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 § 9415, AND THE TOTAL AMOUNT ACTUALLY BILLED BACK TO REGULATED ENTITIES DURING STATE FISCAL YEAR 2018

In accordance with 18 V.S.A. Sec. 9374 as amended by Sec. 23 of Act 154 (H.895) of 2018

Submitted to the
House Committees on Health Care, Ways & Means, and Appropriations; the Senate Committees on Health & Welfare, Finance, and Appropriations; and the Joint Fiscal Committee

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

September 15, 2018

Introduction

Act 79 of 2013 requires that the Green Mountain Care Board (Board) and the Vermont Department of Financial Regulation (Department) submit a report showing "**the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period."** 2013, No. 79, § 37c(a). This report must be submitted annually on or before September 15 to the House Committee on Health Care, Ways & Means, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations. *Id.* The Department and the Board must also provide this information to the Joint Fiscal Committee at its September meeting. *Id.* at § 37c(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 § 37c(b) of Act 79.

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) (repealed 2015). 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. 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.

In 2017, the Legislature changed the allocation of the 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 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] Because the Board does not include expenses incurred by the Department of Health in its annual billback, however, any continued appropriations to the Department of Health from the fund—absent a corresponding expansion in the scope of the billback authority—may eventually strain the fund.

Fiscal Year 2018 Billback

In FY18, the Board billed back approximately $3,668,628, as shown in Appendix A of this report. The significant increase in the billed back amount over FY17 offsets a decrease in appropriations for Global Commitment and federal funds for FY18, and fulfills the Board’s pledge to bill back 100 percent of the industry portion of its FY18 budget. The increase was adjusted downward by $1,095,105 for the FY17 actual spend, versus the Board’s budget adjustment. Below, Tables 1 and 2 show the breakdown among the hospitals and insurance companies that can be billed under 18 V.S.A. §§ 9374(h)(1).

Table 1: Hospital Assessment FY18

HOSPITAL	Amount Billed
Brattleboro Memorial Hospital	$ 23,931
Grace Cottage Hospital (Carlos Otis)	$ 1,702
Central Vermont Medical Center	$ 58,927
Copley Hospital	$ 26,116
Gifford Medical Center	$ 18,838
Mt Ascutney Hospital	$ 5,178
Northeastern Vermont Regional Hospital	$ 19,009
North Country Hospital	$ 20,314
Northwestern Medical Center	$ 36,925
Porter Medical Center	$ 21,690
Rutland Regional Medical Center	$ 89,071
Southwestern Vermont Medical Center	$ 48,202
Springfield Hospital	$ 27,917
University of Vermont Medical Center	$ 274,887
Total	**$ 672,706**

[1] For example, the FY 2018 appropriation to the Department of Health (VDH) from the fund for the administration of the hospital community reports was $75,000s.

Table 2: Insurance Carrier Assessment FY18

CARRIER	Amount Billed
Blue Cross and Blue Shield of Vermont	$ 1,471,149
MVP Health Insurance Company	$ 122,150
MVP Health Plan Inc	$ 111,033
Cigna Health & Life Insurance Company, Inc.	$ 80,684
The Vermont Health Plan, LLC	$ 61,447
UnitedHealthcare Insurance Company	$ 22,665
Aetna Life Insurance Company	$ 18,303
MVP Health Services Corp	$ 6,281
4 Ever Life Insurance Company	$ 2,560
State Farm Mutual Automobile Insurance Company	$ 2,081
QCC Insurance Company	$ 2,077
United States Life Insurance Company in the City of New York	$ 168
Metropolitan Life Insurance Company	$ 110
AXA Equitable Life Insurance Company	$ 82
Golden Rule Insurance Company	$ 17
Total	**$ 1,900,805**

In comparison, 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, and $2,573,511 in FY18. The Board's approved FY19 budget includes a projected billback amount of $3,995,409. *See* Appendix A, cell F21

To place the FY18 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 $3,610,760.50 that was budgeted for personal services in FY18, the Board determined that up to $2,354,505.79 was eligible to be billed back under 18 V.S.A. § 9374(h). *See* Appendix A, cells D3, D4. The next three blocks of information present analogous information relative to operating expenses, grants, and contracts.

The final block (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 $3,668,616, or approximately 100 percent of the potential industry portion of $3,668,616, less the adjustment for the previous year actual spend versus budget. *See* Appendix A, cells D20, D21

In addition, Appendix A shows that based on its approved FY19 budget, the Board

projects it will bill industry $3,995,409 in FY19. *See* Appendix A, cell F21. This represents 100 percent of the potential industry portion.

Both the budgeted FY19 increase and the increases in the amounts actually billed back to industry from FY13 to FY18 ($395,000 in FY13; $890,000 in FY14; $1,474,300 in FY15; $1,546,407 in FY16; $1,560,353 in FY17; and $2,573,511.00 in FY18) 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 also 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.

A B C D E F

APPENDIX A

TO GMCB FY 2018 BILLBACK REPORT

Green Mountain Care Board
Kevin Mullin, Chair
9/15/2018

	BILLBACK DETAIL	Projected Budget FY 2018	Actual Budget FY 2018	Actual Expended FY 2018	Total Projection FY 2019
1	Total Expenses	$ 10,516,299.79	$ 10,439,318.24	$ 9,393,766.34	$ 9,433,737.92
2					
3	Personal Services	$ 3,610,760.50	$ 3,610,760.50	$ 3,582,939.73	$ 3,359,726.00
4	Total Billback	$ 2,354,505.79	$ 2,354,505.79	$ 2,568,229.13	$ 2,398,879.00
5	Industry Portion	$ 1,383,370.91	$ 1,383,370.91	$ 1,532,916.87	$ 1,498,636.00
6					
7	Operating	$ 790,676.62	$ 747,546.62	$ 658,555.88	$ 345,108.00
8	Total Billback	$ 521,754.63	$ 478,624.63	$ 577,278.53	$ 224,545.00
9	Industry Portion	$ 307,468.37	$ 290,216.37	$ 197,305.66	$ 130,989.00
10					
11	Contracts	$ 6,114,937.87	$ 6,081,011.12	$ 5,152,270.73	$ 5,728,903.92
12	Gross Potential Billback*	$ 6,114,937.87	$ 6,081,011.12	$ 5,152,270.73	$ 5,728,903.92
13	Alternate Funding	$ (2,817,816.46)	$ (2,817,816.46)	$ (2,602,500.81)	$ (1,693,312.24)
14	Net Potential Billback	$ 3,297,121.41	$ 3,263,194.66	$ 2,549,769.92	$ 4,035,591.68
15	Total Billback	$ 3,297,121.41	$ 3,263,194.66	$ 2,549,769.92	$ 4,035,591.68
16	Industry Portion	$ 2,028,967.50	$ 1,995,028.75	$ 1,545,900.97	$ 2,321,720.17
17					
18	Pers Services, operating, grants, contracts				
19	Total Net Potential Billback	$ 6,173,381.84	$ 6,096,325.09	$ 5,695,277.58	$ 6,659,015.68
20	Potential Industry Billback	$ 3,704,029.10	$ 3,668,616.03	$ 3,276,123.50	$ 3,995,409.41
21	Budgeted Industry Billback	$ 3,704,029.10	$ 3,668,616.03	$ 3,276,123.50	$ 3,995,409.41
22					
23	Adjustment for Previous Year Actual spend vs. Budget		$ (1,095,105.03)		
24	Final billback	$ 3,704,029.10	$ 2,573,511.00	$ 3,276,123.50	$ 3,995,409.41
25	Budgeted Industry Billback as % of Potential	100%	100%	100%	100%
26					
27	Variance	$ -	$ -	$ -	$ -

Notes:

These amounts may be adjusted if additional information becomes available.

Actual 2018 reflects amounts billed to industry based upon budgeted plans.