STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc. First Quarter 2015 and Second Quarter 2015 Large Group HMO Rate Filing	)))))	GMCB-023-14rr SERFF No.: MVPH-129682581

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 August 15, 2014, MVP Health Plan, Inc. (MVPHP) submitted its First Quarter 2015 (1Q15) and Second Quarter 2015 (2Q15) Large Group HMO Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF). http://ratereview.vermont.gov/sites/dfr/files/GMCB_023_14rr_SERFF_10_16_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 October 13, 2014, the Board posted to the web 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_023_14rr_Solvency_Analysis.pdf (Solvency Analysis). The Board did not request that its contract actuaries, Lewis & Ellis (L&E), provide an actuarial memorandum in this filing, and thus, none was posted. The Board received no comments during the public comment period that ran from August 16 through October 29, 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

1. MVPHP is a non-profit health insurer domiciled in New York and licensed as a health maintenance organization (HMO) in New York and Vermont. MVPHP is a subsidiary of MVP Health

Care, Inc., a New York corporation that transacts health insurance business through a variety of for-profit and not-for-profit subsidiaries.

2. This filing proposes the manual rate for MVPHP's large group HMO products. A manual rate is the insurer's published rate for a unit of insurance and is based on average claims data from a large number of groups.

3. This filing proposes a 5.5% annual rate increase for the three members and 245 covered lives – representing 96.7% of this book of business – covered by this filing, all of whom are renewing in 1Q15.

4. As we have previously noted, this is a deteriorating block of business, with many members migrating to EPO/PPO products. *See* MVP Health Plan, Inc. Third Quarter 2014 and Fourth Quarter 2014 Large Group HMO Rate Filing, Docket no. GMCB 011-14rr at 3, Conclusion of Law ¶ 1(citing "low membership and high volatility" of this block of business), *available at* http://ratereview.vermont.gov/sites/dfr/files/011_14rr_Final_Decision.pdf. Based on our past reviews of this filing and the nature of this block of business, the Board did not request that L&E provide an actuarial memorandum in this matter.

5. Applying a 0% utilization trend to its medical data, MVPHP calculated a 4.9% medical trend. For its pharmacy trend, the carrier used the trend factors supplied by its pharmacy vendor to reflect its best estimate; it then then adjusted its specialty drug trend upward to account for the impact of the Sovaldi, a high cost drug used in the treatment of chronic hepatitis C.

6. MVPHP proposes retention expenses that include 9.5% for general administrative expenses and 2.0% as the contribution to surplus.

7. The Department of Financial Regulation, noting that it is not the primary regulator of MVPHP, "has determined that MVPHP's Vermont operations pose very little risk to its solvency, or to the solvency of MVP Holding Company." Solvency Analysis at 2.

8. The HCA requests that the Board make two modifications to the filing. First, it requests that the Board require the carrier to use the pharmacy trend approved in MVPHP's Vermont Health Connect Rate filing, which the Board found was more representative of the actual pharmacy trend in the Vermont marketplace. *See* MVP Health Plan, Inc. Vermont Health Connect Rate Filing, Docket no. GMCB 017-14-rr at 9-10, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_017_14_rr_Decision.pdf.

9. Second, the HCA requests that the Board reduce the contribution to surplus from 2.0% to 1.0%, taking into consideration DFR's analysis of the company's financial health.

10. MVPHP requests that the rates be approved as filed, and objects to any modifications made to the filing absent a written actuarial opinion from the Board's actuaries. In its memorandum, MVPHP "express[es] its concerns about any role that L&E might have played or will play in the GMCB's decision . . . MVPHP has no way of knowing what contact L&E has had with GMCB staff during their analysis of this filing, or whether a verbal opinion was given to the GMCB." MVPHP Health Care's Memorandum in Lieu of Hearing at 1-2, *available at* http://ratereview.vermont.gov/sites/dfr/files/GMCB_023_14rr_MVP_Memo.pdf.

Standard of Review

1. Vermont law provides that rates submitted by a health maintenance organization must not be "excessive, inadequate or unfairly discriminatory," must protect insurer solvency, meet standards of affordability, promote quality care and access to health care, and cannot be unjust, unfair, inequitable, misleading or contrary to Vermont law. 8 V.S.A. §§ 5104(a)(2); 4062(a)(2); GMCB Rule 2.000, *Rate Review*, §§ 2.301(b), 2.401.

2. In arriving at its decision, the Board will also consider changes in health care delivery, changes in payment methods and amounts, and other issues at its discretion, 18 V.S.A. § 9375(b)(6), any public comments received on a rate filing, GMCB Rule 2.000, § 2.201, and the Department'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).

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

Conclusions of Law

1. As an initial matter, the Board is not required to obtain a written actuarial memorandum in each and every filing. When the Legislature amended 8 V.S.A. § 4062 in 2013, it gave the Board the discretion to use a consulting actuary in its review of rate filings, signaling the discretionary nature of the decision to engage a consulting actuary by modifying every reference to the consulting actuary with the words "if any." *See* 8 V.S.A. § 4062(c)(2) (allowing public comment "until 15 calendar days after the Board posts on its website the analyses and opinions of the Department of Financial Regulation and of the Board's consulting actuary, if any"); *id.* § 4062(c)(3) (HCA may submit "suggested questions regarding the filing for the Board to provide to its contracting actuary, if any"); *id.* § 4062(d)(1) (requiring the Board, not more than 60 days after receiving a filing, to make available to the public the rate filing, the Solvency Analysis, "and the analysis and opinion of the rate filing by the Board's

contracting actuary, if any"); *id.* § 4062(d)(2)(A)-(B) (requiring Board to post questions and responses among the insurer, the Board and "its consulting actuary, if any"); *id.* § 4062(e)(1)(A) (requiring Board to its "consulting actuary, if any" as a hearing witness). By contrast, the words "if any" do not appear in connection with any of the references to the Solvency Analysis. *See, e.g.,* § 4062(c)(2), (d)(1), (e)(1)(A). The Legislature therefore gave the Board the discretion to determine which rate filings warrant review by the Board's contract actuary, Lewis & Ellis. This case represents an appropriate exercise of that discretion, given the Board's experience reviewing previous, related filings and the need to conserve resources whenever possible.

2. In order to maintain consistency with all MVP filings that are for products renewing or enrolling in the first and second quarter of 2015, the Board modifies the 1Q15 and 2Q15 Large Group HMO prescription drug trend to reflect the trend that was approved in the 2015 MVP Vermont Health Connect Rate Filing, as suggested by the HCA. This is consistent with past decisions. *See* docket no. GMCB-020-14rr and GMCB-021-14rr *available at*: http://ratereview.vermont.gov/sites/dfr/files/GMCB_020_14rr_Decision.pdf and http://ratereview.vermont.gov/sites/dfr/files/GMB_021_14rr_DecisionFinal.pdf.

3. Next, we reduce MVPHIC's contribution to surplus from 2% to 1%, for two reasons. First, as the Solvency Analysis explains, the carrier's Vermont operations pose very little risk to its solvency, or to the solvency of MVP Holding Company. Solvency Analysis at 2. Second, this change makes the rates more affordable for Vermonters, who are most directly affected by health care premium increases. Where, as here, we can lessen the impact to Vermont ratepayers without harming the solvency of the carrier, we have consistently taken that route. *See, e.g.,* In re: MVP Health Plan, Inc. 2015 Vermont Health Connect, Docket no. GMCB-017-14rr, at 14.

Order

For the reasons discussed above, the Board modifies MVPHIC's 1Q15 and 2Q15 Large Group HMO Rate filing to reflect the pharmacy trend that we approved for MVP's 2015 Vermont Health Connect Rate filing and a 1.0% reduction in the requested contribution to surplus and then approves the filing.

So ordered.

Dated: November 13, 2014 at Montpelier, Vermont

s/ Alfred Gobeille	)	
	)	
s/ Allan Ramsay	)	GREEN MOUNTAIN
	)	CARE BOARD
s/ Betty Rambur	)	OF VERMONT
	)	

Board members Cornelius Hogan and Jessica Holmes did not participate in this decision.

Filed: November 13, 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.