

COMMONWEALTH OF VIRGINIA

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April 11, 2018

Mr. Jay Angoff
Mehri & Street
1250 Connecticut Avenue, NW
Suite 300
Washington, DC 20036

Dear Mr. Angoff:

The Bureau of Insurance appreciates the patience you have shown while Bureau staff conducted a thorough supplementary review of the rates that Optima Health Plan ("Optima") filed with the Bureau for use in the individual market in 2018. I can assure you that the Bureau has carefully analyzed the concerns presented in your letter dated January 4, 2018 as well as in numerous discussions with you and your client – Charlottesville for Reasonable Health Insurance ("CRHI").

The Bureau appreciates the gravity of the questions you have raised about Optima's high rating area factor in the individual market for the Charlottesville region and the resulting impact that this rating area factor has had on Charlottesville residents who are ineligible for subsidies through the Health Insurance Marketplace. CRHI's questions led the Bureau to conduct an additional review of Optima's approved rate filing. For the reasons set forth below, the Bureau has concluded that Optima's 1.579 rating area factor for the Charlottesville area and its average rate level increase are actuarially justified and not excessive based on the supporting data.

Summary of the Bureau's Review of Optima's Rate Filing

Before addressing your specific questions, an explanation of the Bureau's review of Optima's rate filing may be helpful. This process includes both the Bureau's standard review conducted last Summer and Fall, as well as the amplified review that the Bureau has conducted in response to your concerns.

As you know, the Bureau is responsible for approving the rates for individual and small group health insurance sold in Virginia. To obtain approval, insurers, such as Optima, must submit an actuarial justification in support of the proposed increase. In addition, a qualified actuary must certify that the rate filing complies with Virginia's laws and regulations, and that the benefits are reasonable in relation to the premiums charged.

In carrying out these responsibilities, the Bureau carefully reviews rate filings, as well as any supporting documentation and certifications, and approves only those rate increases that are actuarially justified and compliant with applicable laws and regulations. The Bureau also reviews the underlying assumptions that insurers employ in their rate filing for reasonableness.

Last year, the Bureau reviewed and approved Optima's rate filing for 2018 in accordance with its usual procedures. However, because of the concerns raised by CRHI during our December 13, 2017 meeting and in your January letter, the Bureau initiated an additional review of Optima's approved rate filing, which went well beyond the scope of a typical actuarial review. The Bureau requested further information and supporting data from Optima, including a more detailed explanation as to how Optima arrived at its 1.579 individual market rating area factor for the Charlottesville region and the factors Optima used to develop its rating area factor.

The Bureau also took the further step of engaging an independent actuarial consultant from Oliver Wyman to provide an additional level of review of Optima's rate filing. This review focused on the development of the 1.579 rating area factor and whether morbidity was used in such development, as well as Optima's 25% morbidity assumption for the average rate level increase.

This concentrated review spanned several months to comprehensively analyze and answer your pertinent questions. While I am sure the lapse of time has been frustrating, the Bureau made a good faith effort to keep you and CRHI apprised of its progress, provided opportunities to review relevant data submitted by Optima, and invited follow-up questions or concerns.

Conclusions Based Upon the Bureau's Review of Optima's Rate Filing

Having completed its extensive review and analysis of Optima's rate filing as well as the additional information provided by Optima, the Bureau has drawn several conclusions responsive to your questions.

First, Optima has adequately demonstrated that the 1.579 rating area factor was fully supportable and actuarially justified, and that this rating area factor was predominantly driven by reimbursement rates with area hospitals and provider groups.

Second, Optima has adequately demonstrated that its morbidity factor of 25%, trend factor of 8.1%, and underwriting profit of 8.0% are supportable and actuarially justified.

As explained in more detail below, the Bureau has determined that neither Optima's rating area factor nor the average rate level increase are excessive.

Optima's 1.579 Individual Market Rating Area Factor for the Charlottesville Region is Actuarially Justified

You raised several concerns that Optima's 1.579 rating area factor for the Charlottesville region is: (i) excessive; (ii) based in part on morbidity in violation of federal law; and (iii) that there is no basis for Optima's use of different area rating factors in the individual and small group markets in Charlottesville.

First, the Bureau does not concur with your assertion that Optima's 1.579 rating area factor for Charlottesville is excessive in comparison to other regions. While the Bureau acknowledges that this rating area factor is high when compared with other regions, Optima has demonstrated that the magnitude of this rating area factor is justifiable.

Optima's actuaries developed this rating area factor based primarily on proprietary health cost guidelines that consist of detailed claims and enrollment data representing over 54 million commercially insured lives and adjusted for a specific geographic region such as Charlottesville. Optima further demonstrated that the magnitude of this rating area factor was driven chiefly by higher reimbursement rates with area hospitals and provider groups.

The Bureau's review did find that higher reimbursement rates in the Charlottesville area relative to other regions are the major drivers of the calculation resulting in the 1.579 rating area factor. As you should be aware, the Bureau does not have regulatory authority over provider reimbursement rates. Additionally, utilization of services are higher in Charlottesville than in other regions, leading to further differences when calculating rating area factors for these regions.

These differences, among others, demonstrate that comparing rating area factors between regions or carriers is difficult, if not impossible. Although you assert that other carriers have proposed lower rating area factors for the Charlottesville area (and that Optima itself has proposed lower rating area factors for other regions), direct comparisons between different carriers and rating areas are not useful because they fail to account for the impact of differing reimbursement rates and utilization of services in different regions.

Optima's current rating area factor is also supported by recent shifts in the marketplace. Prior to 2018, Optima's individual market rating area factor for the Charlottesville region was 1.262. This rating area factor was in place for calendar years 2015 and 2016. The relatively small amount of enrollment during those years resulted in very high loss ratios, and was cause for Optima to exit the Charlottesville market in 2017.

This left HealthKeepers and Aetna as the only carriers offering coverage in the Charlottesville individual market for calendar year 2017. However, Aetna chose to leave the individual market in Virginia and HealthKeepers drastically reduced its service area in Virginia's individual market for calendar year 2018, citing too much uncertainty. Much of this uncertainty was caused by elimination of the individual mandate penalty and cost-sharing reduction payments by the federal government. After HealthKeepers decided to reduce its service area in the individual market across Virginia for 2018, Optima was exposed to taking on a large percent of its insured population. Subsequently, Optima decided to reduce its service area from its initial filing, but at the request of the Bureau, agreed to reenter the Charlottesville individual market for 2018, thereby providing an option for its residents to obtain coverage in the individual market. However, the absorption of so many new members created an additional level of uncertainty for Optima.

As a result, Optima adopted a conservative approach in the development of both its rating area factor and its rates and supplemented its experience data with national actuarial data to arrive at a rating area factor of 1.579. This change represents a 25% increase over Optima's previous factor, which is supported both as a response to those specific circumstances as well as by the Bureau's review.

Second, the Bureau found no support for the claim that Optima's rating area factor is based in part on morbidity in violation of federal and/or state law. As part of your concerns, you alleged that Optima used morbidity in the development of its rating area factor. These

allegations are based, at least in part, on oral statements purportedly made by Optima representatives to CRHI during a meeting held on December 14, 2017.¹ While morbidity can be reflected in the overall risk pool, as discussed below, federal and state law prohibit Optima from reflecting morbidity specifically in the development of rating area factors.

Information provided to the Bureau by Optima confirms that Optima did not take morbidity into consideration in the development of this rating area factor. Specifically, the information reviewed by the Bureau shows that Optima adjusted for risk adjustment transfer payments to ensure that the impact of morbidity was removed from experience, as required by federal law. Optima also certified in its actuarial memorandum that its rating area factors do not include differences for population morbidity, as all carriers are required to do.

Third, the Bureau found that Optima's use of different rating area factors for the individual and small group markets is appropriate based on the relative competitiveness of each market. Your assertion that the individual and small group markets should have the same rating factor ignores several important points.

While it is true that reimbursement rates are identical between individual and small group for Optima's HMO, the difference between the rating area factors can be attributed to the fact that Optima chose not to adjust its small group rating area factor to avoid disruption in that market. In contrast, the individual market already had experienced such a disruption following carrier exits from that market, which led to Optima adopting a different approach than in the small group market. Optima's use of different rating area factors in the individual and small group markets is further supported by substantial differences that can exist between those markets leading to additional divergence in the calculation of the rating area factors for each respective market.

Optima's Average Rate Level Increase is Actuarially Justified

In addition to the rating area factor, you raised concerns about the appropriateness of Optima's average rate level increase for the individual market for 2018. These concerns focus on three components of the filing that you claimed were excessive and/or unsupported: (i) the morbidity factor of 25%; (ii) the trend factor of 8.1%; and (iii) the underwriting profit of 8.0%. After review, each of these factors are supported by the data and actuarially justified.

First, the 25% morbidity factor has been supported by a report from the Congressional Budget Office (CBO). At the time of the filing, there was considerable uncertainty regarding potential Federal regulatory actions. Of note, legislation was drafted that would eliminate the individual mandate. The CBO estimated that individual market premiums would increase 20% to 25%, primarily driven by eliminating the mandate. In addition, as previously noted, carrier exits were a cause for major concern that the company would experience adverse selection. As such, the company chose the high end of the range of CBO's estimate.

Second, the Bureau found Optima's trend factor of 8.1% to be actuarially sound based on its review. Optima used its small group market experience through 2016 as a basis for its trend factor of 8.1% for 2018. Based solely on small group experience, actual allowed trends

¹ The Bureau was not a participant at the meeting on December 14, 2017. Regardless of whether Optima representatives made such statements, however, the Bureau's review of Optima's rate filing independently and conclusively shows that the rating area factor was not based on morbidity.

were 7.9% and 8.9% for 2015 and 2016, respectively. The trend factor of 8.1% for 2018 falls squarely within this range. The Form 130B that Optima submitted with its rate filing contains further experience data support for the company's trend projections.

Finally, nothing in state or federal law prohibits Optima's underwriting profit factor of 8.0%. There are no statutory or regulatory restrictions on how a carrier may allocate its non-claim expenses (which include profit), so long as the carrier meets state and federal minimum loss ratio requirements. Here, Optima has met these minimum loss ratio standards and submitted an 8.0% profit assumption based on anticipated uncertainty in 2018. Optima is permitted to make this assumption and the Bureau does not have regulatory authority over how a carrier allocates its non-claim expenses if the carrier otherwise meets relevant minimum loss ratio requirements.

Conclusion

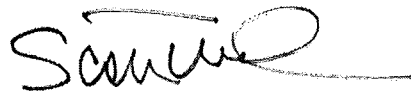
The factors that go into an insurance carrier's rate filing are complex. The Bureau has given this matter priority attention considering the serious nature of your concerns and the resulting impact of health premium increases in the region.

Based on this supplementary review, the Bureau has concluded that Optima's 1.579 rating area factor and its average rate level increase were actuarially justified and that the assumptions, methodology, and data that it employed were wholly sound and credible. While I understand your likely frustration and disappointment with this result, the Bureau's regulatory authority is limited to ensuring that rate filings are actuarially justified and compliant with applicable laws and regulations.

Although I understand that you had hoped for a result that would lead to a reduction of rates, I trust that this information has been helpful to you and explains why the Bureau cannot impose or require a different result.

The Bureau is actively considering various options and methods for reviewing 2019 plan year rate filings. The Bureau is committed to doing everything possible, within applicable laws and regulations, to mitigate the impact of future rate adjustments on Virginia residents.

Sincerely,



Scott A. White
Commissioner of Insurance