

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: CIGNA Health and Life Insurance) GMCB-002-24rr
Company 2024 Large Group Manual)
Rate Filing) SERFF No.: CCGP-134009857
_____)

DECISION AND ORDER

Introduction

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

Procedural History

On March 6, 2024, CIGNA Health and Life Insurance Company (CHLIC or “the carrier”) submitted its 2024 Large Group Manual Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF).

On March 11, 2024, the Office of the Health Care Advocate (HCA), a special project within Vermont Legal Aid representing the interests of Vermont health insurance consumers, entered an appearance as a party to this filing. On April 29, 2024, the Vermont Department of Financial Regulation (DFR) submitted its analysis regarding the filing’s impact on the carrier’s solvency. Also on April 29, 2024, the Board’s contract actuary, Lewis & Ellis (L&E), submitted an actuarial memorandum evaluating the filing (referred to hereafter as “L&E Memo”). Each of these documents was subsequently posted to the Board’s rate review website.¹

The Board solicited written public comments on this filing through May 14, 2022; no member of the public provided comment. The parties waived their rights to a hearing and the HCA filed a memorandum in lieu thereof. *See* GMCB Rule 2.000, § 2.309(a)(1).

Findings of Fact

1. CHLIC is an operating subsidiary of Cigna Corporation, an international, for-profit health services corporation headquartered in Bloomfield, Connecticut. *See* Cigna SERFF Filing.

2. This filing updates CHLIC’s large group manual rating methodology and covers insurance products provided to large Vermont employers, including Open Access Plus (OAP), Preferred Provider Organization (PPO), Network (NWK), Indemnity, and retiree medical insurance products. L&E Memo at 1.

¹ The contents of the SERFF filing and all documents referenced in this Decision and Order can be found at <https://ratereview.vermont.gov/content/cigna-health-and-life-insurance-company-large-group-filing-0>.

3. There are fifteen policyholders and a total of 3,914 members in Vermont who will be affected by the filing. The proposed rate change ranges between 1.3% (\$3.78 PMPM) and 18.1% (\$243.09 PMPM) and would have an overall impact on the current manual rates of 9.6% (\$70.79 PMPM). The average resulting rate will be \$799.82 PMPM. L&E Memo at 1; *see* Cigna SERFF Filing (Rate Detail tab).

4. CHLIC's most recent filing was submitted on September 20, 2022, and the Statement of Decision was issued on December 19, 2022. In that Statement of Decision, the Board ordered CHLIC to reduce its profit assumption from 2.0% to 0.5%, which the carrier implemented in its final rating documents. L&E Memo at 2; *see In re CIGNA Health and Life Insurance Company 2022 Large Group Manual Rate Filing*, GMCB-011-22rr (December 19, 2022).

5. The proposed rate change consists of these major components: 1) current trend, 2) changes to trend, 3) revisions to pricing factors, and 4) expense changes. Current trend reflects the expected increase in medical and Rx unit cost and utilization resulting from the 2022 CHLIC order, as implemented by the carrier. L&E Memo at 2. The changes to trend reflect the change in medical and Rx unit cost and utilization, based on emerging experience since the prior rate filing. L&E Memo at 2. Revisions to pricing factors include changes to area factors, other rating factors, and methodology. *See* L&E Memo at 5. Expense changes include fees, assessments, administrative expenses, and profit. L&E Memo at 6.

6. The current annual trend of 7.5% results from the carrier's implementation of the 2022 CHLIC order. The components of the current annual trend include medical and Rx trends that were established in the 2022 filing. L&E Memo at 2.

7. In this filing, CHLIC's proposed trend is 9.0%, which is an increase from the current trend and results in a 1.5% increase to the premium rates. CHLIC proposes a total medical trend of 8.6% and a total Rx trend of 10.4%. L&E Memo at 3. As the past four years of medical and Rx trends have been volatile, the carrier determined it was not appropriate to use its historical trend results to set proposed trends. L&E acknowledges that volatility, but believes it is still important to consider historical trends when setting prospective trends. L&E reviewed the 4-year average of these trends, as normalized for benefit changes, demographics, and area, and calculated a total combined trend of 5.9%. L&E notes that while the COVID-19 pandemic prompted outlier medical trends in 2020 and 2021, the 4-year average trend "smooths" out the "noise" caused by those outlier years. L&E Memo at 3.

8. CHLIC's proposed medical trend of 8.6% is an increase from the current medical trend assumption of 7.3%. The proposed trend applies across all products. Medical trend is comprised of unit cost and utilization components. CHLIC set unit cost trend at 4.1%. Unit cost trends reflect anticipated provider contracted rate changes, typically a combination of previously contracted rates and expected changes from recent negotiations and GMCB hospital budget orders. To determine the prospective medical unit cost trend, CHLIC uses both local and national information by relying on in-state providers' contracted rates as well as nationally contracted rates. The carrier acknowledges that its proposed unit cost trend may not fully incorporate the impact of the most recent Hospital Budget proceedings, in that its filing proposes inpatient and outpatient hospital

unit cost trends of 3.5% while it calculates the average of the recently ordered hospital budget increases to be 4.2%. However, CHLIC notes that several factors may dampen the assumed unit cost trend impact, such as timing, fixed fee schedules, and charge master increase protection. L&E observes that the assumed unit cost trend does not exceed the recently ordered budget increases. L&E Memo at 3.

9. CHLIC projects a 4.3% increase in medical utilization, which it sets at a national, rather than state-specific, level and bases it on both historical data, and prospective factors. CHLIC's proposed medical utilization trend is driving the proposed total trend of 8.6%, which is higher than CHLIC's historical average even though medical unit cost trend is lower. CHLIC did not provide utilization trend information for 2020 and 2021 because of the impact of COVID-19 and did not provide VT-specific utilization trend information because it does not use that data to calculate utilization trend. The Board has approved medical utilization trend of between 0.5% and 2.0% in recent filings. A 1.1% medical utilization trend would result in an overall trend equal to CHLIC's 4-year average historical Vermont total medical trend of 5.2%. L&E recommends a 1.0% medical utilization trend, which would result in approximately a 2.6% decrease to CHLIC's proposed 2024 premium rates. L&E Memo at 3-4.

10. CHLIC is proposing a pharmacy trend of 10.4% for 2024, an increase from the current 8.5% Rx trend assumption. Pharmacy trend is comprised of unit cost and utilization components. The Rx unit cost trend is the change in average cost per script because of three factors: 1) the change in cost per unit for medications used (inflation); 2) the change in cost due to a difference in the medications patients fill, either from brand to generic, or from existing generics to new generics (mix shift); and 3) the impact of new drugs causing both a shift from older therapies to novel ones and the emergence of new claims from previously untreated populations. The Rx utilization trend is the change in the number of prescriptions filled on a PMPM basis. The carrier projects an 8.0% adjustment to unit cost and a 2.3% adjustment to utilization. The carrier states that the diabetic class mix drove higher-than-expected utilization and a higher base unit cost in 2022. Additional drivers include regulatory impacts on insulin prices, continued GLP-1 growth, Humira biosimilars and interchangeability, inflation, and the new drug pipeline. CHLIC's observed 4-year historical Vermont Rx trend is 9.6%. CHLIC believes its historical VT trend does not align with the proposed trends because it sets Rx trend at the national level rather than the state level because of credibility concerns, the disruptive impact of COVID-19, and the observed trends include customer mix and plan design changes. L&E notes that CHLIC's entire VT population for all funding types has included more than 40,000 members, which CHLIC's rating manual considers to be fully credible. L&E believes that considering the 4-year historical average Rx trend smooths out any atypical COVID-19 patterns. Finally, L&E observes that CHLIC has already normalized its historical trends for benefit changes, demographics, and area. L&E recommends 9.6% total Rx trend, resulting in an approximate 0.2% decrease to CHLIC's proposed 2024 premium rates. L&E Memo at 4-5; *see* Findings of Fact (Findings), ¶ 7, *supra*.

11. CHLIC includes revisions to pricing factors in its proposed rate. The pricing factors include area factors, other rating factors, and methodology. The average impact of these pricing factors is a 1.0% decrease in the premium rate. In this rate filing, the carrier proposes numerous updates to the manual rate development to include more specific, recent, and granular data to improve the projections within the methodology. The components involved include medical and

Rx area factors, medical and Rx utilization dampening, medical and Rx claim probability distributions, medical out-of-network program savings factors, medical demographic factors, and behavioral mental health and substance abuse trend. L&E finds that the rating factor and methodology changes appear to be reasonable and appropriate. L&E Memo at 5-6.

12. CHLIC's proposed retention load is 12.0% of premium. The prior approved retention load was 10.7% and the rate impact of the expense change is an increase of 1.3%. The proposed retention load includes a 0.1% increase in administrative expenses to 5.1%, and a 0.1% decrease in state assessments to 1.9%. CHLIC's projected large group medical loss ratio (MLR) for 2023 is 88.0%. L&E finds that CHLIC's proposed changes to the components of retention appear reasonable and appropriate. L&E Memo at 6.

13. CHLIC's current profit assumption is 0.5% and its proposed profit assumption is 2.0%. Its most recent three years of actual-to-expected profit available is 2019-2021. The carrier's actual profit decreased from 9.1% in 2020 to -1.6% in 2021 and rose to 14.0% in 2022. Its Risk-Based Capital (RBC) Ratio from 2021-2023 experienced a decrease from 478% in 2021 to 416% in 2022 and an increase in 2023 to 465%. L&E believes that a CTR between 0.5% and 3.0% would be considered reasonable. L&E Memo at 6.

14. Pursuant to 8 V.S.A. § 4062(a)(2)(B), DFR provided the Board its assessment of the impact of the proposed filing on the carrier's solvency. Noting that it is not CHLIC's primary regulator, DFR advised the Board that it has not learned of any solvency concerns from Connecticut regulators. Further, because the company's Vermont business accounts for less than one percent of its total premiums written in 2023, DFR opined that CHLIC's Vermont operations pose little threat to its solvency. DFR concluded that the rates as filed will likely not have an impact on the carrier's solvency, assuming L&E finds that the proposed rate is not inadequate. DFR Solvency Opinion at 2.

15. On May 6, 2024, CHLIC submitted a letter requesting that the Board approve its rate increase request, as modified by L&E's recommendations.

16. On May 17, 2024, the HCA filed a Memorandum in Lieu of Hearing in which it objects to CHLIC's proposed rate, arguing that the carrier has not demonstrated that the proposed rate is affordable, promotes access to care, promotes quality care, and is not unfair, unjust, or misleading. HCA Memorandum in Lieu of Hearing (HCA Memo), 1-2, 6-8.

17. The HCA raises an adverse tiering concern, asserting that CHLIC offers plans that place most, or all, prescription medications used to treat HIV on the highest cost formulary tiers. HCA Memo, 2-3. It asserts that adverse tiering is not allowed for Qualified Health Plans, is discriminatory and inequitable, impedes access, negatively affects affordability, and that the Board should cut CHLIC's proposed rate by at least two percentage points for its incorporation of adverse tiering into its benefit design. HCA Memo, 3, 10.

18. The HCA objects to CHLIC's requested profit margin of 2.0%, which the HCA considers to be unreasonable. The HCA argues that L&E's 0.5% to 3.0% recommendation is an overestimate

of a reasonable profit range as it does not take into account the non-actuarial considerations of affordability and access to care. HCA Memo, 8-9; *see* Findings, ¶ 13, *supra*. The HCA cites to the 2021 Vermont Department of Health, Vermont Household Health Insurance Survey Report,² stating that one-third of Vermont’s uninsured population has access to employer sponsored insurance but chooses not to take it and that 76% of Vermonters who decline employer sponsored insurance cite cost as the primary reason. In addition, the HCA points to inflationary pressures impacting Vermonters, and notes government data showing that prices rose 3.3% from April 2023 to April 2024.³ HCA Memo, 7. The HCA asserts that CHLIC consistently underestimates its profit, and that Vermonters cannot afford CHLIC’s 2.0% profit assumption. The HCA recommends a 0.25% profit assumption. HCA Memo, 9.

Standard of Review

In reviewing a rate filing, 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 the laws of this State” and is not “excessive, inadequate, or unfairly discriminatory.” 8 V.S.A. § 4062(a)(3); GMCB Rule (Rule) 2.000, § 2.301(b). Although the latter terms – excessive, inadequate, or unfairly discriminatory – are defined actuarial standards, 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); 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 received on a rate filing. 8 V.S.A. § 4062(c)(2)(B); Rule 2.000, § 2.201. The burden falls on the insurer proposing a rate change to justify the requested rate. *Id.* § 2.104(c).

Conclusions of Law

We accept the carrier’s approach to calculating medical unit cost trend, which uses national information in addition to local information. While it may not fully reflect the impact of this year’s Hospital Budget orders, there are several factors that may dampen the assumed unit cost trend, such as timing, fixed fee schedules and charge master increase protection. Findings, ¶ 8.

We agree with and adopt our actuary’s opinion that medical utilization trend should be reduced to 1.0%. This utilization trend is close to CHLIC’s historical VT-specific utilization and consistent with medical utilization trends approved in recent filings. Findings, ¶ 9; *see, e.g. In re: Blue Cross and Blue Shield of Vermont 2024 Individual and Small Group Market Rate Filing*, GMCB-002-23rr & GMCB-003-23rr, Decision and Order (Aug. 7, 2023), 10; *In re: MVP Health Plan, Inc. 2024 Individual and Small Group Market Rate Filing*, GMCB-004-23rr & GMCB-005-

² VT Dept. of Health, Vermont Household Health Insurance Survey 2021 Report (March 2022), <https://www.healthvermont.gov/sites/default/files/documents/pdf/HSVR-VHHIS-2021-Report.pdf>.

³ U.S. Bureau of Labor Statistics, April 2024 Consumer Price Index Summary, May 15, 2024, Table A, <https://www.bls.gov/news.release/cpi.nr0.htm>.

23rr (Aug 7, 2023), 6. CHLIC does not contest this recommendation. Findings, ¶ 15. This will reduce proposed rates by 2.6%.

We agree with and adopt our actuary's opinion, which is not contested by CHLIC, that total Rx trend be reduced from 10.4% to 9.6%, CHLIC's 4-year average historical Vermont Rx trend. This will result in an approximate 0.2% decrease to the 2024 premium rates. Findings, ¶ 10, 15.

We agree with and adopt our actuary's opinion that the pricing factors and methodology utilized by the carrier are appropriate and reasonable. Findings, ¶ 11.

Turning to the rate adjustment for retention other than the profit assumption, we agree with and adopt our actuary's opinion that CHLIC's proposed retention without profit is appropriate and reasonable. Findings, ¶ 12.

For the profit assumption, we accept the low end of the range recommended by our actuaries and order a profit assumption of 0.5%. This will reduce proposed rates by 1.5%. Findings, ¶ 13. As the HCA noted, Vermonters are dealing with inflation and increased costs. Moreover, approximately three quarters of the uninsured Vermonters who decline employer sponsored insurance do so primarily because of cost. Findings, ¶ 18. We therefore select the lowest profit assumption that the record demonstrates will still result in actuarially sound rates.

The HCA raises an important issue regarding its concern about adverse tiering. Findings, ¶ 17. *See* Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024) (to be codified at 45 C.F.R. pt. 92). We have referred the issue to DFR, which is authorized to enforce such requirements pursuant to 8 V.S.A. § 4062c(a).

Order

For the reasons discussed above, the Board modifies CHLIC's 2022 Large Group Manual Rate Filing by reducing the proposed medical utilization trend to 1.0%, the medical Rx trend to 9.6, and the proposed profit assumption from 2.0% to 0.5%. We thereafter approve the filing, resulting in an average annual rate increase of approximately 5.3%.

SO ORDERED.

Dated: May 29, 2024 at Montpelier, Vermont

<u>s/ Owen Foster, Chair</u>)	
)	
<u>s/ Jessica Holmes</u>)	GREEN MOUNTAIN
)	CARE BOARD
<u>s/ Robin Lunge</u>)	OF VERMONT
)	
<u>s/ Thom Walsh</u>)	

s/ David Murman)
)

Filed: May 29, 2024

Attest: s/ Jean Stetter, Administrative Services Director
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. (Email address: Kristen.Lajeunesse@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, if any, must be filed with the Board within ten days of the date of this decision and order.