

18 V.S.A. § 9456 – Budget Review



- “The Board may establish a process to define, on an annual basis, criteria for hospitals to meet, such as utilization and inflation benchmarks. The Board may waive one or more of the review processes listed in subsection (b) of this section.” 18 V.S.A. § 9456(e)
- “Annually, the Board shall establish a budget for each hospital on or before September 15, followed by a written decision by October 1. Each hospital shall operate within the budget established under this section.” 18 V.S.A. § 9456(d)(1)

FY23 Guidance - NPR Benchmark



A. NET PATIENT REVENUE/FIXED PROSPECTIVE PAYMENT GROWTH GUIDANCE

At its March 30, 2022 public meeting, the Board established a Net Patient Revenue/Fixed Prospective Payment (NPR/FPP) growth guidance of up to an aggregate of 8.6% for FY23 and FY24 combined (over each hospital's FY22 budget). The Board will consider a hospital budget with NPR/FPP growth of more than the growth guidance based on the specifics and support for that NPR/FPP growth provided by the hospital in its FY23 budget submission.

In connection with establishing a hospital's NPR/FPP growth limit, the Board may review and adjust the hospital's proposed operating expense growth in the aggregate commensurate with any adjustments made to the hospital's NPR/FPP in order to protect margins.

FY23 Budget Orders – Condition A



- A. RRMC's FY23 NPR/FPP budget is approved at a growth rate of 16.1% over its FY22 budget, with a total NPR/FPP of **\$313,970,338** for FY23.

- A. UVMCMC's FY23 NPR/FPP budget is approved at a growth rate of 10.0% over its FY22 budget, with a total NPR/FPP of **\$1,658,725,627** for FY23.

- A. Porter's FY23 NPR/FPP budget is approved at a growth rate of 10.9% over its FY22 budget, with a total NPR/FPP of **\$104,464,068** for FY23.

18 V.S.A. § 9456 - Budget Adjustment



- 18 V.S.A. § 9456 (f): "The Board may, upon application, adjust a budget established under this section upon a showing of need based upon exceptional or unforeseen circumstances in accordance with the criteria and processes established under section 9405 of this title."

18 V.S.A. § 9456 – Budget Enforcement



- If a hospital violates a provision of this section, the Board may order a hospital to:
 - cease material violations of this subchapter or of a regulation or order issued pursuant to this subchapter; or
 - cease operating contrary to the budget established for the hospital under this section, provided such a deviation from the budget is material; and
 - take such corrective measures as are necessary to remediate the violation or deviation and to carry out the purposes of this subchapter. 18 V.S.A. § 9456(h)(2)(B).

Notices of FY23 NPR Variation

Dear Dr. Eappen:

As you are likely aware, the University of Vermont Medical Center's (UVMCMC) and Porter Hospital's (Porter) FY23 year-end actual operating results were out of compliance with and varied substantially from their FY23 budgets. The FY23 year-end results for UVMCMC indicate that its NPR/FPP was \$1,739,015,783, which exceeds its GMCB-approved budget of \$1,658,725,627 by 4.8%. Porter's NPR/FPP was \$115,464,374, which exceeds its GMCB-approved budget of \$104,464,068 by 10.5%. Vermont law requires that "[e]ach hospital . . . operate within the budget established" by the Board. 18 V.S.A. § 9456(d)(1); *see also* GMCB Policy on Hospital Budget Enforcement.¹ Accordingly, this letter is to advise you that these hospitals' variances from their approved budgets are subject to review and potential enforcement action. *See* 18 V.S.A. § 9456(g)-(h); GMCB Rule 3.000, § 3.401.

Dear Ms. Fox:

As you are likely aware, the Rutland Regional Medical Center (RRMC) FY23 year-end actual operating results were out of compliance with and varied substantially from its FY23 budget. The FY23 year-end results for RRMC indicate that its NPR/FPP was \$325,035,199, which exceeds its GMCB-approved budget of \$313,970,338 by 3.52%. Vermont law requires that "[e]ach hospital . . . operate within the budget established" by the Board. 18 V.S.A. § 9456(d)(1); *see also* GMCB Policy on Hospital Budget Enforcement.¹ Accordingly, this letter is to advise you that RRMC's variance from its approved budget is subject to review and potential enforcement action. *See* 18 V.S.A. § 9456(g)-(h); GMCB Rule 3.000, § 3.401.

Rule 3.401 – Adjustment & Enforcement



Before enforcing or adjusting a budget, the Board first determines if a hospital's performance has differed substantially from its budget. To do so, it considers:

1. The variability of a hospital's actual revenues, taking into account the resources of payers and the methods of payment used by the payers;
2. the hospital's ability to limit services to meet its budget, consistent with its obligations to provide appropriate care for all patients;
3. the financial position of the hospital in relation to other hospitals and to the health care system as a whole, using the statistics developed from information submitted in compliance with the uniform reporting manual;
4. the hospital's performance under budgets identified or established under subchapter 7 of Chapter 221 of Title 18 of Vermont Statutes Annotated for the previous three years and its budget projections for the next three years; and
5. any other considerations deemed appropriate by the Board, including but not limited to other instances in which a hospital has less than full control over the expenditures limited by the budget.

Enforcement or Adjustment – Rule 3.000



GMCB Rule 3.000, § 3.401(c). After determining that a hospital's performance has differed substantially from its budget, the Board may adjust its budget by:

1. changing hospital rates or prices by the amount of net revenues exceeding the budgeted net revenues;
2. changing the net revenue and/or expenditure levels of future budgets;
3. allowing hospital rates to be increased for a hospital with a deficit caused by revenues that were less than projected, but whose actual expenditures were within the budget limits;
4. allowing a hospital to retain surplus funds if the surplus was achieved while the hospital stayed within its established budget;
5. allowing a hospital to retain a percentage of surplus generated primarily by volume in excess of that projected for a particular year; or
6. any other circumstance the Board deems appropriate.

Policy on Hospital Budget Enforcement



- GMCB adopted this policy in 2021 to provide hospitals notice and guidance about the Board’s intent to enforce NPR caps.
- Policy was implemented because some hospitals were exceeding these caps, resulting in unanticipated commercial costs.
- Prior to this policy, the Board found that “no meaningful regulatory action” was being taken in these circumstances.
- Policy states that deviation greater than 1% from the NPR cap may cause the GMCB to take enforcement action under GMCB Rule 3.000, § 3.401(c).
- Policy states that under Rule § 3.401(c), the Board may decide to “[r]educ[e] [...] the hospital’s rates” and/or “adjust a hospital’s budget in one or more subsequent years.”

Current Motion Language



Porter Medical Center

Move that at this time the Board not take action on Porter's potential enforcement for its overage in FY23.

Suggested Motion Language



Porter Medical Center

Move that at this time the Board:

1. Move to deny Porter Medical Center's application for retroactive adjustment of its FY23 budget; and
2. Not take action on Porter's potential enforcement for its overage in FY23.

Current Motion Language



University of Vermont Medical Center

Finding that UVMMC's performance differed substantially from its FY23 budget:

1. Move to deny UVMMC's application for retroactive adjustment of its FY23 budget; and
2. Move to enforce this deviation by reducing the FY25 overall change in charge and commercial negotiated rate increases from 3.4% over current approved levels to 1% under (-1%) current approved levels, with no commercial rate increase for any payer exceeding that amount, and for the remaining 4.4% correction to the deviation to be enforced in FY26.

Suggested Motion Language



University of Vermont Medical Center

Finding that UVMCC's performance differed substantially from its FY23 budget:

1. Move to deny UVMCC's application for retroactive adjustment of its FY23 budget; and
2. Move to enforce this deviation by reducing the FY25 overall change in charge and commercial negotiated rate increases from 3.4% over current approved levels to 1% under (-1%) current approved levels, with no commercial rate increase for any payer exceeding that amount, **and with a \$40,145,078 reduction to UVMCC's FY26 commercial NPR, to be applied to its approved FY26 commercial rate in this Board's FY26 Budget Order.**

Current Motion Language



Rutland Regional Medical Center:

Finding that RPMC's performance differed substantially from its FY23 budget:

1. Move to deny RPMC's application for retroactive adjustment of its FY23 budget; and
2. Move to enforce this deviation by reducing the FY25 overall change in charge and commercial negotiated rate increases from 2.8% over current approved levels to **1.2% over** current approved levels, with no commercial rate increase for any payer exceeding that amount, **and with a 1.6% reduction for FY26.**

Proposed Motion Language



Rutland Regional Medical Center:

Finding that RRMC's performance differed substantially from its FY23 budget:

1. Move to deny RRMC's application for retroactive adjustment of its FY23 budget; and
2. Move to enforce this deviation by reducing the FY25 overall change in charge and commercial negotiated rate increases from 2.8% over current approved levels to **1.2% over** current approved levels, with no commercial rate increase for any payer exceeding that amount, **and with a \$2,766,215 reduction to RRMC's FY26 commercial NPR, to be applied to its approved FY26 commercial rate in this Board's FY26 Budget Order.**

FY25 Standard Budget Conditions



- A. [Hospital]’s FY25 NPR/FPP (“NPR”) budget is approved at a growth rate of not more than [X]% over its FY24 budget, with a total NPR of not more than \$[X] for FY25.
- B. [Hospital]’s overall change in charge and commercial negotiated rate increase are approved at not more than [X]% over current approved levels, with no commercial negotiated rate increase for any payer at more than [X]% over current approved levels. The commercial negotiated rate increase overall or with respect to any payer may be less than [X]% as negotiated between the hospital and payer.
- C. The commercial rate increase cap in Paragraph B is a maximum and is subject to negotiation between [Hospital] and commercial insurers. [Hospital] shall not represent the maximum commercial rate increase approved by the GMCB in Paragraph B or the expected commercial NPR based on that rate increase as the amounts set or guaranteed by the GMCB in the hospital’s negotiations with insurers.
- D. The commercial negotiated rate cap in Paragraph B shall not apply to Medicare Advantage plans.
- E. [Hospital]’s expected commercial NPR, based on its budget as adjusted in this Order, is \$[X]. [Hospital] shall report its actual expected commercial NPR not later than March 15, 2025, or such later date as specified by the Director of Health Systems Finance and explain any variations from the expected commercial NPR.
- F. [Hospital] shall file an updated Rate Decomposition Sheet with the Board no more than 30 days after its FY25 contracts have been finalized with commercial payers.
- G. [Hospital] shall make any necessary changes to its methods of data collection such that it can report revenues segmented by the following payer types starting FY25: (1) Medicare, (2) Medicare Advantage, (3) Medicaid, (4) commercial health insurance, (5) Vermont-specific commercial payers, (6) non-Vermont commercial payers, and (7) all other payers (e.g. self-pay, workers’ compensation, etc.), for which data collection and reporting may be combined. The GMCB shall provide definitions for each payer type by October 1, 2024, so hospitals can uniformly implement this change.

FY25 Standard Budget Conditions



- G. Beginning on or before November 20, 2024, and every month thereafter, [Hospital] shall file with the Board the actual year-to-date FY25 operating results as of the end of the prior month. The report shall be in a form and manner as prescribed by GMCB staff.
- H. On or before January 31, 2025, [Hospital] shall file with the Board, in a form and manner prescribed by GMCB staff, such information as the Board determines necessary to review the hospital's FY24 actual operating results.
- I. [Hospital] shall file with the Board one copy of its FY24 audited financial statements and associated management letter(s), as well as the parent organization's audited consolidated financial statements, if applicable, 15 days after the hospital receives its statements, or by January 31, 2025, whichever is earlier.
- J. [Hospital] shall file with the Board its actual year-to-date FY24 operating results on April 30, 2025 for October 1, 2024 through March 31, 2025. The report shall be in a form and manner as prescribed by GMCB staff.
- K. [Hospital] shall participate in check-ins to be scheduled at the discretion of the Director of Health Systems Finance based on the hospital's FY25 year-to-date operating performance.

FY25 Standard Budget Conditions



- L. Beginning on or before November 20, 2024, [Hospital] shall include with each year-to-date monthly report a letter, if applicable, identifying any material changes to its FY25 budgeted revenues and expenses, or to the assumptions used in determining its budget, including: A. changes in Medicaid, Medicare, or commercial reimbursement; B. additions or reductions in programs or services to patients; and C. any other event that could materially change the approved NPR budget.
- M. [Hospital] shall develop and maintain a system to be able to measure and report to the GMCB the referral lag and the visit lag for each hospital-owned primary and specialty care practice as well as the top five most frequent imaging procedures. Referral lag means the percentage of appointments scheduled within 3 business days of referral (percentage of all referrals where the clinic or hospital has completed scheduling an appointment within 3 business days of receiving the referral, regardless of the date on which the appointment will take place). Visit lag means the percentage of new patient appointments scheduled for the patient to be seen within 2 weeks, 1 month, 3 months, and 6 months of their scheduling date (the scheduling date is the date the hospital or practice schedules the appointment, not the date the referral was received or the date the patient will be seen).
 - a) [Hospital] shall report to the GMCB the referral lag and the visit lag for each hospital owned primary and specialty care practice as well as the top five most frequent imaging procedures on April 30, 2025, for February and March 2025, and as required by the GMCB's FY26 hospital budget guidance.

FY25 Standard Budget Conditions



- N. [Hospital] shall participate in the Board's work, including the community engagement process, pursuant to Act 167.
- O. [Hospital] shall timely file all forms and information required for practice acquisitions and/or transfers as determined by GMCB staff, if applicable.
- P. [Hospital] shall file all requested data and other information in a timely and accurate manner.
- Q. [Hospital] shall report on any changes it makes to the methods it uses to calculate information it reports to the GMCB. Any such report shall include a detailed explanation as to the reason for the change and the inclusion of a comparison report that shows the results using the hospital's prior method of calculation.
- R. After notice and an opportunity to be heard, the GMCB may amend the provisions contained herein, and issue an amended order, consistent with its authority as set forth in 18 V.S.A. Chapter 220, Subchapter 1, 18 V.S.A. Chapter 221, Subchapter 7, and GMCB Rule 3.000.
- S. All materials required above shall be provided electronically, unless doing so is not practicable, as determined by the Director of Health Systems Finance.
- T. The findings and orders contained in this decision do not constrain the Board's decisions in future hospital budget reviews, future certificate of need reviews, or any other future regulatory or policy decisions.

Standard Budget Conditions



Current Motion Language (modify as needed):

Move to approve the Standard Budget Conditions as presented to the Board on September 11, 2024, to be included as the default conditions for the FY25 hospital budget orders, subject to any changes to the budget conditions or additional conditions approved by the Board for any specific hospitals.

Current Motion Language



Approve Budget with Modifications (modify language as needed):

Move to approve Copley's budget with modifications as follows:

1. With FY25 NPR approved at a growth rate of not more than 6% over its FY24 approved budget (reduced from 11.8%) and a commensurate reduction in operating expenses;
2. With FY25 overall change in charge and commercial negotiated rate increases approved at no more than 3.4% over current approved levels (reduced from 10.5%), with no commercial rate increase for any payer exceeding that amount; and
3. Subject to all other standard budget conditions as approved by this Board.

Suggested New Motion Language



Approve Budget **with Modifications** (modify language as needed):

Move to approve Mount Ascutney's budget **with modifications as follows**:

1. With FY25 NPR approved at a growth rate of not more than **3.5%** over its FY24 approved budget (**reduced from 4.3%**) and a **commensurate reduction in operating expenses**;
2. With FY25 overall change in charge and commercial negotiated rate increases approved at no more than **2.2%** over current approved levels, with no commercial rate increase for any payer exceeding that amount; and
3. Subject to all other standard budget conditions as approved by this Board.

Current Motion Language



Approve Budget as Submitted (modify language as needed):

Move to approve Porter Medical Center's budget as follows:

1. With FY25 NPR approved at a growth rate of not more than 4.2% over its FY24 approved budget;
2. With FY25 overall change in charge and commercial negotiated rate increases approved at no more than 2.5% over current approved levels, with no commercial rate increase for any payer exceeding that amount; and
3. Subject to all other standard budget conditions as approved by this Board.

Current Motion Language



Approve Budget with Modifications (modify language as needed):

Move to approve NMC's budget with modifications as follows:

1. With FY25 NPR approved at a growth rate of not more than **6.8%** over its FY24 approved budget;
2. With FY25 overall change in charge and commercial negotiated rate increases approved at no more than 3.4% over current approved levels (reduced from 6.4%), with no commercial rate increase for any payer exceeding that amount; and
3. Subject to all other standard budget conditions as approved by this Board.

CMI adjusted Payment Variation for Inpatient/Outpatient Hospital Services by Payer

