

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

**FY2023 HOSPITAL BUDGET DECISION AND ORDER**

In re: University of Vermont Medical Center     )  
      Fiscal Year 2023                             )  
\_\_\_\_\_ )                             Docket No. 22-004-H

**INTRODUCTION**

This year the Green Mountain Care Board’s (GMCB or “the Board”) annual process to establish hospital budgets comes at a critical time for Vermont’s hospital and health care providers. The combination of the highest inflation rates in decades, tremendous staffing pressures and shortages, and the continued challenges of the evolving COVID-19 pandemic that have beset hospitals and stretched hospital operations and finances. These extraordinary pressures and continued uncertainty have also impacted hospitals’ ability to make assumptions upon which to build budgets. The budgets established by the GMCB this year reflect the unprecedented situation facing Vermont’s hospitals. Nine of Vermont’s 14 community hospitals are projecting negative operating margins for FY22, with a systemwide total of approximately \$63.2 million in operating losses. See Preliminary Review of FY2023 Hospital Budget Submissions and Public Budget Hearing Exemptions, 25-26 (July 27, 2022) (Preliminary Review).

In July, the Board began reviewing the Fiscal Year 2023 (FY23) budgets of Vermont’s 14 general (community) hospitals for compliance with policy guidelines and financial targets adopted by the Board. The financial benchmarks include net patient revenue and fixed prospective payment (NPR/FPP) growth of not more than 8.6% in total for FY23 and FY24 over the approved FY22 budgets. See GMCB, FY 2022 Hospital Budget Guidance and Reporting Requirements, 5 (Mar. 31, 2022) (FY23 Guidance).<sup>1</sup> Utilizing its authority under Act 85 of 2022, the Board decided in August to allow hospital’s NPR/FPP growth to be evaluated from the hospitals’ FY22 projections to FY23 budget. The assumptions built into the hospitals’ FY22 budgets were proving to be inaccurate – inflation in FY22, as one prominent example, exceeded what hospitals were anticipating in their FY22 budgets – and the Board concluded that using projections based on FY22 actual results provided a more realistic view of growth. The hospitals’ FY23 budget submissions reflected a systemwide average NPR/FPP growth request of 10.2%<sup>2</sup> over the approved, systemwide FY22 NPR/FPP. Preliminary Review, 14. Individual hospital NPR/FPP growth ranged from 4.5% to 16.1% on a budget-to-budget basis. Id. Individual hospital NPR/FPP growth on a projection-to-budget basis ranged from 1.8% to 15.7%. See FY 2023 Vermont Hospital Budget Deliberations, 31 (August 31, 2022)

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<sup>1</sup> The hospitals’ FY23 budget materials, including their budget narratives and responses to questions, are available on the GMCB website at: <https://gmcboard.vermont.gov/FY23HospitalBudgets>. Transcripts of the hospital budget hearings and deliberations are available upon request.

<sup>2</sup> In accordance with the FY23 Guidance, hospitals may request “adjustments” to their approved FY22 NPR/FPP or FY23 request, which, if approved, are not factored into their total NPR/FPP increase. These adjustments most frequently reflect provider transfers but may also be driven by other accounting adjustments. See FY23 Guidance, 6.

(Deliberations I). Hospital budget submissions also reflected an overall estimated weighted average charge increase of 10.7%, with individual charge increases ranging from 3.5% to 17.8%. Preliminary Review, 10. The submitted charge increases would have resulted in an estimated weighted average commercial rate increase of 14.8%, with a range of approximately 2.9% to 19.9%. GMCB, FY 2023 Vermont Hospital Budget Debrief, 7 (September 28, 2022) (Approved Budgets).

Following public Board meetings, presentations by hospitals and GMCB staff, a special public comment period that closed on August 30, 2022, and a presentation and report on inflation from the State's economists, the Board deliberated on each hospital's budget using a decision tree approach and approved each hospital's budgeted NPR/FPP increase as submitted, resulting in an expected systemwide growth of 10.2%. The Board concluded that the hospitals' submitted NPR/FPP increase was warranted in light of the unprecedented challenges and the need to ensure access to care at Vermont's hospitals. The Board approved an estimated weighted average charge increase of 10.5%, with minimal change from the submitted change in charge, but the Board reduced the overall effective commercial rate increases by approximately \$31.7 million. The reduction in commercial rates were offset by projected increases in Medicare reimbursements and additional financial support from the Department of Vermont Health Access (DVHA) that was not known at the time hospitals submitted their FY23 budgets. See GMCB, Short Term Stabilization Drives FY 2023 Hospital Budget Decisions Long Term Hospital Sustainability Work on the Horizon (September 12, 2022).

The University of Vermont Medical Center (UVMCMC) submitted its budget on July 1, 2022, requesting a 10.0% increase in NPR/FPP, a 10.1% overall change in charge, and a 19.9% effective commercial rate increase. On September 12, 2022 following GMCB staff presentations and deliberations, the Board approved UVMCMC's FY23 budget with a modification. FY 2023 Vermont Hospital Budget Deliberations, 19 (September 12, 2022) (Deliberations III)

## **LEGAL FRAMEWORK**

Hospital budget review is one of the Board's core regulatory responsibilities. 18 V.S.A. §§ 9375(b)(7), 9456. The Board must establish each hospital's budget annually no later than September 15 and is required to issue written decisions reflecting each hospital's established budget by October 1. 18 V.S.A. § 9456(d)(1). In making its decisions, the Board 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. Additionally, the Board must execute its duty of annually establishing each hospital's budget in a way that advances the principles of healthcare reform set forth in 18 V.S.A. § 9371. See 18 V.S.A. § 9375(a). The Board may adjust proposed budgets that fail to comply with the Board's established benchmarks and other guidance. GMCB Rule 3.000, § 3.305. The Board may also adjust a hospital's established budget based on the Board's independent review of a hospital's budget performance.

18 V.S.A. § 9456(f); GMCB Rule 3.000, § 3.401.

Hospitals bear the burden of persuasion in justifying their proposed budgets. GMCB Rule 3.000, § 3.306(a). During its review, the Board must consider numerous factors, including hospitals' utilization information and assumptions, community and state health care needs, the cost shift, hospitals' payer mix and performance under past budgets, public comments, and any other information the Board deems relevant. *See* 18 V.S.A. § 9456(b); GMCB Rule 3.000, § 3.306(b). Each approved budget must, among other requirements, be consistent with state and community health care needs, reflect the hospital's performance for prior years, take into consideration national, regional, or in-state peer group norms, according to indicators, ratios, and statistics established by the Board, and promote the hospital's efficient and economic operations. *See* 18 V.S.A. § 9456(c).

The Board annually adopts guidance by March 31 that establishes benchmarks for hospitals to use in developing and preparing their upcoming fiscal year's budgets. GMCB Rule 3.000, § 3.202. The Board issued guidance for FY23 budgets on March 31, 2022, after public meetings with Vermont hospitals, the Vermont Association of Hospitals and Health Systems, the Office of the Health Care Advocate (HCA) and other interested parties. *See* FY23 Guidance, 3, 4.<sup>3</sup> The Board set an NPR/FPP growth guidance of not more than an aggregate of 8.6% for FY23 and FY24, combined, over the approved FY22 budgets. FY23 Guidance, 5.

To "prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to the evolving needs related to the COVID-19 pandemic," the Board was given authority to waive or permit variances from State laws, guidance, and standards with respect to several of its regulatory responsibilities, including hospital budget review, through March 31, 2023. Act 85 of 2022, §5(a).

Pursuant to its authority under Act 85, on August 31 the GMCB voted to allow each hospital's FY23 NPR/FPP to be reviewed based on its growth from the hospital's projected FY22 NPR/FPP, as provided by the hospital, in addition to comparing the NPR/FPP on a budget-to-budget basis, to determine how the hospital aligns with the Board's guidance. *See* 2023 Hospital Budget Deliberations (August 31, 2022) (Deliberations Hearing), Hearing Transcript 120:19-121:23. Using a hospital's growth from projected FY22 NPR/FPP to FY23 budgeted NPR/FPP provided a view of the hospital's growth that reflects the economic and operational pressures hospitals faced in FY22.

### **FY23 REVIEW PROCESS**

Hospitals submitted their FY23 budgets to the GMCB on or about July 1, 2022 and presented their budgets at public GMCB meetings between August 15, 2022 and August 26, 2022. The Board and its staff reviewed and analyzed FY23 budget information submitted and presented by the hospitals, including detailed financial information, utilization data, inflation costs, population health goals, value-based care participation, patient access data and specific

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<sup>3</sup> The Board's FY22 Guidance is available at <https://gmcboard.vermont.gov/sites/gmcb/files/documents/FY23%20Hospital%20Budget%20Guidance-%20FINAL.pdf>.

quantitative and qualitative measures for patient wait times, budget-to-budget and projected-to-budget NPR/FPP growth rates, trended NPR/FPP growth rates forward from FY19 as a pre-pandemic base year, prior budget performance, requested changes in charges, and the estimated impact of changes in charge on commercial rates.

In addition, the Board commissioned the State's economists to provide a review and analysis of generally accepted measures of medical inflation, which the State's economists provided to the Board in a report<sup>4</sup> and at a public meeting on August 31, 2022. The Board received and considered comments from the HCA and from members of the public. The Board also considered each hospital's unique circumstances, including its health care reform efforts, capital and infrastructure needs, hospital-specific risks and opportunities, and applicable cost-reduction initiatives.

The hospitals requested a systemwide NPR/FPP increase of 10.2% over the systemwide FY22 budgeted NPR/FPP. Preliminary Review, 14. After considering presentations from and discussions with hospital leadership, analysis prepared by GMCB staff, and input from the HCA and the public, the Board established hospital budgets that approved each hospital's NPR/FPP growth as submitted. Approved Budgets, 5.

The Board also reviewed each hospital's proposed change in charge, which is the average amount by which a hospital increases its charges.<sup>5</sup> A hospital's overall change in charge is not the same as the increase paid by commercial payers. The Board collected and reviewed from each hospital its estimated impact on commercial rate payers that would result from the hospital's budgeted change in charge. The respective payers — Medicare, Medicaid, and commercial — do not reimburse each hospital the same amount for the same services. See Deliberations, 18-20. For example, commercial payers can negotiate reimbursements with each hospital separately, resulting in pricing variations, while Medicaid and Medicare prices are not typically negotiable, and reimbursement is instead established through each payer's unique fee schedule and update factors. Hospitals generally did not budget for an increase in Medicaid reimbursement in FY23. After hospitals submitted their budgets and before the Board deliberated, increased Medicare reimbursement rates were announced, along with additional funding being made available by the Vermont Department of Health Access. See Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2023 Rates; etc. (CMS-1771-F), 87 Fed. Reg. 48,780 (August 10, 2022); Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; etc. (CMS-1772-P), 87 Fed. Reg. 44,502 (proposed July 26, 2022); Letter from Andrea DeLaBruere, Commissioner, Department of Vermont Health Access (August 31, 2022).<sup>6</sup>

Vermont community hospitals continue to transition to a value-based payment system

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<sup>4</sup> A copy of the report is available at [https://gmcboard.vermont.gov/sites/gmcb/files/documents/GMCB\\_Report%2008.22.22\\_FINAL\\_withAppendix.pdf](https://gmcboard.vermont.gov/sites/gmcb/files/documents/GMCB_Report%2008.22.22_FINAL_withAppendix.pdf).

<sup>5</sup> Changes to the actual charges vary by hospital and across service lines and by procedure.

<sup>6</sup> A copy of the letter is available at [https://gmcboard.vermont.gov/sites/gmcb/files/documents/GMCB%20Letter\\_08-31-22.pdf](https://gmcboard.vermont.gov/sites/gmcb/files/documents/GMCB%20Letter_08-31-22.pdf).

focused on prevention, wellness, and health. Hospitals expected fixed prospective payments as a percentage of NPR/FPP for FY23 range from 0% to 21.7%. Preliminary Review, 19. Out of approximately \$3.3 billion NPR/FPP for all Vermont community hospitals in FY23, \$384 million, or 12%, is expected to be in the form of fixed prospective payments for FY23. *Id.* The percentage of NPR/FPP in the form of fixed prospective payment in FY23 is a decrease from FY22, which had approximately 14% of NPR/FPP in the form of fixed prospective payments. Preliminary Review, 18.

The Board also considered each hospital's extraordinary labor costs and investments, as well as the impacts of those costs and investments on the affordability of health care, in accordance with Act 85 of 2022. See FY23 Guidance, 6. Other factors considered by the Board in reviewing each hospital's budget included the impacts on Vermonters and employers in the commercial market, including self-funded employers, and considerations of Medicare and/or Medicaid payment changes on the commercial rate increases, impacts of Medicare and/or Medicaid payment changes and changes to rate of uninsured, hospital reimbursement variation data, cost, and cost coverage data, Data relative to payments to similar hospitals, relative costs for similar hospitals, and payer mix, and generally accepted measures of medical inflation. See *id.*

To organize and facilitate the consistent review of each hospital, GMCB staff presented a review of each hospital in the form of a decision tree that analyzed whether the hospital's proposed budget fell within the Board's NPR/FPP growth guidance, whether the hospital's budget assumptions were supported in its budget submission, and whether the hospital's charge request was supported by its submission. See FY23 Guidance, 5-6. To review the hospital's budget in the context of generally accepted measures of medical inflation and increased labor costs, the Board reviewed each hospital's compensation growth and other inflationary growth against benchmarks reviewed by the State's economists. See Deliberations, 27-28.

UVMHC filed its FY23 budget submission on July 1, 2022. UVMHC requested a 10.0% increase in its NPR/FPP from its FY22 budget, a 10.1% overall change in charge, and a 19.9% effective commercial rate increase. University of Vermont Health Network FY23 Budget Submission on behalf of University of Vermont Medical Center, Narrative, 8, (UVMHC Submission); UVMHC Submission, Appendices, Appendix 2; Deliberations III, 9. UVMHC's FY22 budget-to-projection variance is -5.0% (i.e., its FY22 projected NPR/FPP is 5.0% less than its FY22 budget), and as a result the hospital's FY23 budgeted NPR/FPP represents a 15.7% increase from its projected FY22 results. See Deliberations III, 9. UVMHC's FY23 NPR/FPP increase, measured from FY22 budget or FY22 projections, exceeds the 8.6% NPR/FPP growth guidance established by the Board.

The University of Vermont Health Network (UVMHN) and UVMHC's senior leadership presented the FY23 budget to the Board at a public hearing held August 19, 2022. See UVM Health Network FY 2023 Budget Presentation on behalf of University of Vermont Medical Center (Aug. 19, 2022) (UVMHC Presentation), 1. On September 12, 2022, following GMCB staff presentations and deliberation, the Board approved UVMHC's budget with a 10.0% increase in NPR/FPP for FY23, as submitted, and a 10.1% increase in average overall charges, as submitted, and a commercial effective rate increase of 14.77%, modified from 19.9%.

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

## **FINDINGS**

### **Systemic Factors**

1. COVID-19 (SARS-CoV-2) and its variants have significantly impacted hospital operations and budgets in Vermont, from the first reported case in March, 2020, through the current hospital budget review process.
2. Federal and state governments provided financial assistance to health care providers during the pandemic. Vermont hospitals received approximately \$191 million in COVID-19 related funding in FY20, and approximately \$128 million in COVID-19-related funding for FY21 on a statewide basis. All Vermont Community Hospitals, Fiscal Year 2023 Submitted Budget, 3 (All Hospital Summary). For FY22, hospitals projected approximately \$55 million in COVID-19-related funding, and for FY23, hospitals have budgeted a statewide total of approximately \$5 million in COVID-19 funding. *Id.*
3. Average hourly earnings increased 8.5% from June, 2021 to June, 2022, according to the U.S. Bureau of Labor Statistics (BLS). See U.S. Bureau of Labor Statistics, Employment, Hours, and Earnings from the Current Employment Statistics survey (National), Average hourly earnings of production and nonsupervisory employees, hospitals, seasonally adjusted (2020-2022), available at <https://beta.bls.gov/dataViewer/view/timeseries/CES6562200008>. Forecasts for personal income growth from 2022 to 2023 include an estimate of 4.5% from the Centers for Medicare and Medicaid Services and 5.3% from Moody's. Initial Economic Analysis and Summary Consensus Recommendations Associated with Green Mountain Care Board Budgetary Review Process, Economic and Policy Resources, Inc. and Kavet, Rockler & Associates, LLC (August 22, 2022), 42. Combined, a reasonable growth range for labor costs would be 13.0% to 13.8%.
4. Measures of anticipated inflation for 2022 to 2023 include forecasted growth of PCE-Services of 4.1%, a GDP Deflator of 4.4%, and a CPI-U of 4.5%. Initial Economic Analysis and Summary Consensus Recommendations Associated with Green Mountain Care Board Budgetary Review Process, Economic and Policy Resources, Inc. and Kavet, Rockler & Associates, LLC (August 22, 2022), 44-45. The different benchmarks are explained in the economists' report. See *id.*, 7-8.

### **UVMHC Budget Submission**

5. UVMHC is a prospective payment system hospital with its primary location in Burlington, Vermont. UVMHC is Vermont's largest hospital by revenue and the state's only tertiary care hospital and academic medical center; its FY23 submitted NPR/FPP accounted for approximately 50.7% of the total submitted NPR/FPP for all 14 regulated hospitals in the State. See Preliminary Review, 15.

6. On March 18, 2022, UVMHN, on behalf of UVMMC, submitted a request to modify UVMMC's approved FY22 budget by increasing the hospital's commercial rate by 10%. Following a presentation by UVMHN on March 30, 2022, GMCB staff presentations and GMCB deliberations on April 6 and 8, 2022, the Board voted to approve a mid-year change in charge for UVMMC of up to 2.5% above the hospital's approved FY22 budget. See *Modification of FY2022 Hospital Budget Decision and Order, Docket No. 21-004-H (April 15, 2022)*.
7. UVMMC submitted its FY23 budget on July 1, 2022. UVMMC requested a 10.0% growth in NPR/FPP from its FY22 budget, for a total of \$1,658,725,627. See *UVMMC Submission, Staff Analysis, Income Statement, 3*. UVMMC's growth in NPR/FPP from its FY22 projections to FY23 budget is 15.7%. *Deliberations III, 9*. UVMMC's FY22 budget-to-projection variance is -5.0%. See *Deliberations III, 9; UVMMC Submission, Staff Analysis, Income Statement, 3*. Only three Vermont hospitals have projected FY22 NPR/FPP that is less than their budgeted FY22 NPR/FPP. See *Deliberations III, 8*.
8. UVMMC's FY23 NPR/FPP increase from its FY22 budget includes a utilization increase of 7.7%. See *Deliberations III, 10; UVMMC Submission, Appendices, Appendix 3*. For the most recent months in FY22, UVMMC's ability to meet demand has been stressed: "Since April, [UVMMC] has only had two days where we weren't in red census.... Red census means that operation is not normal. You have to do extra things to try to get everyone cared for. Pretty much every single day now we're in the red. We actually even added a higher category, super red, because red isn't enough on many days." See *UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 77:8-77:19*. The high volume creates challenges for UVMMC to find available capacity for patients waiting to come to the hospital ("It's unfortunately never zero anymore. It's always two or four, some days it's as many as 10 or 11."), and the hospital also faces challenges finding available places in appropriate long-term care or other settings to transfer people who no longer require hospitalization. See *UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 77:20-77:23, 78:4-78:5, 79:14-79:23*. For example, UVMMC's emergency department typically has 15 psychiatric patients waiting to move to an inpatient psychiatric facility (approximately a quarter of the hospital's ED capacity), and the cost for observers needed to staff those beds for psychiatric patients adds approximately \$5.4 million in uncompensated care to UVMMC's expenses. See *UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 79:5-79:15*. UVMMC's inpatient census has been high, primarily due to more complex medical patients who take more time and resources before they can be discharged. See *UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 127:3-127:21*. The range of increases for utilization assumptions in all Vermont hospital budgets was -2.7% to 8.2%, with a median of 2.1%. See *Deliberations III, 10*.
9. UVMMC's FY23 NPR/FPP increase from FY21 includes compensation growth of 12.4%. See *Deliberations III, 10; UVMMC Submission, Appendices, Appendix 4*. The range for the submitted budgets for all Vermont hospitals is -12.8% to 12.4%, with a median of 6.7%. See *Deliberations III, 10*.
10. UVMMC's FY23 NPR/FPP increase from its FY22 budget includes other inflationary growth of 3.3%. See *Deliberations III, 10; UVMMC Submission, Appendices, Appendix 4*.

The range for submitted budgets for all Vermont hospitals is -2.7% to 14.7%, with a median of 2.1%. See Deliberations III, 10.

11. UVMMC submitted its FY23 budget with a requested average overall charge increase of 10.1%. See UVMMC Submission, Appendices, Appendix 2; Deliberations III, 10. UVMMC's effective commercial rate increase is budgeted at 19.9%, which was the highest commercial effective rate increase submitted by any hospital. See UVMMC Submission, Narrative, 8; Deliberations III, 10. The range of commercial rate increases proposed by all Vermont hospitals was 2.9% to 19.9%, with a median of 8.0%. See Deliberations III, 10.
12. UVMMC's requested 10.1% change in charge for FY23 is below the estimated weighted average of 10.7%. Preliminary Review, 10. UVMMC's six year (FY17-FY22) median approved change in charge is approximately 3%, with a range from approximately 1% to 9%. Preliminary Review, 11.
13. UVMMC's FY23 budget assumptions include no increase in Medicaid payment rates for the hospital; UVMMC's budgeted increase from Medicaid was approximately \$150,000. UVMMC Submission, Narrative, 8-9, 24. UVMMC budgeted a 3.4% increase for Medicare payment rate changes, which includes an assumed \$8.5 million in shared savings generated through the ACO. See UVMMC Submission, Narrative, 24. UVMMC's budgeted increase from Medicare was approximately \$6.4 million, and \$8.5 million from Medicare ACO increase. See UVMMC Submission, Narrative, 9.
14. UVMMC included an analysis with a reasonable methodology showing how its change in charge is less than its total change in rates in an amount equal to increases in Medicaid and Medicare, at the time of its budget submission, and changes in bad debt and charity care. See UVMMC Submission, Narrative, 9.
15. After submission of its FY23 budget, the amount of expected 2023 Disproportionate Share Payments (DSH) for UVMMC decreased by approximately \$26,000, remaining at approximately \$11.2 million. See Letter from Andrea DeLaBruere, Commissioner, Department of Vermont Health Access (August 31, 2022) (DVHA Letter); Deliberations III, 18.
16. In August, the Centers for Medicare & Medicaid Services (CMS) issued the final rule for FY23 rates for Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS Rule), which affected Medicare inpatient rates for PPS hospitals. See Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2023 Rates; etc. (CMS-1771-F), 87 Fed. Reg. 48,780 (August 10, 2022). CMS also proposed an increase for Medicare reimbursements for outpatient services (OPPS Rule), though the rule has not been finalized. See Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; etc. (CMS-1772-P), 87 Fed. Reg. 44,502 (proposed July 26, 2022). The final IPPS rule decreased UVMMC's estimated inpatient Medicare rate increase to 2.61%, from a budgeted 2.62% (a difference of approximately \$17,000), and the proposed OPPS Rule

would increase UVMMC's estimated outpatient Medicare rate increase to between 1.74% and 10.11%, from a budgeted 0.86% (a difference of approximately \$1 million to \$11.1 million). See Email from Rick Vincent to Sarah Lindberg re: follow-up (September 6, 2022); Deliberations III, 18.

17. DVHA plans to increase payment to support Graduate Medical Education (GME) to UVMMC in FY23 to \$51 million, from \$30 million in the current state fiscal year, subject to appropriate approvals. See DVHA Letter, 2 ("Beginning in hospital fiscal year 2023, DVHA plans to seek Global Commitment spending authority via the Budget Adjustment Act for SFY 2023 to increase the annual GME amount from the current \$30 million to approximately \$51 million (the full amount of GME payment potential demonstrated by the approved calculation methodology for SFY 2023)."). UVMMC has a matching funds requirement, which reduces the GME increase to \$11.9 million. See Deliberations III, 18.
18. In 2018, after a review of FY17 budget performance, the GMCB voted to direct UVMMC to self-restrict \$21 million in surplus funds. See Letter from Pat Jones to UVMHN and UVMMC re: 2017 Budget Enforcement (April 12, 2018) (Mental Health Funds Letter). The Board voted to allow UVMMC to self-restrict the surplus funds "with the condition that such funds be used solely for investments that measurably increase inpatient mental health capacity in Vermont," and that if the Board "determines that insufficient progress has been made, it may order that UVMMC use all or a portion of the \$21M to benefit ratepayers through a commercial rate reduction." See *id.* On June 24, 2022, following a presentation from UVMHN on the status of the UVMHN psychiatric inpatient capacity (PIC) project, the Board sent a letter stating that "[b]ased on the presentation, the GMCB understands that the PIC project is indefinitely on hold, and that UVMHN's current financial position will not support the PIC project" and that "[s]ince the PIC project is indefinitely on hold, we determine that insufficient progress is being made." See Letter from Kevin Mullin to Dr. John Brumsted re: Use of Self Restricted Funds for Inpatient Mental Health Capacity (June 24, 2022). Based on a status report from UVMHN from February 15, 2022, UVMHN had expended approximately \$1.9 million of the self-restricted funds on PIC project planning work. See Memo to Kevin Mullin re: UVM Health Network quarterly report on inpatient mental health capacity (February 15, 2022; corrected February 23, 2022), 12.
19. UVMMC's FY23 budget includes total operating expenses of \$1,921,613,374, an increase of approximately \$258.9 million, or 15.6%, over budgeted FY22. UVMMC Submission, Staff Analysis, Income Statement, 3. UVMMC's budgeted FY23 operating expenses are approximately \$130.4 million more than its projected FY22 operating expenses because the hospital's projected FY22 operating expenses are 7.7% greater than its budgeted FY22 operating expenses. See *id.*
20. For FY23, UVMMC budgeted an operating margin of \$39,301,607, or approximately 2.0%, and a total margin of 2.8%. UVMMC Submission, Staff Analysis, Income Statement, 3. UVMMC projects a -2.5% operating margin and a -7.9% total margin in FY22. UVMMC Submission, Staff Analysis, Income Statement, 3. For FY21, UVMMC had an operating margin of 2.3% and a 7.1% total margin. *Id.*

21. UVMMC cites high labor costs, including traveler expenses to manage patient needs, in a competitive labor market along with extreme burnout of nurses, physicians, and staff, among other challenges, as critical concerns for FY23. See UVMMC Submission, Narrative, 2; UVMMC Presentation, 57. UVMMC states that approximately 58% of its overall budget is workforce related. See UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 81:19-82:10. The “[I]ack of available staffing has been really driving up a need to continue to allow travelers” at UVMMC. See UVMMC Presentation, Hearing Transcript, Testimony of Stephen Leffler, 81:10-81:18. UVMMC, and other hospitals in the UVMHN, offer physician loan repayment to attract new doctors, providing staff educational and training opportunities, negotiating wage increases to remain competitive, strengthened recruitment efforts, offering a nurse residency program to help new graduates transition from academic training to clinical work, and offering training and apprenticeships in pharmacy and phlebotomy careers. See UVMMC Submission, Narrative, 46-47.
22. UVMMC works to reduce supply, drug, and purchase services costs on an ongoing basis to reduce expenses. See UVMMC Submission, Narrative, 34. The hospital also plans to expand its use of Robotic Process Administration to reduce staffing costs, and to increase permanent staff and reduce its usage of more expensive travelers. See *id.*
23. A source of other operating revenue for UVMMC comes from the 340B Drug Pricing Program. UVMMC budgeted approximately \$11.7 million in 340B revenue for FY23, which is a 61.3% decrease from the hospital’s FY22 budget and more than the approximately \$11 million that UVMMC projects for 340B revenue in FY22. See UVMMC Submission, Staff Analysis, Income Statement, 3.
24. For 2023, UVMMC plans to be a participating provider in OneCare Vermont’s Medicare, Medicaid, commercial, and self-insured programs. See UVMMC Submission, Narrative, 49-50. UVMMC projects that approximately \$208.8 million of its FY23 patient services income will be paid in FPPs. See UVMMC Submission, Staff Analysis, Income Statement, 3. This represents 12.6% of UVMMC’s budgeted FY23 NPR/FPP, which is approximately equal to the systemwide total of 12% of NPR/FPP paid as FPP. See *id.*; Preliminary Review, 19. For FY22, UVMMC budgeted approximately \$184.9 million of its \$1.51 billion NPR/FPP, or 12.3%, to be paid in FPPs. See UVMMC Submission, Staff Analysis, Income Statement, 3.
25. UVMMC’s budget anticipates 128.9 days cash on hand in FY23. UVMMC Submission, Staff Analysis, Balance Sheet, 4. UVMMC expects to have 132.1 days cash on hand at the end of FY22. *Id.* UVMMC’s FY23 cash position is budgeted to be less than it had budgeted for FY22 (186.6 days cash on hand), less than it had in FY21 (198.8 days cash on hand), and less than it had for FY20 (193.2 days cash on hand). *Id.* UVMMC’s days cash on hand is less the Vermont median for PPS hospitals of 136, and below the benchmarks for Northern New England and Northeast PPS hospitals. See Preliminary Review, 44.
26. UVMMC’s narrative, presentation, and other filed budget information comply with the Board’s FY23 hospital budget requirements.

27. Approving UVMMC's budget as outlined below will promote the efficient and economic operation of the hospital and is consistent with the current Health Resource Allocation Plan (HRAP) and ongoing community needs in UVMMC's Health Service Area.

## CONCLUSIONS

Vermont's hospitals continue to face significant, arguably unprecedented, strain from the combination of inflation, staffing and workforce challenges, and the impact of the evolving COVID-19 pandemic. The effect is being felt in hospitals' operations, their finances, and by their health care providers and other staff daily.

UVMMC's FY23 NPR/FPP growth exceeds the Board's guidance, whether the growth is measured from the hospitals FY22 budget, at 10.0%, or from the hospitals FY22 projections, at 15.7%. See Findings ¶ 7. Because UVMMC did not meet the budget guidance, we reviewed its budget carefully to determine if the submission supported approving growth in excess of the guidance. We concluded that UVMMC's FY23 NPR/FPP is justified as submitted because of the extraordinary and unprecedented challenges that the hospital faces: the demand exceeds the volume that UVMMC can meet on a daily basis, and the hospital faces a very tight labor market and high staffing and workforce costs. See Findings ¶¶ 8, 21. UVMMC is one of only three hospitals in Vermont to have projected FY22 NPR/FPP below its budgeted NPR/FPP, with a budget-to-projection variance of -5.0%. Findings ¶ 7. UVMMC's compensation growth from FY21 to FY23 is 12.4%, which is the highest among Vermont hospitals but still less than 13.8%, which is based on a generally accepted data from BLS, CMS, and Moody's. See Findings ¶¶ 3, 9. UVMMC's other inflationary growth, at 3.3%, is less than CPI-U, a generally accepted measure, and above the median for all Vermont hospitals. See Findings ¶¶ 4, 10. UVMMC's anticipated utilization change, at 7.7%, is above the median for Vermont hospitals. See Findings ¶ 8. Based on UVMMC's current utilization trends, which the hospital justified by the number of patients that are waiting to come to the hospital, patients coming through its emergency department, and patient transfers from other institutions, the assumed utilization increase is reasonable. See id.

Although we approve UVMMC's FY23 NPR/FPP as submitted, we conclude that the hospital relies too heavily on an increase in its commercial effective rate when other revenue sources are available. See Findings ¶¶ 11-13, 16-18. UVMMC's proposed commercial effective rate increase was 19.9%, which is the highest among Vermont hospitals and more than double the median commercial rate increase for Vermont hospitals. See Findings ¶ 11. UVMMC also increased its commercial effective rates during FY22 by 2.5%, with the Board's approval. See Findings ¶ 6. As set out below, to protect commercial ratepayers from disproportionately shouldering the increase in UVMMC's budget, we modify UVMMC's submitted budget by reducing the commercial effective rate increase from 19.9% to 14.77%.

UVMMC's budget does not include an additional \$11.9 million that, subject to approval, it is expected to receive from DVHA for GME. See Findings ¶ 17. Applying the additional GME funds to reduce the commercial effective rate would adjust the increase from 19.9% to 18.34%. UVMMC's budget does not include increases in Medicare rates that were not known when UVMMC submitted its budget, but which can now be estimated based on recently

proposed and final rules from CMS. See Findings ¶ 16. Factoring in an increase in Medicare IPPS Rule and the change in FY23 DSH does not have a material impact on UVMMC's commercial rate request. See Findings ¶¶ 15, 16. Reducing UVMMC's commercial rate increase to adjust for the proposed Medicare OPSS (using the estimated minimum and maximum increase in the proposed OPSS Rule), UVMMC's commercial rate increase would be reduced to between 16.40% and 18.16%. UVMMC could request that the Board modify its 2018 action that provisionally allowed UVMMC to self-restrict approximately \$21 million for inpatient mental health capacity. See Findings ¶ 18. If the Board approved the use of those funds to "benefit ratepayers through a commercial rate reduction," as the GMCB stated in its 2018 order, then UVMMC's commercial rate request would be reduced to between 13.89% and 15.65%. We took the midpoint between the high estimate and low estimate for the impact of the OPSS Rule and arrived at a commercial rate increase of 14.77%.

Our order does not require that UVMMC use additional GME, additional Medicare, and the self-restricted mental health funds to make up the difference between its submitted and approved commercial effective rate increase. The hospital may identify better approaches. However, the use of the funds noted above presents one pathway for the hospital to maintain its budgeted NPR/FPP while reducing the burden on commercial ratepayers.

### **ORDER**

Based on our findings and conclusions and the authority granted by Chapter 221, Subchapter 7 of Title 18, UVMMC's budget is approved as modified for FY23 subject to the following terms and conditions:

- A. UVMMC'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.
- B. UVMMC's overall average charge increase is approved at not more than 10.1% over current approved levels, and UVMMC's commercial effective rate increase is approved at not more than 14.77% over current approved levels.
- C. Beginning on or before November 20, 2022, and every month thereafter, UVMMC shall file with the Board the actual year-to-date FY23 operating results as of the end of the prior month. The report shall be in a form and manner as prescribed by GMCB staff.
- D. UVMMC shall participate in telephonic check-ins to be scheduled at the discretion of the Board Chair in consultation with Board staff based on the hospital's FY23 year-to-date operating performance
- E. UVMMC shall advise the Board of any material changes to its FY23 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/FPP budget.

- F. On or before January 31, 2023, UVMMC 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 FY22 actual operating results.
- G. UVMMC shall file with the Board one copy of its FY22 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, 2023, whichever is earlier.
- H. UVMMC shall participate in the Board's strategic sustainability planning process.
- I. UVMMC shall timely file all forms and information required for provider acquisitions and/or transfers as determined by GMCB staff, if applicable.
- J. UVMMC shall file all requested data and other information in a timely and accurate manner.
- K. 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.
- L. All materials required above shall be provided electronically, unless doing so is not practicable.
- M. 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: September 30, 2022  
 Montpelier, Vermont

s/ Jessica Holmes, Interim Chair	)	
s/ Robin Lunge	)	GREEN MOUNTAIN
s/ Thom Walsh	)	CARE BOARD
	)	OF VERMONT

## **Pelham, dissenting**

The UVMMC budget is vastly different from the 13 other hospital budgets we consider. Relative to total NPR/FPP revenue, UVMMC occupies 50.7% of the 2023 system-wide request at \$1.659 billion with the remaining 13 hospitals occupying cumulatively the complement at 49.3%. See Preliminary Review, 15. Rutland Regional, at 9.6%, occupies the next largest share at \$314 million. See *id.* Similarly, regarding 2023 requests for additional NPR/FPP revenues, across all 14 hospitals the total is \$302.7 million, budget-to-budget, with UVMMC occupying 49.6% or \$150.2 million, with the next largest request being Rutland Regional's \$46.3 million at just 14.4% of the total. See All Hospital Summary, Income Statement, 3; Preliminary Review, 15. Clearly, if any of the 13 smaller hospitals lose their balance, their diversity and relative independence tend to prevent a collective fall. Such is not true regarding UVMMC.

Further, not only does UVMMC occupy half of the hospital budget landscape, it also is blessed with the most favorable commercial payer mix at 60% commercial/10% Medicaid. See Deliberations, III, 13. Across the other 13 hospitals, the average payer mix is 48% commercial/11% Medicaid. See Preliminary Review, 16-17. For some historical context, from FY 2017 to 2021, UVMMC accrued \$178.6 million, or 85.6 percent of all operating margin revenues of \$208.1 million See Fiscal Year 2021 Vermont Hospital Reporting: Year-End Actuals, 17 (March 9, 2022).

From the All-Hospitals Summary as well as the individual hospital payer-mix tables, one can see that the total system-wide requested increase in commercial NPR/FPP, budget-to-budget, equals \$236.6 million, growing by 14.6% from \$1.617 billion to \$1.854 billion, equivalent to 78.15% of the \$302.7 million NPR/FPP request. See All Hospital Summary, Income Statement, 3. Relative to this \$236.6 million increase, UVMMC's 2023 request for additional commercial NPR/FPP is \$152.9 million, increasing UVMMC's total commercial NPR/FPP budget-to-budget by 17.1% from \$895.7 million in 2022 to \$1.049 billion in 2023 and absorbing 64.6% of the system-wide requested increase in commercial NPR/FPP. See UVMMC Submission, Staff Analysis, Income Statement, 3.

From UVMMC's budget submission, one can readily see that while the proposed commercial NPR/FPP increases by \$152.9 million, Medicare revenue rises by only \$1.74 million and there is an actual decline in projected Medicaid revenues of \$4.45 million. UVMMC Submission, Staff Analysis, Income Statement, 3. In other words, UVMMC is proposing that their entire 2023 budget NPR/FPP increase be essentially funded with new commercial ratepayer revenues.

The above is not a balanced approach and UVMMC's outsized role serves only to compound the problem. A 14.6% increase in system-wide commercial NPR or a 17.1% increase in UVMMC's commercial revenues is destabilizing.

In my two previous dissenting UVMMC Hospital Budget opinions I wrote, “I don’t cite the above to criticize UVMMC. UVMMC is simply pursuing available opportunities and imbalances embedded in our healthcare finance system.” And such is true again this year. But it doesn’t have to be this way. Here’s a simple but effective alternative.

UVMMC has projected a 2023 operating margin of \$39,301,607, equaling 2% of total operating revenue. UVMMC Submission, Staff Analysis, Income Statement, 3. This projected operating margin is substantially supported by higher commercial revenues. As a practical matter, it is relevant to understand that an operating margin is the blended outcome by management of revenues and expenses such that an operating margin, or profit, results by year’s end. An operating margin is neither a revenue nor expense line item, but a blend of both.

As stated above, UVMMC’s 2023 total operating revenue is projected at \$1.961 billion with commercial revenues growing by \$152.9 million, or 17.1%. UVMMC Submission, Staff Analysis, Income Statement, 3. The option exists to reduce this commercial increase by \$39,301,607 with the related result of reducing the commercial rate increase to 12.7%. See *id.* This cut would also eliminate the projected operating margin, which is a result that UVMMC’s talented management would need to address. However, identifying 2% in revenue and expense savings to fund the operating margin in a \$1.961 billion budget is not an extraordinary task. For starters, the state government just announced an increase in UVMMC’s Graduate Medical Education Grant of \$11.9 million. See DVHA Letter, 2; Deliberations III, 18. In addition, increases in both Medicaid and Medicare reimbursement rates are expected to provide additional millions. See Email from Rick Vincent to Sarah Lindberg re: follow-up (September 6, 2022); Deliberations III, 18. And further, unlike with Medicaid and Medicare, UVMMC and commercial carriers have yet to meaningfully engage in fixed prospective value-based payments.

Clearly, the commercial rate increase can be substantially reduced, and the desired operating margin restored, without cutting critical line items in UVMMC’s budget. I would have preferred to see this approach taken by the majority in this decision.

Filed: September 30, 2022

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

*NOTICE TO READERS: This document is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (Email address: Russ.McCracken@vermont.gov).*