

Green Mountain Care Board
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MEMORANDUM

TO: Senator Ann Cummings, Chair, Joint Fiscal Committee
Members of the Joint Fiscal Committee
Senator Jane Kitchel, Chair, Senate Appropriations Committee
Rep. Catherine Toll, Chair, House Appropriations Committee

FROM: Kevin Mullin, Chair, Green Mountain Care Board

DATE: September 15, 2020

RE: Legislative Report – Billback

In accordance with 18 V.S.A. Sec. 9374(h)(5)(A), please find the attached report submitted by the Green Mountain Care Board and the Department of Financial Regulation on the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. § 9374(h) and the total amount actually billed back to regulated entities during state Fiscal Year 2020.





State of Vermont
Green Mountain Care Board
144 State Street
Montpelier VT 05602

Report to the Legislature

**REPORT ON THE TOTAL AMOUNT OF ALL EXPENSES ELIGIBLE
FOR ALLOCATION PURSUANT TO 18 V.S.A. § 9374(h) AND THE TOTAL
AMOUNT ACTUALLY BILLED BACK TO REGULATED ENTITIES
DURING STATE FISCAL YEAR 2020**

In accordance with 18 V.S.A. Sec. 9374(h)(5)(A)

*Submitted to the
House Committee on Appropriations; the Senate Committee on Appropriations;
and the Joint Fiscal Committee*

*Submitted by the
Green Mountain Care Board & the
Department of Financial Regulation*

September 15, 2020

Introduction

Title 18, section 9374 of the Vermont Statutes Annotated requires that the Green Mountain Care Board (Board) and the Vermont Department of Financial Regulation (Department) prepare a report showing “**the total amount of all expenses eligible for allocation pursuant to subsection (h) during the preceding State fiscal year and the total amount actually billed back to the regulated entities during the same period.**” The Board and the Department must submit this report annually on or before September 15 to the House and Senate Committees on Appropriations. *Id.* The Board and the Department must also provide this information to the Joint Fiscal Committee at its September meeting. 18 V.S.A. § 9374(h)(5)(B). The report is listed on the non-action portion of the Joint Fiscal Committee’s September meeting agenda, and is being submitted to satisfy that agenda item as well as 18 V.S.A. § 9374(h)(5)(B).

Background

In 1996, the Legislature first conferred billback authority to the Health Care Authority as a means of funding its duties and activities. When the Health Care Authority moved into the Vermont Department of Banking, Insurance, Securities and Health Care Administration (BISHCA), this authority was transferred to BISHCA (now the Department).

In 2012, the Legislature authorized the newly-formed Board to bill back to hospitals and insurance carriers the costs of certain activities related to health care system oversight. 2012, No. 171 (adj. sess.), § 5. The law provided that “[e]xpenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts” that are authorized by either the Department or the Board would be borne according to the following allocation:

- 40 percent by the State;
- 15 percent by the hospitals;
- 15 percent by nonprofit hospital and medical service corporations;
- 15 percent by health insurance companies; and
- 15 percent by health maintenance organizations.

18 V.S.A. §§ 9374(h)(1), 9415(a) (2012). In other words, for each dollar that the State billed back pursuant to this statutory authority, the regulated entities, as a group, would pay 60 cents, with the State remaining responsible for the other 40 cents. The 60/40 allocation has not changed and remains in effect at present.

In a February 2013 report, the Board and the Department advised the Legislature that since the inception of the billback authority, the State had not billed back the full scope of expenses made eligible by the authorizing legislation; for example, in fiscal year 2013 (FY13), the Department and the Board billed back for \$395,117, although eligible regulatory activities exceeded \$3 million and the regulated entities’ full percent share would have been at least \$1.8 million. In response, the Legislature mandated annual reporting and gave the Board and the Department discretion over the scope and the amount of the billback. 2013, No. 79, §§ 37a - 37c. The Legislature also expanded the scope of the billback to include funding for the Office of the Health Care Advocate (HCA). *Id.* at § 37d. Finally, the Legislature required the Department to

transfer one position and its associated funding to the Department of Health for the purpose of administering the hospital community reports in 18 V.S.A. § 9405b and to continue to collect funds for the publication of these reports under its billback authority. *Id.* at § 50(c).

In 2015, the Legislature repealed the statute giving the Department billback authority, 18 V.S.A. § 9415, while leaving intact the Board's authority under 18 V.S.A. § 9374(h) to continue to utilize the 60/40 billback formula "if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State." 2015, No. 54, § 61.

Effective July 1, 2016, the Legislature established a specific allocation for the billback of expenses incurred by the HCA for services related to the Board's and the Department's regulatory and supervisory duties. 2016, No. 134, § 28. The allocation is as follows:

- 27.5 percent by the State from State monies;
- 24.2 percent by the hospitals;
- 24.2 percent by nonprofit hospital and medical service corporations licensed under chapters 123 and 125 of Title 8 of the Vermont statutes; and
- 24.2 percent by health insurance companies licensed under chapter 101 of Title 8.

18 V.S.A. § 9607(b)(1).

In 2017, the Legislature changed the allocation of the Board's billback to hospitals and insurance carriers "for fiscal year 2018 only." 2017, No. 73, § 15a. The law provided that eligible expenses would be borne:

- 40 percent by the State;
- 15 percent by the hospitals;
- 45 percent by nonprofit hospital and medical service corporations; health insurance companies; and health maintenance organizations.

As the fiscal year 2018 billback allocation change expired June 30, 2018, effective July 1, 2018 the Legislature amended Section 9374(h) of Title 18. The law authorized the Board to assess and collect from each regulated entity the actual costs incurred by the Board in carrying out its regulatory duties. It also changed the billback allocation of the Board's eligible expenses as follows:

- 40 percent by the State from State monies;
- 30 percent by the hospitals;
- 24 percent by nonprofit hospital and medical service corporations; health insurance companies; and health maintenance organizations;
- six percent by certified accountable care organizations.

2018, No. 167, § 17.

The Board deposits monies it receives from regulated entities in the Green Mountain Care Board Regulatory and Administrative Fund, which provides financial support for the Board's

operations. 18 V.S.A. § 9404(d). This special fund “may also be used by the Department of Health to administer its obligations, responsibilities, and duties as required by chapter 221 of [title 18],” and since the Department of Health assumed responsibility for hospital community reports in 2013, the Legislature has appropriated money from the fund to support this activity.¹ In 2020, the Legislature reinstated the Board’s billback authority under 18 V.S.A. § 9473 (h)(1) for the hospital community reports. 2020, No. 88, Sec. 67.

Fiscal Year 2020 Billback

In FY20, the Board billed back approximately \$4,010,094, as shown in Appendix A of this report. This represented the FY20 budgeted billback less any adjustment required for prior year (FY19) actual versus budget. The FY20 net billback was \$1,579,658 above the FY19 net billback, which represents the Board’s loss of Global Commitment as a source of funding. Below, Tables 1, 2 and 3 show the breakdown among the hospitals, insurance companies, and the accountable care organization, that can be billed under 18 V.S.A. § 9374(h).

Table 1: Hospital Assessment FY20

HOSPITAL	Amount Billed
Brattleboro Memorial Hospital	\$ 63,185
Grace Cottage Hospital (Carlos Otis)	14,313
Central Vermont Medical Center	156,299
Copley Hospital	52,083
Gifford Medical Center	37,550
Mt Ascutney Hospital	38,533
Northeastern Vermont Regional Hospital	62,546
North Country Hospital	59,943
Northwestern Medical Center	83,816
Porter Medical Center	62,713
Rutland Regional Medical Center	191,957
Southwestern Vermont Medical Center	123,498
Springfield Hospital	35,045
University of Vermont Medical Center	966,372
Total	\$ 1,947,856

¹ For example, the FY 2020 appropriation to the Department of Health (VDH) from the fund for the administration of the hospital community reports was \$88,000.

Table 2: Insurance Carrier Assessment FY20

CARRIER	Amount Billed
Blue Cross and Blue Shield of Vermont	\$ 1,249,916
Cigna Health and Life Insurance Company/Connecticut General Life Ins	\$ 77,564
Aetna Life Insurance Company	\$ 29,851
MVP Health Plan Inc	\$ 205,807
MVP Health Insurance Company	\$ 82,595
The Vermont Health Plan, LLC	\$ 28,792
UnitedHealthcare Insurance Company	\$ 15,005
Atlanta International Insurance Company	\$ 2,151
QCC Insurance Company	\$ 1,753
State Farm Mutual Automobile Insurance Company	\$ 1,339
United States Life Insurance Company in the City of New York	\$ 163
AXA Equitable Life Insurance Company	\$ 184
Reserve National Insurance Company	\$ 135
Sierra Health and Life Insurance Company, Inc.	\$ 156
Trustmark Insurance Company	\$ 154
Unified Life Insurance Company	\$ 128
MONY Life Insurance Company	\$ 152
New York Life Insurance Company	\$ 131
American Progressive Life & Health Insurance Company of New York	\$ 151
Total	\$ 1,696,127

Table 3: Accountable Care Organization Assessment FY20

ACO	Amount Billed
One Care Vermont	\$ 366,111

In comparison to the \$4,010,094 billed back in FY20, the State billed back approximately \$395,000 in FY13, \$890,000 in FY14, \$1,474,300 in FY15, \$1,546,407 in FY16, \$1,560,353 in FY17, \$2,573,511 in FY18, \$2,435,003 in FY19. The Board's FY21 Restatement Governor's Recommended budget includes a projected billback amount of \$5,113,598. *See Appendix A, cell E21.*

To place the FY20 figures in context, Appendix A breaks out the Board's total expenses by category, and for each category indicates the maximum amount eligible to be billed back under Vermont law. For example, of the \$3,704,353 that was budgeted for personal services in FY20, the Board determined that up to \$2,259,655 was eligible to be billed back under 18 V.S.A. § 9374(h). *See Appendix A, cells C3, C5.* The next three blocks of

information present analogous information relative to operating expenses, grants, and contracts.

The final block in Appendix A (Personal Services, operating, grants, contracts), shows the maximum amounts that could have been billed to regulated entities under the statutory 60/40 formula, the amounts budgeted to be billed back, and the actual amounts billed back. As shown, the Board billed back \$4,010,094, or approximately 100 percent of the potential industry portion of \$4,673,473 less the \$663,379 adjustment for the previous year actual spend versus budget. *See* Appendix A, cells C21, C17, C20.

In addition, Appendix A shows that based on its approved FY21 budget, the Board projects it will bill industry \$5,113,598 in FY21.² *See* Appendix A, cell E21. This represents 100 percent of the potential industry portion. This is a marked increase from FY20 because prior to FY20 the Board received alternate funding from Special Funds, which included Global Commitment. For FY19, Global Commitment comprised 31% of the Board's total appropriation. 2018 Special Session, No. 11, § B.345. The Board's FY20 and subsequent appropriations did not include any Global Commitment funds. 2019, No. 72, § B.345.

Both the budgeted FY21 increase and the increases in the amounts actually billed back to industry from FY13 to FY20 demonstrate the Board's commitment to utilize its billback authority consistent with legislative intent. While the Board acknowledges the need to defray certain categories of expenses through the billback function, however, it also acknowledges that it must utilize its discretion when appropriate to limit the burden on regulated entities, which ultimately pass these expenses on to Vermont health care consumers. The Board will continue its work to maximize funding from other sources when available, including federal grants, for activities that may otherwise be funded through the billback function. In other words, to the extent an expense eligible for billback is being funded through federal or other grants, the Board uses its discretion under 18 V.S.A. § 9374(h)(2) to exclude those dollars from the billback actually charged to industry.

² State Farm's ASSR information was not included in the original calculation for the FY 2019 Billback on March 21, 2019. After receiving State Farm's data, we re-ran the calculation and issued their invoice on May 1, 2019. This means the Billback fund received \$2,919.69 more than it should have for FY 2019. Therefore, all other insurers received an adjustment in the FY20 BB for their share.

APPENDIX A

To GMCB Fiscal Year (FY) 2020 Billback Report

Green Mountain Care Board
 Kevin Mullin, Chair
 9/15/2020

A	B	C	D	E
BILLBACK DETAIL	Projected Budget FY 2019	FY 2020 Budget	FY 2020 Actual	FY 2021 Projection
Total Expenses	\$ 9,433,738	\$ 9,325,076	\$ 7,010,329	\$ 9,129,268
Personal Services	\$ 3,359,726	\$ 3,704,353	\$ 3,660,337	\$ 3,863,984
Total Billback	\$ 2,398,879	\$ 3,704,353	\$ 3,631,572	\$ 3,863,984
Industry Portion	\$ 1,498,636	\$ 2,259,655	\$ 2,217,949	\$ 2,267,451
Operating	\$ 345,108	\$ 396,651	\$ 401,049	\$ 407,612
Total Billback	\$ 224,545	\$ 396,651	\$ 401,049	\$ 407,612
Industry Portion	\$ 130,989	\$ 208,915	\$ 210,877	\$ 238,737
Contracts	\$ 5,728,094	\$ 5,224,072	\$ 2,948,942	\$ 4,857,672
Total Billback	\$ 4,035,592	\$ 5,224,072	\$ 2,948,942	\$ 4,857,672
Industry Portion	\$ 2,321,720	\$ 2,204,902	\$ 1,726,905	\$ 2,607,411
Pers Services, operating, grants, contracts				
Total Net Potential Billback	\$ 6,659,016	\$ 9,325,076	\$ 7,010,329	\$ 9,129,268
Potential Industry Billback	\$ 3,995,409	\$ 4,673,473	\$ 4,155,732	\$ 5,113,598
Budgeted Industry Billback	\$ 3,995,409	\$ 4,673,473	\$ 4,155,732	\$ 5,113,598
Adjustment for Previous Year Actual spend vs. Budget		\$ (663,379)		
Final billback	\$ 3,995,409	\$ 4,010,094	\$ 4,155,732	\$ 5,113,598
Budgeted Industry Billback as % of Potential	100%	100%	100%	100%
Variance	\$ -	\$ -	\$ -	\$ -

Notes:

- * These amounts may be adjusted if additional information becomes available.
- * Budget FY 2021 reflects amounts billed to industry based upon budgeted plans.
- * Actual FY 2020

Actual FY 2020 Personal Services are lower than FY 2020 Budget due to vacancies.

Actual FY 2020 Expenses and Contracts are lower than FY 2020 Budget primarily due to expenses that were deferred while the Board and all in the health care industry pivoted to respond to the COVID-19 pandemic.

- * Projection FY 2021

The FY 2021 Budget reflects the Governor's Recommended budget presented to the Legislature on August 18, 2020; expenses incurred in late FY 2020 that will be paid in FY 2021 and general fund carry forward from FY 2020 expenses deferred by COVID.