

January 27, 2023

Tashia Sizemore
Department of Consumer and Business Services
Division of Financial Regulation

via email

RE: RHEA examination report for UnitedHealthcare Insurance Company

Dear Ms. Sizemore:

UnitedHealthcare Insurance Company (“UHIC” or the “Company”) has received the Reproductive Health Equity Act (“RHEA”) examination report provided to it by the Department of Consumer and Business Services – Division of Financial Regulation (“DFR”) on January 23, 2023. This letter responds to the finding and recommendations set forth in the report. We note that this response is timely submitted by the deadline set forth in your January 23, 2023 email.

As set forth in greater detail below, the Company disagrees in part with the sole finding of non-compliance with ORS 743A.067 relating to the processing of claims. In addition, while not a finding, the Company wishes to address and clarify what is characterized in the report as an observation relating to “lack of examination cooperation.”

Below is the Company’s response to the finding, the observation relating to examination cooperation, and the recommendations.

FINDING

- *Finding 1: Non-compliance with ORS 743A.067 relating to the processing of claims*

Company response to Finding 1:

The Company disagrees that its “claims classification method does not properly identify claims containing RHEA services.” Adjudication of claims in accordance with RHEA is systemically driven. The Company has identified all pertinent CPT and, where applicable, diagnosis codes required to properly adjudicate RHEA claims, and as set forth below, Company systems have been updated accordingly.

With respect to the six samples that the Department contends contained RHEA services with improper cost-sharing, the Company agrees that 3 of the 6 samples (#s 16, 30, 60), contained claims for services that were not properly identified as RHEA services, and that these claims should have been paid without the cost-share applied. Company systems were updated on March 1, 2022 to identify and adjudicate these CPT codes (81025 and 36415) as RHEA services.

While the Company agrees that sample # 12 was denied in error, this was not due to any systemic issue in identifying claims containing RHEA services, but rather due to a mistake by a manual processor who mishandled the claim. That processor is no longer with the Company.

The Company respectfully disagrees in part with the findings as to sample # 2. For that sample, the claim for CPT 86780 was processed appropriately with cost-sharing, because the code is for confirmatory testing, which is considered diagnostic (not a preventive screening). The Company agrees

that the claim for CPT 84702 was not properly identified as a RHEA service, and this service should have been paid without the cost-share applied. Company systems were updated on March 1, 2022 to also identify and adjudicate this CPT code as a RHEA service.

For sample (# 45), the Company respectfully disagrees with the finding in its entirety. The services being billed on this sample, per the billed claim, are not RHEA services. CPT codes 87480, 87510, and 87660 are not screenings covered by RHEA. CPT codes 87491 and 87591 represent services that can be done for preventive or diagnostic purposes, and so the Company requires the use of diagnosis codes consistent with preventive screening in order to cover these codes without cost-sharing. The services for sample # 45 were billed with a diagnosis code (Z01.419) that is not specific to preventive care screenings, so they were considered to be diagnostic.

OBSERVATIONS - CLAIMS

- *Lack of examination cooperation*

Company response:

The Company respectfully disagrees that it “failed to promptly, timely and conveniently make available information to readily ascertain treatment of policyholders by not providing data and files responsive to the examiners’ requests.” To the contrary, and as set forth below, the Company cooperated with the DFR and promptly provided requested information, in accordance with the applicable statutes and regulations.

1. Claims sample sets

The report notes that “[t]he cooperation level of [the Company] created an examination process that required several requests for claim files to fill the sample populations.” To clarify, the examiners released the claims sample selection lists to the Company on October 26, 2021, and the Company submitted claims sample packets to the examiners on November 8 and 12, 2021. After the Company submitted its claims sample packets, on November 16, 2021, the examiners requested information on “replacement claims,” which the examiners explained are used “in the event that claims in [the] samples are not actually RHEA claims.” The Company promptly provided information in response to various requests by the examiners for replacement claims and additional sample sets, including in response to certain claim samples that did not appear to contain RHEA services.

In addition to promptly providing requested data and documents, the Company also promptly responded to examiner requests for clarification, including when it appears that information had been overlooked or misunderstood by the examiners. For example, on December 30, 2021, the examiners requested an explanation as to why the Company had purportedly only submitted 2 of 20 requested replacement files on November 22, 2021. The Company promptly responded that the remaining 18 files were duplicates and that it had in fact, on the day of the submission, submitted a “duplicate crosswalk” spreadsheet.

2. Claims system access

The report also notes that multiple requests for claim files to fill the sample populations “would not have been necessary if claims system access was provided at the beginning of the examination,” which the DFR acknowledges was “not possible within the early exam timelines established by the division.” The Company would like to clarify why it could not immediately accommodate the DFR’s request for direct claims system access and why the requested access would not have actually enabled the examiners to review the claims more easily.

From the outset of the exam, the Company expressed its commitment to ensuring that the DFR’s examiners were provided with the information necessary to conduct a thorough and complete exam. But the Company raised various privacy-related and practical concerns with the DFR’s request for direct claims system access.

The Company explained that its claim systems were not capable of isolating records by state, so providing the examiners with direct access could allow them to access the PHI of non-Oregon or non-commercial members. Under HIPAA, the Company is obligated to protect member PHI from unauthorized access. In addition, the Company explained that its claims systems are complex and not easily navigable or comprehensible without extensive training.

To address these concerns, the Company proposed alternative, existing processes that would still allow the examiners to get the information needed, protect the PHI of members, and shield the DFR from unintentionally accessing PHI of individuals outside the scope of this exam. These processes—which had been used in recent exams conducted by the same examiners—involved the Company providing comprehensive claims packets and having Company subject matter experts navigate the examiners through Company systems.

Over six weeks later, these alternatives were rejected without addressing their viability. Once the DFR confirmed it still would require system access, the Company worked diligently to secure access for the examiners that would satisfy the Company’s privacy and security obligations. In the meantime, the Company provided the examiners with system walkthroughs and trainings so that the examiners could gain proficiency in navigating the claims system. The Company also produced comprehensive claims packets, containing information from the Company’s claims systems as well as additional documentation, such as EOBs.

As the report acknowledges, the Company was ultimately able to provide the examiners with system access. The system access provided allowed each examiner to view claims for up to seven policy numbers at a time. But the examiners elected to complete the exam using the claims packets that had already been provided.

Providing unfettered access to the Company’s claim system without any guidance or assistance by the Company would not have enabled the examiners to review the claims files in any meaningful way because of the complexities of the system. Ultimately the examiners would have needed the Company to provide claims packets or have someone from the Company guide them through the systems as the Company has done in other Market Conduct exams where claims access was requested.

3. 30-day letters

To the extent the DFR contends that a letter regarding Oregon's 30-day requirement was requested and not provided in the manner outlined by the examiners, the Company notes that it informed the examiners that the letter would be included in the claim sample packets. The Company has confirmed that a 30-day letter is included on page 22 of RHEA Paid Lrg Group Sample #49, which was submitted to the examiners on November 8, 2021.

In sum, as the chronology above reflects, the Company worked diligently with the examiners to provide the requested data and documents in accordance with the expectations of the DFR. The Company's goal is to provide all requested documentation and information completely, accurately, and in a timely manner, as required by law, and the Company makes every effort to do so.

RECOMMENDATIONS

- *1. The insurer review its policies and procedures to assure that all claims are adjudicated in accordance with Oregon insurance law, including but not limited to, ORS 743A.067*

Company response to Recommendation 1:

Adjudication of claims in accordance with RHEA is systemically driven. Company systems were updated on March 1, 2022 to identify and adjudicate additional CPT codes (including 81025, 36415, and 84702) as RHEA services. The Company has reviewed claims for these services that were submitted before March 1, 2022 and identified the claims that required adjustment. The claim adjustments were completed on January 5, 2023.

- *2. The insurer review its claims adjudication system and make all necessary adjustments to assure that claims are adjudicated in accordance with Oregon insurance law, including but not limited to, ORS 743A.067.*

Company response to Recommendation 2:

Please see the above response to Recommendation 1.

- *3. The insurer submit accurate, timely, and complete information to claim inquiries by the director of the Department of Consumer and Business Services or their delegate.*

Company response to Recommendation 3:

The Company respectfully refers the DFR to the Company's response to the observation regarding "lack of exam cooperation," set forth above.

In any event, the Company notes that its goal is always to provide all requested documentation and information completely, accurately, and in a timely manner, in accordance with the law, and the Company makes every effort to do so.

- *4. The insurer provide education for personnel to be trained in all RHEA requirements for proper non-cost sharing requirements and payments for RHEA related services.*

Company response to Recommendation 4:

The Company created and dispersed a training on Oregon RHEA benefit requirements for focused claims processors in November 2022.

- *5. The insurer identify all pertinent CPT codes for services, drugs, devices, products, and procedures listed in ORS 743A.067, and where applicable diagnosis codes required to properly adjudicate RHEA claims. The insurer should also consider that the purpose of ORS 743A.067 is to improve access [to] the services identified in statute and limit medical management of those services to ensure access consistent with the purpose.*

Company response to Recommendation 5:

The Company has identified all pertinent CPT and, where applicable, diagnosis codes required to properly adjudicate RHEA claims. Please see the above response to Recommendation 1.

Please contact me at 360-584-4847 or at melanie_j_anderson@uhc.com if you or your staff should have any questions.

Sincerely,

/s/ Melanie J Anderson

Melanie J. Anderson