

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. INS 15-01-013

UNITEDHEALTHCARE INSURANCE
COMPANY,

Respondent.

ORDER TO CEASE AND DESIST,
FINAL ORDER IMPOSING CIVIL
PENALTY AND CONSENT TO
ENTRY OF ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 (“Insurance Code”), has conducted an investigation into the insurance related activities of UnitedHealthcare Insurance Company (“Respondent”).

On December 14, 2015, the Director, by and through the Insurance Division, now the Division of Financial Regulation (“Division”), properly served notice (“Notice Order”) on Respondent that the Director intended to impose a total civil penalty of \$45,000 on Respondent.

Respondent wishes to resolve and settle this matter with the Director and the Director concludes that the goal to protect the public is served with the issuance of this Consent Order.

Now therefore, as of the date of entry of this Consent Order, the Notice Order is vacated and this Consent Order becomes final.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent is licensed in the State of Oregon as a foreign insurer, has been so

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 licensed since November 1, 1972, and provides health insurance coverage in Oregon.

2 2. Respondent's NAIC entity number is 79413.

3 3. Between January 1, 2013 and May 2, 2014, in six different cases, each
4 involving a different consumer, Respondent made adverse insurance benefits decisions.

5 4. In each of the six cases, the affected consumer exhausted the internal review
6 process and requested that Respondent forward the matter to an independent external
7 review organization to review whether Respondent's coverage decision was correct.

8 5. In each of the six cases, Respondent received the application for independent
9 external review from the consumer and conducted its own review to determine whether
10 the request was appropriate for independent external review.

11 6. In each of the six cases, Respondent determined that the reason for the adverse
12 benefits decision was not an appropriate basis for independent external review.

13 7. In each of the six cases, Respondent declined to forward the matter to the
14 appropriate independent review organization.

15 8. None of the six consumers agreed to withdraw their application for
16 independent external review.

18 CONCLUSIONS OF LAW

19 The Director CONCLUDES that:

20 9. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that
21 any person has been engaged or is engaging or is about to engage in any violation of the
22 Insurance Code, the Director may issue an order to discontinue or desist from such
23 violation or threatened violation.

24 10. Pursuant to ORS 743B.252(1)¹, Respondent was required to have an external
25 review program that allowed enrollees to obtain review by an independent review

26 ¹ ORS 743.857 was renumbered to 743B.252 in 2015.





1 organization of a dispute relating to an adverse benefit determination by the insurer on
2 one or more of the following: (a) whether a course or plan of treatment is medically
3 necessary, (b) whether a course or plan of treatment is experimental or investigational, (c)
4 whether a course or plan of treatment that an enrollee is undergoing is an active course of
5 treatment for purposes of continuity of care under ORS 743B.225², or (d) whether a
6 course or plan of treatment is delivered in an appropriate health care setting and with the
7 appropriate level of care.

8 11. Pursuant to Oregon Administrative Rule (“OAR”) 836-053-1337, when an
9 enrollee applies to an insurer for independent review of a dispute, the insurer shall review
10 the application and advise the enrollee that the application does or does not meet any of
11 the criteria for independent review. The insurer shall send the application to the
12 independent review organization as provided in ORS 743.857³ unless the enrollee
13 withdraws the application.

14 12. Respondent violated OAR 836-053-1337 on six different occasions by failing
15 to forward the applications for independent review and relevant records to the
16 independent review organization.

17 13. Pursuant to ORS 731.988(1), the Director may assess CIVIL PENALTIES in
18 an amount not to exceed \$10,000 per violation against a person who violates any
19 provision of the Insurance Code or any lawful rule of the Director.

20 ORDERS

21 The Director issues the following ORDERS:

22 14. As authorized by ORS 731.252(1), the Director ORDERS Respondents to
23 CEASE AND DESIST from violating any provision of the Insurance Code or the
24

25 _____
26 ² ORS 743.854 was renumbered to 743B.225 in 2015.

³ ORS 743.857 was renumbered to 743B.252 in 2015.

1 administrative rules promulgated thereunder.

2 15. Based upon the foregoing and as authorized by ORS 731.988(1), the Director
3 ORDERS that Respondent pay a CIVIL PENALTY of \$1,000 per occurrence for six
4 violations of OAR 836-053-1337 for a total CIVIL PENALTY of \$6,000.

5 16. The \$6,000 CIVIL PENALTY assessed above is due and payable at the time
6 this Consent Order is returned to the Division.

7
8 SO ORDERED this 27th day of April, 2017.

9 PATRICK M. ALLEN, Director
10 Department of Consumer and Business Services

11 /s/ David Tatman
12 David C. Tatman, Chief of Enforcement
13 Division of Financial Regulation

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Telephone: (503) 378-4387



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CONSENT TO ENTRY OF ORDER

I, Joy O.C. Higa, state that I am an officer of UnitedHealthcare Insurance Company and I am authorized to act on its behalf. I have read the foregoing Consent Order, and I know and fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. UnitedHealthcare Insurance Company voluntarily and without any force or duress consents to the entry of this Consent Order expressly waiving any right to a hearing in this matter. UnitedHealthcare Insurance Company understands that the Director reserves the right to take further actions to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Insurance Code. UnitedHealthcare Insurance Company will fully comply with the terms and conditions stated herein.

UnitedHealthcare Insurance Company understands that this Consent Order is a public document.

/s/ Joy O.C. Higa
Signature

Joy O.C. Higa
Printed name

Secretary
Office held

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ACKNOWLEDGMENT

There appeared before me this 29th day of March,
2017, Joy O.C. Higa, who was first duly sworn on oath, and
stated that she/he was and is an officer of UnitedHealthcare Insurance Company and that
she/he is authorized and empowered to sign this Consent to Entry of Order on behalf of
UnitedHealthcare Insurance Company and to bind UnitedHealthcare Insurance
Company to the terms hereof.

/s/ Lisa M. Duquette
Signature of Notary Public

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