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 2019

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, 2019

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] 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 2019 Billback

In FY19, the Board billed back approximately $2,435,003, as shown in Appendix A of this report. This represented the FY19 budgeted billback less any adjustment required for prior year (FY18) actual versus budget. The FY19 net billback was $140,157 below the FY18 net billback, which represents the Board's commitment to controlling costs. 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)(1).

Table 1: Hospital Assessment FY19

HOSPITAL	Amount Billed
Brattleboro Memorial Hospital	$ 37,543.28
Grace Cottage Hospital (Carlos Otis)	$ 3,595.08
Central Vermont Medical Center	$ 99,504.18
Copley Hospital	$ 46,012.24
Gifford Medical Center	$ 28,278.10
Mt Ascutney Hospital	$ 9,554.72
Northeastern Vermont Regional Hospital	$ 33,658.66
North Country Hospital	$ 32,741.80
Northwestern Medical Center	$ 60,851.00
Porter Medical Center	$ 36,361.01
Rutland Regional Medical Center	$ 166,676.74
Southwestern Vermont Medical Center	$ 84,400.00
Springfield Hospital	$ 48,618.07
University of Vermont Medical Center	$ 470,232.04
Total	**$ 1,158,027**

[1] For example, the FY 2019 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 FY19

CARRIER	Amount Billed
Blue Cross and Blue Shield of Vermont	$ 808,606.97
MVP Health Plan Inc	$ 60,317.84
MVP Health Insurance Company	$ 84,296.96
Cigna Health and Life Insurance Company/Connecticut General I	$ 23,020.51
The Vermont Health Plan, LLC	$ 49,321.32
UnitedHealthcare Insurance Company	$ 23,100.98
Aetna Life Insurance Company	$ 15,859.75
State Farm Mutual Automobile Insurance Company	$ 1,649.11
4 Ever Life Insurance Company	$ 1,268.29
United States Life Insurance Company in the City of New York	$ 242.86
Metropolitan Life Insurance Co	$ 216.74
Reserve National Insurance Company	$ 170.21
Unified Life Insurance Company	$ 153.39
New York Life Insurance Company	$ 151.83
Golden Rule Insurance Company	$ 151.73
The Prudential Insurance Company of America	$ 151.66
National Benefit Life Insurance Company	$ 150.65
Total	$ 1,068,831

Table 3: Accountable Care Organization Assessment FY19

ACO	Amount Billed
One Care Vermont	$ 208,145.39

In comparison to the $2,435,003 billed back in FY19, 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. The Board's approved FY20 budget includes a projected billback amount of $5,274,540. *See* Appendix A, cell E21.

To place the FY19 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 $3,570,726 that was budgeted for personal services in FY19, the Board determined that up to $1,306,506 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 $2,435,003, or approximately 100 percent of the potential industry portion of $3,692,775 less the $1,257,772 adjustment for the previous year actual spend versus budget. *See* Appendix A, cells C20, C23, C24.

In addition, Appendix A shows that based on its approved FY20 budget, the Board projects it will bill industry $5,274,540 in FY20.[2] *See* Appendix A, cell E21. This represents 100 percent of the potential industry portion. This is a marked increase from FY19 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 appropriation did not include any Global Commitment funds. 2019, No. 72, § B.345.

Both the budgeted FY20 increase and the increases in the amounts actually billed back to industry from FY13 to FY19 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 Board received $1,649.11 more than it should have for FY 2019. Therefore, all other insurers will receive an adjustment in the FY20 BB for their share of the $1,649.11.

APPENDIX A

To GMCB Fiscal Year (FY) 2019 Billback Report

Green Mountain Care Board
Kevin Mullin, Chair
9/15/2019

A	B	C	D	E
BILLBACK DETAIL		FY 2019 Budget	FY 2019 Actual	FY 2020 Projection
Total Expenses		$ 9,335,997	$ 6,563,728	$ 9,325,076
Personal Services		$ 3,570,726	$ 3,312,645	$ 3,704,353
Total Billback		$ 2,398,879	$ 2,376,790	$ 3,704,353
Industry Portion		$ 1,306,506	$ 1,442,333	$ 2,259,655
Operating		$ 345,108	$ 310,763	$ 396,651
Total Billback		$ 224,545	$ 245,505	$ 396,651
Industry Portion		$ 164,880	$ 147,303	$ 229,913
Contracts		$ 5,419,353	$ 2,940,320	$ 5,224,072
Gross Potential Billback		$ 5,419,353	$ 2,940,320	$ 5,224,072
Alternate Funding		$(1,763,312)	$(1,193,595)	$ -
Net Potential Billback		$ 3,656,041	$ 1,746,725	$ 5,224,072
Total Billback		$ 3,656,041	$ 1,746,725	$ 5,224,072
Industry Portion		$ 2,221,390	$ 1,048,035	$ 2,784,972
Pers Services, operating, grants, contracts				
Total Net Potential Billback		$ 6,279,465	$ 4,369,021	$ 9,325,076
Potential Industry Billback		$ 3,692,775	$ 2,637,671	$ 5,274,540
Budgeted Industry Billback		$ 3,692,775	$ 2,637,671	$ 5,274,540
Adjustment for Previous Year Actual spend vs. Budget		$(1,257,772)		
Final billback		$ 2,435,003	$ 2,637,671	$ 5,274,540
Budgeted Industry Billback as % of Potential		100%	100%	100%
Variance		$ -	$ -	$ -

Notes:

- These amounts may be adjusted if additional information becomes available.
- Budget FY19 reflects amounts billed to industry based upon budgeted plans. Adjustment for previous year (FY19) actual vs. budget will be made in FY20 billback.
- Actual FY19 Personal Services lower than budget due to vacancies. As of 9/1/19 all GMCB positions filled.
- Actual FY19 Contracts lower than budget primarily due to timing of VHCURES 3.0 contract.
- Effective FY20 the Board no longer has Global Commitment as an alternative funding source per 2019 Act 72.