January 27, 2023

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

RE: RHEA examination report for UnitedHealthcare of Oregon Inc.

Dear Ms. Sizemore:

UnitedHealthcare of Oregon, Inc. ("UHC" 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 24, 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 agrees with the sole finding in the report. While not a finding, the Company also 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: Noncompliance with ORS 743A.067 relating to the processing of claims*

Company response to Finding 1:

The Company agrees that the two sample claims should have been paid without the cost-share applied. At the time of processing, the NICE platform applied member cost-sharing based on the primary diagnosis on the claim. The NICE system was subsequently updated in June 2020 to review the CPT code in conjunction with the diagnosis codes on the claim in determining whether to apply member cost-share.

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 system access**

In the report, the DFR references the Company's purported "unwillingness to cooperate with exam requirements" (Report p. 4) and notes that the Company "did not provide remote access in order to accomplish the testing [of paid and denied RHEA claims], as required by the division." (Report p. 6.) To the extent the DFR's observation of a "lack of examination cooperation" is based on the Company allegedly not providing the requested claims system access, the Company would like to clarify why it could not immediately accommodate the DFR's request and explain the actions the Company took in response to provide the DFR with the information and documentation needed.

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 Companies' 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.

The Company eventually determined that, despite its best efforts, it would not be able to provide system access within the exam timeline in a manner that protected non-Oregon member data, and instead offered to meet the examiners onsite in California to provide system access. The examiners declined. The examiners instead elected to complete the exam using the claims packets that had already been provided.

As the facts above reflect, the Company offered the examiners system access in a manner that allowed the Company to meet its obligations to comply with all applicable laws, including HIPAA, and that would also provide the examiners with adequate training and guidance so that they would be able

to obtain and understand the information contained within the Company's systems. But the examiners elected not to proceed with the system access offered.

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.

2. 30-day letters

To the extent the DFR contends that a letter regarding Oregon's 30-day requirement was requested and not provided (Report p. 2), the Company notes that it had informed the DFR that it would include a claims acknowledgment letter in the claim sample packets. But no 30-day letter was issued for any of the claim samples, so no letter was provided.

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. Previously, the NICE system applied member cost-sharing based on the primary diagnosis on the claim. The NICE system was updated in June 2020 to review the CPT code in conjunction with the diagnosis codes on the claim in determining whether to apply member cost-share. The Company has also updated its systems to identify and adjudicate additional CPT codes as RHEA services, and identified whether any previously submitted claims required adjustment. This process was completed on December 20, 2022.

- *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 is provided 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 distributed a bulletin for claims adjusters outlining RHEA benefit requirements in October 2022.

- *5. That 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, and updated its systems accordingly. 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