STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: CIGNA Health and Life Insurance Company 2020 Large Group Manual Rate Filing	))))	GMCB-001-20rr SERFF No.: CCGP-132206853

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. 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 March 18, 2020, CIGNA Health and Life Insurance Company (CHLIC or "the carrier") submitted its 2020 Large Group Manual Rate Filing to the Board via the System for Electronic Rate and Form Filing (SERFF).

On March 19, 2020, 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 May 11, 2020, the Vermont Department of Financial Regulation (DFR) submitted its analysis regarding the filing's impact on the carrier's solvency. And, on May 18, 2020, 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 June 2, 2020; no members of the public provided comment. The parties waived their rights to a 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.

[1] The contents of the SERFF filing and all documents referenced in this Decision and Order can be found at https://ratereview.vermont.gov/cigna-gmcb-001-20rr.

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 proposed rate change ranges between -0.4% (-$2.18 PMPM) and 30.8% ($167.67 PMPM) and would have an overall impact to the current manual rates of 15.0%. According to the filing, which was based on data on CHLIC's large group book of business as of 2018, there are seven policyholders and a total of 798 members in Vermont who will be affected by the filing. L&E Memo at 1. However, because CHLIC's book of business saw considerable membership growth from 2018 to 2019, the number of impacted policyholders and members has increased. *See* Responses to GMCB Questions (May 20, 2020), 4-5. As shown in CHLIC's 2019 Supplemental Health Care Exhibit (SHCE), CHLIC has 9 Vermont fully insured policyholders representing 1,518 customers. CHLIC Reply Memorandum, 1.

4. The proposed rate change consists of changes to three major components: 1) rating variables, 2) trend, and 3) expenses. The rating variables include medical area and pharmacy area factors, and trend includes medical and pharmacy trends. The "area factors" represent the relative cost of providing medical and pharmacy services in Vermont compared to the national average, where area factors below 1.0 represent lower costs than the national average and area factors above 1.0 indicate higher costs than the national average. L&E Memo at 6. The trend factors represent projected changes in cost and utilization of medical and pharmacy services and products. *See* L&E Memo at 2-3.

5. The rating variable changes are approximately 0.8% higher than in CHLIC's previous filing (Docket No. GMCB-001-19rr), however, Vermont costs remain slightly lower than national. L&E Memo at 5-6. The rating variable changes are calculated as the weighted average of the medical area factor change (a decrease of 0.7%) and the pharmacy area factor change (an increase of 8.0%), where the split between medical and pharmacy is 83% and 17%, respectively. L&E Memo at 2-3. L&E found that the medical and pharmacy area changes appear to be reasonable and appropriate. L&E Memo at 6.

6. The trend component of the proposed rate change represents an increase of 6.5%, which is a weighted average (83/17) of the medical and pharmacy trends – a 6.4% medical trend (weighted at 83%) and a 6.8% pharmacy trend (weighted at 17%). L&E Memo at 6. L&E found that the medical trend assumptions appear to be reasonable and appropriate. L&E Memo at 7. In response to inquiries by L&E, CHLIC provided that pharmacy trends are the weighted blended values of all the formulary trends (set at the national level), and that the trends are composed of several pieces, including cost trends and utilization trends. Responses to Objection Letter #2 (Apr. 15, 2020), 4-5; Responses to Objection Letter #1 (Apr. 8, 2020), 10-11.

7. The past two years of Vermont observed, normalized, pharmacy PMPM trends for FY2018 and FY2019 were 7.3% and 4.8%, respectively. L&E Memo at 7; Responses to

[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.

Objection Letter #2 (Apr. 15, 2020), 7. An equally weighted average of these two years results in an observed average trend of 6.1%. L&E Memo at 7. L&E found that while the proposed pharmacy trend assumption is slightly higher than the two-year average, it does not appear unreasonable given the FY2018 pharmacy trend level. L&E Memo at 7.

8. For the expenses component of the proposed rate change, CHLIC provided a breakdown of the 16.4% retention load compared to last year's 10.4% retention load. The 16.4% includes 6.3% in administrative expenses, 6.4% for federal and state fees, taxes and assessments, 0.2% for optional buy-ups, and a 3.5% profit level assumption.[3] Federal fees include the return of the Health Insurance Industry Fee (HIF) in 2020, which was suspended for calendar year 2019 and is expected to be 0.0% in 2021. The HIF is assumed to be 2.5% for the remainder of calendar year 2020 and 0.0% for calendar year 2021. The rate impact of the expense change is 7.1%. L&E Memo at 7-8. CHLIC explained its request for a 1% increase for its administration expenses as being driven by cost inflation and added provider fees, including a behavioral health access fee and medical management which had not been included in prior filings. L&E Memo at 4; Responses to Objection Letter #1 (Apr. 8, 2020), 6.

9. L&E determined that all changes to the retention appear reasonable and appropriate, with the exception of the contribution to reserve/profit, noting that the proposed contribution to reserve/profit level (3.5%) is consistent with the contribution to reserve/profit assumption requested in the prior filing but not consistent with the contribution to reserve/profit assumption ordered by the Board in the prior filing (1%). L&E Memo at 8-9.

10. CHLIC's projected large group medical loss ratio (MLR) for 2020 is 83.6%. CHLIC Actuarial Memorandum, 2; Responses to Objection Letter #1 (Apr. 8, 2020), 9. CHLIC's MLR for 2019 was 89.6%. *See* SERFF Tracking #: CCGP-132206853, *Vermont Filing Summary*.

11. In response to questions from the Board regarding the impact of the COVID-19 pandemic, CHLIC stated its best estimate is that utilization dampening will continue through the second quarter of 2020 and then be offset by increased utilization in the second half of 2020. However, due to the uncertainty around the impact of COVID-19, CHLIC was not able to make any further estimates around utilization changes. Responses to Board Questions #1 (May 18, 2020), 3.

12. 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 2019, 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.

[3] The 10.4% retention load included 5.3% in administrative expenses, 4.0% for federal and state fees, taxes and assessments, 0.1% for optional buy-ups, and a 1.0% profit level assumption.

13. L&E recommends that the Board reduce CHLIC's profit level assumption to 2.0%, which is more consistent with other Vermont market participants. L&E reviewed CHLIC's SHCE, and despite Board-approved profit assumptions of 1% or 2% in recent years, the SHCEs indicate actual profit levels of 10% in 2016, -18% in 2017, 5% in 2018, and -2% in 2019. Given the volatile results and the fact that Cigna's enrollment is very low (approximately 800 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.

14. In response to L&E's interrogatories, CHLIC stated that over the last four years, CHLIC has averaged a -1.3% profit on its large group business in VT; that due to the size of its book of business, historic loss ratio and profitability results should not be considered credible; and that loss ratios are not used as a basis for adjusting rates. Responses to Objection Letter #1 (Apr. 8, 2020) at 8. CHLIC asks the Board to approve the rates as filed. CHLIC Memorandum in Lieu of Hearing.

15. On June 1, 2020, 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. HCA Memorandum in Lieu of Hearing, 6.

16. In particular, the HCA objects to CHLIC's requested profit margin of 3.5%, which the HCA considers to be an unreasonable profit margin, and asserts that CHLIC has historically overestimated the overall rate increase it needs to meet claims costs. HCA Memorandum in Lieu of Hearing, 6-7. The HCA cites to the 2018 Vermont Department of Health, Vermont Household Health Insurance Survey Report,[4] stating that 24% of underinsured Vermonters struggled to pay medical bills and 4% of the underinsured are unable to pay for basic necessities due to medical bills. HCA Memorandum in Lieu of Hearing, 4. Furthermore, the HCA notes that Vermonters are facing unprecedented financial hardships and it is reasonable to expect that many of the affordability issues Vermonters have been facing will only get worse as unemployment increases, incomes decline, and prices for basic necessities rise due to the COVID-19 pandemic and the related economic downturn. HCA Memorandum in Lieu of Hearing, 4-5. The HCA cites to a recent Vermont Department of Labor press release,[5] stating that in April 2020, 15.6% of the Vermonters in the labor force were unemployed, an increase from Vermont unemployment levels in February (2.3%) and March (3.1%). HCA Memorandum in Lieu of Hearing, 4-5.

17. The HCA proposes that the Board reduce CHLIC's profit margin from 3.5% to a maximum of 0.5% and decrease the overall rate by at least 1% to provide greater affordability for Vermonters. HCA Memorandum in Lieu of Hearing, 6-7.

18. On June 5, 2020, CHLIC filed a reply to the HCA's Memorandum in Lieu of Hearing. In response to the HCA's assertion that from 2014 through 2019, "actual CHLIC profits have

[4] VT Dept. of Health, Vermont Household Health Insurance Survey 2018 Report (2018), https://www.healthvermont.gov/sites/default/files/documents/pdf/VHHIS_Report_2018.pdf.
[5] VT Dept. of Labor, Vermont's Unemployment Rate Increases to 15.6 in April (May 22, 2020), http://www.vtlmi.info/press.pdf.

largely been in excess of the Board ordered profit margin," CHLIC states that the average profit margin during that timeframe was 0.6%, which is slightly below the Board's requested profit margin of 1.2% over the same period. CHLIC Reply Memorandum, 1. CHLIC also notes that the small Vermont membership is likely to experience a high level of claim volatility each year, and is unlikely to have claims experience that corresponds exactly to rate setting forecasts. CHLIC Reply Memorandum, 1. In response to the HCA's assertion that the rate is not affordable, CHLIC states that there are factors and expenses out of CHLIC's control that impact rates, and that over the last five years, CHLIC has recommended an average rate increase that is less than zero and has continued to pass premium savings to Vermonters year after year. CHLIC Reply Memorandum, 2. 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, and that CHLIC actively promotes preventative medical care and wellness through initiatives and other incentive programs that it offers. CHLIC Reply Memorandum, 3.

Standard of Review

In reviewing a rate filing, 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 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

Prior to beginning our conclusions for this filing, we first wish to address the unusual circumstances in which we find ourselves during this year's rate filing. Vermont is facing a public health emergency at a level not seen in 100 years, our health care system and economy are trying to adjust to the realities of the COVID-19 pandemic response, and our community is experiencing an unprecedented level of financial and economic uncertainty. We know that the rising costs of health care only compound the difficulties Vermonters are facing during this time. Each year, but particularly this year, it is imperative that carriers justify their requested rate changes to ensure that rates are as affordable as they can be while still being adequate to meet carriers' obligations.

Rating Variables

We first agree with and adopt our actuary's opinion that the medical and pharmacy area factors utilized by the carrier are appropriate and actuarially reasonable. Findings of Fact (Findings), ¶ 5.

Trend

With regard to the trend adjustments, we agree with and adopt our actuary's opinion that the medical trend adjustment utilized by the carrier is appropriate and actuarially reasonable. Findings, ¶ 6. However, with regard to the pharmacy trend adjustment, we find that the carrier has not met its burden of justifying a 6.8% increase. While the carrier explained how it reached its proposed adjustment of 6.8%, it failed to adequately support the adjustment with Vermont-specific data or other quantitative analysis. *See* Findings, ¶ 6. The Board's actuary found that 6.8% was "not unreasonable," from an actuarial standpoint, given that the Vermont FY2018 pharmacy trend level was 7.3%. Findings, ¶ 7. However, the observed pharmacy trend declined in FY2019 to 4.8%. *Id.* We find that using the average of the past two years of Vermont observed, normalized, pharmacy PMPM trends for FY2018 and FY2019 is more appropriate and, accordingly, we modify the pharmacy trend adjustment to 6.1%. *See* Findings, ¶¶ 6-7.

We strongly encourage the carrier, which has the benefit of national membership, to continue to push back on prescription pricing in its negotiations with pharmaceutical companies.

Expenses

Turning to the rate adjustment for expenses, CHLIC requests a 16.4% retention load compared to the previously filed 10.4% retention load. This 16.4% retention load has an overall rate impact of 7.1% and includes 6.3% in administrative expenses, 6.4% for federal and state fees, taxes and assessments, 0.2% for optional buy-ups, and a 3.5% profit assumption. Findings, ¶ 8.

We first address the carrier's request for a 1% administrative expense increase from last year (from 5.3% to 6.3%). As justification for its request, the carrier states that the 1% increase is driven by cost inflation and added provider fees, including a behavioral health access fee and medical management which had not been included in prior filings. *Id.* However, the carrier provided no quantitative support for this increase and it is unclear from the carrier's filing whether the added provider fees are for new programs or whether the carrier is just now choosing to include the cost of those programs in its rate development. We also note that the carrier's anticipated MLR for this 2020 filing is 83.6% (as compared to 89.6% in 2019). Findings, ¶ 10.

The Board is charged with determining whether the proposed rates are affordable. 8 V.S.A. § 4062(a)(3); Rule 2.000, § 2.301(b). This request comes at a time when, as the HCA notes, Vermonters are facing unprecedented financial hardships and it is reasonable to expect that many of the affordability issues Vermonters are facing will only get worse as unemployment increases, incomes decline, and prices for basic necessities rise due to the COVID-19 pandemic and the associated economic downturn. Findings, ¶ 16.

In light of the financial challenges facing Vermonters, and our expectation that the carrier should be able to efficiently manage its costs to provide the most affordable rates possible, we find that the carrier can and should do more to efficiently manage its administrative expenses during this filing year. Therefore, we deny the carrier's request for a 1% increase for administrative expenses. We encourage the carrier to continue to actively and critically review its policies and procedures and institute best practices that reduce administrative burdens and inefficiencies, particularly where the carrier's Vermont membership is nearly doubling this year and there is the possibility of gaining some economies of scale. *See* Findings, ¶ 3. Lastly, we are aware of the impact the present pandemic response is having, and will continue to have, on many businesses' costs (e.g., reduced overhead costs as employees work remotely, reduced travel and professional development costs as trainings and conferences are held remotely or cancelled, and reduced claims for employee medical expenses) and hope the carrier is similarly able to take advantage of such savings.

Second, we address the carrier's request for a 3.5% profit. The Board has only approved a 1% or 2% profit level assumption since 2016, with three of those years being approved at 1%. Findings, ¶ 13. Despite the 1-2% profit level assumptions, the carrier has had actual profit levels that ranged between -18% and 10% for the years 2016 through 2019. *Id*. We agree with the carrier and our actuary that this financial statement data alone is not considered a reliable source for setting the profit level assumption given the volatile nature of a small Vermont membership. *See* Findings, ¶¶ 13-14, 18. Upon review of the solvency opinion from DFR, we conclude that reducing the carrier's profit level assumption from the 1.0% approved last year to 0.0% in this year's filing will not threaten the filing entity's or the parent company's solvency and find this modification is necessary in light of the affordability concerns this year. Findings, ¶ 12. We support this conclusion on several bases, including the relative strength of the carrier's RBC[6], the variability of historical actual profits, the small size of this particular block of business (which represents only a tiny portion of company-wide membership and paid premium), and the current financial struggle of Vermont businesses and underinsured Vermonters. Findings ¶¶ 3, 12-13, 16-18. Accordingly, we modify the filing and reduce the carrier's profit level assumption to 0.0%. We conclude that, as modified, the resulting rate meets statutory requirements and better promotes affordability and access to care for Vermont policyholders and members.

Finally, we note that the rate increase is impacted by the return of the Health Insurance Industry Fee for the 2020 calendar year at 2.5% of premium, which will be applied to accounts for coverage for months in calendar year 2020 and which is anticipated to be 0.0% in calendar year 2021. Findings, ¶ 8. We approve the 2.5% HIF component of the rate on the condition that the carrier adjusts its rates in 2021 accordingly.

Order

For the reasons discussed above, the Board modifies CHLIC's 2020 Large Group Manual Rate Filing by reducing the proposed pharmacy trend adjustment from 6.8% to 6.1%, reducing the proposed administrative expenses from 6.3% to 5.3%, and reducing the proposed profit assumption from 3.5% to 0.0%. We thereafter approve the filing, resulting in an average annual rate **increase** of approximately 9.0%.

[6] Calculated using the carrier's SCHE.

SO ORDERED.

Dated: June 16, 2020 at Montpelier, Vermont

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

Filed: June 16, 2020

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: Abigail.Connolly@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.