

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

MODIFICATION OF FY2024 HOSPITAL BUDGET DECISION AND ORDER

In re: Copley Hospital)
Fiscal Year 2024)
_____)
Docket No. 23-003-H

INTRODUCTION

On September 15, 2023, the Green Mountain Care Board (GMCB or the Board) approved an FY24 budget for Copley Hospital (Copley). On October 1, 2021, GMCB issued a written budget order for Copley’s FY24 budget (Budget Order). The FY24 budget previously approved by the GMCB for Copley, and reflected in the Budget Order, included approval of a charge and commercial rate increase “at not more than 8.0% over current approved levels.” Budget Order, Order, ¶ B.

On February 7, 2024, Copley submitted a request to modify its approved budget by increasing the hospital’s average commercial rate by 12.7%. Following a presentation by Copley on March 13, 2024, GMCB staff presentations and GMCB deliberations on March 13, 2024, and April 3, 2024, the Board voted to modify Copley’s Budget Order to allow Copley a mid-year charge and commercial rate increase.

LEGAL FRAMEWORK

One of the Board’s core regulatory responsibilities is to review, approve, and monitor the budgets of Vermont’s 14 community hospitals. 18 V.S.A §§ 9374(b)(7), 9456. The Board’s oversight of hospital budgets is guided by its statutory charge “to promote the general good of the state by: (1) improving the health of the population; (2) reducing the per capita rate of growth in expenditures for health services in Vermont across all payers while ensuring that access to care and quality of care are not compromised; (3) enhancing the patient and health care professional experience of care; (4) recruiting and retaining high quality health care professionals; and (5) achieving administrative simplification in health care financing and delivery.” 18 V.S.A. § 9372.

In response to a request from a hospital, the Board may adjust a previously established budget “upon a showing of need based upon exceptional or unforeseen circumstances.” 18 V.S.A. § 9456(f); GMCB R. 3.000, § 3.401. When considering a possible adjustment, the Board considers the following factors:

- (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.

GMCB R. 3.000, § 3.401(a)(1)-(5).

If the Board concludes a “hospital’s performance has differed substantially from its budget,” the Board may make appropriate adjustments to the hospital’s current and future budgets. See *id.* § 3.401(c); see also 18 V.S.A. § 9456 (h)(2)(B)(i)(II) (“The Board may order a hospital to take such corrective measures as are necessary to remediate . . . the deviation . . .”). Appropriate adjustments may include “allowing hospital rates [charges] to be increased for a hospital with a deficit caused by revenues that were less than projected, but whose actual expenditures were within budget limits.” GMCB R. 3.000, § 3.401(c)(3).

A hospital bears the burden to justify its budget or any budget amendment it may request. See *id.* § 3.306(a).

Based on the above, the Board issues the following Findings, Conclusions, and Modification to the Budget Order:

FINDINGS

1. On October 1, 2023, the Board issued its Budget Order for Copley, approving a FY24 NPR/FPP budget at a growth rate of not more than 21.3% over its FY22 actual NPR/FPP, with a total NPR/FPP of not more than \$111,856,924 for FY24, and an overall change in charge and commercial rate increases are approved at not more than 8.0% over current approved levels, with no commercial rate increase for any payer at more than 8.0% over current approved levels. *See* Budget Order, ¶¶ A, B. Copley’s FY24 budget was modified by the Board, reducing Copley’s charge and commercial rate increase from 15% to 8%. *See* Budget Order, Conclusions.
2. On February 7, 2024, Copley submitted a request to modify its approved budget by increasing the hospital’s charges and commercial rate by an average of 12.7% (Budget Adjustment Request). Copley’s Board of Directors approved its budget adjustment request on February 5, 2024. *See* Budget Adjustment Request, 4. Copley’s leadership presented to the Board on March 13, 2024, in support of the requested mid-year budget adjustment. *See* Copley Budget Adjustment Hearing Presentation (Copley Presentation), 1. Additional materials required by the GMCB’s Budget Amendments and Adjustments Policy were received on February 19, 2024. *See* GMCB PowerPoint, Copley Budget Modification Request, 3 (April 3, 2024) (Deliberations II).

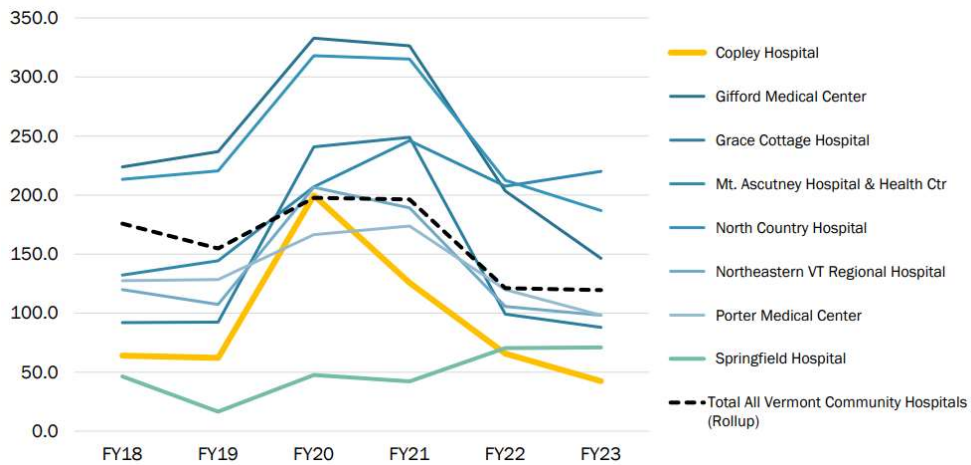
3. On March 13, and April 3, 2024, GMCB staff presented analysis of Copley’s mid-year adjustment request, along with an analysis of the hospital’s year-to-date performance and projections. *See* GMCB PowerPoint, Copley Budget Modification Request, 1 (March 13, 2024) (Deliberations I) and Deliberations II, 1. The Board reviewed and deliberated on the request on March 13, and April 3, 2024. Following deliberations on April 3, 2024, the Board voted to approve a mid-year budget adjustment to approve a charge and commercial rate increase of not more than 7.0% above Copley’s previously approved FY24 levels.
4. Copley requested an average increase to its charges and commercial rate of 12.7% from its approved FY24 budget. *See* Budget Adjustment Request, 1. The hospital projected that without a rate increase, its operating margin for FY24 would be negative – a loss of approximately \$2.95 million loss –and with the rate increase its operating margin for FY24 would be positive – approximately \$3.36 million. *See id; see also* Copley Presentation, 13, 25. The projected operating loss is a driver of Copley’s mid-year request. *See* Budget Adjustment Request, 1, 3.
5. Copley projected its FY24 operating expenses to be \$108,117,443, which is slightly less than the \$109,168,433 in total operating expenses in its approved FY24 budget. Budget Adjustment Request, Income Statement. Copley projected its FY24 net patient revenue to be \$103,966,182, which is less than the \$105,439,823 in net patient revenue in its approved FY24 budget. *Id.*
6. With the exception of FY2021 – a year that Copley received significant COVID relief funding – Copley has had negative operating margins each year from FY2016 through FY2023. *See* Copley Presentation, 13.
7. Copley’s year-over-year change in net assets as a percentage of its total assets compared to other hospitals shows that since FY2018 Copley has frequently had near the largest declines among Vermont hospitals, as summarized in the following table:

Year-over-Year Change in Net Assets / Total Assets

	FY18	FY19	FY20	FY21	FY22	FY23
BMH	1.08% [#10]	1.83% [#8]	9.62% [#1]	3.84% [#14]	-7.80% [#9]	1.88% [#6]
CVMC	1.09% [#9]	-5.40% [#13]	5.53% [#6]	13.56% [#3]	-16.15% [#13]	13.63% [#2]
COP	-3.18% [#12]	-3.55% [#11]	-3.02% [#13]	12.84% [#4]	1.01% [#3]	-1.98% [#12]
GMC	-3.69% [#13]	3.15% [#4]	3.37% [#10]	10.91% [#7]	-0.23% [#4]	-2.17% [#13]
GCH	6.15% [#3]	-0.54% [#9]	6.44% [#5]	21.18% [#2]	-12.53% [#11]	-0.44% [#9]
MAHHC	5.45% [#4]	-3.40% [#10]	8.98% [#2]	12.56% [#6]	-83.00% [#14]	6.73% [#4]
NCH	1.16% [#8]	3.02% [#5]	6.63% [#4]	7.08% [#12]	-4.94% [#7]	-10.38% [#14]
NVRH	2.86% [#7]	2.31% [#6]	3.93% [#9]	7.36% [#11]	-4.13% [#6]	2.09% [#5]
NMC	0.36% [#11]	-5.13% [#12]	-0.73% [#11]	8.96% [#9]	-7.02% [#8]	0.95% [#7]
PMC	7.90% [#2]	7.60% [#1]	4.67% [#7]	12.63% [#5]	-2.03% [#5]	15.13% [#1]
RRMC	4.32% [#5]	2.07% [#7]	4.35% [#8]	9.49% [#8]	-12.67% [#12]	-0.33% [#8]
SVMC	11.98% [#1]	7.00% [#2]	8.34% [#3]	8.34% [#10]	6.17% [#2]	-1.12% [#10]
SPRING	-18.54% [#14]	-68.40% [#14]	-19.63% [#14]	68.67% [#1]	16.81% [#1]	-1.27% [#11]
UVMMC	4.25% [#6]	3.88% [#3]	-0.97% [#12]	6.24% [#13]	-10.86% [#10]	6.79% [#3]

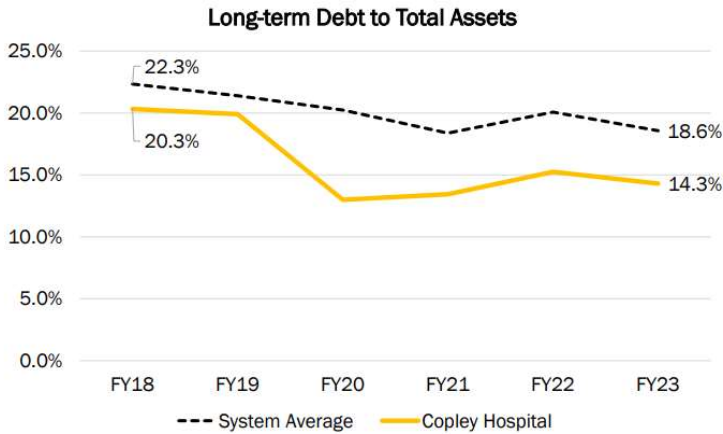
Deliberations II, 5.

8. Copley reported 64 days cash on hand for October, 2024. *See* Copley Presentation, 27. Copley’s days cash on hand has declined to 38 in January, 2024. *See id.* Copley’s submitted FY24 budget anticipated 60 days cash on hand for FY24. *See* Deliberations II, 4. Copley will have a payment due to Medicare of approximately \$3.5 million due in April, 2024 (consisting of \$2.3 million from the FY23 Medicare cost report reconciliation and \$1.1 million for FY24 true-up), which will further reduce Copley’s days cash on hand by 12.5 days. *See* Copley Presentation, 27; *see also* Copley Responses to GMCB Staff Follow-Up Questions, 4 (March 15, 2023). Copley noted that the cost report reserve was booked in FY23 and not budgeted for FY24, and the repayment to CMS is an amount “not typical for Copley, but given the COVID pandemic not unexpected.” *See id.*
9. The following graph shows Copley’s days cash on hand compared to other critical access hospitals in Vermont, along with an average for all Vermont community hospitals:



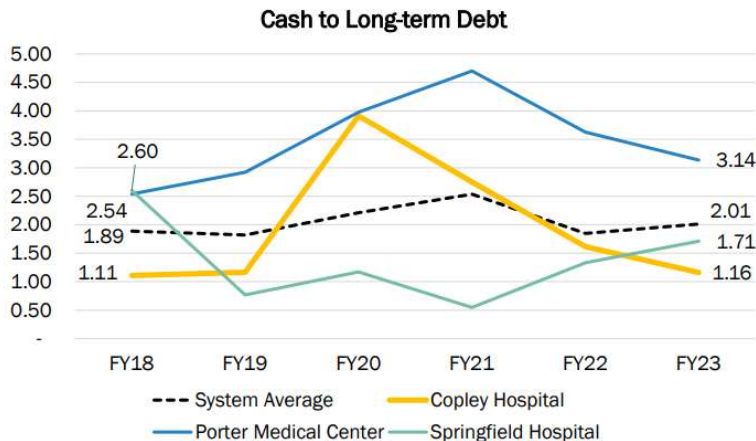
Deliberations II, 7.

10. The following chart shows Copley’s ratio of long-term debt to total assets, which measures the extent to which an organization is using borrowed funds to finance assets. Copley’s faster decline than the rest of the system may suggest increasing unwillingness or inability to borrow.



See Deliberations II, 8.

- Copley’s ratio of cash to long-term debt for FY23 was the lowest among Vermont critical access hospitals. See Deliberations II, 9. The following chart shows Copley’s ratio of cash to long-term debt compared to certain other critical access hospitals and the system average:



See Deliberations II, 9.

- The Board heard evidence from Copley that Copley’s pricing is lower than other Vermont hospitals, and in the case of some procedures and services, Copley’s prices are many times less than other hospitals. See Copley Presentation, 14-16, 20. Data available from RAND supports Copley’s assertions that its prices are among the lowest for Vermont hospitals. See Deliberations I, 9; see also Deliberations II, 13.
- The Board considered GMCB staff calculations of how different rate increases would impact Copley’s projected FY24 operating margin, assuming the increase had been implemented as of March 1, 2024. See Deliberations II, 19.

14. In connection with the hospital’s request for a mid-year rate increase, the Board received and considered 2 written public comments. The comments opposed any mid-year budget adjustment for Copley. *See* Letter from Office of the Health Care Advocate to GMCB (March 18, 2024) and Letter from Sara Teachout, BlueCross BlueShield of Vermont, 1 (March 19, 2024).

CONCLUSIONS

Mid-year adjustments to approved hospital budgets must be limited to “exceptional or unforeseen circumstances” where the affected hospital can show that it needs the requested adjustment. *See* 18 V.S.A. § 9456(f). This is particularly true of mid-year commercial rate increases that, as public commentators explained, result in unanticipated increased health care costs to individuals and businesses that they would not have planned for. *See* Findings, ¶14. After finding that a hospital meets these statutory threshold criteria, the decision to modify a hospital’s budget order mid-year is within our discretion, guided by factors set out in our hospital budget review rule. *See* 18 V.S.A. § 9456(f); GMCB R. 3.000, § 3.401(a)(1)-(5).

Based on the confluence of several aspects of Copley’s current financial condition and its financial position relative to other hospitals and the State’s financial system as a whole, we find that Copley has made a showing of need based on exceptional circumstances. Our finding is not based on one factor, and even with all of the factors taken together Copley only just meets the threshold of exceptional circumstances. In particular, we considered Copley’s year-over-year change in net assets as a percentage of its total assets compared to other hospitals, its 38 days cash on hand, its declining ratio of long-term debt to total assets, its declining cash to long-term debt, its consistently negative operating margin, and, importantly, evidence that Copley’s prices are among the lowest in the State. *See* Findings, ¶¶ 7, 8, 9, 10, 11, 12. Taken together, these factors indicate a low-cost hospital facing serious financial challenges.

Having found that Copley’s request meets the requirements for a mid-year budget adjustment, we next conclude that a 7.0% charge and commercial rate increase above Copley’s previously approved FY24 levels is appropriate because it should, based on Copley’s budget and current projections, bring Copley’s operating margin up to approximately 0%. *See* Findings, ¶ 13. Many factors contribute to a hospital’s margin, and the burden remains on Copley to work toward a positive operating margin by managing its expenses and delivering efficient, high-quality care. The commercial rate increase alone does not guarantee that Copley will not have a negative operating margin for this fiscal year, but we conclude it is appropriate in light of Copley’s financial condition and its position in the State as a lower-cost provider of care.

ORDER

Based on our findings and conclusions detailed above and the authority granted by Chapter 221, Subchapter 7 of Title 18, Copley’s previously approved budget for FY24 is modified as follows:

- A. Effective as of March 1, 2024, Copley may implement a mid-year overall change in charge and commercial rate increase of not more than 7.0% over previously approved FY24 levels, with no commercial rate increase for any payer at more than 7.0% over previously approved FY24 levels. The commercial rate increase overall or with respect to any payer may be less than 7.0% as negotiated between the hospital and payer.
- B. The commercial rate increase cap in Paragraph A. is a maximum and is subject to negotiation between Copley and commercial insurers. Copley shall not represent the maximum commercial rate increase approved by the GMCB in Paragraph A. 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.
- C. Copley shall provide to the GMCB a three-year projection of expenses, in a form determined by GMCB staff, which must include analysis and explanations of key drivers of expected growth and management's strategy for controlling/mitigating expense growth. Additionally, Copley shall provide to the GMCB an analysis and explanation of its historic operating expense growth, in form, and with appropriate comparisons, as determined by GMCB staff.
- D. The terms and conditions of the Budget Order remain in effect as stated in the Budget Order, except as expressly modified by this Order.
- E. 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.
- F. 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.

So ordered.

Dated: April 11, 2024
 Montpelier, Vermont

s/ Owen Foster, Chair)	
)	GREEN MOUNTAIN
s/ Jessica Holmes)	CARE BOARD
)	OF VERMONT
s/ Robin Lunge)	
)	
s/ David Murman)	
)	
s/ Thom Walsh)	

Filed: April 11, 2024

Attest: s/ Jean Stetter
Green Mountain Care Board
Administrative Services Director

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