STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re:	CIGNA Health and Life Insurance Company 2019 Large Group Manual Rate Filing	))))	GMCB-001-19rr SERFF No.: CCGP-131695464

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 of receipt. 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 February 7, 2019, CIGNA Health and Life Insurance Company (CHLIC or "the carrier") submitted its 2019 Large Group Manual Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF). The carrier amended the filing during the Board's review after acknowledging that the 2018 rates it used in determining the initial requested rate increase were not the final approved 2018 rates.

On February 14, 2019, 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 March 21, 2019, the Vermont Department of Financial Regulation (DFR) filed its analysis regarding the filing's impact on the carrier's solvency. And, on April 8, 2019, 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 April 24, 2019; no members of the public provided comment. The parties waived hearing and filed memoranda 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.

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[1] The contents of the SERFF filing and all documents referenced in this Decision and Order can be found at https://ratereview.vermont.gov/CCGP-131695464.

2. This filing updates CHLIC's large group manual rating methodology[2] 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, as well as Pharmacy products. L&E Memo at 1.

3. The overall proposed rate impact to the current manual rates was -3.6% in the initial submission. During the Board's review, CHLIC acknowledged an error in the filing; the 2018 rates it used in determining the initial requested rate increase were not the final approved rates. After correcting the error, the restated overall proposed rate impact is 0.2% ($1.23 PMPM). The revised rate change ranges between -3.1% (-$17.29 PMPM) and 6.0% ($33.46 PMPM) for five policyholders with a total of 534 members. L&E Memo at 1.

4. The proposed rate change consists of three major components: 1) rating variables, 2) trend, and 3) experience. The rating variables include medical area factors, medical trend, pharmacy area factors, and pharmacy trend. The "area factors" represent the relative cost of providing medical and pharmacy services in Vermont compared to the national average, while trend factors represent the changes in cost and utilization of medical and pharmacy services and products. L&E Memo at 2.

5. The rating variable changes are weighted between Vermont and non-Vermont residents and between medical and pharmacy trend factors, and are approximately 5.7% lower than in CHLIC's previous filing (Docket No. GMCB-001-18rr), due to a substantially lower cost of providing medical and pharmacy services in Vermont compared to the national average and a lower medical trend based on lower projected utilization. L&E Memo at 4-5.

6. The trend component represents an increase of 7.3%, which is a weighted average (81/19) of the medical and pharmacy trends approved in CHLIC's previous filing – a 6.8% medical trend, weighted at 81%, and a 9.4% pharmacy trend, weighted at 19%. L&E Memo at 7.

7. For the experience component, the carrier utilized a projected medical loss ratio (MLR) of 87.2% with a total retention of 12.8%, an increase from the previously approved MLR of 86.4% in the prior filing. The rate impact of MLR changes is -0.9%. To support its MLR calculation, CHLIC provided a breakdown of the 12.8% in proposed retention expenses, which include 5.5% in administrative expenses, 3.7% for federal and state fees, taxes and assessments, 0.1% for optional buy-ups, and a 3.5% profit level assumption. Federal fees include the return of the Health Insurance Industry Fee, which CHLIC assumes will be 2.5% of premium,[3] and which will be applied to accounts for coverage that extends to months in calendar year 2020. L&E Memo at 7.

[2] A manual rate is a baseline rate structure that a carrier will blend with a specific group's claims experience to produce the group's actual rates. Its weight in calculating rates for a specific group will vary according to group size and actuarial credibility.

[3] The assumed impact of 2.5% includes additional taxes CHLIC will incur as a result of the fee. *See* Response to Objection Letter #2 at 5.

8. 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 Connecticut regulators expressed no concerns about the carrier's solvency. Further, because the company's Vermont business accounts for less than one percent of its total premiums earned in 2018, DFR opined that CHLIC's Vermont operations pose little threat to its solvency. DFR concluded that the rates as filed will likely have the impact of maintaining the carrier's current level of solvency, absent a finding by L&E that the rates are inadequate. DFR Solvency Opinion at 2.

9. On review, L&E recommends that the Board reduce the carrier's profit level assumption to 2.0%, which is more consistent with other Vermont market participants. L&E reviewed CHLIC's Supplemental Health Care Exhibits, which indicate actual profit levels of 13.2% in 2014, 5.6% in 2015, 1.3% in 2016, -19.8% in 2017, and 5.2% in 2018, but given the volatile results and the fact that Cigna's enrollment is very low (approximately 500 lives), L&E determined that the financial statement data alone is not considered a reliable source for setting the profit level assumption. L&E Memo at 8.

10. CHLIC asks the Board to approve the rates as filed. CHLIC Memorandum in Lieu of Hearing. In response to L&E's interrogatories, CHLIC incorporated by reference the position it has taken in previous filings (Docket No. GMCB-001-16rr): that the Board has authority to modify a rate but cannot modify a component of the rate; that MLR provisions in the Affordable Care Act (ACA) are the appropriate mechanism to control an insurer's profitability; that CHLIC's small Vermont membership makes it "vulnerable to a high level of claim volatility"; and that reducing its profit level could lead to rates that are inadequate. Response to Objection Letter #1 at 7 (citing GMCB-001-16rr, Cigna Response Memo (March 23, 2016)).

11. On April 23, 2019, the HCA filed a Memorandum in Lieu of Hearing in which it objects to CHLIC's proposed rate, arguing that CHLIC has not demonstrated that the proposed rate is affordable, promotes access to care, promotes quality care, is not unfair, unjust, inequitable or misleading, and is not excessive, inadequate, or unfairly discriminatory. Furthermore, the HCA objects to CHLIC's requested profit margin of 3.5%, which the HCA believes to be excessive and unreasonable. The HCA proposes that the Board reduce CHLIC's profit margin from 3.5% to a maximum of 1% and decrease the overall rate by at least 0.5% in response to "CHLIC's consistent inability to manage its profits to the Board ordered profit margin." HCA Memorandum in Lieu of Hearing at 6.

12. On April 26, 2019, CHLIC filed a reply to the HCA's Memorandum in Lieu of Hearing. In response to the HCA's assertion that CHLIC has demonstrated a consistent inability to manage its profits to the Board-ordered profit margin, CHLIC argues that its "combined 2015-2018 profit margin was 1.2% - which is extremely close to the mandated 1% profit despite the expected large volatility." In response to the HCA's assertion that the rate is not affordable, CHLIC argues that the requested overall rate increase of 0.2% is well below the rate of inflation and below overall wage growth in Vermont. Finally, in response to the HCA's assertion that the rate does not promote access to care, CHLIC asserts that the breadth of its network and the affordability of its coverage provides its customers with access to high quality of care. CHLIC Reply Memorandum.

Standard of Review

The Board reviews rate filings to ensure that 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 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 first agree with and adopt our actuary's opinion that the rating variables and trend adjustments utilized by the carrier are appropriate and actuarially reasonable. CHLIC's area factors indicate that the cost of medical and pharmacy services in Vermont is substantially lower than the national average. Finding of Fact (Finding) ¶ 5. This a positive sign that our regulatory oversight and scrutiny of proposed insurance rates exerts downward pressure on costs that are ultimately borne by Vermont consumers.

Turning to the issue of CHLIC's requested profit level assumption, we again reject (for the fourth time) its position that the Board is powerless to modify individual components of the rate. The rate review process requires flexibility "to accomplish the Legislature's goals of . . . financing healthcare in a way that is 'fair, predictable, transparent, [and] sustainable.'" *In re MVP Health Insurance Co.*, 2016 VT 111, ¶ 16 (quoting 18 V.S.A. § 9371(11)). We could not reasonably assess – nor could our actuary adequately review and formulate an opinion on – a rate proposal without analysis of each of its constituent parts. Further, our rate review program and Vermont's designation as an "effective rate review" state under the ACA require that we perform an analysis of individual rating components. *See* 45 C.F.R. § 154.301(a)(4) (listing factors state regulators must consider when reviewing a rate change, including "the impact of changes on reserve needs").

We also conclude that reducing the carrier's profit level assumption in this filing will not threaten the filing entity or the parent company's solvency. We support this conclusion on several bases, including the small size of this particular block of business, which accounts for approximately 500 members and represents only a tiny portion of company-wide membership and paid premium. Findings ¶¶ 8-9. We also question the validity of the carrier's assertion that reducing the profit level assumption in this filing will produce inadequate rates; CHLIC has consistently requested a 3.5% profit level assumption in each successive filing since 2015 – contending it is needed to ensure that rates are adequate – yet despite repeated reductions to profit level assumption ordered by the Board, has with each filing achieved actual profit levels in excess of those approved, with the exception of 2017. *See* Finding ¶ 9; Docket Nos. GMCB-01-18rr (Board orders profit level assumption reduced from 3.5% to 1%; actual profit level was 5.2%); GMCB-01-17rr (Board orders profit level assumption reduced from 3.5% to 2%; actual profit level was -19.8%); GMCB-001-16rr (Board orders profit level assumption reduced from 3.5% to 1%; actual profit level was 1.3%); GMCB-006-15rr (Board orders profit level assumption reduced from 3.5% to 1.0%; actual profit level was 5.6%); GMCB-007-14rr (Board orders profit level assumption reduced from 3.0% to 1.0%; actual profit level was 13.2%). Accordingly, we again modify the filing and reduce the carrier's profit level assumption to 1.0%, as we have done in past filings. We conclude that, as modified, the resulting rates meet statutory requirements and better promote affordability and access to care for Vermont policyholders.

Finally, we note that the rate increase is impacted by the expected return of the Health Insurance Industry Fee in 2020, which CHLIC assumes will be 2.5% of premium, and which will be applied to accounts for coverage that extends to months in calendar year 2020. Findings ¶ 7. We approve this component of the rate on the condition that CHLIC is required to collect the fee in 2020. If collection of the fee is suspended again for 2020, we require CHLIC to adjust its rates accordingly.

Order

For the reasons discussed above, the Board modifies CHLIC's 2019 Large Group Manual Rate Filing by reducing the profit level assumption from 3.5% to 1.0%. We thereafter approve the filing, resulting in an average annual rate **decrease** of approximately 2.4%.

SO ORDERED.

Dated: May 9, 2019 at Montpelier, Vermont

s/ Kevin Mullin, Chair)
)
s/ Jessica Holmes) GREEN MOUNTAIN
) CARE BOARD
s/ Robin Lunge) OF VERMONT
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s/ Maureen Usifer)
)
s/ Tom Pelham)

Filed: May 9, 2019

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: 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, if any, must be filed with the Board within ten days of the date of this decision and order.