STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re:	)	
Cigna Health and Life Insurance Company	)	GMCB-010-24rr
Large Group Filing	)	SERFF: CCGP-134244586

OFFICE OF THE HEALTH CARE ADVOCATE
MEMORANDUM IN LIEU OF HEARING

The Office of the Health Care Advocate (HCA) submits this memorandum in lieu of hearing to the Green Mountain Care Board (GMCB) in response to Cigna Health and Life Insurance Company's (CHLIC) 2025 Large Group rate filing. CHLIC proposes an 11.5% increase to the manual rating methodology for its Vermont large group book of business which currently has 14 policyholders with 3,151 members. These Vermonters would experience rate increases between 1.1% and 25.6% if the Board were to approve the rate request as filed.[1] As detailed herein, the HCA recommends the Board approve a rate increase no higher than 5.9%.

I. CHLIC Bears the Burden to Justify Its Proposed Premium Increase.

Prior to selling a major commercial health insurance policy in Vermont, a health insurer must submit the proposed premium change to the Board for review.[2] The health insurance company "bear[s] the burden to justify the rate request."[3] To justify the rate request, an insurer must offer evidence regarding the rate review criteria and prove, by a preponderance of the evidence,[4] that a balancing of the criteria weighs in favor of the Board approving the rate.

---

[1] GMCB-010-24rr, Lewis & Ellis Actuarial Mem. at 1.
[2] 8 V.S.A. § 4062(a).
[3] Code Vt. R. 80-280-002, GMCB Rule 2.104(c).
[4] E.g., In re Smith, 169 Vt. 162, 169 (1999); Other evidence in rate review proceedings include the Department of Financial Regulation's solvency opinion, the analysis of Board's actuary, and evidence offered by the HCA.

The rate review criteria are an assortment of factors, often in tension, which the Board must balance.[5] They include statutory factors—that the 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" Vermont.[6] And they include actuarial factors—that the proposed rate is not "excessive, inadequate, or unfairly discriminatory."[7]

The Board examines the sufficiency of the evidence presented, engages in a balancing test, and ultimately determines the rate. The Board's process of examining, balancing, and determining is hampered when an insurer seeks to justify its rate requests almost exclusively through an actuarial lens. In such instances, the Board should find that the carrier has failed to justify the proposed rates and reduce them accordingly.

II. CHLIC Has Failed to Justify the Proposed Rate Increase.

CHILIC's large group filing suffers from two primary flaws. First, CHLIC again fails to present any evidence related to the non-actuarial factors. Most egregiously from the HCA's perspective, CHLIC offers no evidence at all to prove that its proposed rates are affordable or promote access to care. Second, CHLIC again fails to justify its proposed profit margin. Indeed, the evidence shows that CHLIC continues to draw profit from its Vermont large group book of business that significantly exceeds Board-ordered amounts.

A. CHILIC's rate should be reduced because the carrier produced no evidence that the rate is affordable or promotes access.

CHLIC offers no evidence that its proposed rate is affordable or promotes access to care. Considering that some Vermonters will experience premium increases as high as 25.6% if the Board approves the proposed rate, CHILIC's omission alone should give the Board pause. In

[5] E.g., GMCB-009-18rr, Decision at 17.
[6] 8 V.S.A. § 4062(a)(2)(A).
[7] Code Vt. R. 80-280-002, GMCB Rule 2.301(b).

counterpoint to CHLIC's silence, we offer below government evidence that increases to its rates are neither affordable to Vermonters nor do they promote access.

The facts we present below should be considered in context. In the immediate term, price increases in goods and health insurance premiums are indeed partially offset by wage increases. This suggests that affordability is less of an issue now than it was right after the pandemic. Unfortunately, this is not true. The employment market is currently softening, and thus wage growth, too. Further, the substantial wage growth that Vermonters experienced was largely offset by historically high inflation. The reality is that historic wage growth would need to occur for years to offset inflation growth and the growth in CHLIC's premium prices.

The latest government data indicates that prices rose 2.6% from October 2023 to October 2024.[8] Of particular interest, is the price inflation of necessities. Since October 2023, after a period of record inflationary pressures:

- the price of food is up 2.1% overall, fresh vegetables are up 0.5%, uncooked ground beef is up 2.8%, milk is up 1.4%, chicken is up 1.1%, and eggs are up 30.4%;
- the cost of fuel oil and other fuels is down -11.9% but electricity is up 4.5%, and utility (piped) gas service is up 2.0%;
- medical care commodities are up 1.0%;
- the cost of shelter is up 4.9% overall, rent of a primary residence is up 4.6% and owners' equivalent rent of primary residence is up 5.2%.[9]

[8] U.S. Bureau of Labor Statistics, October 2024 Consumer Price Index Summary, November 13, 2024, Table A, https://www.bls.gov/news.release/cpi.nr0.htm.
[9] U.S. Bureau of Labor Statistics, October 2024 Consumer Price Index Summary, November 13, 2024, Table 2, https://www.bls.gov/news.release/cpi.t02.htm.

Additional evidence that Vermonters cannot afford employer sponsored insurance (ESI), such as CHLIC offers, comes from the 2021 Vermont Household Health Insurance Survey. One-third of Vermont's uninsured population have access to ESI but choose not to take it.[10] Seventy-six percent of Vermonters who decline ESI cite cost as the primary reason for electing not to purchase their employer's plan.[11]

Affordability, amongst other necessary but insufficient factors, is critical to ensuring access to care. Care that is too expensive to use is not accessible. As such, to the extent that the rate is not affordable, as demonstrated above, the rate also does not promote access to care.

Far from establishing by a preponderance of the evidence that their proposed rate is affordable and promotes access, CHLIC offers no evidence at all addressing these two factors. CHLIC does not provide evidence that Vermonters can afford the cost of their large group health insurance plans, or that, after paying their share of the premium, members can afford to access care when they or their loved ones need it. The evidence shows that Vermonters struggle to afford their health care and that many limit their access to care as a result. The Board has the power to make health insurance more affordable and to promote access for CHLIC's Vermont customers and should do so.

Given the extent of the affordability and access issues facing Vermonters that we detail above and the lack of any evidence on these topics offered by CHLIC, the Board should order a 1 percentage point reduction to increase affordability and promote access.

---

[10] Vt. Dep't of Health, 2021 Vt. Household Health Insurance Survey. at 31 (2022), https://www.healthvermont.gov/sites/default/files/documents/pdf/VT%20Household%20Health%20Insurance%20Survey%202021%20Report%205.6.22.pdf.
[11] Id.

B. CHILIC's proposed profit margin should be reduced because it is not needed to protect solvency nor does it advance affordability or access.

CHLIC has not demonstrated by a preponderance of the evidence that a 2% profit is necessary to maintain solvency or that it is appropriate given other rate review factors. In fact, the evidence offered shows that CHLIC's requested 2% profit does not meet the standard the Board uses to evaluate carrier solvency.

First, the Department of Financial Regulations (DFR) noted in its report on this filing that CHLIC's primary solvency regulator, the Connecticut Insurance Department, has not told DFR of any concerns related to CHLIC.[12] Further, because CHLIC's Vermont premium constitutes such a small percentage of its written premium, less than 1%, it is undisputed that the rates CHLIC charges Vermonters will not materially affect CHLIC's solvency one way or the other.[13]

Second, Lewis and Ellis (L&E) detail that a profit margin as low as 0% would be actuarially "reasonable."[14] L&E's opinion on the "reasonable" profit range, however, does not consider affordability and access, subjects that actuaries neither consider nor have any expertise in. As such, L&E's suggested range is an overestimate of what is a valid range under Vermont law.

The Board should also consider the fact that CHILC has consistently underestimated profit. Over the period of 2019 to 2023, CHILIC's annual average ordered profit margin was 0.2%, but its average actual annual profit margin of 5.6%.[15] These annual averages, however, do not account for the fact that CHILIC reduces profit to account for the spirit of other Board-ordered reduction, for instance medical utilization.[16] Thus, it is fair to say that the difference

---

[12] GMCB-010-24rr, Dep't Fin. Reg. Solvency Op. at 2.
[13] Id.
[14] GMCB-010-24rr, Lewis & Ellis Actuarial Mem. at 8.
[15] Id. at 7.
[16] Id. at 2.

between the ordered and actual profit is even larger than detailed in the Lewis and Ellis memorandum.

Lastly, as described in Section II.A above, there is concrete evidence from reliable sources that Vermonters cannot afford CHLIC's profit assumption. This evidence contrasts with the lack of evidence CHLIC presents to support its 2% profit assumption, a burden of proof CHLIC bears pursuant to Board rule.[17]

Given the extent of the access issues facing Vermonters that we detail above and both the lack of solvency concerns, the overestimated "reasonable" CTR range, and the failure of CHLIC to support its profit assumption, the Board should order a 0% profit assumption.

III. Conclusion

For the reasons stated above and detailed elsewhere in this matter's record, the Board should :

- Reduce the rate by 2.6 percentage points as recommended by Lewis and Ellis[18];
- reduce the rate by 1 percentage point, because the proposed rate is not affordable, does not promote access, and CHLIC failed to provide any evidence on these statutory criteria thereby failing to carry its burden of proof;
- order CHLIC to reduce its profit to 0 percentage points, because the proposed profit is not needed to ensure CHLIC's solvency, 0 percentage point profit is actuarially "reasonable", and because CHLIC consistently realizes a higher profit than ordered by the Board.

Implementation of the above reductions would result in a final rate increase of 5.9%.

---

[17] Code Vt. R. 80-280-002, GMCB Rule 2.104(c).
[18] GMCB-010-24rr, Lewis & Ellis Actuarial Mem. at 8.

Dated in Rutland, Vermont, this 9th day of December 2024.

/s/ Charles Becker
Charles Becker, Esq.
Office of the Health Care Advocate
Vermont Legal Aid
1085 U.S. Route 4, Suite 1A
Rutland, VT 05701
Voice (802) 775-0021 ext. 435
HCAratereview@vtlegalaid.org

/s/ Eric Schultheis
Eric Schultheis, Ph.D., Esq.
Office of the Health Care Advocate
Vermont Legal Aid
56 College Street
Montpelier, VT 05602
Voice (802) 223-6377 ext. 325
HCAratereview@vtlegalaid.org

CERTIFICATE OF SERVICE

I, Charles Becker, hereby certify that I have served the above HCA Memorandum in Lieu of Hearing on Michael Barber and Laura Beliveau at the Green Mountain Care Board; and upon Allison Behrens, CHLIC representative of record, by electronic mail, delivery receipt requested, this 9th day of December 2024.

/s/ Charles Becker
Charles Becker
Staff Attorney
Office of the Health Care Advocate
Vermont Legal Aid
1085 U.S. Route 4, Suite 1A
Rutland, VT 05701