

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Blue Cross and Blue Shield of Vermont) GMCB-008-24rr
2025 Large Group Unit Cost Trend)
Rating Filing) SERFF No.: BCVT-134106868
_____)

DECISION AND ORDER

Introduction

Health insurers must submit major medical rate filings to the Green Mountain Care Board (GMCB or Board). 8 V.S.A. §§ 4062, 4515a, 4587. This decision pertains to the large group rating program filing of Blue Cross and Blue Shield of Vermont (BCBSVT), a non-profit hospital and medical service corporation. The approved rate will be used by BCBSVT to determine the premiums of experience-rated fully insured large groups with over 100 employees.

Procedural History

On May 20, 2024, BCBSVT submitted a Large Group Rating Program rate filing to the Board via the System for Electronic Rate and Form Filing (SERFF).

On May 24, 2024, 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 filing. On July 19, 2024, the Department of Financial Regulation (DFR) filed its analysis and opinion regarding the impact of the filing on the carrier's solvency (Solvency Opinion). Also on July 19, 2024, Lewis & Ellis (L&E), the Board's contract actuary, submitted an actuarial memorandum evaluating the filing (L&E Memo). Each of these documents was subsequently posted on the Board's rate review website.¹

The Board solicited public comments on the filings through August 3, 2024. One public comment was received specific to Large Group (LG) plans. The parties waived a hearing. On August 1, 2024, BCBSVT filed a memorandum of law in the matter in which it confirmed its request to increase its Contribution to Reserve (CTR) from 3.0% to 7.0% and agreed with L&E's recommendations.

Findings of Fact

1. BCBSVT is a non-profit hospital and medical service corporation that provides coverage to individuals, small and large group employers, and Medicare enrollees in Vermont. L&E Memo, 1.

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>.

2. This filing addresses BCBSVT Insured and Cost Plus large groups and is projected to affect 4,264 members (2,446 subscribers) in 33 groups. L&E Memo, 1; BCBSVT Actuarial Memorandum (BCBSVT Memo), 1.

3. On February 9, 2024, BCBSVT submitted a previous filing for its 2025 LG Rating Program. *See In re Blue Cross and Blue Shield of Vermont 2025 Large Group Rate Filing*, GMCB-001-24rr, Decision and Order (May 9, 2024) (May LG Order). The Board approved without modification the filing that established the formula, manual rate, and accompanying factors that the carrier will use to establish premiums for large group renewals. The Board ordered BCBSVT to submit a supplementary filing to account for additional hospital budget information that would become available later in the year. *Id.*, 11. The previous filing, as modified, resulted in an average manual rate premium change of approximately 8.4%. *See id.*, 8; L&E Memo, 1.

4. This filing modifies the trend and manual rate figures from the previous LG filing to reflect updated hospital budget information. *See* L&E Memo, 1. At the time of this filing, BCBSVT proposed a further increase of 0.3% to manual rate premiums. *Id.*, 2. All rating components other than the prospective unit cost trend assumptions and manual rate were recently reviewed by L&E and considered by the Board; therefore, L&E did not repeat that analysis for this rate filing. *Id.*, 2. L&E's analysis in this matter focused on the impact of the hospital budget submissions on the medical unit cost trend; the impact of Vermont House Bill 766, enacted as Act 111 (2024) and modified by Act 185 (2024); and BCBSVT's request for an increase in the CTR used in 2025 premiums. *See* L&E Memo, 2-3.

5. The carrier calculated that the total impact of updated hospital budget and other provider contracting information would be a 1.6% decrease from the formula approved in the May LG Order. BCBSVT Memo, 1; *see* L&E Memo, 2. The updates reflect more up-to-date negotiation information regarding non-Vermont hospitals and an assumption that each facility would receive a hospital budget unit cost increase equal to the Board's FY 2025 hospital budget guidance of a 3.4% commercial maximum rate. *See* L&E Memo, 1-2. In the Board's 2025 Individual and Small Group Market Rate Filing Order, the 3.4% hospital budget guidance figure was determined to be the most reasonable assumption available. *In re: Blue Cross and Blue Shield of Vermont 2025 Individual and Small Group Market Rate Filings*, GMCB-004-24rr & GMCB-003-24rr (Aug. 12, 2024), 16.

6. This filing contained a proposed CTR of 3.0%. Since the filing was submitted, BCBSVT has requested that the CTR used in 2025 premiums be increased to 7.0%. *See* L&E Memo, 1; BCBSVT Memo, 1-2.

7. Pursuant to 8 V.S.A. § 4062(a)(2)(B), DFR provided the Board with its assessment of the impact of the proposed filings on the carrier's solvency. DFR notes that BCBSVT's capital and surplus have continued to decline; at the end of 2023, the Company's Risk Based Capital (RBC) ratio was 337%, the lowest in many years and well below its target range of 590% to 745%. Solvency Opinion, 1-2. DFR reports that the filed 3.0% CTR is inadequate based on the current trends and surplus levels. *Id.*, 2. As such, DFR supports BCBSVT's increased CTR request of 7.0% and finds it necessary to increase and stabilize BCBSVT's reserves. *Id.*, 4. If the 7.0% CTR is used to replace the 3.0% CTR in this filing, the 0.3% increase referenced in Findings of Fact

(Findings), ¶ 4, *supra*, becomes a 5.0% increase in premiums. *See* L&E Memo, 3; BCBSVT Responses to 2025 LG Unit Cost Inquiry Letter 2 (Jul. 18, 2024), 2.

8. Vermont House Bill 766, enacted as Act 111 (2024), limits health insurers' ability to require prior authorization, edit health care claims, and use pharmacy step-therapy protocols. *See* Act No. 111 (2024), Act Summary. The filing incorporates a 1.9% premium increase for Act 111 impacts. L&E Memo, 4. In June, however, a law was enacted that delayed the effective date of certain provisions of Act 111 to January 1, 2026, rather than January 1, 2025. Act No. 185 (2024). BCBSVT estimated that by delaying the effective date of the relevant provisions, the proposed premium increase will be reduced to approximately 1.2%, which reduces premiums by approximately 0.7% relative to the initial request in this filing. L&E believes this lower number is reasonable. L&E Memo, 4. If the updated impact from Act 185 is used, the 5.0% increase referenced in Findings, ¶ 7, *supra*, becomes a 4.3% increase. *See id.*

9. The premium ultimately charged to a particular group is a function of the experience for that group for the most recent period available. For that reason, the rate change for any particular group is likely to differ from the amount ordered in this proceeding. The approved rate change should be understood as the rate change for a group with no claims experience, or as the expected average for all groups combined. *See* L&E Memo, 1.

Standard of Review

The Board is required to approve, modify, or disapprove a rate request within 90 calendar days of receiving an initial rate filing. 8 V.S.A. § 4062(a)(2)(A). The Board reviews proposed rates to determine whether they are affordable; promote quality care; promote access to health care; protect insurer solvency; are not unjust, unfair, inequitable, misleading, or contrary to the laws of this State; and are not excessive, inadequate, or unfairly discriminatory. 8 V.S.A. § 4062(a)(3); GMCB Rule 2.000, § 2.301(b). In its review, the Board considers 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. The Board must also consider DFR's analysis and opinion regarding the impact of the proposed rates on the insurer's solvency and reserves, as well as any public comments the Board receives. 8 V.S.A. §§ 4062(a)(3), (c)(2)(B); GMCB Rule 2.000, § 2.201.

The Board's review of proposed rates is plainly not limited to actuarial considerations and mathematical calculations. The Vermont Supreme Court has recognized that the general and open-ended nature of the rate review standards reflects the practical difficulty of establishing more detailed, narrow, or explicit standards – a difficulty due to the fluidity inherent in concepts of quality care, access, and affordability. *See In re MVP Health Insurance Co.*, 2016 VT 111, ¶ 16.

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

In reviewing a rate filing, we must consider whether the proposed rate is affordable, promotes quality care, promotes access to health care, protects insurer solvency, is not unjust, unfair, inequitable, misleading, or contrary to the laws of Vermont, and is not excessive, inadequate, or unfairly discriminatory. As we have recognized in prior decisions, these factors are interrelated and often in tension with one another. *See, e.g., In re Blue Cross and Blue Shield of Vermont 2024 Individual and Small Group Market Rate Filings*, Dockets No. GMCB-002-23rr & GMCB-003-23rr, Decision and Order (August 7, 2023), 20. Neither our statute nor our rule specifies how much weight we should give to any one factor, and we seek to find the most appropriate balance we can amongst them based on the facts and circumstances before us.

As our contract actuaries observed, all rating components other than the prospective unit cost trend assumptions and manual rate were recently reviewed and an Order was issued in May of this year. *See* May LG Order. Therefore, this Order will address only the impact of the FY 2025 hospital budget submissions and other updated information on the prospective unit cost trends, the request for a higher CTR, and the impact of the changes to Act 111.

First, as recommended by L&E, we require BCBSVT to reflect the update to unit costs for non-Board regulated providers. *See* Findings, ¶ 5.

Second, consistent with our decision in BCBSVT's 2024 Individual and Small Group Rate Filings, we require BCBSVT to assume that Vermont hospitals' commercial rate increases for FY 2025 and FY 2026 will be equal to the 3.4% commercial rate maximum set forth in the FY 2025 hospital budget guidance. Findings, ¶ 5; *see In re Blue Cross and Blue Shield of Vermont 2025 Individual and Small Group Market Rate Filings*, GMCB-004-24rr & GMCB-003-24rr, Decision and Order (Aug. 12, 2024), 16.

Third, we approve BCBSVT's 7.0% CTR proposal. DFR's solvency opinion indicates that the 7.0% CTR is necessary to increase and stabilize BCBSVT's reserves. Findings, ¶ 7. We reluctantly approve the increased CTR in this proceeding in as the proper course of action and mirror our decision in the Individual and Small Group Rate Filings, where we noted:

In light of the . . . the recent adverse experience that has driven the company's reserves and RBC ratio to historically low levels, and DFR's conclusion that a 7.0% CTR is necessary, we will not reduce the proposed CTR this year. This is not to say, however, that we will necessarily approve this level of CTR in future filings.

In re Blue Cross and Blue Shield of Vermont 2025 Individual and Small Group Market Rate Filings, GMCB-003-24rr & GMCB-004-24rr, Decision and Order (Aug. 4, 2022), 17.

Finally, we order BCBSVT to reduce the impact of Act 111 to reflect the delayed effective dates resulting from Act 185. BCBSVT has agreed to this measure. Findings, ¶ 8; *see* BCBSVT Memo, 2.

ORDER

For the reasons discussed above, we modify and then approve BCBSVT’s Large Group Rate Filing. Specifically, we order BCBSVT to (1) reflect the update to unit costs for non-Board-regulated providers and facilities; (2) assume that Vermont hospitals’ commercial rate increases for FY 2025 and FY 2026 will be equal to the 3.4% commercial rate maximum included in the FY 2025 hospital budget guidance; (3) increase the CTR to 7.0%; and (4) update the impact of Acts 111 and 185.

SO ORDERED.

Dated: August 19, 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>)	
)	
<u>/s David Murman</u>)	

Filed: August 19, 2024

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

NOTICE TO READERS: This document is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (Email address: tara.bredice@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.