THE
University of Vermont
HEALTH NETWORK

Delivered Via E-Mail

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Jessica Holmes, Ph.D., Member
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Green Mountain Care Board
144 State Street
Montpelier, Vermont 05602

August 26, 2024

Re: **Response to Blue Cross VT's contentions that UVMMC is noncompliant with Board-ordered rate increases**

Dear Chair and Members of the Green Mountain Care Board:

On behalf of The University of Vermont Medical Center ("UVMMC"), we write in response to Blue Cross and Blue Shield of Vermont's ("Blue Cross VT") August 21, 2024 letter to the Green Mountain Care Board ("GMCB"), in which Blue Cross VT contends that UVMMC improperly negotiated and implemented the GMCB-approved commercial rate increases for FY22 and FY23, resulting in an aggregate commercial rate increase beyond that approved by the GMCB. That assertion is false and entirely unsupported by the insufficient analysis Blue Cross VT submitted in support of its serious allegation. In fact, Blue Cross VT and UVMMC negotiated rate increases in strict compliance with the GMCB's budget order, utilizing the very same process used for the past decade. Blue Cross VT then paid for the necessary health care received by its members at the negotiated rates, which were no greater than the GMCB approved.

While we are disappointed Blue Cross VT chose to level its allegations without supporting them with anything other than conclusory statements and opaque "adjustments" to the actual data, we are even more discouraged by the manner in which Blue Cross VT chose to raise its concerns. The GMCB should be concerned too, because Blue Cross VT's letter does not provide the GMCB with anything resembling the type or quantity of information it needs to exercise its statutorily defined role in this dispute. Despite its decades long relationship with UVMMC, Blue Cross VT did not share its analysis or its high-level methodology with UVMMC prior to using it to support public allegations. When Blue Cross VT initially presented this issue to UVMMC, our

team offered to discuss it, requesting Blue Cross VT's underlying data and a meeting between analysts; Blue Cross VT's only substantive response was to write its letter to the Board.

Nor did Blue Cross VT exercise its contractual right to audit the claims that UVMMC submitted, and Blue Cross VT paid, during fiscal years 2022 and 2023.[1] Instead, over two years later, Vermont's largest insurer told the GMCB that the process for negotiating rates with UVMMC – a process designed and required by Blue Cross VT – was just too complicated for it to understand until now. As a result, neither UVMMC nor the GMCB can possibly discern how Blue Cross VT reached its mistaken conclusions.

In short, there were, and there remain, many avenues for UVMMC and Blue Cross VT to share information, seek agreement where possible, and then raise remaining areas of disagreement in a manner that is supported by actual and mutually understood evidence. That effort will be time consuming, but the resolution of serious allegations demands serious evidence and a serious process.

In the paragraphs that follow, we provide a preliminary response to Blue Cross VT's allegations based on the information that Blue Cross VT has thus far provided. If the GMCB intends to take any regulatory action against UVMMC with respect to the alleged 2022 and 2023 "overpayments" to Blue Cross VT, UVMMC will exercise its right, under both the GMCB's enabling legislation and due process, to an evidentiary hearing on the matter. 18 V.S.A. 2256(f)-(h). That hearing should be preceded by an exchange of all relevant information between Blue Cross VT and UVMMC. In light of the timing of Blue Cross VT's letter, strategically sent to the GMCB less than one week before UVMMC's annual hospital budget, we have no choice but to request that the exchange of information, the hearing, and any subsequent decision take place after the FY2025 budget hearing process, rather than as part of it. We will be happy to meet with the GMCB's counsel and with Blue Cross VT to agree on a mutually acceptable schedule and procedure that complies with the law, protects both parties' rights, and provides the GMCB with the evidence it needs to make a decision grounded in fact and law.

The Negotiation Process

Blue Cross VT and UVMMC's negotiation process has been in place for many years, and Blue Cross VT requires UVMMC to follow its modeling and contract review approach, which is unique and much more involved than any other payer's methodology. The University of Vermont Health Network ("UVMHN") Contracting and Analytics team agrees to this detailed process for UVMMC, Central Vermont Medical Center ("CVMC") and Porter Medical Center ("PMC") because it is well-established, ensures accuracy and promotes transparency. Additionally, this process includes several milestones where mutual agreement is required by both parties to continue.

[1] Blue Cross VT is well versed in auditing claims and identifying rate-related billing issues. As just one example, in the past 18 months Blue Cross VT identified an inadvertent improper implementation of a radiology code at CVMC. This resulted in a significant overpayment to CVMC, which once validated was remedied through return of the overpayment. When it wants to, Blue Cross VT has the experience and knowhow to monitor and audit reimbursements.

Each year, Blue Cross VT begins the negotiation process using its own data by sending a "production file" from its system, with inpatient, outpatient, and professional rates, representing a mix of payment methodologies. UVMHN uses that Blue Cross VT file to prepare a proposal of rate changes that complies with the GMCB's budget order and provides it back to Blue Cross VT. The aggregate percentage targets – ***always in compliance with the GMCB's budget orders*** – are agreed upon before the parties proceed to modeling.

Blue Cross VT then conducts an in-depth analysis of the proposal provided by UVMHN, focusing on large increases or decreases by code and any newly added or deleted codes. This is a contractual requirement of Blue Cross VT and atypical of other payers. Historically, this analysis and exchange of information has been appropriately bi-directional, clear, and collaborative. UVMHN also provides advance notice of changes in operations, billing practices, and are delivery strategies, even when this is not contractually required.

This painstaking process spans many months and is detailed in the attachment hereto. For FY23 alone, hundreds of emails were exchanged, and the parties met nearly two dozen times. But the result is a set of rates and expectations that are mutually understood by UVMMC and Blue Cross VT.

UVMHN's Review of Blue Cross VT's Analysis

UMMHN's Contracting and Analytics team has reviewed Blue Cross VT's July 22, 2024 "demand" letter and its August 21, 2024 letter to the GMCB presenting an "overage" in UVMMC unit cost implementation for 2022 and 2023. Despite our request for additional data and meaningful conversation supporting its claims, Blue Cross VT has only provided high level tables and an outline of how they analyzed the rates. As a result, neither we nor the GMCB can discern exactly how Blue Cross VT reached its mistaken conclusions. It appears, however, that Blue Cross VT has taken an invalid approach to adjusting for utilization and the intensity of services provided. As one example, Blue Cross VT's self-described RVU-based approach to assessing severity in the outpatient setting bears no resemblance to the methodologies the parties have historically and mutually utilized in their negotiations and contracting.

Despite the lack of information from Blue Cross VT, we have performed our own analysis of the alleged overpayments.[2] As demonstrated below, each year the parties set the effective commercial rate increase in a manner that complies with the GMCB's budget order. And in FY 2022 and 2023 combined, those rates resulted in payments from Blue Cross VT to UVMMC of ***approximately $5.5 million less*** than the GMCB-approved commercial rate adjustment would lead the parties to expect.

	IP	OP	PRO	Total
2021 Total Claims Payments	$62,502,156	$134,007,508	$45,339,690	$241,849,353
**2022 Cont Rate Increase	7.3%	7.3%	7.5%	
Projected	$67,093,095	$143,850,694	$48,734,272	$259,678,062
*Productivity Adj	-3.2%	1.5%	3.3%	
Expected Reimb	$64,967,515	$146,054,449	$50,334,404	$261,356,367
Actual 2022 Claims Payments	$63,175,539	$151,483,442	$52,385,861	$267,044,843
Compared (positive is over, negative is under)	**-$1,791,976**	**$5,428,994**	**$2,051,458**	**$5,688,475**

	IP	OP	PRO	Total
2022 Total Claims Payments	$63,175,539	$151,483,442	$52,385,861	$267,044,843
**2023 Cont Rate Increase	16.2%	16.2%	16.2%	
Projected	$73,412,898	$176,030,766	$60,874,794	$310,318,458
*Productivity Adj	7.4%	15.5%	12.4%	
Expected Reimb	$78,810,493	$203,391,100	$68,427,237	$350,628,830
Actual 2023 Claims Payments	$80,671,613	$192,488,530	$66,305,281	$339,465,424
Compared (positive is over, negative is under)	**$1,861,120**	**-$10,902,569**	**-$2,121,956**	**-$11,163,405**

*Productivity Adjustments: Total CMI for IP, Total facility RVUs mapped to OP CPTs for OP, Total RVUs for PRO, each trended year over year
**2022 Mid year adjustment applied half to 2022 & half to 2023 for how it would apply to actuals

Notably, even though they used different methodologies, UVMMC and Blue Cross VT reach similar conclusions with respect to Inpatient and Professional claims, both of which are subject to clear Medicare productivity measures in case mix index (CMI) and Professional RVUs. But with respect to Outpatient claims, the parties' calculations diverge significantly, with Blue Cross VT claiming that they paid more than should have been expected. UVMMC's calculations, in contrast, demonstrate that BlueCross VT paid less than should have been expected. We look forward to working with Blue Cross VT, and with the GMCB if necessary, to understand how the parties could have such divergent views, but it is impossible to fully discern based on the information made available thus far.

[2] UVMMC's analyzed reimbursement from 2020 – 2023 in the following manner:
- Using actual claim payments applying the mid-year adjustment over 2022 and 2023 as actually occurred.
- Adjusting the actual claims payments from year to year and predicting the future year actuals using the "rate change" plus "productivity" change.
- Productivity change is defined as total DRG weight on IP, Total RVUs from pro, and attempting to follow what it appears Blue Cross VT did apply facility total RVUs (work RVU + facility PE RVU + MP RVU) to the OP charge table.

Conclusion

UVMMC is confident that it negotiated and implemented its FY22 and FY23 effective commercial rates with Blue Cross VT in a manner that complies strictly with the GMCB's hospital budget orders and the parties' contractual obligations. We will be happy to demonstrate that fact to the GMCB at a hearing that is designed for that purpose, after Blue Cross VT "shows its work" by revealing all of the data and assumptions on which its calculations and allegations are based. Perhaps that exchange will narrow or eliminate the differences between UVMMC and Blue Cross VT. And even if it does not, it is only through an exchange and presentation of evidence that the GMCB can exercise its statutory authority and reach a rational and well-grounded conclusion that best serves Vermonters.

Sincerely,

Eric Miller,
Senior Vice President and General Counsel

Kelly Champney
Vice President Managed Care Contracting

Cc: Rebecca C. Heintz, Vice President and General Counsel, Blue Cross VT
Office of the Health Care Advocate

Response Attachment

Step	Process	Timeframe (occurs the year before the FY)
Preliminary and Ongoing	• Share negotiation objectives including any areas of focus (e.g., methodology changes) • Discuss Blue Cross VT findings in pricing transparency files • UVMHN sends chargemaster increase letter	March – August Chargemaster increase sent by July 1
Ongoing	Multiple calls are required to walk through the detailed analyses that occur below.	
1	Blue Cross VT sends UVMHN a production file, a download from Blue Cross VT's system by CPT code and service type, for all inpatient, outpatient, and professional rates, including percent of charge terms.	July
2	UVMHN uses the download from Blue Cross VT to prepare a proposal of rates and sends back to Blue Cross VT. UVMHN's proposal may include increases to certain codes and decreases to others, always in compliance with the GMCB budget order.	September - October (dependent on GMCB order)
3	Both parties will outline the data set (i.e., what date range for claims) each will use for modeling and analysis and the aggregate percentage targets (which modeling will be modified once the GMCB issues its budget order).	October - November
4	For CVMC and PMC, UVMHN outreaches to Blue Cross VT to ask if the community professional fee schedule is changing and what the anticipated percent change will be. UVMHN also clarifies what data set both parties will be using to assess impact (if not already determined in step 2).	October - November
5	Confirm the impact of DRG weight changes using most recent 10/1 weights from the Centers for Medicare and Medicaid.	November
6	Blue Cross VT does an in-depth analysis of the proposal UVMHN sent (referenced in step 2, above), focusing on large increases or decreases by code, any newly added or deleted codes, etc.	October - December
7	Blue Cross VT provides feedback (emails/phone calls) with its findings to UVMHN and meetings scheduled to review findings and discuss next steps.	October - December

Step	Process	Timeframe (occurs the year before the FY)
8	Blue Cross VT and UVMHN exchange several emails and detailed spreadsheets outlining changes to confirm intentions. This involves significant review of fee schedules and details of the analysis.	October - December
9	Blue Cross VT is transparent regarding their inpatient, outpatient, and professional volume weights used in modeling and how our terms are valued using their weights. UVMHN provides the weights we use in our data.	October - December
10	Blue Cross VT requests "rebased" codes to be added as a fixed fee versus percent of charge; these are codes that were paid at a percent of charge but have more than five units of volume in the past year.	October - December
11	Contracting teams from Blue Cross VT and UVMHN work together to determine areas of improvement (operational, administrative, etc.)	March through contract execution
12	UVMHN marks up a paper copy of the reimbursement terms of the contract and provides to Blue Cross VT. Both parties review to ensure it accurately represents the details of the negotiation.	December