State of Vermont
Green Mountain Care Board
89 Main Street
Montpelier VT 05620

Report to the Legislature

REPORT ON THE TOTAL AMOUNT OF ALL EXPENSES ELIGIBLE FOR ALLOCATION PURSUANT TO 18 V.S.A. § 9374(h) AND § 9415, AND THE TOTAL AMOUNT ACTUALLY BILLED BACK TO REGULATED ENTITIES DURING STATE FISCAL YEAR 2017

In accordance with Act 79 of 2013, Section 37c

Submitted to the
House Committees on Health Care, Ways & Means, and Appropriations; the Senate Committees on Health & Welfare, Finance, and Appropriations; and the Joint Fiscal Committee

Submitted by the
Green Mountain Care Board & the
Department of Financial Regulation

September 15, 2017

Introduction

Act 79 of 2013 requires that the Green Mountain Care Board (Board) and the Vermont Department of Financial Regulation (Department) submit a report showing "**the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period."** 2013, No. 79, § 37c(a). This report must be submitted annually on or before September 15 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations. *Id.* The Department and the Board must also provide this information to the Joint Fiscal Committee at its September meeting. *Id.* at § 37c(b). The report is listed on the non-action portion of the Joint Fiscal Committee's September 15 meeting agenda, and is being submitted to satisfy that agenda item as well as § 37c(b) of Act 79.

Background

In 1996, the Legislature first conferred billback authority to the Health Care Authority as a means of funding its duties and activities. When the Health Care Authority moved into the Vermont Department of Banking, Insurance, Securities and Health Care Administration (BISCHA), this authority was transferred to BISHCA (now the Department).

In 2012, the Legislature authorized the newly-formed Board to bill back to hospitals and insurance carriers the costs of certain activities related to health care system oversight. 2012, No. 171 (adj. sess.), § 5. The law provided that "[e]xpenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts" that are authorized by either the Department or the Board would be borne according to the following allocation:

- 40% by the State;
- 15% by the hospitals;
- 15% by nonprofit hospital and medical service corporations;
- 15% by health insurance companies; and
- 15% by health maintenance organizations.

18 V.S.A. §§ 9374(h)(1); 9415(a) (2014) (repealed 2015). In other words, for each dollar that the State billed back pursuant to this statutory authority, the regulated entities, as a group, would pay 60 cents, with the State remaining responsible for the other 40. The 60/40 allocation has not changed and remains in effect at present.

In a February 2013 report,[1] the Board and the Department advised the Legislature that since the inception of the billback authority, the State had not billed back the full scope of expenses made eligible by the authorizing legislation. In response, the Legislature mandated annual reporting and gave the Board and the Department discretion over the scope and the amount of the billback. 2013, No. 79, §§ 37a - 37c. The Legislature also expanded the scope of the billback to include funding for the Office of the Health Care Advocate (HCA). *Id.* at § 37d. Finally, the Legislature required the Department to 1) transfer one position and its associated

[1] Available at: http://gmcboard.vermont.gov/sites/gmcboard/files/Billback_Rpt_020113.pdf.

funding to the Department of Health for the purpose of administering the hospital community reports in 18 V.S.A. § 9405b and 2) continue to collect funds for the publication of these reports under its billback authority. *Id.* at § 50(c).

In 2015, the Legislature repealed the statute giving the Department billback authority, 18 V.S.A. § 9415, while leaving intact the Board's authority under 18 V.S.A. § 9374(h) to continue to utilize the 60/40 billback formula "if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State." 2015, No. 54, § 61.

Effective July 1, 2016, the Legislature established a specific allocation for the billback of expenses incurred by the HCA for services related to the Board's and the Department's regulatory and supervisory duties. 2016, No. 134, § 28. The allocation is as follows:

- 27.5 percent by the State from State monies;
- 24.2 percent by the hospitals;
- 24.2 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125; and
- 24.2 percent by health insurance companies licensed under 8 V.S.A. chapter 101.

18 V.S.A. § 9607(b)(1).

The Board deposits monies it receives from regulated entities in the Green Mountain Care Board Regulatory and Administrative Fund. 18 V.S.A. § 9404(d). This special fund provides financial support for the Board's operations. *Id.* However, the fund "may also be used by the Department of Health to administer its obligations, responsibilities, and duties as required by chapter 221 of [title 18]." *Id.* Since the Department of Health assumed responsibility for hospital community reports in 2013, the Legislature has appropriated money from the fund to support these activities. For example, FY 2014 appropriation to the Department of Health from the fund was $660,000. As noted above, the Department's billback authority was repealed in 2015. And since the Board does not include expenses incurred by the Department of Health in their annual billback, continued appropriations to the Department of Health from the fund without a corresponding expansion in the scope of the billback authority may eventually strain the fund.

State Fiscal Year 2017 Billback

In state fiscal year 2017 (FY17), the Board billed back approximately $2,215,425, as shown in Appendix A of this report. While this appears to be a significant increase from FY16, the increase is minor once it is adjusted downward by $655,073 for the FY16 actual spend versus the Board's budget adjustment, and the Board's fulfillment of its pledge, outlined in its FY16 Billback Report, to bill back 100% of the industry portion of its FY17 budget. Below, Tables 1 and 2 show the break down among the hospitals and insurance companies that can be billed under 18 V.S.A. §§ 9374(h)(1).

Table 1: Hospital Assessment FY17

HOSPITAL	Amount Billed
Brattleboro Memorial Hospital	$14,302
Carlos Otis	$1,289
Central Vermont Medical Center	$37,512
Copley Hospital	$15,219
Gifford Medical Center	$12,368
Mt. Ascutney Hospital	$3,269
North Country Hospital	$12,867
Northeastern Vermont Regional Hospital	$12,068
Northwestern Medical Center	$23,882
Porter Medical Center	$14,011
Rutland Regional Medical Center	$56,953
Southwestern Medical Center	$30,338
Springfield Hospital	$17,525
University of Vermont Medical Center	$169,298
Total	**$420,901**

Table 2: Insurance Carrier Assessment FY17

CARRIER	Amount Billed
Blue Cross and Blue Shield of Vermont	$420,901
MVP Health Insurance Company	$222,683
The Vermont Health Plan, LLC	$175,897
Cigna Health & Life Insurance Company, Inc.	$128,561
MVP Health Plan, Inc.	$121,754
UnitedHealthcare Insurance Company	$34,776
Aetna Life Insurance Company	$24,027
4 Ever Life Insurance Company	$4,345
QCC Insurance Company	$3,573
State Farm Mutual Automobile Insurance Company	$2,213
United States Life Insurance Company in the City of New York	$245
Connecticut General Life Insurance Company, Inc.	$225
AXA Equitable Life Insurance Company	$113
Metropolitan Life Insurance Company	$85
Golden Rule Insurance Company	$35
MONY Lie Insurance Company	$6
Prudential Insurance Company of America	$6
American Progressive Life & Health Insurance Company of New York	$3
National Benefit Life Insurance Company	$3
American Heritage Life Insurance Co.	$2
Total	**$1,139,453**

By way of comparison, the State billed back approximately $395,000 in FY13, $890,000 in FY14, $1,474,300 in FY15, $1,546,407 in FY16, and $1,560,353 in FY17. The Board's approved FY18 budget includes a projected billback amount of $3,720,583. *See* Appendix A, cell F21.

To place the FY17 figures in context, Appendix A breaks out the Board's total expenses by category, and for each category indicates the maximum amount eligible to be billed back under Vermont law. For example, of the $2,986,003.58 that was budgeted for personal services in FY17, the Board determined that up to $1,141,627.28 was eligible to be billed back under 18 V.S.A. § 9374(h). *See* Appendix A, cells D3, D4. The next three blocks of information present analogous information relative to operating expenses, grants, and contracts.

The final block (Personal Services, operating, grants, contracts), shows the maximum amounts that could have been billed to regulated entities under the statutory 60/40 formula, the amounts budgeted to be billed back, and the actual amounts billed back. As shown, the Board could have potentially billed back $2,215,425, or approximately 100% of the potential industry

portion of $2,215,425.45. *See* Appendix A, cells D20, D21

In addition, Appendix A shows that based on its approved FY18 budget, the Board projects it will bill industry $3,720,583 in FY18 under its statutory billback authority. *See* Appendix A, cell F21. This represents 100% of the potential industry portion.

Both the budgeted increase to $3,704,029 for FY18 and the increases in the amounts actually billed back to industry from FY13 to FY16 ($395,000 in FY13; $890,000 in FY14; $1,474,300 in FY15; $1,546,407 in FY16; and $1,560,353 in FY17) demonstrate the Board's commitment to utilize its billback authority consistent with legislative intent. The Board therefore acknowledges the need to defray certain categories of expenses through the billback function, but to also utilize its discretion when appropriate to limit the burden on regulated entities, which ultimately pass these expenses on to Vermont health care consumers. Further, the Board will maximize funding from other sources, including federal grants, for its activities that may otherwise be funded through the billback function. In other words, to the extent an expense eligible for billback is being funded through federal or other grants, the Board uses its discretion under 18 V.S.A. § 9374(h)(2) to exclude those dollars from the billback actually charged to industry.

APPENDIX A

TO GMCB FY 2017 BILLBACK REPORT

Green Mountain Care Board
Kevin Mullin, Chair

9/15/2017

	A	B	C	D	E	F
	BILLBACK DETAIL		Projected Budget FY 2017	Actual Budget FY 2017	Actual Expended FY 2017	Total Projection FY 2018
1	Total Expenses		$ 9,572,404.00	$ 9,967,397.76	$ 7,917,347.22	$ 10,516,299.79
2						
3	Personal Services		$ 3,468,390.08	$ 2,986,003.58	$ 2,748,195.89	$ 3,610,760.83
4	Total Billback		$ 1,269,823.88	$ 1,141,627.28	$ 856,224.32	$ 2,382,095.93
5	Industry Portion		$ 761,997.73	$ 685,079.77	$ 465,294.52	$ 1,399,692.14
6						
7	Operating		$ 835,995.00	$ 835,989.00	$ 386,479.73	$ 790,676.62
8	Total Billback		$ 250,798.50	$ 250,798.50	$ 185,753.99	$ 521,754.63
9	Industry Portion		$ 150,479.10	$ 150,479.10	$ 127,387.01	$ 307,468.37
10						
11	Contracts		$ 5,268,018.92	$ 6,145,405.18	$ 4,782,671.60	$ 5,931,364.37
12	Gross Potential Billback*		$ 5,268,018.92	$ 6,145,405.18	$ 4,782,671.60	$ 5,931,364.37
13	Alternate Funding		$ (3,499,438.30)	$ (3,845,627.55)	$ (3,113,885.06)	$ (2,634,242.96)
14	Net Potential Billback		$ 1,768,580.62	$ 2,299,777.63	$ 1,668,786.54	$ 3,297,121.41
15	Total Billback		$ 1,768,580.62	$ 2,299,777.63	$ 1,668,786.54	$ 3,297,121.41
16	Industry Portion		$ 1,061,044.97	$ 1,379,866.58	$ 967,671.36	$ 2,028,967.50
17						
18	Pers Services, operating, grants, contracts					
19	Total Net Potential Billback		$ 3,289,203.00	$ 3,692,203.41	$ 2,710,764.85	$ 6,200,971.97
20	Potential Industry Billback		$ 1,973,521.80	$ 2,215,425.45	$ 1,560,352.89	$ 3,720,583.18
21	Budgeted Industry Billback		$ 1,973,521.80	$ 2,215,425.45	$ 2,215,425.45	$ 3,720,583.18
22						
23	Adjustment for Previous Year Actual spend vs. Budget				$ (655,072.56)	
24	Final billback		$ 1,973,521.80	$ 2,215,425.45	$ 1,560,352.89	$ 3,720,583.18
25	Budgeted Industry Billback as % of Potential		100%	100%	100%	100%
26						
27	Variance		$ -	$ 0.00	$ 0.00	

Notes:

We reserve the need to change the above amounts if we develop better information.

Actual 2017 reflects amounts billed to industry based upon budgeted plans.