STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Insurance Company December 2014 Agriservices Association Rate Filing	))))	GMCB-019-14rr SERFF No.: MVPH-129640114

DECISION & ORDER

Introduction

Vermont law requires that health insurers submit major medical rate filings to the Green Mountain Care Board which shall approve, modify, or disapprove the filing within 90 calendar days of its receipt. 8 V.S.A. § 4062(a)(2)(B). 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).

Procedural History

On July 25, 2014, MVP Health Insurance Company (MVPHIC) submitted its December 2014 Agriservices Association Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF). http://ratereview.vermont.gov/sites/dfr/files/019_14rr_SERFF_9_19_14.pdf. The Office of the Health Care Advocate (HCA), representing the interests of Vermont consumers of health insurance, entered an appearance as a party to this rate filing.

On September 23, 2014, the Board posted to the web an actuarial memorandum provided by its contract actuaries, Lewis & Ellis (L&E), and the Vermont Department of Financial Regulation's (Department) analysis and opinion regarding the impact of the proposed filing on the insurer's solvency. *See* http://ratereview.vermont.gov/sites/dfr/files/GMCB_019_14rr_Actuarial_Memo2.pdf (L&E Memo); http://ratereview.vermont.gov/sites/dfr/files/GMCB_019_DFR%20Solvency_Opinion.pdf (DFR Solvency Analysis). The Board received no comments during the public comment period that ran from July 28 through October 8, 2014.

The parties have waived a hearing pursuant to GMCB Rule 2.000 and each has filed a memorandum in lieu of hearing.

Findings of Fact

Nature of the Filing

1. Agriservices is an association comprised of two divisions, Dairymen and Agriservices Association. The premiums proposed in this filing are for one full year with an effective date of December 1, 2014.

2. MVPHIC is a for-profit New York health insurer that provides PPO and EPO products to individuals and employers in the small and large group markets in New York and Vermont. MVPHIC is owned by MVP Health Care, Inc. (MVP), a New York corporation that transacts health insurance business in New York and Vermont through a variety of for-profit and non-profit subsidiaries.

3. The arrangement between MVPHIC and Agriservices is a minimum premium contract. Under this arrangement, Agriservices pays its own claims up to 115% of expected claim liability, and MVPHIC provides administrative services and stop loss insurance for individual claims in excess of $200,000.

4. Agriservices offers five health plan options to its members. This filing affects one subscriber and 1,371 covered lives.

5. MVPHIC states that Agriservices is a "grandfathered[1] association" and that it has consulted with DFR which has confirmed that it may "continue to exist" as a grandfathered entity. *See* MVPHIC's Memorandum in Lieu of Hearing at 3, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_019_14rr_MVP_Memo.pdf ("we were told that an association can continue to exist . . . if it qualifies for grandfathered status [and] we confirmed with [DFR employee] Phil Keller last week that that interpretation continues.")

6. MVPHIC submitted this filing through SERFF as a Large Group filing, as it has in the past, using sub-TOI (type of insurance) code H16G.002A.[2]

7. Last year, the Board reviewed Agriservices' December 2013 rate filing and reduced the requested 5.1% average annual rate increase to 3.6%. *See* Docket no. GMCB 028-13-rr, *available at* http://gmcboard.vermont.gov/sites/gmcboard/files/028_13rrDecision.pdf. As a business decision, Agriservices chose to apply the 3.6% increase across all plan options, rather than vary increases based on plan relativities. Agriservices also advised the Board that its membership would thereafter migrate to Vermont Health Connect (the Exchange), and the Board would not be asked to review another Agriservices filing. *See* MVPHIC Health Care's Memorandum in Lieu of Hearing, Docket no. 028-13-rr at 1, *available at* http://gmcboard.vermont.gov/sites/gmcboard/files/028_13rr_MVPMemo.pdf ("This will be the last such filing, as starting in December of 2014, Agri Service members will have to

[1] To qualify as a grandfathered plan, a health plan must have been in effect on or before March 23, 2010, and have not been materially changed to reduce benefits or employer contributions since that time. Grandfathered plans are exempt from many changes required under the Affordable Care Act. 45 CFR 147.140

[2] Sub-TOI H16G.002A is described as "[a] major medical contract that may be issued only to "large groups" as that term is defined in the state in which the contract will be delivered." *See* Uniform Life, Accident & Health, Annuity and Credit Product Coding Matrix, *available at* http://www.naic.org/documents/industry_pcm_lahac.pdf.

purchase insurance coverage through the Exchange"); *see also* Department of Financial Regulation Recommendation for Modification and Approval of MVPHIC Agri Services December 2013 Rate Filing at 2; *available at* http://gmcboard.vermont.gov/sites/gmcboard/files/028_13rrComRec.pdf ("After December 1, 2014, Agri Service members will purchase their health insurance through the online health benefit exchange.")

8. On October 21, 2014, MVPHIC, the HCA and Todd W. Martin, an attorney for Agriservices, participated in a phone conference to discuss the association's current filing status. According to Martin, Agriservices plan members are also members of the Dairy Farmers of America, a dairy cooperative. Cooperative members are not required to purchase their insurance from Agriservices, and because this is the final year that Agriservices will offer these insurance plans,[3] no new members may purchase coverage. Further, once a member drops coverage, his or her eligibility to purchase health insurance from Agriservices ceases.

Summary of the Data and Analysis

9. MVPHIC used as a base experience period incurred claims from April 1, 2013 through March 31, 2014 and paid through May 31, 2014. The experience period claims, minus those in excess of $200,000, were projected forward to the rating period using an 8.5% medical trend and a 4.8% prescription drug trend assumption.

10. MVPHIC adjusted the projected claims to account for a 2.7% stop loss fee, approximately 0.5% for fees and surcharges, 11.75% in retention costs (including a 2.0% contribution to surplus, 9.5% in administrative expenses, and 0.25% in bad debt service fees), 2.0% in premium taxes, and 2.0% for federal insurer tax. In addition, premiums were increased by $3.80 PMPM for transitional reinsurance and $0.17 PMPM for Patient Centered Research Fee.

11. MVPHIC's actual administrative expenses, as shown on its Supplemental Health Care Exhibits for 2010-2013, exceed its requested 9.5% assumed administrative expense, and range from 10.0% to 11.3%.

12. In this filing, MVPHIC incorporated revised benefit relativity factors[4] to develop expected claim liability by plan option. Agriservices has not updated its relativities between plans since 2010; as a

[3] Although Agriservices had represented that its December 2013 filing was its last, *see* ¶ 7, above, Agriservices cites to a Center for Consumer Information & Insurance Oversight (CCIIO) extension allowing insurers to continue certain non-ACA compliant plans in support of this additional filing.

[4] A benefit relativity factor is a multiplier that an insurer uses to deviate the cost of a particular plan from a base or benchmark plan, based on the richness of its benefits.

result, the premium rates for HDHP products have historically been lower than reflected in expected claim liabilities, and higher than reflected in expected claims liabilities for non-HDHP products.

13. Because enrollment has shifted towards high deductible plans with a larger benefit relativity correction, the aggregate premium increase of 16.0% is higher than the expected claim liability increase of 12.9%.

14. Were the carrier to fully implement the benefit relativity correction, the average change in rate from the last annual filing would range from -2.3% to 39.7%, with approximately 38% of the total enrollment seeing an aggregate increase of 39.7%. To mitigate anti-selection,[5] Agriservices modified some of its plan options, resulting in a rate change range of 0.1% to 31.7%. With this adjustment, approximately 38% of enrollment will see a 25.8% increase.

15. On September 18, 2014, the Department issued an opinion and analysis of the impact of this rate filing on MVPHIC's solvency. Noting that it is not the primary regulator of MVPHIC and that it has conferred with the company's primary regulators in New York State, DFR concluded that MVPHIC's Vermont operations pose very little risk to the company's overall solvency. DFR Solvency Analysis at 2.

16. The HCA opposes the requested rate increase, which it considers unaffordable when measured against other trends and standards. More specifically, the HCA maintains that MVPHIC should reduce its administrative expenses, that it has failed to utilize the most current medical and pharmacy trends, that its proposed contribution to surplus should be reduced to 0.5% or to 1.0%, and that the Board should order MVPHIC to include language in its billing statement indicating that certain charges for services provided by Agriservices are not reviewed by the Board, and are therefore not part of the "rate." HCA Memorandum in Lieu of Hearing, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_19_14rr_HCA_Memo.pdf.[6]

Standard of Review

1. The Board reviews rate filings to ensure that rates are that they are affordable, promote quality care and access to health care, protect insurer solvency, and are not unjust, unfair, inequitable,

[5] Anti-selection is created by the tendency of low-risk members to enroll in less generous plans with lower premiums, and high-risk members to enroll in more generous plans despite higher premiums

[6] The HCA also argued that this filing, as submitted by MVPHIC, potentially limited members' eligibility for cost sharing and premium tax subsidies. At our request, the HCA filed a supplemental memorandum outlining its position. *See* HCA Response to Request for Information, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_019_14rr__HCAmemoFollowUp.pdf. During the October 21 phone conference, however, Agriservices confirmed that members choosing not to renew coverage will be no longer eligible to do so. *See* Finding of Fact ¶ 8. This confirmation appears to have resolved the HCA's concern.

misleading or contrary to Vermont law. 8 V.S.A. § 4062(a)(2); GMCB Rule 2.000, *Rate Review*, §§ 2.301(b), 2.401. In addition, the Board 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).

2. As part of its review, the Board will consider the Department of Financial Regulation's analysis and opinion on the impact of the proposed rate on the insurer's solvency and reserves. 8 V.S.A. § 4062(a)(2), (3). In addition, the Board shall consider any comments received on a rate filing. Rule 2.000, §2.201.

3. The burden falls on the insurer proposing a rate change to justify the requested rate. *Id*. § 2.104(c)

Conclusions of Law

4. As an initial matter, we accept MVPHIC's confirmation that this is Agriservices' final rate filing, and that members who choose not to renew their policies at this time are no longer eligible for Agriservices' coverage at any future date. The HCA sought this confirmation to ensure that plan members would not be limited in their access to federal subsidies as they migrate to coverage through Vermont Health Connect.

5. Next, we decline to order a reduction in MVPHIC's administrative expenses at this time. As discussed in L&E's analysis of the filing, the company's actual administrative costs have exceeded the assumed administrative expense of 9.5% since at least 2010. *See* L&E Memo at 5.

6. In addition, we do not agree that MVPHIC should recalculate its rates using a different medical trend. Contrary to the HCA's assertion, the carrier has not utilized third and fourth quarter 2014 trends in its rate development. *See* HCA Memorandum in Lieu of Hearing at 2. Rather, because MVPHIC projects the trend forward from the midpoint of the experience period to the midpoint of the projection period, the trend utilized incorporates previously approved trends for 2013 and 2014, in addition to the proposed 2015 trend. Our actuaries have reviewed MVPHIC's trend calculations on our behalf and find no error.

7. Next, in light of the nominal impact of this filing on MVPHIC's financial health and the limited duration of these plan offerings, we conclude that a 1.0% contribution to surplus is sufficient and reasonable at this juncture. This reduction to the contribution to surplus is consistent with our MVP Vermont Health Connect Rate Filing decision. *See* Docket no. GMCB 017-14rr, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_017_14_rr_Decision.pdf.

8. We also again require, as we have in past Agriservices decisions, that MVPHIC provide adequate and conspicuous notification on members' billing statements of any charges that are in addition to those reviewed and approved by the Board.[7]

9. Finally, although the requested rate increase outpaces other measures of growth in the economy, our actuaries have opined that the filing is actuarially sound. We therefore approve this filing with the recognition that Agriservices members may choose to renew their coverage for another year notwithstanding the rate increase, and with the understanding that this is our last review of an Agriservices filing. It is also our understanding that Agriservices must notify its members that their plans will no longer be available once this coverage period has ended.

Order

For the reasons discussed above, the Board modifies the Agriservices 2014 rate filing by reducing the contribution to surplus from 2.0% to 1.0%, and then approves the filing.

So ordered.

Dated: October 23, 2014 at Montpelier, Vermont

s/ Alfred Gobeille)

s/ Cornelius Hogan) GREEN MOUNTAIN
) CARE BOARD
s/ Allan Ramsay) OF VERMONT
)
s/ Betty Rambur)

Board member Jessica Holmes, appointed to the Board on October 8, 2014, did not take part in this decision.

Filed: October 23, 2014

Attest: s/ Janet Richard
Green Mountain Care Board, Administrative Services Coordinator

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: Janet.Richard@state.vt.us).
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.

[7] Per the Board's request, MVPHIC provided the Board a sample billing statement that meets this requirement by breaking out the approximate 11.0% in Agriservices charges which are not part of the "rate."