

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



KATHLEEN A. BIRrane
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

DAVID COONEY
Associate Commissioner
Life and Health

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2170 Fax: 410-468-2204
Email: david.cooney@maryland.gov
410-468-2000 1-800-492-6116
TTY: 1-800-735-2258
www.insurance.maryland.gov

December 29, 2022

Ms. Christina Stecki
MHA National Regulatory Affairs
UnitedHealthcare Employer & Individual
5701 Katella Ave, Mailstop CA120-0353
Cypress, California 90630

Re: MIA v. UnitedHealthcare Insurance Company
Case No.: MIA-2021-04-034
2019 Network Adequacy Access Plan Filing

Dear Ms. Stecki:

The Maryland Insurance Administration (“Administration”) and UnitedHealthcare Insurance Company (“UHIC”) entered into a Consent Order on April 29, 2021 (the “Consent Order”) to resolve matters related to the UHIC 2019 Choice/Choice Plus Access Plan and the UHIC 2019 Core/Navigate Access Plan.

In the Consent Order, the Administration concluded that UHIC violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by filing access plans that:

- failed to comply with certain required travel distance standards and appointment waiting time standards; and
- failed to demonstrate that at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas are included in the network.

The Administration imposed an administrative penalty on UHIC of \$40,000 for the violations, but suspended the penalty pending the Administration’s (i) review of the access plan submitted by UHIC in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by UHIC related to its intent to improve its compliance with the access standards; (iii) review of all evidence submitted by UHIC demonstrating good faith efforts to meet all the applicable standards; and (iv) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

UHC confirmed that for the UHC 2021 access plan filing there were no Maryland enrollees covered under health benefits plans that use the Core/Navigate network.

The Administration has completed its review of the UHC 2021 Choice/Choice Plus Access Plan filed on July 1, 2021, supplemented with additional information and documentation on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022, and August 11, 2022. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44, and the Administration issued a determination summarizing its review on December 29, 2022.

The UHC 2021 Choice/Choice Plus Access Plan failed to demonstrate that all of the deficiencies reported in the UHC 2019 Choice/Choice Plus Access Plan were either resolved, or were the result of circumstances that merited the granting of a waiver by the Administration of the otherwise applicable standard, as detailed in the determination letter issued by the Administration on December 29, 2022. Specifically, the data self-reported by UHC in the 2021 access plan disclosed deficiencies in the travel distance standards for other behavioral health/substance abuse facilities, where the standard was met for 99.8% of urban enrollees, impacting 28 enrollees in zip code 20745.

UHC filed a waiver request for the deficiencies in the travel distance standards, but good cause does not exist to grant the waiver request for the deficiency described above as the request failed to demonstrate that the facilities necessary for an adequate network in the impacted geographic region (1) were not available to contract with the carrier; (2) were not available in sufficient numbers; (3) refused to contract with the carrier; or (4) were unable to reach agreement with the carrier (COMAR 31.10.44.07B). The Administration determined there was insufficient substantiation to justify granting a waiver based on contradictory statements related to the availability of other behavioral health/substance abuse facilities within the impacted geographic region.

The data self-reported by UHC in the 2021 Choice/Choice Plus access plan disclosed that the appointment waiting time standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 94.66% of enrollees, representing a deficiency of .34 percentage points. UHC stated in the 2021 access plan that the Covid-19 pandemic negatively impacted health care providers' appointment time availability. In the determination letter issued by the Administration on December 29, 2022, considering the lack of seriousness of the deficiency (which is less than one-half of one percentage point below the required standard), it was determined that enforcement discretion would be exercised in this particular case and a penalty would not be imposed.

The data self-reported by UHC in the 2021 Choice/Choice Plus access plan showed general improvement in compliance with travel distance standards as compared to 2019. In 2019, however, travel distance metrics were reported in the aggregate by network across all

UnitedHealthcare carriers, so a precise measurement of improvement for each individual carrier, including UHIC, is not feasible. The reporting was corrected in the 2021 access plans.

The UHIC 2021 Choice/Choice Plus Access Plan demonstrated to the satisfaction of the Administration that UHIC has complied with the terms of the Consent Order in addressing the other deficiencies reported in the UHIC 2019 Choice/Choice Plus Access Plan. The Administration has determined that the UHIC 2021 Choice/Choice Plus Access Plan substantiates representations made by UHIC related to its intent to:

- improve its compliance with the required appointment waiting time standards;
- demonstrate that at least 30 percent of the available essential community providers in each of the urban, rural, and suburban areas are included in the network; and
- except as described above, improve its compliance with the required travel distance standards.

The \$40,000 penalty, therefore, is hereby rescinded in its entirety, in accordance with the terms of the Consent Order.

This determination letter is limited to the UHIC 2019 Choice/Choice Plus Access Plan, and is independent of the Administration's review of any other Network Adequacy Access Plans and submissions in connection thereof which are filed by UHIC.

Very truly yours,



David Cooney
Associate Commissioner
Life and Health