

OneCare Must Be Triggered

Before the GMCB currently is a decision to vote to approve the 2023 modified ACO budget [“exactly as submitted”](#). This despite [multiple](#) board members underscoring the ACO has [become 50% more costly](#) to administrate. But because the ACO has become “too big to fail”, it’s unlikely GMCB can do anything but approve as submitted. However, GMCB is not without other remedies.

Vermont’s All Payer Model Agreement contains specific prescriptions for “triggering events”, occasioned by failure to satisfy specific milestones. One such [triggering event has already occurred](#), and enforcement waived for “attribution” – the total number of lives covered by the model. While attribution was [“temporarily” waived by CMS](#) when GMCB compelled it to understand the targets were not viable, nothing in this waiver can be understood to be dispositive for the recent event of BCBS VT leaving the singular ACO partner – OneCare VT. This loss represents an irrevocable loss of 1/3 of potential attribution and therefore must occasion a triggering event unrelated to the attribution waiver.

Two additional triggering events as defined in the [APM Agreement](#) can be:

- vii. A determination by CMS that the quality of care provided to Medicare, Medicaid or CHIP beneficiaries has deteriorated.
- viii. A determination by CMS that the State has taken actions that compromise Medicare trust funds.

Medicaid Deterioration

As evidenced by the Medicaid scorecards, Medicaid quality of care deteriorated in both years 2020 and 2021 – the data available at this time. While 2020 appeared to be a stellar score of 95%, unearned points were assigned for process milestones. Careful reading of actual performance demonstrates a real score of 71.8%. [In 2021, The Medicaid scorecard](#) shows further deterioration to 68.75%

Compromised Medicare Trust Funds

The [VT Medicare Participation agreement](#) and the [VT VMNGO Agreement](#) expressly outline compliance with law, specifically protections against retaliatory termination against whistleblower activity. Moreover, both GMCB and DVHA vis a vis these contracts have express responsibilities to refer potential violations of law to appropriate law enforcement, including the Office of the Inspector General, the Department of Justice, and the Vermont Attorney General’s Office.

At present, the University of Vermont Health Network wholly owned ACO OneCare VT and University of Vermont Medical Center face serious, [probable violation of law](#):

*Hoffman’s claim regarding his presentation and statements at the meetings is that OneCare was aware of Hoffman’s concerns about OneCare’s analytics and its effect on the public’s health. In addition, the email from Doherty to Kaes shows that OneCare had received reports of Hoffman’s allegation that OneCare was misusing federal funds and that he might be reporting that to the government. Fullem admits that she was told by other employees that Hoffman “felt our current use, . . . lack of tool, constituted fraud and abuse of federal, state – of federal and state funds.” Fullem Dep. at 122. Hoffman has, therefore, met his burden of showing **a prima facie case of retaliation**.*

More alarming still, The Vermont Health Care Advocate – a party to the All Payer Model Agreement, [wrote to GMCB warning](#) that the transitioning of Analytics to UVMHN w raised flags for possible referral to the VT Attorney General for potential anti-trust violations. Particularly egregious is the fact that these analytics will be overseen by those accused of committing a violation of law, preventing Hoffman from expressing his concerns that the ACO was not viable.

Blue Cross Blue Shield of Vermont confirms OneCare VT Not Viable:

Despite having collaborated with OCV every year since its inception, Blue Cross is unable to reach an agreement this year due to the lack of tangible quality outcomes, inability to bend the cost curve, and the new data approach that introduces concerns about security and privacy.

Allegations dating to 2018 are realized in BCBS VT's decision to withdraw 1/3 of Vermonters from the ACO. The decision underscores deteriorating care and concerns about OneCare's fiduciary role in its agreements.

For all the foregoing reasons, and consonant with [The Health Care Advocate's similar request](#), the public would call upon CMS and GMCB to proceed as follows, consistent with triggering events:

Place OneCare VT in a Corrective Action Plan (CAP) :

- 1. 2024 budget must include Medicaid Quality Measure Improvement Plan**
- 2. 2024 budget must include a proposed BCBS VT re-attribution plan.**
- 3. Analytics transfer to UVMHN must be paused until:**
 - a. UVMHN are found innocent of Wrongful Termination for expressing a public policy concern.**
 - b. Those responsible for violation of law are no longer employed or contracted by UVMHN and its affiliates.**
 - c. In event of being found guilty, all parties must be referred to appropriate law enforcement agencies and barred from administering CMS funds.**
- 4. Absent successful completion of CAP 1&2, [per statute](#), a referral to the Vermont Attorney General's office should be made and opportunity provided to OneCare VT to respond.**

Members of the public are encouraged to write to the following members:

GMCB.Board@vermont.gov

owen.foster@vermont.gov

ELIZABETH.FOWLER@cms.hhs.gov

christina.cryder@cms.hhs.gov

Tequila.Terry@cms.hhs.gov

Lachelle.Smith@cms.hhs.gov

jason.maulucci@vermont.gov

jason.gibbs@vermont.gov

Subject: "Public demands CAP for OneCare VT"

Attach this document to the email

Write in the body of the email:

For all the attached, enumerated reasons, and consonant with [The Health Care Advocate's similar request](#), the public would call upon CMS and GMCB to place OneCare VT in a Corrective Action Plan:

- 1. 2024 budget must include Medicaid Quality Measure Improvement Plan**
- 2. 2024 budget must include a proposed BCBS VT re-attribution plan.**
- 3. Analytics transfer to UVMHN/Leah Fullem must be paused until:**
 - a. UVMHN are found innocent of Wrongful Termination for expressing a public policy concern**
 - b. Those responsible for violation of law are no longer employed or contracted by UVMHN and its affiliates.**
 - c. In event of being found guilty, all parties must be referred to appropriate law enforcement agencies and barred from administering CMS funds.**
- 4. Absent successful completion of CAP 1&2, [per statute](#), a referral to the Vermont Attorney General's office should be made and opportunity provided to OneCare VT to respond.**