

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

In the Matter of:

Case No. INS-21-0007

UNITEDHEALTHCARE INSURANCE
COMPANY,

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

Respondent.

THIS IS A FINAL 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”).

Respondent submits to the Director’s jurisdiction and agrees to waive its rights to notice and an administrative hearing that arise under ORS 183.415 and wishes to resolve this matter by consenting to entry of this Final Order.

Now therefore, as evidenced by the authorized signatures subscribed in this Order, Respondent hereby consents to entry of this Order upon the Director’s Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent has been licensed by the Director, by and through the Division of Financial Regulation, previously known as the Insurance Division (collectively the “Division”), as a foreign insurer since November 1, 1972. Respondent’s principal place of business is 185 Asylum Street, Hartford, CT 06103. Respondent’s National Association

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





1 of Insurance Commissioners Company Code is 79413.

2 2. Between January 1, 2020 and April 13, 2020, Respondent received 13 requests
3 for independent external review (“IRO Requests”) of an adverse benefit determination. On
4 11 occasions, Respondent did not notify the Division within two business days of receiving
5 the IRO Request.

6 3. On April 14, 2020, the Division sent a letter via email to Respondent with
7 clarification and guidance (the “Division’s Guidance”) regarding the timeline for providing
8 notification to the Division after receiving an IRO Request. The Division’s Guidance
9 instructed Respondent that “all member requests for an external review be communicated
10 to the [Division] within two business days.”

11 4. Between April 14, 2020 and August 19, 2020, Respondent received five IRO
12 Requests. Notwithstanding the Division’s Guidance, on three occasions, Respondent did
13 not notify the Division within two business days of receiving the IRO Request.

14 5. On August 20, 2020, the Director issued Bulletin No. DFR 2020-15 (the
15 “Bulletin”) providing operational guidance and clarification on the external review process.
16 Specifically, the Bulletin provided guidance that insurers and other regulated entities must
17 notify the Division of an IRO Request within two business days following receipt of the
18 request from the enrollee in accordance with Oregon Administrative Rule (“OAR”) 836-
19 053-1340(1).

20 6. Between August 20, 2020 and December 31, 2020, Respondent received six
21 IRO Requests. Notwithstanding the Division’s Guidance and the Bulletin, on two
22 occasions, Respondent did not notify the Division within two business days of receiving
23 the IRO Request.

24 CONCLUSIONS OF LAW

25 The Director CONCLUDES that:

26 7. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that

1 any person has been engaged or is engaging or is about to engage in any violation of the
2 Insurance Code, the Director may issue an order to discontinue or desist from such
3 violation or threatened violation.

4 8. Pursuant to ORS 743B.252(1), Respondent was required to have an external
5 review program that allowed enrollees to obtain review by an independent review
6 organization of a dispute relating to an adverse benefit determination by the insurer on one
7 or more of the following: (a) whether a course or plan of treatment is medically necessary,
8 (b) whether a course or plan of treatment is experimental or investigational, (c) whether a
9 course or plan of treatment that an enrollee is undergoing is an active course of treatment
10 for purposes of continuity of care under ORS 743B.225, (d) whether a course or plan of
11 treatment is delivered in an appropriate health care setting and with the appropriate level
12 of care, (e) whether an exception to the health benefit plan's prescription drug formulary
13 should be granted.

14 9. Pursuant to OAR 836-053-1340(1), an insurer shall give the Director notice of
15 an enrollee's request for independent review by delivering a copy of the request to the
16 Director not later than the second business day of the insurer after the insurer receives the
17 request for the independent review.

18 10. Notwithstanding the Division's Guidance and the Bulletin, Respondent violated
19 OAR 836-053-1340(1) by failing to give the Director notice of a request for independent
20 review not later than the second business day after the request.

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

24 ORDERS

25 The Director issues the following ORDERS:

26 12. As authorized by ORS 731.252(1), the Director ORDERS Respondent to

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Telephone: (503) 378-4387



1 CEASE AND DESIST from violating OAR 836-053-1340(1).

2 13. Based upon the foregoing and in accordance with ORS 731.988(1), the Director
3 ORDERS Respondent to pay a total CIVIL PENALTY of \$10,000 for violating OAR 836-
4 053-1340(1) as described in Paragraph ten above.

5 14. The \$10,000 total CIVIL PENALTY assessed above is due and payable at the
6 time this Order is returned to the Director.

7 15. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that
8 provision, entry of this Order in no way limits or prevents further remedies, sanctions, or
9 actions which may be available to the Director under Oregon law to enforce this Order, for
10 violations of this Order, for conduct or actions of Respondents that are not covered by this
11 Order, or against any party not covered by this Order.

12 SO ORDERED this 1st day of April, 2021.

13
14 ANDREW R. STOLFI, Director
15 Department of Consumer and Business Services

16
17 /s/ Dorothy Bean
18 Dorothy Bean, Chief of Enforcement
19 Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Jessica Zuba, state that I am an officer of UnitedHealthcare Insurance Company and I am authorized to act on its behalf. I have read the foregoing 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 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 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 Order is a public document.

/s/ Jessica Zuba
Signature

Jessica Zuba
Printed name

Assistant Secretary
Office held

ACKNOWLEDGMENT

There appeared before me this ____ day of _____, 2021, _____, 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.

Signature of Notary Public

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