Vermont Hospital Budget Debrief, 6 (Sept. 28, 2022), https://gmcboard.vermont.gov/sites/gmcb/files/documents/2022_09_28_FY23_Debrief_Updated_with_Board_Feedback_0.pdf (presenting approved hospital rate increases since 2020). MVP calculates that using 2022 trend data instead of 2023 trend data would result in 1.9% quarterly rate increases for 2Q23 – 4Q23. MVP Brief, 5.

11. The 10.2% paid medical trend proposed by MVP is the product of an allowed medical trend of 9.1% and the impact of cost share leveraging. The 9.1% allowed medical trend, in turn, consists of a 1.0% utilization trend and an 8.0% unit cost trend. L&E Memo, 4.

12. MVP analyzed its combined Vermont data[3] and determined that the data was too volatile in recent years to use medical utilization trend development.[4] Therefore, MVP assumed a 1% medical utilization trend, consistent with the utilization trend that it assumed in the 2022 and 2023 individual and small group (QHP) filings. L&E found the medical utilization trend of 1.0% to be reasonable and appropriate based on the information available. L&E Memo, 4 – 5; MVP Memo, 3 – 4.

13. MVP's medical unit cost trend of 8.0% reflects a combination of known and assumed price increases from MVP's provider network. For providers who are not subject to the Board's hospital budget review, unit cost trend assumptions are based on established contracts and, where established contracts are not available, best estimates of contract negotiations. For providers subject to the Board's hospital budget review, unit cost trend assumptions are based on the cost

[3] MVP's Vermont large group data is not credible on its own. L&E Memo, 4.

[4] Recent historical utilization trend has varied from -29% to 25%. L&E Memo, 5.

increases requested in the providers' fiscal year 2023 (FY23) budgets, reduced by 17%. This approach is consistent with the Board's order in MVP's 2023 QHP filings, which were decided before hospital budget review process was complete. Since this filing was submitted, however, the Board has made final decisions regarding FY23 hospital budgets. Those decisions are consistent with what was anticipated at the time of the filing and L&E therefore does not recommend any changes to MVP's unit cost trend assumptions. L&E Memo, 5.

14. The 12.4% paid Rx trend proposed by MVP is the product of an allowed Rx trend of 11.6% and the impact of cost share leveraging. The 11.6% allowed Rx trend, in turn, consists of a 2.8% utilization trend and an 8.6% unit cost trend. L&E Memo, 5.

15. To develop its Rx trend assumptions, MVP used trend factors provided by its pharmacy benefit manager (PBM) for different categories of drugs. L&E compared MVP's actual Rx trends over the past five years to the expected trends provided by the PBM. L&E notes that there were outlier trends in 2018, when specialty drug trends were unusually negative, and 2020, when specialty drug trends were unusually high. L&E does not believe it would be reasonable to include these years when analyzing historical trends for the purpose of informing future trend assumptions. Excluding these outlier years, over the five-year period examined by L&E, the average observed Rx trend was 6.5%, the maximum annual Rx trend was 9.0%, and the average actual-to-expected ratio was 0.63, meaning that actual observed trends were, on average, 37% lower than expected. *See* L&E Memo, 6.

16. L&E acknowledges that historical trends do not represent prospective trends but notes that, outside of one outlier year, MVP's PBM has a history of over-projecting prospective Rx trends. L&E recommends that MVP's proposed allowed Rx trend of 11.6% be reduced to 7.3% based on the actual-to-expected ratio of 0.63. This would reduce the paid Rx trend from 12.4% to 8.0% and reduce the 1Q23 rates by approximately 0.8%. L&E Memo, 6; MVP Memo in Lieu of Hearing, 5 (calculating a -0.8% rate impact).

17. MVP's total expense in the experience period associated with COVID-19 treatment, visits, and testing was $13.53 per member per month (PMPM). After consulting with its medical team, MVP assumed a 30% reduction in these costs in the projection period, resulting in the removal of $4.06 PMPM. In addition, MVP removed $3.62 PMPM based on its assumption that it will not continue waving cost sharing for COVID-19 services, as it did during the experience period. These adjustments reduce the $13.53 PMPM from the experience period to $5.85 PMPM for the rating period, an approximately 43% reduction. L&E believes this approach is reasonable and appropriate. L&E Memo, 7.

18. MVP increased its COVID-19 vaccine cost from $2.00 PMPM in the experience period to $5.16 PMPM in the rating period. To reach this figure, MVP used its experience period utilization – including a vaccination rate of 32.8 % and 1.32 vaccines per utilizing member – but relied on projections found in the Centers for Medicare and Medicaid Services (CMS) 2023 Medicare Advantage rate announcement to assume that the federal government would end its practice of paying for vaccine ingredients and that the cost per vaccine would increase from $40.21 to $104, comprised of a $40 administrative cost and a $64 ingredient cost. L&E Memo, 7; MVP Resp. to Objection Letter 1.

19. L&E does not believe it is reasonable to expect the number of vaccines per utilizing member in the rating period to remain consistent with the experience period. Although the Centers for Disease Control and Prevention recommends approximately 2 booster doses per year for adults, as of August 2022, only 37% of Vermonters were up to date on their COVID-19 vaccines according to data from the Vermont Department of Health. L&E believes a more reasonable utilization assumption is 1.0 vaccine per member. With respect to the cost per shot, L&E notes that the CMS announcement cited by MVP did not provide support for a $64 ingredient cost and L&E is not aware of any announcement by the administration indicating when the government's vaccine purchases will end. L&E concludes that an upper bound for the cost assumption is $67.45 per shot, which represents MVP's observed administrative cost per shot in the experience period plus an ingredient cost of $20 per shot based on private sector flu vaccine prices. L&E concludes that a lower bound is $47.45 per shot, which represents MVP's experience period cost per shot trended to the rating period. L&E Memo, 8.

20. Based on its analysis, L&E developed a range of COVID-19 vaccination costs of between $1.80 PMPM and $4.64 PMPM. MVP's assumption of $5.16 PMPM is outside this range. MVP's experience period COVID-19 vaccination costs trended to the rating period as part of the rate development is $2.36 PMPM, which is within the recommended range. L&E believes that this is a reasonable projection of MVP's projection period costs without any upwards adjustment and, as such, recommends removing MVP's COVID-19 vaccination adjustment. Removing this adjustment would decrease the 1Q23 rates by approximately 0.7%. L&E Memo, 7 – 8.

21. Retention charges are added to the blended pure premium in deriving the group required premium. MVP is proposing a 13.3% total retention load comprised of the following components: (a) 7.8% for administrative expenses, (b) 3.5% for other expenses, and (c) 2.0% for contribution to reserves (CTR). L&E Memo, 8.

22. The projected administrative expense figure of 7.8% of premium is consistent with the average of the most recent two years (7.8%) and is less than the average of the most recent three years (8.3%). L&E concluded that the administrative expense load appears to be reasonable and appropriate. L&E Memo, 9.

23. The 3.5% load for other expenses covers a variety of projected expenses, including broker load (2.6%), the VT Vaccine Pilot Program fee (0.4%), bad debt (0.3%), GMCB billback (0.3%), and a comparative effectiveness research fee (0.1%). L&E Memo, 9.

24. MVP's federal loss ratio for this block of business in 2021 was 95.8% and the rolling three-year average (2019 – 2021) is 89.9%. L&E Memo, 9 – 10; *see* Response to Objection Letter 1 (August 23, 2022), 6 (Federal Loss Ratio was 75.1% in 2019; 98.9% in 2020; and 95.8% in 2021). Its target federal loss ratio for 1Q23 is 87.7%. MVP Memo, 6.

25. MVP's proposed CTR is 2.0%, which is consistent with its historically proposed CTR. In past orders, the Board has reduced the proposed CTR. L&E reviewed MVP's federal loss ratio and its actual gain/(loss) compared to the ordered risk margin for the most recent three years, which showed a total 3-year loss of 1.9%. L&E Memo, 10; *see* Findings, ¶ 24 (*supra*). L&E also reviewed

the carrier's historical risk-based capital (RBC) ratio, which showed RBC dropping from 429.4% in 2020 to 354.0% in 2021. L&E notes that it is slightly concerning that MVP has experienced an overall negative profit in the last few years and that there was a significant decrease in the RBC in 2021. L&E observes that while it is not sustainable to have significant losses, Vermont business is a small portion of MVP's overall business. L&E believes a CTR between 0.5% and 3.0% would be considered reasonable. L&E Memo, 10.

26. Pursuant to 8 V.S.A. § 4062(a)(2)(B), DFR assessed the impact of the proposed filing on the carrier's solvency. DFR noted that New York State, the primary solvency regulator for MVP has not learned of any solvency concerns regarding the carrier. DFR noted that MVP currently meets Vermont's foreign insurer licensing requirements. Finally, in 2021, all of MVP Holding Company's operations in Vermont accounted for approximately 7.5% of its total premiums written. DFR has determined that MVP's Vermont operations pose little risk to its solvency. Nonetheless, adequacy of rates and contribution to surplus are necessary for all health insurers to maintain strength of capital that keeps pace with claims trends. Based on its entity-wide assessment and contingent upon the Board's actuaries' finding that the proposed rate is not inadequate, DFR's opinion is that the proposed rate will not have a negative impact on MVP's solvency. DFR Solvency Opinion, 2.

27. In summary L&E recommends four adjustments to the filing. The first is to update the IBNR factor from 1.088 to 1.054, resulting in an approximately 2.8% decrease to the 1Q23 rates. The second is to reduce the allowed pharmacy trend from 11.6% to 7.3%, resulting in a 0.8% decrease to the 1Q23 rates. The third is to remove the COVID-19 vaccination adjustment, resulting in a decrease of 0.7% to the 1Q23 rates. The fourth is to use 2022 data instead of 2023 data to calculate quarterly trends, resulting in a manual rate change of 2.0%, 2.1%, and 2.1% for the second, third, and fourth quarters of 2023, respectively. *See* L&E Memo, 11. MVP calculates that, with these adjustments, the total annual rate increase for 1Q23 would be 21.2%. MVP Brief, 5.

28. L&E concludes that if its recommended modifications are made, the filing does not produce rates that are excessive, inadequate, or unfairly discriminatory. L&E Memo, 12.

29. In its brief, MVP accepts L&E's recommendation to update the IBNR factor. MVP Brief, 2. MVP disagrees, however, with L&E's Rx trend recommendation because MVP disputes L&E's excluding 2018 and 2020's "purported outlier trends" and comparing the historical PBM expected trends to actual allowed trends. *Id.* at 2 – 3. MVP disagrees with the removal of the COVID-19 vaccination cost adjustment. *Id.* at 3 – 4. MVP also disagrees with L&E's conclusion that 2023 quarterly trend increases were an outlier and its recommendation that quarterly trends be based on 2022 trend data rather than 2023. *Id.* at 4. MVP offers confirmatory calculations of L&E's recommendations on the proposed rate, which reflect small adjustments to L&E's figures. *See id.* at 5.

30. In its brief, the HCA asserts that MVP has not sufficiently supported its rate increase request and emphasizes the financial challenges and hardships facing Vermonters in "the current period … marked by economic volatility and exceedingly high inflation." HCA Brief, 3 – 5. The HCA agrees with L&E's analysis overall, and requests that the Board implement L&E's recommendations. *Id.* at 7 – 8. *See* Findings, ¶ 27, *supra*. In addition, the HCA requests that the

Board reduce the CTR to between 0% and 1% and reduce the proposed increase by 2% due to Vermont's affordability crisis and promote access to care. *Id.* at 9.

Standard of Review

The Board reviews rate filings to determine whether the 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." 8 V.S.A. § 4062(a)(3); GMCB Rule 2.000, § 2.301(b). Although the first several terms—excessive, inadequate, or unfairly discriminatory—are defined actuarial standards,[5] 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.*, 2016 VT 111, ¶ 16. The Board additionally takes into consideration changes in health care delivery, changes in payment methods and amounts, and other issues at its discretion. 18 V.S.A. § 9375(b)(6); GMCB Rule 2.000, § 2.401.

In arriving at its decision, the Board must consider DFR's analysis and opinion of the impact of the proposed rate on the insurer's solvency and reserves. 8 V.S.A. § 4062(a)(2)(B), (3). The Board must also consider any public comments it receives on a rate filing. 8 V.S.A. § 4062(c)(2)(B); GMCB Rule 2.000, § 2.201. The burden falls on the insurer proposing a rate change to justify the requested rate. GMCB Rule 2.000, § 2.104(c).

Conclusions of Law

I.

First, we adopt our actuaries' recommendations and order MVP to 1) update the IBNR factor, decreasing the 2023 first quarter rates by approximately 2.8%; 2) reduce the allowed pharmacy trend to 7.3%, decreasing the 2023 first quarter rates by approximately 0.8%; and 3) use 2022 trend as a basis for the quarterly trend assumptions, resulting in quarterly rate increases of 1.9% in 2Q23 – 4Q23. *See* Findings, ¶¶ 27 – 28.

MVP accepts L&E's recommendation on the IBNR factor, which is based on more complete data. Findings, ¶¶ 7, 29. MVP's Rx trend assumptions rely heavily on trend factors provided by MVP's PBM. Findings, ¶ 15. L&E's recommendation accounts for the fact that the PBM has over-projected actual trends in recent years. Findings, ¶¶ 15-16. Finally, we agree with L&E that 2023 is an outlier and it would be more appropriate to use 2022 data rather than 2023 data to develop the quarterly manual rate increases. Findings, ¶ 10.

II.

[5] Under Actuarial Standard of Practice No. 8, rates may be considered adequate if they provide for payment of claims, administrative expenses, taxes, regulatory fees, and reasonable contingency and profit margins; rates may be considered excessive if they exceed the rate needed to provide for payment of claims, administrative expenses, taxes, regulatory fees, and reasonable contingency and profit margins; and rates may be considered unfairly discriminatory if they result in premium differences among insureds within similar risk categories that: (1) are not permissible under applicable law; or (2) in the absence of applicable law, do not reasonably correspond to differences in expected costs.

Second, we adopt our actuaries' recommendation to remove the COVID-19 vaccination cost adjustment. MVP has not proven that the adjustment is warranted. The CMS projections relied on by MVP do not establish that MVP will be responsible for covering a $64 per shot ingredient cost. *See* Findings, ¶ 18 – 20. We conclude that L&E's approach of using MVP's actual COVID-19 vaccination cost PMPM, trended to the rating period, is more reasonable than MVP's.

III.

Third, consistent with modifications we have required in other filings, we order MVP to reduce the proposed CTR from 2.0% to 1.0%. *See, e.g., In re: MVP Health Plan, Inc., 2022 Individual Market Rate Filing and 2022 Small Group Market Rate Filing,* GMCB-007-21rr and GMCB-008-21-rr, Decision and Order, 18 (reducing CTR from 1.5% to 1.0); *In re: MVP Health Plan, Inc., 2021 Large Group HMO Rate Filing,* GMCB-008-20rr, Decision and Order, 10-11 (reducing CTR from 2.0% to 1.0); *In re: MVP Health Plan, Inc., 2020 Individual and Small Group Market Rate Filing*, GMCB-005-19rr, Decision and Order, 13 (reducing CTR from 1.5% to 1.0%); *In re: MVP Health Plan, Inc., 2020 Large Group HMO Rate Filing,* GMCB-008-19rr*,* Decision and Order, 7-8 (reducing CTR from 2.0% to 1.0%). We expect this will lower the first quarter 2022 rate increase by 1.0%.

Reducing the CTR from 2.0% to 1.0% will make a very substantial rate increase more affordable for Vermonters and will not threaten MVP's solvency. *See* Findings, ¶ 25, 30. DFR found that MVP's Vermont business accounted for approximately 7.5 percent of total premiums written in 2020 and that MVP's Vermont operations pose little risk to its solvency. Findings, ¶ 26. Furthermore, L&E opined that a 1.0% CTR would be considered reasonable. Findings, ¶ 25.

<u>Order</u>

For the reasons discussed above, we order MVP to 1) update the IBNR factor to 1.054; 2) reduce the allowed pharmacy trend to 7.3%; 3) use 2022 trend as a basis for the quarterly trend assumptions, resulting in quarterly rate increases of 2.0%, 2.1%, and 2.1% in the second, third, and fourth quarters, respectively; 4) remove its COVID-19 vaccination adjustment; and 5) reduce the proposed CTR from 2.0% to 1.0%.

SO ORDERED.

Dated: November 7, 2022, at Montpelier, Vermont

s/ Owen Foster, Chair	)	
	)	
s/ Jessica Holmes	)	GREEN MOUNTAIN
	)	CARE BOARD
s/ Robin Lunge	)	OF VERMONT
	)	

s/ Thom Walsh)
)
s/ David Murman)

Filed: November 7, 2022

Attest: s/ Jean Stetter, Administrative Services Coordinator
Green Mountain Care Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by e-mail, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (E-mail address: 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 or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.