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MEMORANDUM

TO: Julia Shaw, Health Care Policy Analyst, Kaili Kuiper, Staff Attorney, and Eric Schultheis, Staff Attorney, Office of the Health Care Advocate

FROM: Susan Barrett, Executive Director, Alena Berube, Director of Value-Based Payments and ACO Regulation, and Melissa Miles, Deputy Director of Value-Based Payments and ACO Regulation, Green Mountain Care Board

CC: Members of the Green Mountain Care Board

DATE: July 12, 2019

SUBJECT: Comments to the Chair and Members of the Green Mountain Care Board

Thank you for your public comments dated June 17, 2019. As always, the Green Mountain Care Board (GMCB or the Board) welcomes all public comments whenever they are submitted and particularly appreciates meaningful input from the Office of the Health Care Advocate (HCA). As we indicated during our July 2, 2019 meeting between the HCA and GMCB staff, this letter provides response to the concerns outlined in your public comments and follow up on other items discussed during that time.

Background

As discussed during our meeting on May 23, 2019, the Board's regulatory oversight of accountable care organizations (ACOs) has four components:

- (1) The annual review and approval of ACO budgets in accordance with 18 V.S.A. § 9382(b);
- (2) The Board's initial certification of ACOs and the subsequent annual verification of the certified ACO's continued eligibility in accordance with 18 V.S.A. § 9382(a);
- (3) Ongoing monitoring in accordance with the GMCB Rule 5.000, the conditions required with the ACO's budget approval, and the certification requirements; and
- (4) Ad hoc reporting required under the Vermont All-Payer ACO Model Agreement (APM Agreement), such as the Scale Target Initiative Report that will be published this summer.

The standards by which the Board evaluates ACOs come from the following sources:



- (1) Vermont Statutes Title 18, Chapter 22 (primarily 18 V.S.A. § 9382 “Oversight of Accountable Care Organizations”);
- (2) GMCB Rule 5.000; and
- (3) The APM Agreement.

Transparent and Efficient ACO Regulatory Processes

As discussed during our July 2, 2019 meeting, the provision of transparency is of the utmost importance to the GMCB.

GMCB-HCA ACO regulatory workflow

We recognize the HCA’s concerns around the ease of navigating the relatively new ACO certification and budget review processes, especially in light of recent discussions around the revision of Green Mountain Care Board Rule 5.000, and technical difficulties associated with ensuring that all parties have access to all necessary materials pertaining to the regulatory process in a timely fashion. During our July 2, 2019 meeting, GMCB staff articulated a commitment to a GMCB standard procedure to collect, share, and demonstrate the ACO’s compliance throughout all regulatory processes.

To improve processes going forward the GMCB and HCA have agreed to the following:

1. GMCB will develop and share:
 - a. A master list of documents submitted by the ACO and which regulatory process they are submitted under.
 - b. A crosswalk between statute, administrative rule, and ACO documentation submitted to meet a particular requirement.
 - c. Access to an online live directory of submitted and updated documentation
2. GMCB and the HCA will meet on a regular basis to continue to flesh out process improvements to the workflow underlying of this new regulatory function, and will plan to meet following the delivery of materials from the ACO to check-in and ensure all parties have access to the necessary information. The timeline for such meetings will align with the ACO regulatory process outlined below.
 - a. Certification: materials due from the ACO on or before September 1st
 - b. Budget: materials due from the ACO on or before October 1st
 - c. Monitoring: materials due from the ACO on a quarterly basis
 - i. Q1: April 30th
 - ii. Q2: July 31st
 - iii. Q3: Oct 31st
 - iv. Q4: Jan 31st

Public Transparency

The GMCB recognizes that the GMCB website to date has not been ideal due to the structure of the state’s website platform required for use by state agencies. Despite resource constraints, the GMCB continues to pursue improvements to our website and simplification of messaging. Here are several

initiatives the GMCB has undergone over the last few months, and projects on the docket for the near future that will continue this effort:

1. Linking presentation materials to the ACO Regulation and All-Payer Model webpages, so interested parties do not have to search for information by presentation date alone.
2. Developing and publishing graphical representations and analytics reports of GMCB work to our website. For example, on the Data and Analytics page there are interactive visualization tools for the OneCare Vermont ACO Network Provider Participation and All-Payer Total Cost of Care. We will be posting a visual ACO Regulatory Timeline to the ACO Certification and Budget Review Page before September 1, 2019.
3. The GMCB has several one-pagers describing the All-Payer Model that are on our website and has begun to post quarterly and annual reports as they are submitted to the federal government on the All-Payer Model Page, subsection: All-Payer Model Reports.
4. Over the long-term, it is the GMCB's goal to move to a standard file naming convention and folder hierarchy across all regulatory processes on our website.
5. The GMCB will continue to think about ways to make our website more intuitive and user friendly, including moving information around within the ACO Certification and Budget Review section to optimize clarity. If the HCA has specific recommendations on how this may be accomplished, we welcome the feedback.

GMCB Staff Responses to HCA Questions

Question 1. 18 V.S.A. § 9382 (b)(1)(M) requires the Board to review and consider information on the ACO's administrative costs, as defined by the Board. Please provide the Board's definition of administrative costs and clarify whether the terms "administrative costs," "administrative budget," and "operational expenses" are used synonymously. If not, please detail any differences.

GMCB Staff Response: For purposes of the GMCB's ACO regulatory processes "administrative," "operating," and "operational expenses" are synonymous. In general, these types of costs are expenses that relate to the organization as a whole, as opposed to an individual department or service, and are fixed in nature. These activities are considered to be the foundation of an organization's operations, and the associated expenses would exist regardless of the level of services provided, or the number of patients served.

Question 2. Rule 5.403(a)(1) requires the ACO to submit information on the ACO's structure, composition, ownership, governance, and management. Please provide where each of these individual pieces of information is requested in the budget guidance and/or certification requirements.

GMCB Staff Response: As we discussed at both our May 23, 2019 meeting and again on July 2, 2019, "information on the ACO's structure, composition, ownership, governance, and management" are primarily related to certification, which is the process we use to collect updated information on those matters. *See* 18 V.S.A. § 9382(a).

Prior to its initial certification (in 2018), OneCare submitted complete information on these topics in their 2018 budget submission, 'OneCare ACO Budget Revised Submission narrative', and the Section 1 supporting materials, found on the 2018 ACO Budget Information Page, subsection: OneCare Vermont's 2018 Budget Submission. OneCare also submitted those materials to the HCA at that time. As part of the annual eligibility verification, OneCare submits any new or changed information related to these topics (and the other certification-related topics). The Board also requests for any new or updated policies and documents pertaining to Certification to be submitted during the quarterly monitoring process.

Questions 2-3 and Attachment A in the 2020 Verification Form ask OneCare to provide updated information regarding these subjects to the extent any information has changed and were not previously submitted to the Board in the prior year. For your reference, the 2020 Certification Eligibility Verification Form for OneCare is available here: <https://gmcboard.vermont.gov/content/2020-aco-budget-and-certification>. This will be submitted September 1, 2019 to the Board and the HCA will be copied.

Question 3. Please provide the HCA with a copy of the ACO's alignment report, as referenced at the May 23 meeting, and/or let us know where this report is publicly available.

GMCB Staff Response: OneCare submitted this report as part of its quarter 1 (Q1) reporting requirements. This report and the other reporting OneCare submitted at the end of Q1 are available here: <https://gmcboard.vermont.gov/content/2019-aco-budget-and-certification>.

Question 4. At our May 23 meeting, Board staff indicated that the Board has clear information about the nature and scope of OneCare's financial and other involvement in each of the initiatives described on pages 45 through 50 (Part 5, Question 1) of OneCare's 2019 budget narrative. Please provide this information to the HCA.

Response: As background, in the 2019 ACO Budget Guidance, Part 5, Question 1 asked OneCare to describe their *ACO Clinical Priority Areas, including metrics, targets, and results to date*. At our May 23 meeting, we said that the information that OneCare provided to in response to Part 5, Question 1 of the 2019 Budget submission was sufficiently complete and clear to allow GMCB staff to analyze and understand its involvement. OneCare detailed the metrics, targets, and results to date, and in addition mentioned Health Service Area level initiatives that relate to work being implemented at the community level that relates to the OneCare network's clinical priority areas. The Board recognized many of the initiatives as they were discussed during other regulatory processes (such as the hospital budget submissions) and review of other OneCare materials. Per the wording of the question in the 2019 Guidance, OneCare was not asked to describe their financial relationship to each project mentioned.

The Board did and will continue to request that OneCare describe their population health investments within the scope of their total budget and will monitor this investment ratio throughout the year. The plan for their 2019 PHM investments can be found on the 2019 ACO Budget and Certification page,

subsection: OneCare 2019 ACO Budget Submission, Section 5 Appendix. In Table 5.5, they are asked to identify how their population health investments are tied to 18 V.S.A. § 9382(b) (1) (G).

In response to your suggestion for the 2020 ACO Budget Guidance, at the June 26, 2019 GMCB Board Meeting the Board approved a modification to question 3 (listed below), which the HCA agreed will address the information you are seeking, for OneCare to tie financial or non-financial investments to programs that OneCare may also mention in their narrative (see additional language bolded). In addition, Board staff will continue to collect information on OneCare's Clinical Priority Areas (see question 7 below).

The questions in the 2020 ACO Budget Guidance that differentiate this request are:

3. How have OneCare's population health investments supported transformation in care at the local level? This includes the Complex Care Coordination Program, RiseVT, the Regional Clinical Representatives, and other initiatives directly funded by the ACO. **For each program, list the population health investment(s) referenced in Appendix 5.4 that the community or OneCare is using to support the program.** If you are providing support other than financial, please describe.

7. Complete **ACO Clinical Priority Areas (Appendix 5.1)**. In the appendix provide the ACO's 2018 clinical and program priorities, metrics, targets, and actual results, by payer. In the appendix also list the 2019 clinical and program priorities, metrics, and targets, by payer. In addition:

- a. Describe in narrative form what changed or stayed the same from 2018-2019 and progress made on your clinical priorities in 2019 to date, including successes and opportunities for improvement.
- b. Describe in narrative form your process for developing 2020 Clinical Priority Areas.
- c. How does each community prioritize and choose their clinical priorities?

Question 5. At our May 23 meeting, Board staff indicated that due to population changes, year over year quality data is either not relevant to the Board's review or is relevant but not suitable for public transparency. Please provide further clarity and an explanation of the Board's position on this topic.

Response: The Board and Board staff's position, as discussed during our May 23, 2019 meeting, and reiterated during our June 26, 2019 meeting, is that comparing "year-over-year" data that were collected using different methodologies, over different populations, evaluating different measures has limited scientific utility. Perhaps more concerning, is that such analyses may create confusion and misinformation if inferences are made or conclusions drawn when the significant scientific limitations of the analysis are disregarded.

During our July 2, 2019 meeting, the GMCB Board staff further clarified the Board's position that we value year-over-year quality trends as a useful and crucial indicator of ACO performance and hold that the statistical validity must be present for such analyses to render useful results. This can only happen once the model is at scale. In the meantime, the Board staff will focus on measures of quality performance as compared to baseline.

Also during our July 2, 2019 meeting, HCA clarified its intent for this question beyond the general notion of year-over-year quality trends, articulating that it sought to address more specifically, ACO quality performance trends as it relates to Medicaid improvement payments as outlined in Appendix J, number 3(d), on pages 69-70 of the ACO's Vermont Medicaid Next Generation Program (VMNG) payer agreement with the State of Vermont, Department of Vermont Health Access (DVHA). This is a different question than what was detailed in HCA's initial request. The contract describes how DVHA will calculate this analysis, which will be public after the 2019 performance year closes. Information about year-over-year performance will be summarized in DVHA's quality reporting results, and the ACO will be asked to submit their most previous results with their yearly budget submission, as they have done in past years.

As discussed in our meeting, the GMCB will continue to work with the HCA to improve our regulatory workflow processes and will seek to ensure we are on the same page going forward.

HCA Suggested Edits to the Board's Draft 2020 ACO Budget Guidance

Section 5, Question 3

As noted above, the HCA acknowledged during the June 26, 2019 meeting that the Board's staff recommendation accommodated this request.

Section 5, Question 9

The HCA stated during the June 26, 2019 meeting that the Board's staff recommendation did not accommodate their request. The HCA is able to submit questions to accompany the GMCB FY2020 ACO Budget Guidance by July 15, 2019.

Additional Follow-up from July 2, 2019 Meeting

During our recent meeting, HCA expressed interest in pursuing an opportunity to close the knowledge gap between the GMCB and the HCA regarding the ACO regulatory process broadly. In order to continue these conversations, as mentioned early in this memo, GMCB staff would like to meet with the HCA following OneCare's quarterly monitoring and annual certification and budget submissions.

Other items/questions discussed during July 2, 2019 meeting:

1. The HCA wanted to know when they could expect to see an official presentation on 2018 results. GMCB staff articulated that these results would be made available and discussed during the 2020 ACO regulatory process as part of OneCare's hearing. The 2017 Financial and Quality Results for the VMNG program can be found here: <https://legislature.vermont.gov/assets/Legislative-Reports/VMNG-2017-Report-FINAL-09-20-18.pdf>. DVHA expects to publish the VMNG 2018 performance results by September 20, 2019.
2. The HCA articulated that it struggled to answer a number of questions coming from various parties on the ACO and associated regulatory processes, that they would expect to be able to answer given information on GMCB's website. During this meeting, the HCA agreed to provide

a list of frequently asked questions, or genres of questions, for GMCB staff to consider while rethinking website structure and content.

3. The HCA asked for information as it pertains to OneCare's 2017 settlement. Please see their 2017 VMNG Financial Settlement attached.
4. The HCA requested the addition of a disclaimer to the ACO regulatory page on the GMCB website, articulating that rules are under revision. The Board will respond to this request.
5. The HCA asked how the *Administrative Expense Ratio* is calculated, and for the definition to be provided in the ACO's budget submission. The *Administrative Expense Ratio* is calculated by dividing cell J84 (projected total spending on Operational Expenses) by J62 (projected total revenues), which is now annotated directly in the 2020 template.