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February 21, 2019

To: Senate Health and Welfare Committee

From: Mike Fisher, Chief Advocate, Office of the Health Care Advocate

Re: Health Care Advocate's proposed additions to S.31 for consideration

1. HCA REQUESTED TRANSPARENCY MATTERS TO ADD TO S.31 (New) Disclosure to consumers of health insurance rate increases

8 V.S.A. §4062

(b)(1)(B) An insurer shall send written plain language notice of a proposed rate increase, including the specific changes requested, to each policyholder and certificate holder affected by the increase on or before the date the insurer submits its rate filing to the Board. The notice shall prominently include the mailing and website addresses through which a person may contact the insurer to receive additional information about the rate filing. It shall also provide information on how to access the Board's website for the information and public comment process set forth in subsection (c) of this section.

2. PBM Data Reporting

Vermont's Law: none

Annually, each pharmacy benefits manager (PBM) that manages a pharmacy benefit for any fully-insured private or state funded health insurance plan that was delivered, issued for delivery, renewed, amended, or continued in Vermont during the preceding calendar year shall file a report with the Attorney General's office:

The report shall contain the following information for each such plan:

- I. The total profit from all sources that the PBM made on each health plan, broken down by the source of the profit (manufacturer rebates, discount spread, fees, interest, etc.) and the number of lives in each plan;
- II. (1) The aggregate dollar amount of all rebates concerning drug formularies used by the health plans that the manager collected from pharmaceutical manufacturers that manufactured outpatient prescription drugs that (A) were covered by the health plans during the preceding calendar year, and (B) are attributable to patient utilization of such

drugs during the preceding calendar year; and (2) The aggregate dollar amount of all rebates, excluding any portion of the rebates received by such health carriers, concerning drug formularies that such manager collected from pharmaceutical manufacturers that manufactured outpatient prescription drugs that (A) were covered by such health carriers during such calendar year, and (B) are attributable to patient utilization of such drugs by covered persons under such health care plans during such calendar year.

Each PBM that contracted with any health insurance carrier required to report under 18 V.S.A. §4635(b)(1)(C) or DVHA in the preceding calendar year, shall additionally report: For each drug included on the list compiled by the Attorney General under 18 V.S.A. §4635(c)(1)(A), by health insurance plan, the total of all profits the PBM made on each of the prescription drugs listed, broken down by the source of the profit (manufacturer rebates, discount spread, fees, interest, etc.).

As part of Vermont's health insurance rate review process, insurers must submit their PBM contract to the Green Mountain Care Board at the time they submit their request for a rate change. The PBM contract shall be considered part of the official rate review record. As with all information subject to rate review, the insurer may request that parts or all of the contract be treated as confidential.

Enforcement

Vermont's Law: \$1,000/day for failure to report

Improvements: Most states are closer to \$10,000 per day. Penalty should be maximum allowed under state law.

3. Data that 340B Hospitals must submit

Vermont's Law: none

Improvement: Require Vermont hospitals to report per unit profit margin on each 340B drug dispensed multiplied by number of units dispensed as part of each hospital's annual budget submission to the Green Mountain Care Board.

4. Repeal of Health Care RBC confidentiality and prohibition on announcements.

V.S.A. § 8308. Confidentiality and prohibition on announcements

8VSA 8308 A and (e) Except as otherwise required under this chapter, the making, publishing, disseminating, circulating, or placing before the public, directly or indirectly in any manner, the risk based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business is prohibited. Any person violating this section shall be subject to an administrative penalty of up to \$500.00.