

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE  
STATE OF MISSOURI**

*In Re:*

UNITEDHEALTHCARE OF THE  
MIDWEST, INC. (NAIC #96385)

)  
)  
)  
)

**Market Conduct Examination #1308-24-TGT  
NAIC Exam Tracking # MO341-M114**

**ORDER OF THE DIRECTOR**

NOW, on this 15<sup>th</sup> day of July, 2020, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of UnitedHealthcare of the Midwest, Inc. (NAIC #96385) (hereinafter "UHC"), examination report number 1308-24-TGT, prepared and submitted by the Division of Insurance Market Regulation (hereinafter "Division") pursuant to §374.205.3(3)(a)<sup>1</sup>, does hereby adopt such report as filed. After consideration and review of the Stipulation of Settlement ("Stipulation"), relating to the market conduct examination no. 1308-24-TGT, the examination report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4). The Director does hereby issue the following orders:

This order, issued pursuant to §374.205.3(4), §374.280 RSMo, and §374.046.15. RSMo, is in the public interest.

**IT IS THEREFORE ORDERED** that UHC and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

**IT IS FURTHER ORDERED** that UHC shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

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<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016 as amended.

**IT IS SO ORDERED.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 15<sup>th</sup> day of July, 2020.

*Chlora Lindley Myers*  
Chlora Lindley-Myers  
Director



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) **Market Conduct Examination #1308-24-TGT**  
) **NAIC Exam Tracking # MO341-M114**  
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**STIPULATION OF SETTLEMENT**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter, the "Division"), and UnitedHealthcare of the Midwest, Inc. (NAIC #96385) (hereinafter "UHC"), as follows:

**WHEREAS**, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter, the "Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri; and

**WHEREAS**, UHC has been granted a certificate of authority to transact the business of insurance in the State of Missouri; and

**WHEREAS**, the Division conducted a Market Conduct Examination of UHC, examination #1308-24-TGT; and

**WHEREAS**, based on the Market Conduct Examination of UHC, the Division alleges that:

1. UHC failed to conduct a reasonable investigation before denying a claim in which the service was pre-authorized in violation of §376.1361.13<sup>1</sup> and implicating the provisions of §375.1007 (3), (4) and (6).

2. UHC aided third party administrators in the violation of §376.1092.1 by utilizing Wipro and FirstSource to administer claims for Missouri residents, without a valid certificate of

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<sup>1</sup> All references, unless otherwise noted, are to Revised Statutes of Missouri 2016, as amended.

authority from the Director to act as a third party administrator in violation of §376.1092.1.

3. In one instance, UHC failed to provide timely respond to some information requests in violation of §374.205.2(2) and 20 CSR 100-8.040(6).

**WHEREAS**, the Division and UHC have agreed to resolve the issues raised in the Market Conduct Examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter, "Stipulation") embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** UHC agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agree to maintain those remedial actions at all times. Such remedial actions shall include, but are not limited to, the following:

1. UHC agrees that if an authorized representative of UHC authorizes the provision of health care services, the health carrier shall not subsequently retract its authorization after the health care services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless one of the exceptions under §376.1361.13 (1) – (3) apply.

2. UHC represents that it is not actively marketing, issuing, or renewing commercial HMO insurance business in Missouri. Prior to resuming marketing or issuing commercial HMO insurance business in Missouri, UHC agrees to conduct business in conformity with the Missouri insurance laws and make any filings with the Department as may be required by law.

3. UHC agrees to provide the Department with a compliance plan to insure that all third party administrators utilized by UHC are properly licensed in Missouri prior to selling UHC products, collecting charges or premiums from, or adjusting or settling claims on residents of this

state. UHC further agrees to conduct an audit of all TPAs operating on its behalf in Missouri, at least semiannually<sup>2</sup>, to verify whether the TPAs are administering policies in accordance with the policy and Missouri law.

C. **Compliance.** UHC agrees to file documentation with the Division, in a format acceptable to the Division, within 30 days of the entry of a final order of any remedial action taken to implement compliance with the terms of this Stipulation. Such documentation is provided pursuant to §374.205.

D. **Examination Fees.** UHC agrees to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by the Company pursuant to Paragraph C of this Stipulation.

E. **No Penalties.** The Division agrees that it will not seek penalties against UHC in connection with Market Conduct Examination #1308-24-TGT.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by UHC, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct examination.

G. **Waivers.** UHC, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the Market Conduct Examination #1308-24-TGT.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and UHC.

I. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

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<sup>2</sup> At least one of the reviews should be an on-site audit pursuant to §376.1084.3.

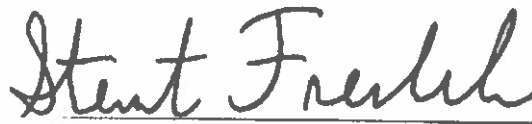
J. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and UHC respectively.

K. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.


L. **Effect of Stipulation.** This Stipulation shall not become effective until entry of a Final Order by the Director of the Department (hereinafter the "Director") approving this Stipulation.

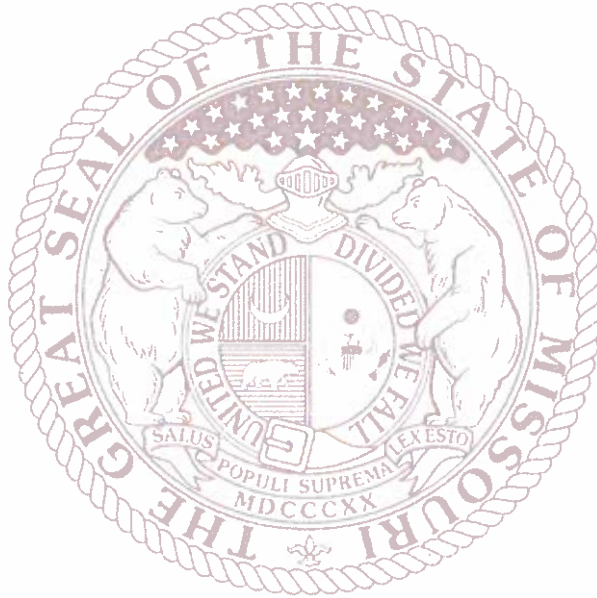
M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 7-14-2020

  
\_\_\_\_\_  
Stewart Freilich  
Chief Market Conduct Examiner and Senior Counsel  
Division of Insurance Market Regulation

DATED: 7-13-20

  
\_\_\_\_\_  
Patrick Quinn  
Missouri Healthplan CEO  
UnitedHealthcare of the Midwest, Inc.



**FINAL MARKET CONDUCT EXAMINATION REPORT  
Health Business of**

**UnitedHealthcare of the Midwest, Inc.  
NAIC #96385**

**MISSOURI EXAMINATION #1308-24-TGT**

**NAIC MATS #MO341-M114**

**Examination End Date July 14, 2020**

**Home Office  
Mail Route MO050-1000  
13655 Riverport Drive  
Maryland Heights, MO 63043**

**STATE OF MISSOURI  
DEPARTMENT OF COMMERCE & INSURANCE**

**JEFFERSON CITY, MISSOURI**

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## **SALUTATION**

July 14, 2020

Honorable Chlora Lindley-Myers, Director  
Missouri Department of Commerce and Insurance  
301 West High Street, Room 530  
Jefferson City, Missouri 65101

Director Lindley-Myers:

In accordance with your market conduct examination warrant, a targeted market conduct examination has been conducted of the specified lines of business and business practices of

**UnitedHealthcare of the Midwest, Inc. (NAIC #96385)**

hereinafter referred to as UHCMW or as the Company. This examination was conducted as a desk examination at the offices of the Missouri Department of Commerce and Insurance (DCI).

## **FOREWORD**

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DCI.

During this examination, the examiners cited errors considered potential violations made by the Company. Statutory citations were as of the examination period unless otherwise noted.

When used in this report:

- “Company” refers to UnitedHealthcare of the Midwest, Inc.
- “CSR” refers to the Missouri Code of State Regulation
- “DCI” refers to the Missouri Department of Commerce and Insurance
- “Director” refers to the Director of the Missouri Department of Commerce and Insurance
- “NAIC” refers to the National Association of Insurance Commissioners
- “RSMo” refers to the Revised Statutes of Missouri

## **SCOPE OF EXAMINATION**

The DCI has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.938, and 375.1009, RSMo,

The purpose of this examination was to determine if the Company complied with Missouri statutes and DCI regulations. The primary period covered by this review is July 1, 2011 through December 31, 2012, unless otherwise noted. Errors found outside of this time period may also be included in the report.

The examination was a targeted examination involving the following lines of business and business functions: handling of complaints and claims handling practices for the Company's health plans.

The examination was conducted in accordance with the standards in the NAIC's *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices it is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized, however, for reviews not applying the general business practice standard.

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

### **COMPANY PROFILE**

UnitedHealthcare of the Midwest, Inc. is licensed as a health maintenance organization (HMO) in Missouri pursuant to Chapter 354, RSMo. On February 26, 1985, the Company incorporated as Sanus Health Plan, Inc. in the state of Missouri, and it received a certificate of authority to operate as an HMO on July 23, 1985. The Company began operations on August 1, 1985 under the individual practice association form of HMO. Subsequently, the Company took part in a series of acquisitions, mergers and name changes resulting in the Company remaining as the surviving corporation with its current name.

The Company offers its enrollees a variety of managed care programs and products through contractual arrangements with health care providers. The Company is a wholly owned subsidiary of UnitedHealthcare, Inc. ("UHC"). UHC is a wholly owned subsidiary of United HealthCare Services, Inc. ("UHS"), a management corporation that provides services to the Company under the terms of a management agreement. UHS is a wholly owned subsidiary of UnitedHealth Group Incorporated ("UnitedHealth Group"). UnitedHealth Group is a publicly held company trading on the New York Stock Exchange.

### **EXECUTIVE SUMMARY**

The DCI conducted a targeted market conduct examination of UnitedHealthcare of the Midwest, Inc. The examiners found the following areas of concern:

#### **COMPLAINT HANDLING**

- The Company failed to conduct a thorough investigation in response to one complaint. Reference: §§375.1007 (3), (4) and (6), and 376.1361.13, RSMo.

## CLAIMS

- The Company utilized an unlicensed third party administrator for claim processing services. Reference: §§376.1075(1) and 376.1092.1, RSMo, and §376.1094.4, RSMo Supp. 2013.

## CRITICISMS AND FORMAL REQUESTS TIME STUDY

- The Company was late in responding to a portion of one formal request. Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(6).

## EXAMINATION FINDINGS

### I. COMPLAINT HANDLING

The complaint handling portion of the examination provides a review of the Company's complaint handling practices. The examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

#### **A. NAIC Complaint Handling Standard 1: All complaints are recorded in the required format on the regulated entity's complaint register.**

Pursuant to §375.936(3), RSMo, and 20 CSR 100-8.040(3)(D), insurance companies are required to maintain a log or register of all written complaints received for the last three years. The log or register must include all Missouri complaints, including those sent to the DCI and those sent directly to the company. HMOs are also required to maintain a register of complaints that constitute "grievances" pursuant to §§354.445 and 376.1375, RSMo, and 20 CSR 400-7.110(3).

The examiners requested and reviewed the Company's complaint log as to content and format. The examiners also checked to see that all DCI complaints were listed in the log.

The examiners found no errors in this review.

#### **B. NAIC Complaint Handling Standard 3: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.**

The register contained a total of one complaint submitted to the DCI and five Company complaints that it received directly from members or other interested parties. To test for this standard, the examiners requested and reviewed all six of these complaint files. The results of this review are summarized below.

##### **1. DCI Complaints**

Finding 1: In the single DCI complaint, the Company should have conducted a more thorough investigation of the circumstances surrounding a preauthorization, realized the provider's and

insured's detrimental reliance upon the Company's actions, and paid the claims in an equitable fashion prior to the complaint being filed with the Department.

Reference: §§375.1007 (3), (4) and (6), and 376.1361.13, RSMo.

## 2. Direct Complaints

The examiners found no errors in this review.

## II. CLAIMS

The claims portion of the examination provides a review of the Company's compliance with Missouri statutes and regulations regarding claims handling practices such as the timeliness of handling, accuracy of payment, adherence to contract provisions, and compliance with Missouri statutes and regulations.

### A. NAIC Claims Examination Standard 6: Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

In the Company's previous examination, it was cited for utilizing an unlicensed third party administrator (TPA) for claim processing services. In response, the Company agreed to see that the TPA became licensed. As part of this examination, the examiners checked on the licensing status of the TPA.

Finding 1: Although the TPA had secured a license after the previous examination, the examiners discovered it subsequently canceled the license. As a result, the Company was again utilizing an unlicensed TPA for claim processing services.

Reference: §§376.1075(1) and 376.1092.1, RSMo, and §376.1094.4, RSMo Supp. 2013

### B. NAIC Claims Examination Standard 9: Denied and closed without payment claims are handled in accordance with policy provisions and state law.

Emergency medical services are required as part of the "basic health care services" provided by HMOs. In addition, §376.1367, RSMo, requires health carriers to provide benefits for emergency services in managed care plans. To test for the Company's handling of claims for emergency services when the provider was out-of-network, the examiners requested and reviewed 27 denied claims submitted by out-of-network providers where either a referral was made by a network provider or the services were rendered at a network facility. The examiners also requested and reviewed the Company's procedures for handling such claims.

Field Size	27
Type of Sample	Census
Number of Errors	0
Error Ratio	0.00%

No errors were found in this review.

### III. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri statutes and regulations require companies to respond to criticisms and formal requests within 10 calendar days. In the event an extension of time was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the subsequent time frame. If the response was not received within the allotted time, the response was not considered timely.

#### A. Criticism Time Study

<b>Number of Calendar Days to Respond</b>	<b>Number of Criticisms</b>	<b>Percentage of Total</b>
0 to 10 days	0	0%
Over 10 days with extension	2	100%
Over 10 days without extension or after extension due date	0	0%
<b>Totals</b>	<b>2</b>	<b>100%</b>

No errors were found in this review.

#### B. Formal Request Time Study

<b>Number of Calendar Days to Respond</b>	<b>Number of Requests</b>	<b>Percentage of Total</b>
0 to 10 days	4	57%
Over 10 days with extension	2	29%
Over 10 days without extension or after extension due date	1	14%
<b>Totals</b>	<b>7</b>	<b>100%</b>

Finding 1: The Company was late in providing a portion of one formal request.

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(6)

## EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of UnitedHealthcare of the Midwest, Inc. Examination Number 1308-24-TGT. This examination was conducted by Gary Bird, EIC, Bunlue Ushupun, CIE, John Clubb, CIE, Randy Kemp, CIE, and Donald Wilson, CIE. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated September 30, 2019. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval.



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Stewart Freilich  
Chief Market Conduct Examiner

07/14/2020

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Date