BEFORE THE MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE ADMINISTRATION	*	
200 ST. PAUL PLACE, SUITE 2700	*	
BALTIMORE, MARYLAND 21202	*	**CASE NO: MIA-2023-09-017**
	*	
vs.	*	
	*	
FREEDOM LIFE INSURANCE COMPANY	*	
OF AMERICA	*	
300 BURNETT STREET, SUITE 200	*	
FT. WORTH TX 76102	*	
	*	
NAIC# 62324	*	
	*	
GOLDEN RULE INSURANCE COMPANY	*	
7440 WOODLAND DRIVE	*	
INDIANAPOLIS IN 46278-1719	*	
	*	
NAIC# 62286	*	
	*	
MAMSI LIFE AND HEALTH INSURANCE	*	
COMPANY	*	
9800 HEALTH CARE LANE, MN006-W500	*	
MINNETONKA MN 55343	*	
	*	
NAIC# 60321	*	
	*	
OPTIMUM CHOICE, INC.	*	
2020 INNOVATION COURT, WI054-1000	*	
DE PERE WI 54115	*	
	*	
NAIC# 96940	*	
	*	
UNITEDHEALTHCARE INSURANCE	*	
COMPANY	*	
185 ASYLUM AVENUE	*	
HARTFORD CT 06103	*	
	*	
NAIC# 79413	*	
	*	
UNITEDHEALTHCARE OF THE	*	
MID-ATLANTIC, INC.	*	
2020 INNOVATION COURT, WI054-1000	*	
DE PERE WI 54115	*	
	*	
NAIC# 95025	*	

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CONSENT ORDER

This Consent Order is issued by the Maryland Insurance Administration ("Administration") against FREEDOM LIFE INSURANCE COMPANY OF AMERICA ("FLICA"), GOLDEN RULE INSURANCE COMPANY ("GRIC"), MAMSI LIFE AND HEALTH INSURANCE COMPANY ("MLHIC"), OPTIMUM CHOICE, INC. ("OCI"), UNITEDHEALTHCARE INSURANCE COMPANY ("UHIC"), and UNITEDHEALTHCARE OF THE MID-ATLANTIC, INC. ("UHCMA") (collectively "UnitedHealthcare" or "Respondents"), with their consent, pursuant to the authority granted in §§ 2-108 and 2-204 of the of the Insurance Article, Md. Code Ann. (2017 Repl. Vol. & Supp.)[1] ("Insurance Article"). The Insurance Commissioner for the State of Maryland ("the Commissioner") has determined that Respondents have not complied with certain network sufficiency standards as provided in § 15-112 of the Insurance Article and Code of Maryland Regulations ("COMAR") 31.10.44.[2] UnitedHealthcare has requested a hearing regarding the above violation under § 2-210 of the Insurance Article and § 19-732 of the Health-General Article.

I. RELEVANT REGULATORY FRAMEWORK

1. Each insurer and health maintenance organization ("HMO") that uses provider panels for health benefit plans offered in the State must assure that its provider panels meet certain adequacy standards. On July 1 of each year, each insurer and HMO is required to file a report with the Administration demonstrating compliance with those standards.

[1] All statutory references herein are to the Insurance Article, Maryland Annotated Code, unless otherwise indicated.
[2] Note that the text of COMAR 31.10.44 was revised, effective May 15, 2023. The 2022 network adequacy access plans were filed and reviewed for compliance under the version of COMAR 31.10.44 that was effective prior to May 15, 2023. Unless otherwise specifically noted, all references to COMAR 31.10.44 are to the regulations that were effective prior to May 15, 2023, as the revisions are not retroactive and were not in effect at the time the 2022 network adequacy access plans were filed.

2. Section 15-112 of the Insurance Article provides, in pertinent part:

(a)(1) In this section the following words have the meanings indicated.

* * *

(5) (i) "Carrier" means:

1. an insurer;

* * *

3. a health maintenance organization

* * *

(b) (1) Subject to paragraph (3) of this subsection, a carrier that uses a provider panel shall:

(i) if the carrier is an insurer, nonprofit health service plan, health maintenance organization, or dental plan organization, maintain standards in accordance with regulations adopted by the Commissioner for availability of health care providers to meet the health care needs of enrollees;

* * *

(c) (1) This subsection applies to a carrier that:

(i) is an insurer, a nonprofit health service plan, or a health maintenance organization; and
(ii) uses a provider panel for a health benefit plan offered by the carrier.

(2) (i) On or before July 1, 2018, and annually thereafter, a carrier shall file with the Commissioner for review by the Commissioner an access plan that meets the requirements of subsection (b) of this section and any regulations adopted by the Commissioner under subsections (b) and (d) of this section.

3. The regulations referenced in § 15-112(c)(2)(i) of the Insurance Article are set forth in COMAR 31.10.44.

4. The network adequacy standards are set forth in COMAR 31.10.44.04 -.06 and consist of travel distance standards (COMAR 31.10.44.04), appointment waiting time

standards (COMAR 31.10.44.05), and provider-to-enrollee ratio standards (COMAR 31.10.44.06) (collectively, the "Standards").

5. The access plan content and filing requirements are set forth in COMAR 31.10.44.03, which provides, in pertinent part:

> .03 Filing of Access Plan.
>
> C. Each annual access plan filed with the Commissioner shall include:
>
> (1) An executive summary in the form set forth in Regulation .09 of this chapter;
>
> (2) The information and process required by Insurance Article, §15-112(c)(4), Annotated Code of Maryland, and the methods used by the carrier to comply with the monitoring requirement under §15-112(c)(5);
>
> (3) Documentation justifying to the Commissioner how the access plan meets each network sufficiency standard set forth in Regulations .04—.06 of this chapter; and
>
> (4) A list of all changes made to the access plan filed the previous year.

6. COMAR 31.10.44.07 allows a carrier to apply for a temporary waiver from compliance with one or more of the Standards provided that certain criteria are met.

7. The criteria that must be met in order to qualify for a waiver of a Standard are set forth in COMAR 31.10.44.07, which states, in pertinent part:

> .07 Waiver Request Standards
>
> A. A carrier may apply for a network adequacy waiver, for up to 1 year, of a network adequacy requirement listed in this chapter.
>
> B. The Commissioner may find good cause to grant the network adequacy waiver request if the carrier demonstrates that the physicians, other providers, or health care facilities necessary for an adequate network:

(1) Are not available to contract with the carrier;

(2) Are not available in sufficient numbers;

(3) Have refused to contract with the carrier; or

(4) Are unable to reach agreement with the carrier.

C. A carrier seeking a network adequacy waiver shall submit a written request to the Commissioner that includes the following information:

* * *

(2) A list of physicians, other providers, or health care facilities within the relevant service area that the carrier attempted to contract with, identified by name and specialty, if any, or health care facility type;

(3) A description of how and when the carrier last contacted the physicians, other providers, or health care facilities;

(4) A description of any reason each physician, other provider, or health care facility gave for refusing to contract with the carrier;

(5) Steps the carrier will take to attempt to improve its network to avoid future network adequacy waiver requests.

II. FINDINGS

8. FLICA, GRIC, MLHIC, and UHIC each currently hold a Certificate of Authority from the State of Maryland to act as an insurer. OCI and UHCMA each currently hold a Certificate of Authority from the State of Maryland to act as a health maintenance organization. As such, each is subject to § 15-112 of the Insurance Article and the network adequacy standards set forth in COMAR 31.10.44.04 - .06. In addition, each is required to file a network adequacy plan in accordance with COMAR 31.10.44.03.

9. UnitedHealthcare uses six provider panels for health benefit plans offered in the State: the Choice/Choice Plus network, the Core network, the Navigate network, the Options network, the OCI network, and the OCI IEX network.

10. On May 12, 2022, the Commissioner issued Bulletin 22-05, reminding carriers of the due date and specifying the submission method for the 2022 access plan filings required by § 15-112 of the Insurance Article.

11. UnitedHealthcare submitted Network Adequacy Plans through each corporate entity on July 1, 2022, and submitted supplemental material for each Plan from March 2023 through June 2023.

12. UnitedHealthcare timely submitted a request for temporary waiver from compliance with the travel distance standards for the MLHIC, OCI, OCI IEX, UHIC Choice/ChoicePlus, UHCMA Core, UHCMA Choice/ChoicePlus, and UHCMA Navigate 2022 Access Plans; on February 8, 2023, a waiver from compliance with the travel distance standards was submitted for the GRIC 2022 Access Plan; and on May 10, 2023, a temporary waiver from compliance with the travel distance standards was submitted for the FLICA 2022 Access Plan (the "Travel Distance Waiver Request"). The provider and facility types for which the waivers were requested are listed in the chart in paragraph 18. The Travel Distance Waiver Request was supplemented by UnitedHealthcare March 2023 through June 2023.

13. The Travel Distance Waiver Request did not include a request for a temporary waiver from compliance with the travel distance standard for Skilled Nursing Facilities and Other Behavioral Health/Substance Abuse Facilities for the OCI IEX 2022 Access Plan nor for Applied Behavioral Analyst providers and Other Behavioral Health/Substance Abuse Facilities for the GRIC 2022 Access Plan.

14. **Chart of Travel Distance Waiver Requests**

	Provider Types	Facility Types
MHLIC	Allergy and Immunology; Applied Behavioral Analyst; Gynecology, OB/GYN; and Pediatrics-Routine/Primary Care	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; and Other Behavioral Health/Substance Abuse Facilities
OCI	Allergy and Immunology; Applied Behavioral Analyst; Gynecology, OB/GYN; and Pediatrics-Routine/Primary Care; and Rheumatology	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; Skilled Nursing Facilities; and Other Behavioral Health/Substance Abuse Facilities
OCI IEX	Applied Behavioral Analyst; ENT/Otolaryngology; Gynecology, OB/GYN; Pediatrics-Routine/Primary Care; and Urology	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; and Outpatient Infusion/Chemotherapy
UHIC Choice/Choice Plus	Allergy and Immunology; Applied Behavioral Analyst; Gynecology, OB/GYN; and Pediatrics-Routine/Primary Care	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; and Other Behavioral Health/Substance Abuse Facilities
UHCMA Core	Allergy and Immunology; Applied Behavioral Analyst; ENT/Otolaryngology; Gynecology, OB/GYN; and Pediatrics-Routine/Primary Care	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; and Other Behavioral Health/Substance Abuse Facilities
UHCMA Choice/Choice Plus	Gynecology, OB/GYN	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; and Other Behavioral Health/Substance Abuse Facilities
UHCMA Navigate	Applied Behavioral Analyst; Gynecology, OB/GYN; Pediatrics-Routine/Primary Care; and Urology	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; Outpatient Infusion/Chemotherapy; and Other Behavioral Health/Substance Abuse Facilities
GRIC	Allergy and Immunology; Gynecology, OB/GYN; and Pediatrics-Routine/Primary Care	Acute Inpatient Hospitals; Critical Care Services/Intensive Care Units; Inpatient Psychiatric Facility; and Outpatient Infusion/Chemotherapy.
FLICA	Pediatrics-Routine Primary Care	

15. In March and June 2023, UnitedHealthcare requested a temporary waiver from compliance with the appointment waiting time standards for non-urgent behavioral

health/substance use disorder services for the FLICA, MLHIC, OCI, OCI IEX, UHIC Choice/ChoicePlus, UHIC Options, UHCMA Core, UHCMA Choice/ChoicePlus, and UHCMA Navigate 2022 Access Plans; and for the GRIC and UHIC Navigate 2022 Access Plans (the "Waiting Time Waiver Request"). The Waiting Time Waiver Request was supplemented by UnitedHealthcare from March through June 2023.

A. <u>Travel Distance Standards</u>

16. The data submitted by UnitedHealthcare in connection with the FLICA, GRIC, MLHIC, OCI, OCI IEX, UHIC Choice/ChoicePlus, UHCMA Core, UHCMA Choice/ChoicePlus, and UHCMA Navigate 2022 Access Plans did not adequately demonstrate compliance with certain Travel Distance Standards. The data submitted in connection with the UHIC Options and the UHIC Navigate 2022 Access Plans demonstrated compliance with all Travel Distance Standards.

17. COMAR 31.10.44.04 provides, in pertinent part:

> .04 Travel Distance Standards
>
> A. Sufficiency Standards.
>
> (1) Except as stated in §B of this regulation, each provider panel of a carrier shall have within the geographic area served by the carrier's network or networks, sufficient primary care physicians, specialty providers, behavioral health and substance use disorder providers, hospitals, and health care facilities to meet the maximum travel distance standards listed in the chart in §A(5) of this regulation for each type of geographic area. The distances listed in §A(5) of this regulation shall be measured from the enrollee's place of residence.
>
> (2) When an enrollee elects to utilize a gynecologist, pediatrician, or certified registered nurse practitioner for primary care, a carrier may consider that utilization as a part of its

meeting the primary care provider standards listed in §A(5) of this regulation.

* * *

(5) Chart of Travel Distance Standards.

	Urban Area Maximum Distance (miles)	Suburban Area Maximum Distance (miles)	Rural Area Maximum Distance (miles)
Provider Type:			
Allergy and Immunology	15	30	75
Applied Behavioral Analyst	15	30	60

* * *

ENT/ Otolaryngology	15	30	75

* * *

Gynecology, OB/GYN	5	10	30

* * *

Pediatrics-Routine/Primary Care	5	10	30

* * *

Rheumatology	15	40	90
Urology	10	30	60

* * *

Facility Type:

Acute Inpatient Hospitals	10	30	60
Critical Care Services-Intensive Care Units	10	30	100

* * *

Inpatient Psychiatric Facility	15	45	75

* * *

Outpatient Infusion/ Chemotherapy	10	30	60

* * *

Skilled Nursing Facilities	10	30	60

* * *

Other Behavioral Health/Substance Abuse Facilities	10	25	60

18. The data self-reported by UnitedHealthcare disclosed the following deficiencies for the Choice/Choice Plus network based on distance of a provider to an enrollee's address:

Provider/Facility	FLICA	GRIC	MLHIC	UHCMA Choice/ ChoicePlus	UHIC Choice/ ChoicePlus	Total Enrollees Impacted
Allergy & Immunology Compliance %; Deficiency Area: Zip Code(s)	N/A	99.5% Suburban: 21842	98.6% Suburban: 21842	N/A	99.8% Suburban: 21842	

Provider/Facility	FLICA	GRIC	MLHIC	UHCMA Choice/ ChoicePlus	UHIC Choice/ ChoicePlus	Total Enrollees Impacted
Enrollees outside of standard	**0**	**14**	**38**	**0**	**35**	**87**
Applied Behavioral Analyst Compliance %; Deficiency Area: Zip Code(s)	N/A	99.4% Suburban: 21842	98.2% Suburban: 21842	N/A	99.7% Suburban: 21842	
Enrollees outside of standard	**0**	**17**	**45**	**0**	**41**	**103**
Gynecology, OB/GYN Compliance %; Deficiency Area: Zip Code(s)	N/A	99.9% Urban: 21403 99.9% Suburban: 20732	99.9% Urban: 21403 99.9% Suburban: 20732 21842 21913	99.9% Suburban: 20732	99.9% Urban: 21403 99.9% Suburban: 20625 20732 21842 21913	
Enrollees outside of standard	**0**	**3**	**5**	**1**	**27**	**36**
Pediatrics - Routine / Primary Care Compliance %; Deficiency Area: Zip Code(s)	92.9% Suburban: 21913	99.9% Urban: 21403 99.9% Suburban: 21842	99.9% Urban: 21403 99.8% Suburban: 21842 21913	N/A	99.8% Urban: 21403 99.9% Suburban: 20625 21842 21913	
Enrollees outside of standard	**1**	**5**	**9**		**39**	**54**
Acute Inpatient Hospitals Compliance %; Deficiency Area: Zip Code(s)	N/A	99.8% Urban: 21040 21114	99.8% Urban: 21040 21114	99.9% Urban: 21114	99.8% Urban: 21040 21114	
Enrollees outside of standard	**0**	**4**	**4**	**1**	**23**	**32**

Provider/Facility	FLICA	GRIC	MLHIC	UHCMA Choice/ ChoicePlus	UHIC Choice/ ChoicePlus	Total Enrollees Impacted
Critical Care Services / Intensive Care Units Compliance %; Deficiency Area: Zip Code(s)	N/A	99.8% Urban: 21040 21114	99.8% Urban: 21040 21114	99.9% Urban: 21114	99.8% Urban: 21040 21114	
Enrollees outside of standard	**0**	**4**	**4**	**1**	**23**	**32**
Inpatient Psychiatric Facility Compliance %; Deficiency Area: Zip Code(s)	N/A	99.8% Urban: 21040	99.7% Urban: 21040	99.9% Urban: 21040	99.8% Urban: 21040	
Enrollees outside of standard	**0**	**5**	**6**	**1**	**24**	**36**
Outpatient Infusion / Chemotherapy Compliance %; Deficiency Area: Zip Code(s)	N/A	99.8% Urban: 21040 21114	99.8% Urban: 21040 21114	99.9% Urban: 21114	99.8% Urban: 21040 21114	
Enrollees outside of standard	**0**	**4**	**4**	**1**	**23**	**32**
Other Behavioral Health / Substance Abuse Facilities Compliance %; Deficiency Area: Zip Code(s)	N/A	99.4% Urban: 20904 21040	99.3% Urban: 20904 21040	99.4% Urban: 20904 21040	99.6% Urban: 20904 21040	
Enrollees outside of standard	**0**	**15**	**14**	**4**	**67**	**100**

19. The data self-reported by UnitedHealthcare disclosed the following deficiencies for the OCI, OCI IEX, Core, and Navigate networks based on distance of a provider to an enrollee's address:

Provider/Facility	OCI	OCI IEX	UHCMA Core	UHCMA Navigate	Enrollees Impacted
Allergy & Immunology Compliance %; Deficiency Area: Zip Code(s)	99.6% Suburban: 21842	N/A	99.9% Suburban 21842	N/A	
Enrollees outside of standard	**23**	**0**	**4**	**0**	**27**
Applied Behavioral Analyst Compliance %; Deficiency Area: Zip Code(s)	99.4% Suburban: 21842	98.9% Suburban: 20625 20634 20688 21842	99.1% Suburban: 21842	99.7% Suburban: 21842	
Enrollees outside of standard	**26**	**49**	**6**	**1**	**82**
ENT / Otolaryngology Compliance %; Deficiency Area: Zip Code(s)	N/A	99% Suburban: 21842	99.9% Suburban: 21842	NA	
Enrollees outside of standard	**0**	**50**	**1**	**0**	**51**
Gynecology, OB/GYN Compliance %; Deficiency Area: Zip Code(s)	99.7% Urban: 21403 98.9% Suburban: 20732 21716 21842 21913	99.8% Urban: 21133 21403 98% Suburban: 20625 20714 20732 20765 21716 21842	99.9% Suburban: 20732	99.7% Suburban: 20732	
Enrollees outside of standard	**71**	**113**	**1**	**1**	**186**

Provider/Facility	OCI	OCI IEX	UHCMA Core	UHCMA Navigate	Enrollees Impacted
Pediatrics - Routine / Primary Care Compliance %; Deficiency Area: Zip Code(s)	99.8% Urban: 21403 99% Suburban: 21716 21842 21913	99.9% Urban: 21403 99.1% Suburban: 20625 21716 21842	99.9% Suburban: 20732	99.7% Suburban: 20732	
Enrollees outside of standard	**67**	**55**	**1**	**1**	**124**
Rheumatology Compliance %; Deficiency Area: Zip Code(s)	97.4% Rural: 21520 21531 21541 21550	N/A	N/A	N/A	
Enrollees outside of standard	**224**	**0**	**0**	**0**	**224**
Urology Compliance %; Deficiency Area: Zip Code(s)	N/A	96.5% Urban: 21040 21044 21045 21061	N/A	99.9% Urban: 21040 21061	
Enrollees outside of standard	**0**	**208**	**0**	**12**	**220**
Acute Inpatient Hospitals Compliance %; Deficiency Area: Zip Code(s)	99.7% Urban: 21040 21114	98.7% Urban: 20814 21040 21044 21114	98.9% Urban: 21040 21114	98.2% Urban: 21040 21114	
Enrollees outside of standard	**13**	**76**	**7**	**7**	**103**

Provider/Facility	OCI	OCI IEX	UHCMA Core	UHCMA Navigate	Enrollees Impacted
Critical Care Services / Intensive Care Units Compliance %; Deficiency Area: Zip Code(s)	99.7% Urban: 21040 21114	98.7% Urban: 20814 21040 21044 21114	98.9% Urban: 21040 21114	98.2% Urban: 21040 21114	
Enrollees outside of standard	**13**	**76**	**7**	**7**	**103**
Inpatient Psychiatric Facility Compliance %; Deficiency Area: Zip Code(s)	99.8% Urban: 21040	97.7% Urban: 21040 21114 21403	99.7% Urban: 21040	99.5% Urban: 21040	
Enrollees outside of standard	**10**	**141**	**2**	**2**	**155**
Outpatient Infusion / Chemotherapy Compliance %; Deficiency Area: Zip Code(s)	99.7% Urban: 21040 21114	98.7% Urban: 20814 21040 21044 21114	98.9% Urban: 21040 21114	98.2% Urban: 21040 21114	
Enrollees outside of standard	**13**	**76**	**7**	**7**	**103**
Skilled Nursing Facilities Compliance %; Deficiency Area: Zip Code(s)	99.9% Suburban: 21842	98.2% Urban: 21040 21044 99.9% Suburban: 21842	N/A	N/A	
Enrollees outside of standard	**5**	**111**	**0**	**0**	**116**

Provider/Facility	OCI	OCI IEX	UHCMA Core	UHCMA Navigate	Enrollees Impacted
Other Behavioral Health / Substance Abuse Facilities Compliance %; Deficiency Area: Zip Code(s)	99.5% Urban: 20904 21040	99.4% Urban: 20904 21040	99.7% Urban: 20904 21040	99.5% Urban: 20904 21040	
Enrollees outside of standard	**25**	**34**	**2**	**2**	**63**

B. The Travel Distance Waiver Request

20. The Administration has not found good cause to grant the Travel Distance Waiver Request because it did not demonstrate that the providers necessary for an adequate network were not available to contract with UnitedHealthcare, were not available in sufficient numbers, refused to contract with UnitedHealthcare, or were unable to reach an agreement with UnitedHealthcare.

21. Although the Travel Distance Waiver Request included information to contend that the conditions described in COMAR 31.10.44.07B were applicable, there were notable discrepancies contained in the various supporting documents for the waiver requests. Paragraph 32 of Case No. MIA-2023-03-010, Maryland Insurance Administration v. Optimum Choice, Inc., regarding the OCI IEX 2021 Access Plan stated that there were "certain inconsistencies and gaps in the information provided, despite attempts by the Administration to verify and obtain more complete and accurate data from OCI." In the UnitedHealthcare 2022 access plans, despite repeated attempts by the Administration to verify and obtain more complete and accurate data[3], the Administration

[3] See the Administration's June 6, 2023 objection letters.

found similar inconsistencies and gaps in the information provided by United Healthcare to support the Travel Distance Waiver requests. All of the Travel Distance Waiver Requests that were submitted included unexplained inconsistencies or other defects. The Administration is providing examples of the most common types of defects, however, this is not an exhaustive list.

22. The waiver requests for a given provider/facility type list the closest provider from the "furthest point" in a given zip code. When specifically asked by the Administration to define "furthest point," UnitedHealthcare responded in multiple letters that "the 'furthest point' references the enrollee residence furthest away from the listed provider."[4] UnitedHealthcare reported, without explanation, identical distances to the closest provider from the "furthest point" in a given zip code for a given provider/facility type across all 2022 access plans, even though each access plan is applicable to different enrollees residing at different addresses which would logically lead to reporting varying distances in the plans. Additionally, the stated mileage in the waiver requests is not consistent with the mileage reports submitted separately as part of the travel distance supporting documentation. For instance, the waiver requests submitted with the MLHIC, UHIC Choice/ChoicePlus, OCI, UHCMA Choice/Choice Plus, UHCMA Core, and UHCMA Navigate 2022 Access Plans for "Other Behavioral Health Facilities" in zip code 21040 all state that the nearest available Other Behavioral Health Facility is 17.7 miles from the furthest point in zip code 21040.[5] The statements are not supported by any of the submitted mileage reports, which differ from the distance stated in the waiver request by an average of 7.1 miles.

[4] See GRIC's May 17, 2023 response and MLHIC's May 10, 2023 response.
[5] The applicable regulatory standard for this facility type in urban geographic areas is 10 miles. See COMAR 31.10.44.04A(5).

23. The waiver requests for the following provider/facility types are incomplete as they fail to list at least two resources used to identify prospective providers along with the dates when the sources were last checked (Item 2.e. on the Waiver Request Optional Template[6]):

a) Pediatrics-Routine/Primary Care in zip code 21842 for the GRIC and UHIC Choice/ChoicePlus 2022 Access Plans;

b) Pediatrics-Routine/Primary Care in zip code 20732 for the UHCMA Core and UHCMA Navigate 2022 Access Plans;

c) Rheumatology in zip codes 21520, 21531, 21541, and 21550 for the OCI 2022 Access Plan; and

d) Urology in zip code 21040 for the UHCMA Navigate 2022 Access Plan.

24. The following waiver requests include contradictory statements. The requests state that the company is actively pursuing contracting opportunities or in negotiations with providers (Item 1.f. on the Waiver Request Optional Template), followed by the response "n/a" when asked to describe how and when the carrier last contacted the physicians, other providers, or health care facilities (Item 2.c. on the Waiver Request Optional Template):

a) Applied Behavioral Analyst providers in zip code 21842 for the MLHIC, UHIC Choice/ChoicePlus, and OCI 2022 Access Plans; and

b) Urology in zip code 21061 for the UHCMA Navigate 2022 Access Plan.

[6] UnitedHealthcare elected to submit information to support its waiver request on the optional template form the Administration created for this purpose. Although the template form itself is optional, the substance of the information requested on the form is required in order for the Administration to make a determination on a waiver request.

25. The following waiver requests were submitted on behalf of one corporate entity, but the contents of the request include the name of a different entity:

a) The waiver request in the UHCMA Choice/Choice Plus 2022 Access Plan for Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, and Outpatient Infusion/Chemotherapy in zip code 21114 refers to MAMSI Life and Health Insurance Company throughout the contents of the request; and

b) The waiver request in the OCI 2022 Access Plan for Applied Behavioral Analyst providers in zip code 21842 refers to UnitedHealthcare Insurance Company (OCI Exchange) in Item 2.g. on the Waiver Request Optional Template.

26. The waiver requests for the following contradict the Executive Summary:

a) The waiver request for Allergy and Immunology providers and the mileage report submitted for the UHCMA Core 2022 Access Plan list 4 enrollees outside the travel distance standard in suburban zip code 21842. The Executive Summary indicates that 100% of enrollees met the distance standard for Allergy and Immunology providers in suburban areas; and

b) The waiver request for Urology providers and the mileage report submitted for the UHCMA Navigate 2022 Access plan list 12 enrollees outside the travel distance standard in urban zip codes 21040 and 21061. The Executive Summary indicates that 100% of enrollees met the distance standard for Urology providers in urban areas.

27. The waiver request for Urology providers in zip code 21040 submitted for the UHCMA Navigate 2022 Access plan indicates negotiations with a Urology provider

were finalized and the travel distance deficiencies have been resolved, however updated supporting documentation lists enrollees outside the distance standard.

28. The waiver requests for the following provider/facility types report that there are no other available providers or facilities in the zip codes, however maps and mileage reports submitted for the 2022 access plans of other UnitedHealthcare corporate entities show additional contracted providers and fewer or no travel distance deficiencies in the same zip codes for the provider or facility type:

a) Applied Behavioral Analyst providers in zip codes 20625, 20634, and 20688 for the OCI IEX 2022 Access Plan;

b) Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, and Outpatient Infusion/Chemotherapy in zip codes 20814, 21040, and 21044 for the OCI IEX 2022 Access Plan; and

c) Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, and Outpatient Infusion / Chemotherapy in zip codes 21040 and 21114 for the UHCMA Navigate and UHCMA Core 2022 Access Plans.

C. Appointment Waiting Time Standards

29. The data submitted by UnitedHealthcare in connection with each of the 2022 access plans was identical and did not adequately demonstrate compliance with certain Appointment Waiting Time Standards.

30. COMAR 31.10.44.05 states, in pertinent part:

.05 Appointment Waiting Time Standards

A. Sufficiency Standards.

(1) Subject to the exceptions in §B of this regulation, each carrier's provider panel shall meet the waiting time standards listed in §C of this regulation for at least 95 percent of the enrollees covered under health benefit plans that use that provider panel.

(2) When it is clinically appropriate and an enrollee elects to utilize a telehealth appointment, a carrier may consider that utilization as a part of its meeting the standards listed in §C of this regulation.

* * *

C. Chart of Waiting Time Standards

Waiting Time Standards	
Urgent care (including medical, behavioral health, and substance use disorder services)	72 hours
Routine Primary Care	15 Calendar Days
Preventive Visit/Well Visit	30 Calendar Days
Non-Urgent Specialty Care	30 Calendar Days
Non-urgent behavioral health/substance use disorder services	10 Calendar Days

31. The data self-reported by UnitedHealthcare in each of the 2022 access plans disclosed that the required standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 90.1% of enrollees, representing a deficiency of 4.9 percentage points.

32. UnitedHealthcare reported meeting the required standard of 72 hours for urgent care for 100% of enrollees based on the availability and a survey of urgent care centers.

33. The Administration acknowledges that it is reasonable to utilize the provision of medical services in urgent care centers to meet the required standard for urgent care. However, carriers utilizing data from urgent care centers are expected to demonstrate that each service type in COMAR 31.10.44.02B(26) is appropriately represented in the appointment waiting time calculation, including in-network behavioral health/substance use disorder service providers and specialty medical providers—substantiated with supporting documentation such as claims data.

34. UnitedHealthcare did not provide sufficient justification and documentation to demonstrate that the urgent care appointment waiting time standard was met, particularly for enrollees seeking specialty or behavioral health/substance use disorder services.

35. In its March 15, 2023 responses to the Administration's request for evidence to support UnitedHealthcare's assertion that urgent care centers were providing behavioral health/substance use disorder services, UnitedHealthcare submitted claims data demonstrating that less than 1% of behavioral health/substance use disorder claims were submitted by urgent care centers. Furthermore, UnitedHealthcare did not establish that such centers are staffed with behavioral health/substance use disorder providers.

36. UnitedHealthcare did not demonstrate that the 72-hour urgent care waiting time standard was met in any brick-and-mortar provider survey, except that which was specific to urgent care centers.

37. The Administration finds that UnitedHealthcare has not provided sufficient documentation justifying how the access plan meets the 72-hour waiting time standard for urgent care (including medical, behavioral health, and substance use disorder services), as required by COMAR 31.10.44.03C(3).

D. The Waiting Time Waiver Request

38. The Administration has not found good cause to grant the Waiting Time Waiver Request because it did not sufficiently demonstrate that the providers necessary for an adequate network were not available to contract with UnitedHealthcare, were not available in sufficient numbers, refused to contract with UnitedHealthcare, or were unable to reach an agreement with UnitedHealthcare.

39. The Waiting Time Waiver Request stated that extended waiting times for in-office non-urgent behavioral health/substance use disorder care were due to the rise in the Delta and Omicron Covid-19 variants and that network providers began relying more on telehealth. UnitedHealthcare described efforts to expand its national contracts and telehealth provider networks, and stated that it would monitor claims data and single case agreements to determine new recruitment possibilities. However, the waiver request did not describe efforts to determine capacity once Covid-19 cases decreased nor did it describe efforts during the access plan filing year to consult out-of-network claims data for possible Maryland-based recruitment targets.

40. The Waiting Time Waiver Request provided minimal details as to where and how often UnitedHealthcare searched for providers who could offer in-person or hybrid in-person/telehealth visits and simply stated: “As we have received no specific complaints related to wait time and our network is adequate given the number of enrollees, no specific outreach was made. However, additional providers have been contracted in this specific geography over the last year and we fully expect to resolve any wait time concerns.”

41. In multiple letters between May 2, 2023 and May 15, 2023, UnitedHealthcare responded to the Administration’s questions regarding its ability to

monitor its contracted national telehealth provider networks specifically for behavioral health/substance use disorder service appointment waiting times and average visit duration and stated that it was not clear whether it was able to do so or whether the information would be accurate.

III. CONCLUSIONS OF LAW

42. The Commissioner finds that UnitedHealthcare, through the actions of FLICA, GRIC, MLHIC, OCI, UHIC, and UHCMA, violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by submitting access plans that did not sufficiently comply with the required travel distance and appointment waiting time standards.

ORDER

WHEREFORE, for the reasons set forth above, it is this 27 day of November, **ORDERED:**

a) That, pursuant to § 4-113 of the Insurance Article and § 19-730 of the Health-General Article, Respondent will pay an administrative penalty of $120,000 for the submission of access plans that do not comply with the required travel distance and appointment waiting time standards, which the Administration determined to not sufficiently comply with the provisions of § 15-112 and COMAR 31.10.44.03C.

b) The executed Consent Order shall be sent to the attention of: David Cooney, Associate Commissioner, Life & Health, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

c) All administrative penalties should be made payable to the Maryland Insurance Administration and sent to the attention of Hearings Clerk, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202-2272. Please include the MIA Order number on all correspondence to the Administration.

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 Respondent made under the Maryland Public Information Act, or properly made by governmental agencies, this Consent 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 Consent Order.

e) The parties acknowledge that this Consent 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 Consent 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 Respondent to contest other proceedings by the Administration. This Consent 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 Respondent including the conduct that is the subject of this Consent Order.

f) Respondent has had the opportunity to have this Consent Order reviewed by legal counsel of its choosing, and is aware of the benefits gained and obligations incurred by the execution of the Consent Order. Respondent waives any and all rights to any hearing or judicial review of this Consent Order to which it would otherwise be entitled

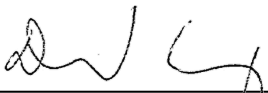
under the Insurance Article with respect to any of the determinations made or actions ordered by this Consent Order.

g) This Consent Order contains the entire agreement between the parties relating to the administrative actions addressed herein. This Consent Order supersedes any and all earlier agreements or negotiations, whether oral or written, including the Order issued on September 28, 2023, numbered MIA-2023-09-017. All time frames set forth in this Consent Order may be amended or modified only by subsequent written agreement of the parties.

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

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

Kathleen A. Birrane
INSURANCE COMMISSIONER



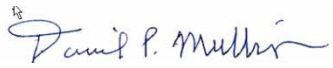
By: David Cooney
Associate Commissioner, Life & Health

Date: 11/22/23

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 resolving MIA case number MIA-2023-09-017.

Name: Daniel P. Mulligan

Signature: 

Title: Bus Segment Gen Counsel, UHC Core Services LCRA

Date: 11/21/2023