

February 17, 2023

Dear Chair Foster,

This letter is in response to your February 9th letter regarding our recent January submission outlining the impacts of Blue Cross Blue Shield's (BCBSVT) unilateral withdrawal from OneCare Vermont's (OneCare) 2023 contract.

First, OneCare is not "out of compliance with its approved FY23 budget." The conditional budget and its accompanying "companion document" from the December 2022 budget hearings, which the full board voted on and published, explicitly stated that OneCare would both receive a final budget order and provide a revised budget by March 31, once final attribution and final program terms were available. The companion document also explicitly recognized that OneCare would need to scale its obligations to fund programs in the absence of budgeted BCBSVT revenue that will not materialize because of BCBSVT's sudden and last minute refusal to contract. Also, the companion document lacked legally required findings of fact and conclusions of law that are always contained in final budget orders. Rest assured, OneCare is working diligently to prepare and secure governance approval for a revised budget to be submitted to the GMCB by March 31st as directed by the full Board.¹

Since 2018, the full Board's decisions and annual conditional budget approval process are consistent with the program framework described above: it is recognized that OneCare needs to submit a revised budget once contracts are finalized, attributions determined, etc. This year, those conditions required OneCare, by March 31, to account in full and re-budget for any shortfalls in funding occasioned by BCBSVT's non-participation and scale its funding obligations in light of those shortfalls.² This procedure creates a collaborative process with the full Board, consistent with due process and the Board's own rules, to reach a conclusion.

Not only is the February 9th letter from the Chair³ inconsistent with the premise of the model, which contemplates that payers will bear at least partial responsibility for the primary care support being provided to their insured, it is also inconsistent with the statutes and rules governing the Board's process. First, the Board has not yet supplied OneCare with a final 2023

¹ That March 31 submission will also address the companion document conditions regarding operating expenses; funding of SASH and Blueprint; and holding of risk by OneCare.

² OneCare's January 30 submission "reflected the effects of" no Blue Cross contract as directed but could not carry the effects through the whole budget which will be done by March 31.

³ We do not know of any delegation of authority from the Board to the Chair. However, even if there were a delegation, due process requires a budget review process rather than a unilateral statement of non-compliance.

budget order against which compliance is evaluated; instead, the Board initiated a collaborative and iterative process (described above and consistent with past dealings between OneCare and the Board) to deal with BCBSVT's withdrawal, as well as other funding changes. Even if it had issued a final budget order, the Board's rules prescribe a budget review process by which the full Board can seek to understand and address material deviations from an approved budget. That would comply with due process by requiring the full Board to withhold judgment on whether an ACO is out of compliance until after it has conducted a review.

We agree wholeheartedly that access to primary care is critical to a well-functioning health care system. Primary care is the foundation for success under ACO program contracts– the gateway for preventative health, sick visits, and care coordination for complex medical and social needs. This is why OneCare has made consistent investments in primary care since the start of the All Payer Model (APM) in 2018. OneCare has made many investments in primary care including over \$138 million in population health funding, the execution of a *Comprehensive Payment Reform (CPR)* model for independent primary care, and our willingness to be the vehicle for continued Blueprint and SASH funding of \$51.5 million through 2023.

Understanding the critical role that primary care plays in our healthcare system, OneCare has been taking steps within its purview to preserve ACO investments absent a BCBSVT contract. Specifically, we have:

- Convened independent primary care practices participating in the CPR program to hear their concerns and get their input on how we can preserve this critical program.
- Approved the inclusion of MVP attributed lives in the CPR program framework for 2023 to restore some financial stability for the participating practices.
- Signed a memorandum of understanding (MOU) with the University of Vermont Medical Center to have a direct contract for self-funded plans that would be retroactive to January 2023. Through this contract we regain attribution and restore healthcare dollars in accountable care arrangements for 10-14,000 self-funded patients.

These actions to help support primary care were mentioned in the cover letter of our January submission, and although many advancements have been made, more time is needed to change OneCare's board approved policies, redesign the CPR program, and negotiate new payer programs. Those adjustments from our original submission will be in our revised budget at the end of March.

While OneCare is committed to supporting primary care, it is inconsistent with our governing documents, contracts, principles and binding regulatory authority to fund these primary care support programs for those patients insured through BCBSVT absent a value-based care agreement. The purpose of these investments, as sanctioned by the OneCare Board, and dues-

paying hospital boards and incorporated in provider contracts, is to support “ACO Activities”⁴ for the people that are attributed to the ACO by way of its participant and payer agreements.

To leverage hospital fees to support primary care, OneCare’s board must vote that funds paid out are “reasonably related to ACO Activities.” Without a 2023 BCBSVT payer program agreement in place, OneCare cannot make a good faith determination that the payments previously committed for BCBSVT lives are “reasonably related to ACO Activities.” OneCare payments are made to support ACO activities for each contracted payer. Payments are not made simply to subsidize primary care or to take care of patients who are not part of an ACO arrangement. It is the responsibility of insurers (BCBSVT, VT Medicaid, etc.) to set fee schedules that reimburse primary care sufficiently for the care they provide to Vermonters.

We stand ready and willing to work with BCBSVT and invite them back to the negotiating table so we can all do what is best for primary care and Vermont.

Respectfully,

A handwritten signature in black ink that reads "Vicki Loner". The signature is written in a cursive style and is contained within a light gray rectangular box.

Vicki Loner, RN,C, MHCDS
CEO

cc: Anya Rader Wallack, Board Chair
Tom Huebner, Vice Chair
Aaron Perry, Chief Legal Counsel

⁴ “ACO Activities” are defined differently by each payer agreement, but generally include: promoting accountability for quality of care; promoting accountability for cost of care; promoting accountability for overall care; managing and coordinating care; carrying out obligations or duties under program agreements; direct patient care; promoting evidence based medicine; promoting patient engagement; reporting on quality and cost measures; establishing and improving ACO clinical and administrative systems; meeting program quality standards; evaluating patient health; communicating clinical knowledge and evidence-based medicine and developing standards for patient access and communication.