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December 29, 2022

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

Re: UnitedHealthcare Insurance Company ("UHIC")
2021 Network Adequacy UHIC Choice/Choice Plus Access Plan
2021 Network Adequacy UHIC Core Access Plan
2021 Network Adequacy UHIC Navigate Access Plan
2021 Network Adequacy UHIC Options PPO Access Plan
2021 Network Adequacy UHIC Nexus ACO Access Plan

Dear Ms. Stecki:

The Maryland Insurance Administration ("Administration") has completed its review of the UnitedHealthcare Insurance Company 2021 Network Adequacy Access Plans (the "UHIC Choice/Choice Plus 2021 Access Plan," the "UHIC Core 2021 Access Plan," the "UHIC Navigate 2021 Access Plan," the "UHIC Options PPO 2021 Access Plan" and the "UHIC Nexus ACO 2021 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.

In 2021, UHIC reported that they used five provider panels for health benefit plans in Maryland; the Choice/Choice Plus network, the Core network, the Navigate network, the Options PPO network, and the Nexus ACO network. Distinct access plans and executive summary plan forms were filed for each of these networks. This determination letter includes the Administration's findings for each of these networks.

UHIC Core 2021 Access Plan, UHIC Navigate 2021 Access Plan, and UHIC 2021 Nexus ACO Access Plan

Following the Administration's initial review of the access plans and requests for additional information, UHIC confirmed on November 16, 2021 that for the 2021 access plan filings there were no Maryland enrollees covered under health benefits plans that use the Core, Navigate, or Nexus ACO networks.

UHIC Options PPO 2021 Access Plan

The access standards in COMAR 31.10.44 were not met by the UHIC Options PPO 2021 Access Plan for the following, based on the data self-reported by UHIC. All other access standards in COMAR 31.10.44 were met.

Appointment Waiting Time Standards

The data self-reported by UHIC indicates that the required 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. UHIC stated in the 2021 access plans that the Covid-19 pandemic negatively impacted health care providers' appointment time availability. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that UHIC provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if UHIC intends to combine telehealth claims with provider survey results when measuring appointment waiting time in future access plan filings, UHIC will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

UHIC Choice/Choice Plus 2021 Access Plan

The access standards in COMAR 31.10.44 were not met by the UHIC Choice/Choice Plus 2021 Access Plan for the following, based on the data self-reported by UHIC. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. In suburban areas, applied behavioral analyst providers must be within 30 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.8% of

suburban enrollees, leaving 35 members outside the travel distance standard in three zip codes.

Suburban zip codes:

- a. Zip code 20625 has 1 member outside the standard.
 - b. Zip code 20634 has 32 members outside the standard.
 - c. Zip code 21664 has 2 members outside the standard.
2. In rural areas, applied behavioral analyst providers must be within 60 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.9% of rural enrollees, leaving 1 member outside the travel distance standard in zip code 20687.
 3. In urban areas, gynecology, OB/GYN providers must be within 5 miles of enrollee residence. Gynecology, OB/GYN providers met the required standard for 99.6% of urban enrollees, leaving 73 members outside the travel distance standard in two zip codes.

Urban zip codes

- a. Zip code 21052 has 6 members outside the standard.
 - b. Zip code 21403 has 67 members outside the standard.
4. In suburban areas, gynecology, OB/GYN providers must be within 10 miles of enrollee residence. Gynecology, OB/GYN providers met the required standard for 99.9% of suburban enrollees, leaving 1 member outside the travel distance standard in zip code 20625.
 5. In urban areas, pediatric providers must be within 5 miles of enrollee residence. Pediatric providers met the required standard for 99.8% of urban enrollees, leaving 31 members outside the travel distance standard in two zip codes.

Urban zip codes

- a. Zip code 21052 has 6 members outside the standard.
 - b. Zip code 21403 has 25 members outside the standard.
6. In suburban areas, pediatric providers must be within 10 miles of enrollee residence. Pediatric providers met the required standard for 99.9% of suburban enrollees, leaving 7 members outside the travel distance standard in two zip codes.

Suburban zip codes

- a. Zip code 20625 has 1 member outside the standard.
 - b. Zip code 21913 has 6 members outside the standard.
7. In urban areas, urology providers must be within 10 miles of enrollee residence. Urology providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard in zip code 21052.

8. In urban areas, acute inpatient hospitals must be within 10 miles of enrollee residence. Acute inpatient hospitals met the required standard for 99.8% of urban enrollees, leaving 34 enrollees outside the travel distance standard in three zip codes.

Urban zip codes

- a. Zip code 21040 has 14 members outside the standard.
 - b. Zip code 21052 has 6 members outside the standard.
 - c. Zip code 21114 has 14 members outside the standard.
9. In urban areas, critical care services/intensive care units must be within 10 miles of enrollee residence. Critical care services/intensive care units met the required standard for 99.8% of urban enrollees, leaving 34 enrollees outside the travel distance standard in three zip codes.

Urban zip codes

- a. Zip code 21040 has 14 members outside the standard.
 - b. Zip code 21052 has 6 members outside the standard.
 - c. Zip code 21114 has 14 members outside the standard.
10. In urban areas, inpatient psychiatric facilities must be within 15 miles of enrollee residence. Inpatient psychiatric hospitals met the standard for 97.4% of urban enrollees, leaving 49 members outside the travel distance standard in zip code, 21040.

11. In urban areas, outpatient infusion/chemotherapy facilities must be within 10 miles of enrollee residence. Outpatient infusion/chemotherapy facilities met the required standard for 99.8% of urban enrollees, leaving 34 enrollees outside the travel distance standard in three zip codes.

Urban zip codes

- a. Zip code 21040 has 14 members outside the standard.
 - b. Zip code 21052 has 6 members outside the standard.
 - c. Zip code 21114 has 14 members outside the standard.
12. In urban areas, skilled nursing facilities must be within 10 miles of enrollee residence. Skilled nursing facilities met the required standard for 99.9% of urban enrollees, leaving 22 members outside the travel distance standard in two zip codes.

Urban zip codes

- a. Zip code 21052 has 6 members outside the standard.
 - b. Zip code 21403 has 16 members outside the standard.
13. In urban areas, other behavioral health/substance use disorders facilities must be within 10 miles of enrollee residence. Other behavioral health/substance use disorders facilities met the

standard for 99.8% of urban enrollees, leaving 28 members outside the travel distance standard in zip code 20745.

With regard to lack of access to skilled nursing facilities for the 22 members in zip codes 21052 and 21403, UHIC stated in its May 9, 2022 “*UnitedHealthcare Companies Waiver Request for UnitedHealthcare Insurance Company*” that it had resolved the travel distance deficiency. UHIC and the facility had reached an agreement, but were unable to execute it in time for the 2021 access plan annual reporting. UHIC is currently contracted with the skilled nursing facility within the travel distance standard.

Based on updated information provided to the Administration by the Maryland State Department of Planning and the U.S. Census Bureau, the population density classifications for certain zip codes were changed for the 2022 access plan filings. To match the surrounding zip codes, zip code 21052 was reclassified as suburban and zip code 21664 was reclassified as rural. Additionally, the Administration determined that zip code 21052 is associated with Fort Howard Post Office Boxes and zip code 21664 is associated with Secretary Post Office Boxes. The original population density classifications designated zip code 21052 as urban and zip code 21664 as suburban, due to the large number of Post Office Boxes within a small geographic area. While the 21052 and 21664 zip codes were not officially reclassified as suburban and rural, respectively, for the 2021 access plan filing, the Administration determined that it was appropriate to apply the suburban standards for zip code 21052 and the rural standards for zip code 21664, rather than the urban and suburban standards. Therefore, the Administration has concluded that the UHIC Choice/Choice Plus 2021 Access Plan meets the travel distance standards for the following provider and facility types in zip codes 21052 and 21664:

- With regard to the lack of applied behavioral analyst providers within the regulatory standard of 30 miles for the 2 members in zip code 21664, UHIC reports that the nearest contracted applied behavioral analyst provider is located 32.5 miles from the furthest point in zip code 21664. The rural standard is 60 miles.
- With regard to the lack of gynecology, OB/GYN providers within the regulatory standard of 5 miles for the 6 members in zip code 21052, UHIC reports that the nearest contracted gynecology, OB/GYN provider is less than 8 miles from the furthest point in zip code 21052. The suburban standard is 10 miles.
- With regard to the lack of pediatric providers within the regulatory standard of 5 miles for the 6 members in zip code 21052, UHIC reports that the nearest contracted pediatric provider is less than 8 miles from the furthest point in zip code 21052. The suburban standard is 10 miles.

- With regard to the lack of urology providers within the regulatory standard of 10 miles for the 1 member in zip code 21052, UHIC reports that the nearest contracted urology provider is less than 12 miles from the furthest point in zip code 21052. The suburban standard is 30 miles.
- With regard to the lack of acute inpatient hospitals, critical care services/intensive care units, and outpatient infusion / chemotherapy facilities within the regulatory standard of 10 miles for the 6 members in zip code 21052, UHIC reports that the nearest contracted hospital, critical care services/intensive care unit, and outpatient infusion / chemotherapy facility is less than 12 miles away from the furthest point in zip code 21052. The suburban standard is 30 miles.

COMAR 31.10.44.04A(1) provides that travel distances shall be measured from the enrollee's place of residence. Since Post Office boxes are unlikely to identify the physical location of an enrollee's residence, the Administration expects UHIC to demonstrate an effort to find a physical rather than post office address for enrollees in future access plan filings.

Travel Distance Waiver Requests

The criteria that must be met in order to qualify for a waiver of a standard are set forth in COMAR 31.10.44.07. The Administration "may find good cause to grant the network adequacy waiver request if the carrier demonstrates that the physicians, other providers, or health care facilities necessary for an adequate network: (1) Are not available to contract with the carrier; (2) Are not available in sufficient numbers; (3) Have refused to contract with the carrier; or (4) Are unable to reach agreement with the carrier."

The Administration has considered UHIC's requests for waivers for the travel distance standard for Applied Behavioral Analyst, Gynecology OB/GYN, Pediatrics, Urology, Acute Inpatient Hospitals, Critical Care Services / Intensive Care Units, Inpatient Psychiatric Facility, Outpatient Infusion /Chemotherapy, Skilled Nursing Facilities, and Other Behavioral Health / Substance Abuse Facilities. The waiver requests were made on July 1, 2021 with additional information to support this request filed on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022.

The UHIC Choice/Choice Plus 2021 Access Plan contains insufficient substantiation to justify granting a waiver for the travel distance standard for Other Behavioral Health/Substance Abuse Facilities in zip code 20745 based on contradictory statements within the waiver request for "BH/All Other Facilities"¹ in zip code 20745 which reported that there were no providers available to contract within 15 miles of the 28 enrollees outside the standard (Sections II and IV),

¹ The title of the waiver request is not accurate and should instead read: "Other Behavioral Health/Substance Abuse Facilities" (COMAR 31.10.44.04A(5)). There is no category in the Chart of Travel Distance Standards entitled "Behavioral Health/All Other Facilities."

followed by a description of negotiations with a facility that would close the coverage gap (Section IV).

The Administration has found good cause to grant the travel distance waiver requests for 1 year for the following provider types: Applied Behavioral Analyst, Gynecology OB/GYN, Pediatrics and Urology; and for the following facility types: Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, Inpatient Psychiatric Facility, Outpatient Infusion /Chemotherapy and Skilled Nursing Facility, because additional providers and facilities are not available, as evidenced by the following information which was presented by UHIC:

- Efforts to locate any additional providers and provider types within the required travel distance standards in specific zip codes using both internal reporting, such as claims data and demographics, and external resources, including state-issued provider listings.
- Declarations by UHIC that it is contracted with the nearest available applied behavioral analysts for the 33 suburban enrollees and the 1 rural enrollee residing outside of the regulatory standard. A contracted provider is located:
 - 33.3 miles from the furthest point in zip code 20625 for the 1 enrollee outside the 30-mile standard.
 - 42.9 miles from the furthest point in zip code 20634 for the 32 enrollees outside the 30-mile standard.
 - 69.9 miles from the furthest point in zip code 20687 for the 1 enrollee outside the 60-mile standard.
- Declarations by UHIC that it is contracted with the nearest available gynecology, OB/GYN providers for the 67 urban enrollees and the 1 suburban enrollee residing outside of the regulatory standards. A contracted provider is located:
 - 7.5 miles from the furthest point in zip code 21403 for the 67 enrollees outside the 5-mile standard.
 - less than 24 miles from the furthest point in zip code 20625 for the 1 enrollee outside the 10-mile standard.
- Declarations by UHIC that it is contracted with the nearest available pediatric providers for the 25 urban enrollees and the 7 suburban enrollees residing outside of the regulatory standards. A contracted provider is located:
 - 7 miles from the furthest point in zip code 21403 for the 25 enrollees outside the 5-mile standard.
 - less than 25 miles from the furthest point in zip code 20625 for the 1 enrollee outside the 10-mile standard.
 - less than 12 miles from the furthest point in zip code 21913 for the 6 enrollees outside the 10-mile standard.

- A declaration by UHIC that there are no acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities within the travel distance standard of 10 miles for the 28 urban enrollees in zip codes 21040 and 21114. UHIC is contracted with the nearest acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities for these 28 enrollees which are located:
 - less than 12 miles away from the furthest point in zip code 21040.
 - less than 12 miles away from the furthest point in zip code 21114.
- A declaration by UHIC that it is contracted with the closest inpatient psychiatric facility for the 49 urban enrollees residing outside of the regulatory standard of 15 miles in zip code 21040, which is located 17.2 miles from the furthest point in zip code 21040.

While the waiver request for the travel distance standard for Other Behavioral Health / Substance Abuse Facilities in zip code 20745 is denied, the Administration has determined, in its enforcement discretion and having considered the minimal number of enrollees impacted by the violation and potential resolutions that may apparently be available, a penalty will not be imposed for these deficiencies under the UHIC Choice/Choice Plus 2021 Access Plan. In future filing years, the Administration expects each waiver request to:

- correctly list the name of the provider or facility type;
- clearly and unambiguously report on the availability of the provider or facility type in the geographic area for which the waiver is requested; and
- provide sufficient detail of the carrier's recent efforts to address the deficiency as described in COMAR 31.10.44.07C (1) – (7).

Appointment Waiting Time Standards

The data self-reported by UHIC indicates that the required 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. UHIC stated in the 2021 access plans that the Covid-19 pandemic negatively impacted health care providers' appointment time availability. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that UHIC provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if UHIC intends to combine telehealth claims with provider survey results when measuring appointment waiting

time in future access plan filings, UHIC will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

The Administration has determined, in its exercise of enforcement discretion, not to impose a penalty in connection with its review of the UHIC 2021 Access Plans, which contain only deficiencies that are marginal in nature.

This determination letter is limited to review of the UHIC 2021 Access Plans, 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.

UHIC has the right to request a hearing on this determination letter in accordance with § 2-210 of the Insurance Article. A request for a hearing must be made in writing and received by the Administration within thirty (30) days of the date of this letter. The rules for requesting a hearing are set forth in COMAR 31.02.01.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David Cooney', written over a horizontal line.

David Cooney
Associate Commissioner
Life and Health