Report to

The Vermont Legislature

Recommendations to Address Vermont's Health Insurance Market Structure

In Accordance with Act 137 of 2022

Submitted to: The House Committee on Health Care

The Senate Committee on Health and Welfare

Prepared and

Submitted by: Emily Brown, Deputy Commissioner

Department of Financial Regulation

Adaline Strumolo, Deputy Commissioner

Department of Vermont Health Access

Report Due Date: January 15, 2023

Table of Contents

I. Executive Summary 3
II. Background 3
A. Market Structure 3
B. Small Group Affordability 4
C. Individual Market Affordability 5
III. Recommendations 5
A. Market structure 5
B. Affordability Strategies 6
IV. Enrollment supports 6
V. Conclusion 7

I. Executive Summary

As directed by Act 137 (H.489) of 2022, the report presents recommendations for addressing Vermont's insurance market structure "in a manner that reduces premiums in the small group market without increasing costs in the individual market."[1] The Department of Financial Regulation (DFR) and Department of Vermont Health Access (DVHA), in consultation with the Green Mountain Care Board, convened a working group to consider these issues. The working group recommends that (1) Vermont's individual and small group insurance markets remain unmerged, notwithstanding language in Title 33, for the duration of the expanded Affordable Care Act (ACA) subsidies and (2) the State consider updating previous analyses of health care affordability strategies in preparation for the eventual discontinuation of the expanded subsidies.[2] Administration participants agree with these recommendations. The working group also discussed supports to enhance enrollment opportunities for Vermonters.

II. Background

In the summer of 2022, DFR and DVHA convened a working group consistent with H.489 Section 10. In addition to DFR and DVHA, the group included representatives from the Agency of Human Services, Green Mountain Care Board, Office of the Health Care Advocate, Northeast Delta Dental, MVP Health Care, Blue Cross and Blue Shield of Vermont, the Vermont Chamber of Commerce, NFP, Main Street Alliance, and other small business representatives. The group held three working sessions between July and September 2022 and developed a report outline to satisfy the legislative directive.

A. Market Structure

The group first reviewed the issue and background information. Vermont's individual and small group health insurance markets have traditionally been merged into a single qualified health plan (QHP) market. In a merged market, small group health insurance premiums can be seen as subsidizing individual market premiums. This is because the group population has a more advantageous risk profile, so health insurance premiums are generally lower when rated for the group population alone and higher when the individual market is included in the rate. For example, in 2019, small group premiums were projected to be 5.8% higher when rated with the individual market, and individual market premiums were projected to be 7.0% lower when rated with the small group market.[3] Note that the discussion focused narrowly on the relative premium impacts in a merged or separated market and did not include a comprehensive analysis of the merits of different market structures.

---

[1] Act 137 (2022) https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT137/ACT137%20As%20Enacted.pdf, Section 10

[2] Although Green Mountain Care Board staff participated in the working group, please note that the Board did not convene an open meeting on this topic to take an official position.

[3] Act 63 (2019) "Report on Health Insurance Affordability and Merged Markets - 2019 Report to the Legislature"

In 2021, the General Assembly “unmerged” the market into separate individual and small group markets for the 2022 plan year.[4] This change was made in response to the availability of expanded ACA subsidies under the American Rescue Plan Act in 2022. Unmerging the markets increased premiums more than they otherwise would have in the individual market, but this increase was offset for QHP enrollees by the additional federal subsidies. By capping premiums relative to income, the law ensured the full 7% cost increase would be borne by the federal subsidies for those individuals who qualify for subsidies and enroll through the exchange. Prior to the American Rescue Plan Act, about 85% of on-exchange QHP enrollees received subsidies; after implementation that percentage rose to between 92 and 98%.[5]

The American Rescue Plan Act greatly expanded the number of Vermonters who were eligible for such protections. Prior to the law, individual Vermonters shopping for 2021 plans were protected if their income was below $51,040, while a family of four was protected if their income was below $104,800. After the law, these thresholds increased to $94,500 and $265,541 respectively.[6] See Appendix A for additional explanation and examples of how the subsidies work.

Given the expiration of the expanded subsidies under the American Rescue Plan Act at the end of 2022, there was debate about whether to maintain an unmerged market in 2023. Through Act 137 the General Assembly decided to do so and to ask the working group to make recommendations for future years.

The General Assembly has authority to change the market structure subject to federal approval. The current merged market structure is laid out in Title 33. The temporary unmerging for 2022 and 2023 has taken place through session law. CMS approved Vermont’s conversion to an unmerged market in the summer of 2021. If Vermont were to revert to a merged market, additional federal process would be necessary.

B. Small Group Affordability

During its first working session, the H.489 group considered affordability strategies for the small group market in the event that the expanded subsidies were discontinued and there was an effort to re-merge the market. Participants noted that there are different ways to frame affordability challenges for small employers. This session included helpful discussion about affordability strategies in the small group market, support for small employers in making coverage decisions, and policy questions around the types of products available to small employers. However, it was clear that the priority of participants with respect to small group affordability was to maintain separate markets,

---

[4] Act 25 (2021), Section 34

[5] As of March 2022, 92% of on-exchange enrollees received subsidies as a discount on their monthly premium. An additional 6% did not provide income information but would receive an equivalent subsidy when they file their federal income taxes, if their income qualifies.

[6] For 2023, individual Vermonters are protected from these premium increases if their income is below $118,741, while a family of four is protected if their income is below $333,661. Without the expanded subsidies, these thresholds would have been $54,360 and 111,000.

rather than to identify other policies geared specifically towards increasing affordability in the small group market.

C. Individual Market Affordability

Between the first and second working sessions, U.S. Congress passed the Inflation Reduction Act, extending the ACA subsidy expansion for three years through 2025. This fundamentally changed the work of the group: instead of focusing on near term affordability strategies for the individual market, the group agreed that maintaining separate markets through 2025 would achieve the legislative goal of reducing premiums in the small group market without increasing costs in the individual market. This facilitated a consensus recommendation related to market structure as described below.

However, given the possibility of a new affordability cliff in 2026 with the expiration of the expanded subsidies, the group also discussed other affordability mechanisms for the individual market. DVHA and DFR shared background information on the individual market population and its size relative to the overall insurance market (5%).[7] The team then worked through the mechanics and impact of the expanded subsidies and how that changes the landscape of the individual market. Finally, the group revisited certain affordability strategies that have been studied in the past including state subsidy programs and reinsurance.

III. Recommendations

A. Market Structure

Although the working group's charge was related to market structure, the scope of federal subsidies available to individual market enrollees was dispositive in the discussion. Without certainty about the subsidies, working group participants had diverging perspectives on market structure. Issuer representatives expressed a focus on stability rather than structure. Business and issuer representatives expressed support for permanently unmerging the market and seeking an alternative strategy to address affordability in the individual market. The Health Care Advocate noted that having a merged market is not the most efficient way to help individuals and was open to a permanent unmerging on the condition that the alternate affordability strategy would reduce individual market premiums to the same degree as the American Rescue Plan Act subsidies.

Once the subsidies had been extended through the Inflation Reduction Act, the group settled on a recommendation to maintain separate markets for the duration of the expanded subsidy extension (currently through 2025). While some participants may have been open to a statutory change, the group's recommendation is to separate the markets through session law, notwithstanding Title 33, consistent with Act 25 (2021) and Act 137 (2022). This approach will prompt reconsideration of the issue closer to the

[7] See DVHA Health Insurance Map: [Health Insurance Maps | Department of Vermont Health Access]()

subsidy expiration date because, if there is no action, the market would revert to being merged in 2026, consistent with statute.

B. Affordability Strategies

The working group discussed numerous individual market affordability strategies that Vermont has considered in the past and that have been implemented in other states.[8] With respect to state subsidies, it may be worth exploring the utility of existing programs in light of federal changes. The group also raised the concepts of reinsurance or other "1332 pass-through" mechanisms,[9] as well as reference-based pricing. The State has studied each of these previously, but there would be value in updating the analyses and actuarial projections to reflect Vermont's experience with separate markets.

IV. Enrollment supports

Though beyond the scope of the legislative charge, enrollment supports were a theme in the working group's discussions. Operational issues related to marketplace enrollment and subsidy uptake arose. In particular, participants expressed concern about Vermonters who have remained directly enrolled in individual qualified health plans through issuers notwithstanding the possibility of accessing subsidies through the exchange.[10] As of September 2022, there are still 5,310 individuals directly enrolled.[11] DVHA, issuers, and other stakeholders will continue to encourage direct enrollees to reconsider this.

The working group discussed support for small employer coverage decisions. There may be structures that would facilitate employer decision-making about whether and how to offer health insurance to employees. The group noted that there could be value in offering different plans and products between the small group and individual markets. This is a possibility under the recommended unmerged market structure.

There was also discussion of the saturation of Vermont's qualified health plan market and interest in simplifying choices for small groups and individuals alike. The Green Mountain Care Board is considering proposals to leverage federal funds by regulating silver plan premiums.[12] This could include limiting silver plan options in the individual market and encouraging enrollment in gold plans—particularly for those who do not

---

[8] Act 63 (2019) "Report on Health Insurance Affordability and Merged Markets - 2019 Report to the Legislature"
State Based Reinsurance Options for Vermont (2018) State-Based Reinsurance Options for Vermont

[9] Section 1332 of the Affordable Care Act allows states to apply to waive certain provisions of the ACA. States can receive a "pass-through" of federal funds that would have otherwise been applied to premium tax credits had the state not received the waiver. This is discussed in detail in the 2018 AHS Reinsurance Report, State-Based Reinsurance Options for Vermont.

[10] A customer who enrolls directly with a QHP issuer is not considered to be enrolled through the exchange and, therefore, may not claim the premium tax credit for the months during which they directly enroll even if they are income-eligible for the tax year. 26 CFR 1.36B-2(a)(1).

[11] For enrollment totals by plan year, see DVHA Health Insurance Map: Health Insurance Maps | Department of Vermont Health Access

[12] Federal subsidies (advanced premium tax credits, "APTC") are tied to the cost of the second lowest cost silver plan. 26 CFR 1.36B-3(d).

qualify for federal cost sharing reductions and who would utilize coverage enough to find more value in a gold level plan. This approach could complement efforts the State has taken to facilitate enrollment and cost sharing reductions for households with income at or below 200% of the federal poverty level (FPL).[13] Such proposals to change plans in the individual market but not the small group market are predicated on having separate markets, consistent with these recommendations.

V. Conclusion

The Inflation Reduction Act extended individual market affordability for three years and thus deferred the issue before the working group. Although it is premature to implement affordability strategies in place of the expanded federal subsidies, the group notes that, if and when the State decides to do so, it will take time. The process of changing market structure, applying for a 1332 waiver, or implementing state subsidy changes can be a multiyear process involving multiple stakeholders including the federal government. Ideally, but unlikely, there will be clarity about the future of the expanded federal subsidies by the next legislative session. Even if not, the group recommends revisiting these issues at that time. In the meantime, proposed legislative language to capture the current recommendations is included in Appendix B.

[13] To see federal poverty level income tables, visit https://info.healthconnect.vermont.gov/compare-plans/eligibility-tables/2023-eligibility-tables

Appendix A – Expanded Subsidies in Place through 2025

How the expanded subsidy works:

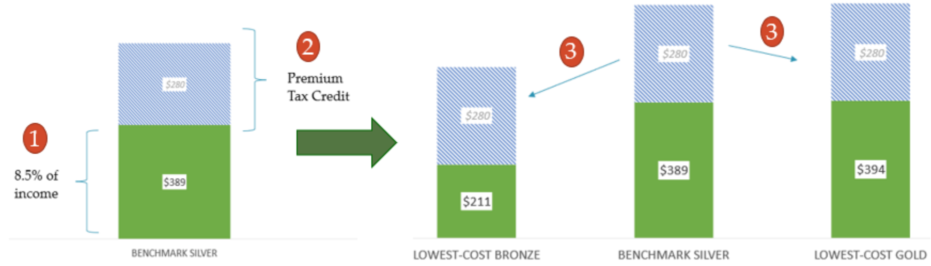
1) Eligible members over 400% FPL are capped at paying 8.5% of their income for the benchmark plan.

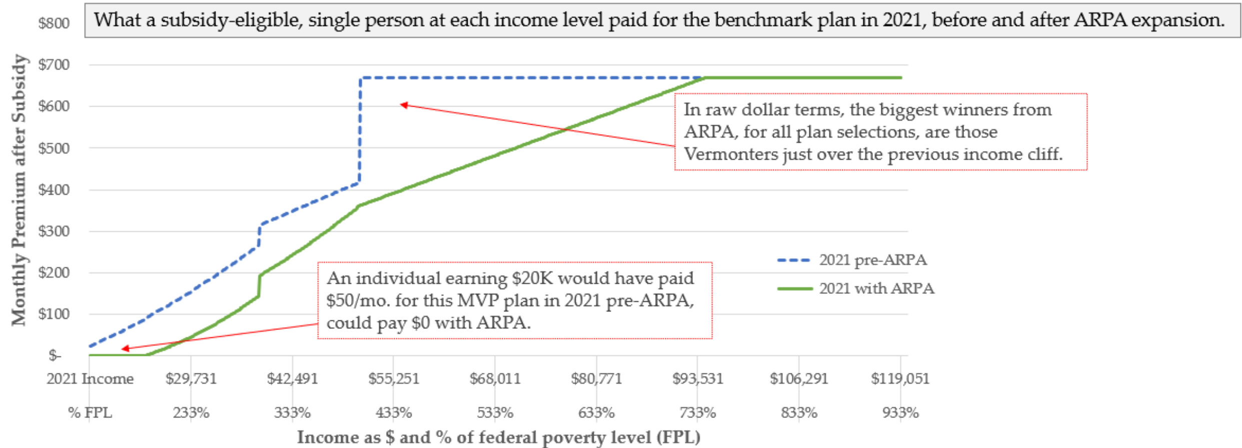
2) They are given a premium tax credit to cover the rest of the cost of the benchmark plan.

3) They can then apply the value of that tax credit to any qualified health plan at any metal level.

2021 Example: Previously Unsubsidized Individual Earning $55,000

8.5% of this Vermonter's monthly income is $389. They receive a $280 credit to cover the rest of the premium for the benchmark plan. They can apply this credit to any qualified health plan. For example, they could buy the lowest-cost bronze plan for $211 per month or the lowest cost-gold plan for $394 per month. Before the expansion, these plans would have cost this Vermonter $491 and $674 respectively.





Adapted from "An Update on Federal Issues Related to Vermont Health Insurance" presentation to the Green Mountain Care Board by the Department of Financial Regulation, Department of Vermont Health Access, and Agency of Human Services, June 2, 2021, https://gmcboard.vermont.gov/sites/gmcb/files/documents/DFR%20and%20DVHA%20Update%20to%20GMCB-6-2-21.pdf

Appendix B – Proposed Legislative Language

SEPARATE INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE MARKETS THROUGH PLAN YEAR 2025

(a) As used in this section, “health benefit plan,” “registered carrier,” and “small employer” have the same meanings as in 33 V.S.A. § 1811.

(b) Notwithstanding any provision of 33 V.S.A. § 1811 to the contrary, for plan years 2024 and 2025, a registered carrier shall:

(1) offer separate health benefit plans to individuals and families in the individual market and to small employers in the small group market;

(2) apply community rating in accordance with 33 V.S.A. § 1811(f) to determine the premiums for the carrier’s plan years 2024 and 2025 individual market plans separately from the premiums for its small group market plans; and

(3) file premium rates with the Green Mountain Care Board pursuant to 8 V.S.A. § 4062 separately for the carrier’s individual market and small group market plans.