STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re:	)	
MVP Health Care 2022 Individual Group VHC Filing	)	GMCB-007-21rr
MVP Health Care 2022 Small Group VHC Filing	)	GMCB-008-21rr

OFFICE OF THE HEALTH CARE ADVOCATE POST-HEARING MEMORANDUM

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to respond to the MVP Health Plan, Inc. (MVP) 2022 Individual Group and Small Group Vermont Health Connect (VHC) filings (collectively, Filings). MVP proposes to increase the premium price it charges its 15,371 individual group members by 17% and increase the premiums for 21,858 small group members by 5%.[1]

MVP's proposed premium increases are not justified under Vermont law: MVP seeks to recoup New York losses by raising rates on Vermonters.

I. STATUTORY BACKGROUND

MVP bears the burden of demonstrating that its proposed premium meets the multi-faceted test governing the lawfulness of a premium increase in Vermont: that the proposed premium is not unjust, unfair, inequitable, misleading, or contrary to law; promotes quality care; promotes access to health care; is affordable; protects insurer solvency; and is not excessive, inadequate, or unfairly discriminatory.[2]

The Vermont legislature chose to comprise the Green Mountain Care Board of professionals with diverse skills and knowledge related to health care policy including commitment to Vermont's health care reform principles, knowledge of health care policy, knowledge and

[1] Ex. 17 at 001-002.
[2] 8 V.S.A. §4062 and 18 V.S.A. §9375.

expertise that complement the other members, and impartiality.[3] This design ensures broad, unbiased expertise in the complex system of health care delivery.

As a part of the rate review process, the Board must accept comments from the public and from the HCA on all topics relevant to the proposed premium, and from the Department of Financial Regulation (DFR) solely on the impact of the filing on the insurer's solvency.[4] The Board is not bound by the views of DFR, the public, the HCA, or the Board's consulting actuary but must consider them.[5]

II. MVP'S PROPOSED PREMIUM INCREASES ARE CONTRARY TO VERMONT LAW

In 2020, MVP paid out more than it collected from individual and small group members in New York, while making a healthy profit on Vermont's individual and small group members.[6] The result: in 2020, MVP's New York market experienced a $41.5 million loss while its Vermont individual market experienced a $2 million gain, and MVP's small group New York market lost $5.2 million while its small group Vermont market made $6 million.[7]

To be fair to both New Yorkers and Vermonters, therefore, one would reasonably expect MVP to increase New York rates based on New York experience and to adjust Vermont rates based on Vermont experience. Instead, as Mr. Lombardo has acknowledged, MVP has filed for the same 17% individual market increase in both states.[8]

In common sense terms, asking a group of policyholders on whom an insurer has made $2 million to pay the same percentage increase as a group of policyholders on whom the insurer has

[3] 18 V.S.A. §9392.
[4] 8 V.S.A §§4062(a)(2)(B), 4062(c); 4062(e)(1)(B).
[5] See 8 V.S.A §4062.
[6] Ex. 15 at 004, line 7; Ex. 15 at 010, line 7.
[7] Ex. 15 at 005, line 11; Ex. 15 at 011, line 11.
[8] Tr. at 99, line 15-18. In fact, the 17.0% rate increase MVP is seeking in Vermont is actually slightly more than the 16.9 increase it is seeking in New York. See 2022 New York Individual Rate Filing, Actuarial Mem. at 2.

lost more than $41 million cannot be justified. It requires making unreasonable assumptions or, at the very least, making assumptions that are on the extreme high end of a reasonable range.

It must be noted that due to the large number of evolving factors that can impact health care rates, there is no one single reasonable assumption regarding most elements of a proposed premium. Rather, there is a range of reasonable assumptions. When an actuary—whether a carrier's actuary or a consulting actuary—finds an MVP assumption to be reasonable, that finding does not mean that it is the most reasonable assumption. Based on its knowledge of government and health care policy and its knowledge of Vermont experience, such as the course COVID-19 is taking in our state, the Board may often be in a better position than either the parties to the proceeding or any actuary involved in the proceeding to make selections within that reasonable range.

Over the remainder of this memorandum, we discuss what assumptions MVP had to adopt to arrive at its 17% increase in the individual market for Vermonters, and we suggest more reasonable assumptions.

A. MVP overestimates the cost of COVID-19.

MVP assumed a 6.5% increase as the effect of COVID-19, using 2019 experience as the base period and disregarding 2020 experience.[9] L&E conducted an analysis using modified 2020 experience as the base period, which produced an increase in the range of 3.5% to 5.5%."[10] Based on L&E's analysis, we recommend that the Board adopt 3.5% for the effect of COVID-19 instead of MVP's proposed 6.5%.

[9] Ex. 17 at 013.
[10] Ex. 17 at 013.

B. MVP's excessive proposed pharmacy trend conflicts with MVP's actual results.

MVP's high pharmacy trend is not justified. As the table below demonstrates, in each of the past five years, MVP's projected pharmacy trend has been wildly inaccurate.[11]

Year	Projected Trend	Actual Trend	Under/(Over) Projection
2020/2019	5.80%	21.70%	+15%
2019/2018	7.40%	2.50%	-4.6%
2018/2017	12.40%	5.10%	-6.5%
2017/2016	11.10%	5.20%	-5.3%
2016/2015	8.80%	8.60%	-0.2%

Notably, MVP's projected 2016 to 2017 and 2017 to 2018 trends were both more than 200% of the actual trends during those periods, and its projected 2018 to 2019 trend was almost 300% of the actual trend. Conversely, the actual 2019 to 2020 trend was more than three times higher than the projected trend. For 2022, without providing quantitative support, MVP has assumed a stunning 15.3% trend.[12] L&E assumed instead a 9.8% trend, which is the average of the actual trends over the last three years.[13] L&E also testified, however, that the four-year or five-year average, both of which are 8.6%, could be used, and also that throwing out the high and the low—which would produce a 6.3% trend—is a common approach.[14] Ms. Lee later testified that she probably would not go below 9.5% in this case, notwithstanding her acknowledgment of the reasonableness of three methods justifying a pharmacy trend of no higher than 8.6%. Based on that acknowledgment, and on the fact that the high 2019 to 2020 trend was produced by the aberrational 2020 year, we urge the Board to select a pharmacy trend of no higher than 8.6%, which is both the four-year average and the five-year average.

[11] Ex. 17 at 009; Tr. at 223, line 18.
[12] Ex. 17 at 008.
[13] Ex. 17 at 009.
[14] Tr. at 271, line 17-21; Tr. at 272, line 2-3.

C. MVP does not incorporate investment income or risk corridor litigation recoveries into its proposed premiums.

ASOP 26 requires that the premium rate reflect investment income, and Mr. Lombardo so acknowledged.[15] Nevertheless, when asked how its proposed 2022 rate reflects investment income, Mr. Lombardo responded that "We're not capturing that specific item."[16]

MVP also does not incorporate risk corridor litigation recoveries into is proposed premium, as admitted by Mr. Lombardo.[17] In regard to the risk corridor recoveries, he declares: “it was an addition to our reserves. We can use it how we see fit.”[18] We respectfully disagree. Gains from risk-corridor or any other litigation in connection with its Vermont individual and small group business received or likely to be received during 2022 should be incorporated in the rate base for 2022. We urge the Board to re-calculate MVP's 2022 rates so that they incorporate investment income and risk corridor payments into the rate base.

D. MVP fails to account for the fact that new subsidized subscribers will be, on average, healthier than past subscribers.

We agree with L&E that the proposed premium increase should be lowered to account for the fact that new individuals entering the market will be less expensive than the current population. Vermont applied a guaranteed issue/community ratings system years before the Affordable Care Act was implemented. The insurance industry uniformly, and correctly, argued that the people signing up for insurance in a guaranteed issue/community rating system would be relatively unhealthy—the people who most need insurance are the ones most willing to pay higher prices for it. The corollary of that logic relates directly to the 2022 proposed premium increase: Vermonters who only buy insurance when it is heavily subsidized are much healthier, on

[15] Tr. at 100, line 17-20.
[16] Tr. at 100, line 21-23.
[17] Tr. at 129, line 20.
[18] Tr. at 129, line 20.

average, than Vermonters who are willing to pay more. Because of the unprecedented federal subsidies available, the new people signing up for 2022 plans are almost certain to be healthier than past subscribers.

L&E assumed that the new subsidies will affect approximately 6,000 currently uninsured individuals; that approximately 800 of those 6,000—13%—will enroll, split evenly between the carriers; and that the new members will be 10% healthier than the currently covered population.[19] As L&E acknowledged, however, no one really knows what will happen.[20] Based on the size of the new subsidies available, we believe that assuming that only 800 new members will enroll is unreasonably conservative. Further, based on the substantially worse health status of the people originally signing up for insurance in new guarantee-issue environments, we believe it is unreasonably conservative to assume that the new members will be only 10% healthier than the currently covered population. It is more reasonable to assume that 25% of the estimated 6,000 currently uninsured and affected by the subsidies will sign up, and that this new population will be approximately 20% healthier than current members. Based on L&E's estimate of a 0.2% rate decrease resulting from MVP gaining 800 new members who are 10% healthier than average, an assumption of 1500 new members who are 20% healthier than average should reduce the rate by approximately 0.8%.

[19] Ex. 17 at 011.
[20] Tr. at 263, lines 1-10; Tr. at 65, lines 4-24.

D. MVP lacks any evidence to justify its 1% utilization assumption.

MVP's 1% utilization trend used in its 2022 filings does not reflect MVP's past experience and therefore is unlikely to match future experience. The 1% utilization trend in MVP's filing was replicated from previous filings, but it has never been based on MVP's experience.[21] Notably, when L&E initially recommended a 1% utilization trend in 2019, MVP's own data indicated a 0% utilization trend, as Mr. Lombardo acknowledged.[22] Since then, MVP has not sought to justify that 1% with its own data—it has simply relied on the fact that it was accepted in 2019 and thus should continue to be accepted. Continuing to apply a 1% utilization trend not only for 2020 and 2021 rates but also for 2022 rates—particularly in view of a substantial decrease in utilization between 2019 and 2020—compounds the original mistake. A 0% trend is supported both by MVP's 2-year trend analysis from its 2021 filing, and its 3-year trend analysis from the current filing. As such, the Board should require MVP to apply a 0% utilization trend.

E. Current best evidence contradicts MVP's claimed costs for Covid-19 boosters.

MVP's speculation that it will need to pay for boosters to Covid-19 vaccines in 2022 contradicts unbiased trustworthy sources such as the Centers for Disease Control.[23] MVP provided no reliable evidence to the contrary. In agreement with L&E's recommendation, the HCA asks the Board to reduce the proposed premium by removing MVP's proposed COVID-19 booster adjustment.

[21] Tr. at 113, line 7-13; See also Ex. B at 017.
[22] Tr. at 113, lines 18-21.
[23] Ex. 17 at 010.

F. The Board should implement affordable hospital commercial rates.

MVP's premium rates should reflect historical approved hospital budgets relative to the hospitals' filed budgets.[24] It should exclude both 2020 approved and filed commercial rates as the Board approved some unusually high, one-time commercial rates in 2020 specifically to support the Vermont hospital system's Covid-19 pandemic recovery. Further, when establishing commercial rates for Vermont hospitals, the Board should use its authority to help address Vermonters' affordability needs.

G. MVP's Vermont business is unjustly and unfairly subsidizing MVP's New York business.

The Board should not approve a contribution to reserves (CTR) in the Filings. In 2020, MVP's results on its New York individual business reduced its surplus by more than $41 million, while its results on its Vermont business increased its surplus by $2 million. One could therefore reasonably expect MVP to be seeking a far greater CTR in New York than it is in Vermont. In fact, however, MVP is asking for the same 1.5% CTR in Vermont as it is in New York.[25] Seeking to apply the identical CTR factor to Vermont and New York members notwithstanding the much more favorable experience of Vermont members as compared to New York members cannot credibly be justified.

Further, as DFR's solvency opinion notes, "MVPHP's Vermont operations pose little risk to its solvency."[26] Because MVP's Vermont premium constitutes such a small percentage of its written premium—7%—it is undisputed that the premium prices MVP charges in Vermont will have no material impact on its overall solvency.[27] Especially in light of this membership size

[24] Ex 17 at 007.
[25] 2022 New York Individual Rate Filing, Actuarial Mem. at 5 (note that MVP, in its New York filing, refers to what Vermont refers to as CTR as a "Profit/Risk Charge.")
[26] Ex. 18 at 002; Ex. 19 at 002.
[27] Ex. 18 at 002; Ex. 19 at 002.

imbalance, it does not make sense to force Vermont policyholders to subsidize New York policyholders.

While we have no animus toward MVP's New York members, they should bear the burden of their unfavorable experience, and MVP's Vermont members should receive the benefits of their favorable experience. We believe that should translate into a negative CTR factor on MVP's Vermont business.

III. CONCLUSION

MVP has not justified its proposed rate increases under Vermont's rate review standards and its exorbitant proposals will hurt Vermonters. While many new Vermonters will qualify for health insurance subsidies in 2022, small businesses and their employees will not. There are also significant numbers of individuals who cannot access subsidies due to issues such as the family glitch. Further, there is no strong evidence that the federal government will continue the subsidies after 2022. As a result, if high rates get baked into Vermont premiums this year, Vermonters will be paying for them in the future. Finally, contrary to comments by MVP, the Board can lower rates this year without undermining federal subsidies. If the Board lowers both insurers' rates by similar amounts, subsidies will not be weakened, and rates will be more affordable beyond 2022. Therefore, we respectfully ask the Board to recalculate the proposed premium as follows:

- Reduce the proposed premium price related to the cost of Covid-19 from MVP's proposed 6.5% to 3.5%;
- Reduce the proposed pharmacy trend to either a 5-year average or an average of the last five years dropping the years with the highest and lowest actual pharmacy trends;

- Reduce the proposed premium price to account for MVP's risk corridor litigation recovery and investment income;
- Reduce the proposed premium price to incorporate an assumption that new subsidies are likely to attract 1500 new members who will be, on average, 20% healthier than current subscribers;
- Reduce the proposed utilization trend to 0% to reflect MVP's actual utilization trend during the experience period;
- Reduce the proposed premium price by removing MVP's speculative and unsupported assumption of the cost of a future Covid-19 booster shot;
- Incorporate affordable hospital budget commercial rate increases, being sure to remove any abnormally high 2020 hospital commercial rates that were due to Covid-19;
- Reduce the proposed CTR factor to at least a modestly negative number in light of the fact that Vermont profits are subsidizing New York loses and MVP's solvency position is solid.

Dated at Montpelier, Vermont this 27th Day of July, 2021.

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CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above Post-Hearing Memorandum on Michael Barber, Green Mountain Care Board General Counsel; Laura Beliveau, Green Mountain Care Board Staff Attorney; and Gary Karnedy, Ryan Long, and Michelle Bennett, Primer Piper Eggleston and Cramer PC, representatives of MVP Health Care, by electronic mail, return receipt requested, this 27th day of July, 2021.

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