

LARRY HOGAN  
Governor

BOYD K. RUTHERFORD  
Lt. Governor



AL REDMER, JR.  
Commissioner

NANCY GRODIN  
Deputy Commissioner

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Direct Dial: 410-468-2009 Fax: 410-468-2020  
Email: melaniegross@maryland.gov  
1-800-492-6116 TTY: 1-800-735-2258  
www.insurance.maryland.gov

August 10, 2017

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
REGULAR MAIL

MAMSI Life and Health Insurance Company  
Attn: Joe Stangl  
800 King Farm Boulevard  
Rockville, MD 20850

UnitedHealthcare Insurance Company  
Attn: Joe Stangl  
185 Asylum Avenue  
Hartford, Connecticut 06103

Optimum Choice, Inc.  
Attn: Joe Stangl  
800 King Farm Boulevard, MD051-1000  
Rockville, MD 20850

UnitedHealthcare of the Mid-Atlantic, Inc.  
Attn: Joe Stangl  
800 King Farm Boulevard, MD051-1000  
Rockville, MD 20850

All Savers Insurance Company  
Attn: Joe Stangl  
7440 Woodland Drive  
Indianapolis, IN 46278

Re: MIA v. MAMSI, Optimum Choice, Inc, UnitedHealthcare Insurance Company, UnitedHealthcare of the Mid-Atlantic, Inc. and All Savers Insurance Company  
Case No.: MIA-2017-08-009

Dear Mr. Stangl:

This will acknowledge receipt of your check in the amount of \$2,000.00 representing the administrative penalty regarding the above captioned case.

A copy of the fully executed Consent Order is enclosed for your records.

Melanie Gross  
Executive Assistant to the Deputy Commissioner

Enclosure

cc: Al Redmer, Jr., Commissioner  
Nancy Grodin, Deputy Commissioner  
J. Van Lear Dorsey, Principal Counsel  
Lisa Hall, Deputy Counsel  
Tracy Imm, Director of Public Affairs  
Darei Smith, Special Assistant

MARYLAND INSURANCE COMMISSIONER \*  
200 ST. PAUL PLACE, SUITE 2700 \*  
BALTIMORE, MARYLAND 21401 \*

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~~7724~~      1000  
7724      2000.00  
54899

V. \*

CASE NO: MIA-2019-08-009

MAMSI LIFE AND HEALTH INSURANCE \*  
COMPANY, \*  
800 KING FARM BLVD. \*  
ROCKVILLE, MARYAND 20850 \*  
NAIC# 60321 \*

OPTIMUM CHOICE, INC. \*  
800 KING FARM BLVD., MD051-1000 \*  
ROCKVILLE, MARYLAND 20850 \*  
NAIC # 96940 \*

UNITEDHEALTHCARE INSURANCE \*  
COMPANY, \*  
185 ASYLUM AVENUE \*  
HARTFORD, CONNECTICUT 06103 \*  
NAIC# 79413 \*

UNITEDHEALTHCARE OF THE MID- \*  
ATLANTIC, INC., \*  
800 KING FARM BLVD., MD051-1000 \*  
ROCKVILLE, MARYLAND 20850 \*  
NAIC # 95025 \*

ALL SAVERS INSURANCE COMPANY \*  
7440 WOODLAND DRIVE \*  
INDIANAPOLIS, INDIANA 46278 \*  
NAIC# 82406 \*

\* \* \* \* \*

**CONSENT ORDER**

This Consent Order is entered into by the Maryland Insurance Commissioner and MAMSI Life and Health Insurance Company, Optimum Choice, Inc., UnitedHealthcare Insurance Company, UnitedHealthcare of the Mid-Atlantic, Inc., and All Savers Insurance Company (collectively "Respondents" or "UHC") pursuant to §§ 2-108 and 2-204 of the Insurance Article,

Annotated Code of Maryland, to resolve the matter, in lieu of litigation, before the Insurance Administration (“Administration”).

### **Facts**

(1) At all times relevant to this Order, MAMSI Life and Health Insurance Company, UnitedHealthcare Insurance Company, and All Savers Insurance Company have held and currently hold Certificates of Authority from the Administration to act as an insurer in the State of Maryland.

(2) At all times relevant to this Order, UnitedHealthcare of the Mid-Atlantic States and Optimum Choice, Inc., have held and currently hold Certificates of Authority to act as health maintenance organizations in the State of Maryland.

(3) At all times relevant to this Order, United Behavioral Health, Inc., under the brand Optum, acted as the Managed Behavioral Health Organization for the Respondents.

(4) A survey was sent in October 2015 to the Respondents regarding compliance with the federal Mental Health Parity and Addiction Equity Act (“MHPAEA”).<sup>1</sup> After receiving the survey response from the Respondents, the Administration opened investigation MCLH-57-2016-I to gather additional information necessary to determine compliance with the federal rule.

### **Findings**

(5) On November 20, 2015, in response to the Administration’s survey, the Respondents provided an excerpt from a document entitled “Summary of Various Non-Quantitative Treatment Limitations Mental Health Parity and Addiction Equity Act.” The excerpt addressed Network Admission Criteria for providers and facilities.

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<sup>1</sup> See Federal Register, Volume 78, No. 219, published November 13, 2013.

(6) Under the facility credentialing section the document provided that behavioral health facilities (providing treatment for mental health and substance use disorder illnesses) are subjected to a malpractice history review. A similar requirement was not indicated for credentialing general medical/surgical facilities.

(7) On April 26, 2017, in response to the Administration's investigation, a representative of United stated, in pertinent part:

[Mental health and substance use disorder] facilities have a malpractice history review in the same fashion as individual providers. [Medical/surgical] gathers a history where required by law or regulation (such as in [Maryland]) but does not include this history in review as it is not a requirement under NCQA credentialing standards. This does constitute a difference in the two processes but we believe the processes are sufficiently comparable to constitute parity particularly given both [medical/surgical] and [mental health/substance use disorder] facilities are subjected to review for credentialing and quality issues of which the malpractice history is just one component.

(8) Since applicable MHPAEA rules went into effect, four mental health/substance use disorder facilities have applied to Optum for credentialing and had their malpractice history reviewed.

(9) On May 9, 2017, in response to the Administration's letter advising UHC of the violations it identified, the Respondents informed the Administration that they had temporarily suspended the review of malpractice history for mental health and substance use disorder facilities since the medical/surgical process does not currently involve this review. The Respondents are undertaking a review of the process to determine the best practice moving forward.

#### **Conclusions of Law**

(10) Based on the results of the Investigation, the Administration concluded the Respondents violated § 15-802(d)(2)(ii) by failing to comply with 45 C.F.R. § 146.136(c)(4).

(11) Section 15-802 of the Maryland Insurance Article states, in pertinent part:

(b) With the exception of small employer grandfathered health plan coverage, this section applies to each individual, group, and blanket health benefit plan that is delivered or issued for delivery in the State by an insurer, a nonprofit health service plan, or health maintenance organization.

(c) A health benefit plan subject to this section shall provide at least the following benefits for the diagnosis and treatment of a mental illness, emotional disorder, drug abuse disorder, or alcohol abuse disorder:

- (1) inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient benefits;
- (2) partial hospitalization benefits; and
- (3) outpatient benefits, including all office visits and psychological and neuropsychological testing for diagnostic purposes.

\* \* \* \*

(2) The benefits required under this section:

\* \* \* \*

(ii) shall comply with 45 C.F.R. § 146.136(a) through (d)[.]

(12) 45 C.F.R. § 146.136(c)(4) provides in pertinent part:

(i) A group health plan may not impose a nonquantitative treatment limitation with respect to mental health or substance use disorder benefits in any classification unless, under the terms of the plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the nonquantitative treatment limitation to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical/surgical benefits in the classification.

(ii) Nonquantitative treatment limitations include –

(D) Standards for provider admission to participate in a network[.]

### Order

**WHEREFORE**, for the reasons set forth above, it is **ORDERED** by the Commissioner and consented to by the Respondent, that

A. Respondent shall pay an administrative penalty of two thousand dollars (\$2,000.00) contemporaneously with Respondents' execution of this Order. Administrative

penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number MCLH-57-2016-I. Unpaid penalties will be referred to the Central Collection Unit for collections.

B. Within thirty (30) days of the date of this order, Respondents shall provide a corrective action plan to the Administration indicating that facility credentialing procedure requirements for mental health and substance use disorder facilities are developed based on the application of the same or similar factors that are applied to medical/surgical facilities credentialed by the Respondents.

#### **Other Provisions**

C. The executed Order and any administrative penalty shall be sent to the attention of: Associate Commissioner, Compliance and Enforcement, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

D. For the purposes of the Administration and for any subsequent administrative or civil proceedings concerning Respondent, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information about the Respondent made under the Maryland Public Information Act, or properly made by governmental agencies, this Order will be kept and maintained in the regular course of business by the Administration. For the purposes of the business of the Administration, the records and publications of the Administration will reflect this Order.

E. The parties acknowledge that this Order resolves all matters relating to the factual assertions and agreements contained herein and are to be used solely for the purposes of this proceeding brought by or on behalf of the Administration. Nothing herein shall be deemed a waiver of the Commissioner's right to proceed in an administrative action or

civil action for violations not specifically identified in this Order, including, but not limited to, specific consumer complaints received by the Administration, nor shall anything herein be deemed a waiver of the right of the Respondent to contest other proceedings by the Administration. This Order shall not be construed to resolve or preclude any potential or pending civil, administrative, or criminal action or prosecution by any other person, entity or governmental authority, including but not limited to the Insurance Fraud Division of the Administration, regarding any conduct by the Respondent including the conduct that is the subject of this Order.

F. Respondent has had the opportunity to have this Order reviewed by legal counsel of its choosing, and is aware of the benefits gained and obligations incurred by the execution of the Order. Respondent waives any and all rights to any hearing or judicial review of this Order to which it would otherwise be entitled under the Insurance Article with respect to any of the determinations made or actions ordered by this Order.

G. This Order contains the entire agreement between the parties relating to the administrative actions addressed herein. This Order supersedes any and all earlier agreements or negotiations, whether oral or written. All time frames set forth in this Order may be amended or modified only by subsequent written agreement of the parties.

H. This Order shall be effective upon signing by the Commissioner or her designee, and is a Final Order of the Commissioner under § 2-204 of the Insurance Article.

I. Failure to comply with the terms of this Order may subject Respondent to further legal and/or administrative action.

ALFRED W. REDMER, JR  
Insurance Commissioner



By: Nancy Grodin  
Deputy Commissioner

Date: 8/10/17

**RESPONDENT'S CONSENT**

RESPONDENT hereby CONSENTS to the representations made in, and to the terms of, the above Consent Order. On behalf of Respondent, the undersigned hereby affirms that he or she has taken all necessary steps to obtain the authority to bind Respondent to the obligations stated herein and does in fact have the authority to bind Respondent to the obligations stated herein.

Name: Christopher John Mullins Sr.

Signature: 

Title: CEO – Optimum Choice, Inc., MD-Individual Practice Association, Inc., MAMSI Life and Health Insurance Company, and UnitedHealthcare of the Mid-Atlantic, Inc.

Date: 8/2/17



ALFRED W. REDMER, JR  
Insurance Commissioner




By Nancy Grodin  
Deputy Commissioner

Date: 8/10/17

**RESPONDENT'S CONSENT**

RESPONDENT hereby CONSENTS to the representations made in, and to the terms of, the above Consent Order. On behalf of Respondent, the undersigned hereby affirms that he or she has taken all necessary steps to obtain the authority to bind Respondent to the obligations stated herein and does in fact have the authority to bind Respondent to the obligations stated herein.

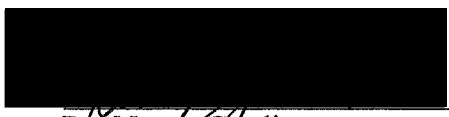
Name: Jeffrey Donald Alter

Signature: 

Title: CEO – UnitedHealthcare Insurance Company

Date: 8/1/17

ALFRED W. REDMER, JR.  
Insurance Commissioner



By: Nancy Grodin  
Deputy Commissioner

Date: 8/10/17

**RESPONDENT'S CONSENT**

RESPONDENT hereby CONSENTS to the representations made in, and to the terms of, the above Consent Order. On behalf of Respondent, the undersigned hereby affirms that he or she has taken all necessary steps to obtain the authority to bind Respondent to the obligations stated herein and does in fact have the authority to bind Respondent to the obligations stated herein.

Name: Patrick Francis Carr

Signature: *Patrick F. Carr*

Title: CEO – All Savers Insurance Company

Date: 8/2/17