

Green Mountain Care Board
89 Main Street
Montpelier, VT 05620

[phone] 802-828-2177
www.gmcbboard.vermont.gov

Cornelius Hogan
Jessica Holmes, PhD
Robin Lunge, JD, MHCDS
Betty Rambur, PhD, RN
Susan Barrett, JD, Executive Director

MEMORANDUM

To: House Committee on Health Care and Senate Committees on Health and Welfare and on Finance

From: Michael Barber, Associate General Counsel, Green Mountain Care Board

Re: Update on rulemaking process and vision for implementing the rules, per Act 113 (2016) § 6

Date: January 13, 2017

Effective January 1, 2018, an Accountable Care Organization (ACO) must obtain and maintain certification from the Green Mountain Care Board (the Board) to be eligible to receive payments from Medicaid or commercial insurance through a payment reform program or initiative, including an all-payer model.¹ On or before January 1, 2018, the Board is required to adopt rules governing the oversight of ACOs.² The Board's rules must establish standards and processes for certifying ACOs and reviewing, modifying, and approving their budgets against a number of specific statutory criteria.³ On or before January 15, 2017, the Board is required to "provide an update on its rulemaking process and its vision for implementing the rules to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance."⁴ Please accept this memo as the Board's update on the ACO oversight rule.

The Board is currently in the process of soliciting input from stakeholders, including ACOs, insurers, the Agency of Human Services and the Department of Vermont Health Access, the Vermont Association of Hospitals and Health Systems, the Vermont Medical Society, and the Office of the Health Care Advocate. A meeting with stakeholders was held on December 13, 2016, to 1) review the statutory requirements of 18 V.S.A. § 9382 and a preliminary outline of the Board's draft rule; 2) discuss a timetable for rule adoption; 3) identify potential sources that the Board could draw upon in completing its draft; 4) discuss the Board's need for flexibility and the potential for external guidance documents to accompany the Rule, similar to the Board's hospital budget review process; and 5) define next steps.

It became apparent at the initial stakeholder meeting that a subsequent meeting would need to be held to discuss timing and the best way to incorporate an ACO budget review process into the Board's

¹ Act 113 of 2016, § 5 (codified at 18 V.S.A. § 9382) (*eff.* Jan. 1, 2018).

² *Id.*

³ *Id.*

⁴ *Id.* at § 6.

insurance rate review and hospital budget review processes. A meeting was held on these topics on January 3, 2017 and subsequent meetings have been scheduled for January 17 and 31.

The Board plans to share a draft of its rule with stakeholders at the end of January or beginning of February 2017, incorporate stakeholder feedback in February and March, and pre-file the rule at the end of March or beginning of April. This timetable was communicated to stakeholders at the December 13, 2016 meeting. The Board currently anticipates making its rule effective January 1, 2018, and inviting ACOs to engage with the Board in a provisional certification review process prior to that date, subject to any final changes to the rule.

To expedite the Board's certification review and reduce unnecessary duplication of effort, the Board is, at this point, considering the possibility of "deeming"—treating, for example, an ACO's accreditation by the National Committee for Quality Assurance or approval by the Centers for Medicare and Medicaid Services for participation in the Shared Savings Program or Next Generation Program as satisfying equivalent requirements of the Board's rule.

The Board understands the significance of this rule to the State's health care reform efforts and the success of the recently-executed Vermont All-Payer Accountable Care Organization Model Agreement. The Board looks forward to receiving input from stakeholders, the public, and the Legislature so that the Board's rule is workable and achieves the legislative goals of Act 113.

