

## **GREEN MOUNTAIN CARE BOARD**

### **RULE 3.000: HOSPITAL BUDGET REVIEW**

#### **3.100 General Provisions**

##### **3.101 Purpose**

Under 18 V.S.A. § 9375(b)(7), the Green Mountain Care Board (Board) shall review and establish hospital budgets pursuant to chapter 221, subchapter 7 of Title 18 of Vermont Statutes Annotated, taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, and other issues at the discretion of the Board. The Board's review process will promote the general good of the state, as set forth in 18 V.S.A. § 9372, by improving the health of the population; reducing the per-capita rate of growth in expenditures for health services in Vermont across all payers while ensuring that access to care and quality of care are not compromised; enhancing the patient and health care professional experience of care; supporting the recruitment and retention of high-quality health care professionals; and achieving administrative simplification in health care financing and delivery. This rule sets forth the process by which the Board will review and establish hospital budgets.

##### **3.102 Authority**

This rule is adopted pursuant to 18 V.S.A. § 9375(b)(7), 18 V.S.A. § 9380, and Act No. 171 (2011 adj. sess.), § 40a.

##### **3.103 Definitions**

- (a) "Act" means the Vermont Administrative Procedure Act.
- (b) "Board" means the Green Mountain Care Board.
- (c) "Chair" means the Chair of the Green Mountain Care Board or a designee appointed by the Chair.
- (d) "Commissioner" means the Commissioner of the Department of Financial Regulation.
- (e) "Department" means the Department of Financial Regulation.
- (f) "Fiscal year" means a twelve-month period designated by the Board under Section 3.105 of this rule.
- (g) "Health care facility" means all facilities and institutions, whether public or private, proprietary or nonprofit, that offer diagnosis, treatment, inpatient, or ambulatory care to two or more unrelated persons. The term shall not apply to any facility operated by religious

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groups relying solely on spiritual means through prayer or healing, but includes all facilities and institutions included in 18 V.S.A. § 9432(8).

- (h) “Health care provider” or “provider” means a person, partnership, or corporation, other than a facility or institution, licensed or certified or authorized by law to provide professional health care service in Vermont to an individual during that individual’s medical care, treatment, or confinement.
- (i) “Hospital” means a general hospital licensed under chapter 43 of Title 18 of Vermont Statutes Annotated, as defined in 18 V.S.A. § 9451(1).
- (j) “Person” means any natural person, partnership, corporation, association, governmental subdivision, public agency, or other legal entity.
- (k) “Unified health care budget” means the budget adopted by the Board pursuant to 18 V.S.A. §§ 9375a and 9375(b)(11).
- (l) “Uniform reporting manual” or “manual” means the uniform reporting manual previously published by the Department and now published by the Board, including appendices and supplements, and any subsequent revisions of the manual.

**3.104 Applicability**

This rule shall apply to health care facilities, health care providers, hospitals, and other persons affected by the hospital budget review process under 18 V.S.A. § 9451-9457 and 18 V.S.A. § 9375(b)(7).

**3.105 Fiscal Year**

The fiscal year is defined as the twelve-month period beginning on October 1 of each year.

**3.200 Benchmarks and Required Data Reporting**

**3.201 Uniform Formats for Date Filings**

Hospitals shall use the methods and formats set forth in the uniform reporting manual in reporting their financial, scope-of-services, and utilization data and information to the Board, using the uniform reporting forms and uniform chart of accounts contained in the manual.

**3.202 Establishing Benchmarks**

(a) On an annual basis, the Board will establish benchmarks for any indicators for use in developing and preparing the upcoming fiscal year’s hospital budgets. The Board will meet with the Vermont hospitals and the Vermont Association of Hospitals and Health Systems, and any other interested person, on or before February 15, in order to obtain input prior to establishing

the benchmarks. The established benchmarks shall be included in the uniform reporting manual, which shall be provided to the hospitals by March 31.

(b) The uniform reporting manual benchmarks will allow the Board to:

- (1) make a determination whether to waive the need for a hospital to present its budget at a public hearing; and
- (2) determine whether a budget may be adjusted.

(c) The benchmarks may include the following:

- (1) growth indicators;
- (2) prior budget performance;
- (3) efficiency or productivity indicators;
- (4) capital investment indicators;
- (5) profitability indicators;
- (6) cost and price indicators;
- (7) liquidity indicators;
- (8) debt structure indicators;
- (9) other financial measures recognized or used in evaluating budgets and/or financial plans;
- (10) disease indicators;
- (11) population health indicators;
- (12) access indicators; and
- (13) quality indicators.

### **3.203 Hospital Duties and Obligations**

On or before July 1 of each year, each Vermont hospital shall file the following information with the Board, in addition to any other information required by the uniform reporting manual:

- (a) its proposed budget for the next fiscal year, including expenditures and revenues for Vermont residents and non-Vermont residents;

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- (b) financial information, including but not limited to its costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of service, and wage and salary data;
- (c) scope-of-service and volume-of-service information, including but not limited to inpatient services, outpatient services, and ancillary services, by type of service provided;
- (d) utilization information;
- (e) a description of new hospital services and programs proposed for the next fiscal year, regardless of whether they are or may be subject to the certificate of need review process under subchapter 5 of Chapter 221 of Title 18;
- (f) a projected three-year capital expenditure budget;
- (g) the financial condition of the hospital;
- (h) the nature of the services offered by the hospitals that are subject to the budget;
- (i) the needs of the populations served by the hospital;
- (j) the specialized or franchised services offered by the hospital; and
- (k) such other information as may be required by the Board.

**3.300 Annual Hospital Budget Review Procedures**

**3.301 Information Available to the Public**

The Board shall make the nonconfidential information filed under Section 3.203 available to all persons upon request consistent with the Vermont Public Records Act. The Board may charge the actual copying costs, as set forth in the Vermont Uniform Schedule of Public Record Charges for State Agencies, Vt. Admin. Code 20-1-2, incurred in providing such information to the persons requesting the information. The Board will post the nonconfidential portions of the hospital budget submissions made pursuant to § 3.203 of this Rule on its website as soon as practicable.

**3.302 Public Hearing**

Upon receipt by the Board of all financial information filed under Section 3.203, the Board may hold public hearings concerning the hospitals' budgets. The Board at its discretion may require hospitals, except for those hospitals exempt from the hearing pursuant to Section 3.304, to provide testimony and respond to questions raised by the Board or the public.

### **3.303 Use of Benchmarks**

The benchmarks established under Section 3.202 shall guide the Board in its decisions whether or not to adjust a hospital's proposed budget.

### **3.304 Exemption from Public Hearing**

(a) In the event the Board holds a public hearing or hearings under Section 3.302, the Board may exempt a hospital from the public hearing(s) if the hospital met the benchmarks established under Section 3.202. An exempted hospital will not have its budget adjusted in the year for which it was exempted.

(b) In any given year, no more than four hospitals may be exempted from that year's public hearing(s).

(c) The four largest hospitals, as measured by the hospitals' previous year's net patient revenue, shall not be exempt from the public hearings in a given year.

### **3.305 Budget Adjustments**

The Board may adjust the proposed budgets of hospitals that do not meet the established benchmarks outlined in Section 3.202.

### **3.306 Review Process**

(a) The Board shall meet with the hospitals submitting proposed budgets to review and discuss their proposed budgets. The hospitals shall bear the burden of persuasion in justifying their proposed budgets.

(b) The Board's review of the hospitals' proposed budgets shall take into consideration the following factors:

- (1) the proposed unified health care budget forecast for the next fiscal year;
- (2) utilization information;
- (3) the goals and recommendations of the state health plan and Certificate of Need guidelines adopted under 18 V.S.A. §§ 9405, 9456(b)(2), and 9437;
- (4) the actual performances of hospitals with respect to past budgets;
- (5) reports from professional review organizations relating to Vermont hospitals or health care services provided through Vermont hospitals (excluding hospital internal quality and utilization review reports);

- (6) the established benchmarks;
- (7) public comments; and
- (8) any other information the Board deems relevant or appropriate to hospital budgets.

### **3.307 Establishment of Hospital Budgets; Decisions**

On or before September 15 each year, the Board shall establish each hospital's budget for the fiscal year beginning on October 1 of that year and shall provide each hospital with verbal or written notice of its budget. On or before October 1 of that year, the Board shall issue a written decision reflecting the budget established on September 15 for each hospital for the fiscal year beginning October 1 of that year. The decision of the Board shall constitute a final order, which may be appealed pursuant to 18 V.S.A. § 9381.

### **3.400 Enforcement**

#### **3.401 Budget Performance Review and Adjustment**

(a) The Board may conduct an independent review of a hospital's performance under the budget established for it by the Board at any time, including in response to an application for an adjustment made by a hospital pursuant to 18 V.S.A. § 9456(f). This review shall take into consideration the following factors:

- (1) the variability of a hospital's actual revenues, taking into account the resources of payers and the methods of payment used by the payers;
- (2) the hospital's ability to limit services to meet its budget, consistent with its obligations to provide appropriate care for all patients;
- (3) the financial position of the hospital in relation to other hospitals and to the health care system as a whole, using the statistics developed from information submitted in compliance with the uniform reporting manual;
- (4) the hospital's performance under budgets identified or established under subchapter 7 of Chapter 221 of Title 18 of Vermont Statutes Annotated for the previous three years and its budget projections for the next three years; and
- (5) any other considerations deemed appropriate by the Board, including but not limited to other instances in which a hospital has less than full control over the expenditures limited by the budget.

(b) If, after conducting a review under Section 3.401(a), the Board determines that a hospital's performance has varied substantially from its budget, the Board shall provide written notice to the hospital. The notice shall set forth the results of the Board's review as well as a description of the factors the Board considered.

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(c) After making a determination of a hospital's performance under an established budget, and upon application of the hospital, the Board may adjust the hospital's budget, taking into account the factors set forth in subsection 3.401(a). Where a determination is made that a hospital's performance has differed substantially from its budget, the Board may adjust its budget by:

- (1) changing hospital rates or prices by the amount of net revenues exceeding the budgeted net revenues;
- (2) changing the net revenue and/or expenditure levels of future budgets;
- (3) allowing hospital rates to be increased for a hospital with a deficit caused by revenues that were less than projected, but whose actual expenditures were within the budget limits;
- (4) allowing a hospital to retain surplus funds if the surplus was achieved while the hospital stayed within its established budget;
- (5) allowing a hospital to retain a percentage of surplus generated primarily by volume in excess of that projected for a particular year; or
- (6) any other circumstance the Board deems appropriate.

(c) Adjustment methods based on past performance may be applied by the Board in the course of establishing a new budget and may be imposed over a multiyear period. In considering adjustment of a hospital's budget, the Board shall consider the financial condition of the hospital and any other factor it deems appropriate.

(e) If a hospital does not apply for a budget adjustment within 30 days of receiving a notice from the Board under Section 3.401(b) above, then the Board may use any enforcement action set forth in 18 V.S.A. § 9456(g)-(h) that is warranted under the circumstances.

### **3.500 Other Matters**

(a) Waiver of Rules. In order to prevent unnecessary hardship or delay, in order to prevent injustice, or for other good cause, the Board may waive the application of any provision of this rule upon such conditions as it may require, unless precluded by the rule itself or by statute.

(b) Conflict. In the event that this regulation or any section herein conflicts with Vermont statute, Vermont statute shall govern.

(c) Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

(d) Effective date. This Rule shall become effective January 1, 2013.