

Green Mountain Care Board
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October 10, 2012

By E-mail

Susan M. Gretkowski, Esq.
MVP Health Care
66 Knight Lane, Suite 10
Williston, VT 05495

Re: GMCB Rule 2.000: Health Insurance Rate Review

Dear Susan:

On behalf of the Green Mountain Care Board, I am writing to thank you for submitting comments regarding the Board's draft proposed rate review rule and to explain how we have addressed them in the version approved by the Board for filing with LCAR. I have enclosed a redline reflecting the changes recommended by staff and approved by the Board that resulted from our review of all comments received as of the September 12 public comment deadline.¹ I will address your comments in the order they appear in your letter. (The Board will respond separately to William Little's September 25, 2012 letter, regarding the rule's impact on MVP's 4Q2012 Small Group PPO/EPO Rate Filing.)

Timeline proposal: You requested that the Board lay out a specific, event-by-event timeline in the rule. Since we think that establishing a rigid deadline for each prescribed action will limit, not facilitate, meaningful process, we do not intend to embed such a timeline in the rule. You also asked that the rule state that the Board will request additional information in advance of when a carrier must decide to waive a hearing or file a memorandum. We agree that parties need adequate time and opportunity to respond to the Board's questions and to address issues raised before and during a hearing. To that end, we have revised the draft rule to clarify the timeline, offer parties an opportunity to file memoranda post-hearing or in lieu of hearing, and reflect the Board's commitment to issuing information requests reasonably early in the process. Specifically:

- We added Section 2.106 to clarify how time periods will be computed.
- We revised Section 2.201(c) to clarify timelines for public comments.

¹ The enclosed redline contains the following minor edits made since the Board's approval: (1) § 2.302, first line: comma added after "pleadings"; (2) § 2.304, third line: "Section 2.303" changed to "Section 2.302"; (3) § 2.404, fourth sentence: capitalized each instance of the word "Party" or "Parties"; and (4) § 2.404, fifth sentence: added "with" before "one-inch margins."

- We added current Subsection 2.307(f) to permit parties to submit post-hearing memoranda.
- We revised Section 2.404 (Adjudication on the Record) to permit parties to submit a written response to a memorandum filed by the other party.
- Finally, we revised current Section 2.304 (Demands for Information) by adding the highlighted language to subsection (a):

The Board will make reasonable efforts to issue its initial requests for additional information within 7 days of the date on which the Board receives the Commissioner's recommendation. The Board may request additional information from a Person based on information provided or issues raised at a hearing or in a written submission to the Board.

We think that these changes strike a fair balance between the Parties' needs and the Board's practical constraints.

Board and party communication prior to decision: You request that the rule include an opportunity for parties to "get the Board's general inclination" on each filing and to discuss any concerns before making a hearing waiver decision. We agree that current Section 2.306 (Conferences) provides an opportunity for issues to be narrowed and clarified. Further, the Board does offer parties some indication of its questions about a specific filing when it requests additional information. As detailed above, we have revised current Section 2.304 (formerly 2.305) to more clearly commit to issuing requests early in the process so that parties have adequate time to consider and respond to Board concerns.

You also expressed concern that MVP has not received instruction from the Board on what to do with rate increase denials. Vermont law provides that: 1) the Board must approve, modify, or disapprove a rate request after receiving the Commissioner's recommendation, 8 V.S.A. § 4062(a)(2)(B); 18 V.S.A. § 9375(b)(6); 2) the Commissioner must apply each Board decision, 8 V.S.A. § 4062(a)(2)(C); and 3) a regulated carrier must not issue a policy, or endorsement, rider, or application to become part of a policy, without the Commissioner's application of the Board's decision, *id.* § 4062(a)(1). Therefore, absent Board approval (or approval with modifications) of a rate request, a carrier must maintain the current rate until a future rate change request is approved.

Section 2.105(b): You requested that the rule be changed to state that a party may call DFR as a witness so that DFR may provide additional information in that role. The rule as drafted does



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not preclude parties from requesting that DFR provide a witness. Therefore, we do not intend to revise this aspect of the rule.

Section 2.307: You requested that language be added stating that a party may ask DFR to attend any conference. The rule as written does not preclude parties from asking DFR to participate in a conference, and we do not intend to alter this aspect of the rule.

Section 2.308: We have revised the rule to incorporate this change by adding current Subsection 2.307(f), permitting parties to submit post-hearing memoranda.

Again, thank you for your comments. We appreciate the time and attention that you and your office have contributed to both rulemaking and the rate review process itself. Please feel free to contact me with any questions or anything you would like to discuss further.

Sincerely,

s/ Mike Donofrio

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Encl.

cc: Georgia Maheras, Executive Director, GMCB
Judy Henkin, Director of Health Policy, GMCB

