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January 9, 2023

Ms. Christina Stecki
MHA National Regulatory Affairs
UnitedHealthcare Employer & Individual
5701 Katella Ave, Mailstop CA120-0353
Cypress, California 90630

Re: UnitedHealthcare of the Mid-Atlantic, Inc. ("UHCMA")
2021 Network Adequacy UHCMA Choice/Choice Plus Access Plan
2021 Network Adequacy UHCMA Core Access Plan
2021 Network Adequacy UHCMA Navigate Access Plan

Dear Ms. Stecki:

The Maryland Insurance Administration ("Administration") has completed its review of the UnitedHealthcare of the Mid-Atlantic, Inc. 2021 Network Adequacy Access Plans (the "UHCMA Choice/Choice Plus 2021 Access Plan," the "UHCMA Core 2021 Access Plan," and the "UHCMA Navigate 2021 Access Plan,") filed on July 1, 2021, supplemented with additional information and documentation on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

In 2021, UHCMA reported that they used three provider panels for health benefit plans in Maryland, the Choice/Choice Plus network, the Navigate network, and the Core network. Distinct access plans and executive summary plan forms were filed for each of these networks. This determination letter includes the Administration's findings for each of these networks.

UHCMA Choice/Choice Plus 2021 Access Plan

The access standards in COMAR 31.10.44 were not met by the UHCMA Choice/Choice Plus 2021 Access Plan for the following, based on the data self-reported by UHCMA. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. In suburban areas, applied behavioral analyst providers must be within 30 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.7% of suburban enrollees, leaving 1 member outside the travel distance standard in zip code 20625.
2. In urban areas, gynecology, OB/GYN providers must be within 5 miles of enrollee residence. Gynecology, OB/GYN providers met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard in zip code 21403.
3. In urban areas, inpatient psychiatric facilities must be within 15 miles of enrollee residence. Inpatient psychiatric facilities met the standard for 98.8% of urban enrollees, leaving 9 members outside the travel distance standard in two zip codes:

Urban zip codes:

- a. Zip code 21403 has 8 members outside the standard.
 - b. Zip code 21040 has 1 member outside the standard.
4. In urban areas, other behavioral health/substance abuse facilities must be within 10 miles of enrollee residence. Other behavioral health/substance abuse facilities met the standard for 99.6% of urban enrollees, leaving 3 members outside the travel distance standard in zip code 20745.

Travel Distance Waiver Requests

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. The Administration “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.”

The Administration has considered UHCMA’s requests for waivers for the travel distance standard for Applied Behavioral Analyst, Gynecology OB/GYN, Inpatient Psychiatric Facility, and Other Behavioral Health / Substance Abuse Facilities. The waiver requests were made on July 1, 2021 with additional information to support this request filed on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022.

The UHCMA Choice/Choice Plus 2021 Access Plan contains insufficient substantiation to justify granting a waiver for the travel distance standard for Inpatient Psychiatric Facilities in zip code 21403 and Other Behavioral Health/Substance Abuse Facilities in zip code 20745 based on the following:

- Contradictory statements within the waiver request for inpatient psychiatric facility in zip code 21403 which reported that there were no providers available to contract within 15 miles of the 8 enrollees outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap as of March 1, 2022 (Section IV of the same document). Supplementary information submitted by UHCMA on August 11, 2022 in response to the Administration's questions regarding waivers did not demonstrate that the gap was closed.
- Contradictory statements within the waiver request for BH/All Other Facilities¹ in zip code 20745 which reported that there were no providers available to contract within 10 miles of the 3 enrollees outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap (Section IV).

The Administration has found good cause to grant the travel distance waiver requests for 1 year for the following provider types: Applied Behavioral Analyst and Gynecology OB/GYN; and for the facility type: Inpatient Psychiatric Facility in zip code 21040 because additional providers and facilities are not available, as evidenced by the following information which was presented by UHCMA:

- Efforts to locate any additional providers and provider types within the required travel distance standards in specific zip codes using both internal reporting, such as claims data and demographics, and external resources, including state-issued provider listings.
- A declaration by UHCMA that it is contracted with the nearest available applied behavioral analyst for the 1 enrollee residing outside of the regulatory standard of 30 miles in zip code 20625, who is located 33.3 miles from the furthest point in zip code 20625.
- A declaration by UHCMA that it is contracted with the nearest available gynecology OB/GYN provider for the 1 urban enrollee residing outside of the regulatory standard of 5 miles in zip code 21403, who is located 7.5 miles from the furthest point in the zip code 21403.
- A declaration by UHCMA that it is contracted with the nearest available inpatient psychiatric facility for the 1 urban enrollee residing outside of the regulatory standard of 15 miles in zip code 21040, which is located 17.2 miles from the furthest point in zip code 21040.

¹ The title of the waiver request is not accurate and should instead read: "Other Behavioral Health/Substance Abuse Facilities" (COMAR 31.10.44.04A(5)). There is no category in the Chart of Travel Distance Standards entitled "Behavioral Health/All Other Facilities."

While the waiver requests for the travel distance standards for Inpatient Psychiatric Facilities in zip code 21403, and for Other Behavioral Health / Substance Abuse Facilities in zip code 20745 are denied, the Administration has determined in its enforcement discretion and having considered the minimal number of enrollees impacted by the violation and potential resolutions that may apparently be available, a penalty will not be imposed for these deficiencies under the UHCMA Choice/Choice Plus 2021 Access Plan. In future filing years, the Administration expects each waiver request to:

- correctly list the name of the provider or facility type;
- clearly and unambiguously report on the availability of the provider or facility type in the geographic area for which the waiver is requested; and
- provide sufficient detail of the carrier's recent efforts to address the deficiency as described in COMAR 31.10.44.07C (1) – (7).

Appointment Waiting Time Standards

The data self-reported by UHCMA indicates that the required standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 94.66% of enrollees, representing a deficiency of .34 percentage points. UHCMA stated in the 2021 access plan that the Covid-19 pandemic negatively impacted wait time metrics. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that UHCMA provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if UHCMA intends to combine telehealth claims with provider survey results when measuring appointment waiting time in future access plan filings, UHCMA will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

UHCMA Core 2021 Access Plan

The access standards in COMAR 31.10.44 were not met by UHCMA Core 2021 Access Plan for the following, based on the data self-reported by UHCMA. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. In suburban areas, applied behavioral analysts must be within 30 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.8% of suburban enrollees, leaving 2 members outside the travel distance standard in zip code 20634.

2. In urban areas, urology providers must be within 10 miles of enrollee residence. Urology providers met the required standard for 98.6% of urban enrollees, leaving 11 members outside the travel distance standard in zip code 21040.
3. In urban areas, acute inpatient hospitals must be within 10 miles of enrollee residence. Acute inpatient hospitals met the required standard for 96.1% of urban enrollees, leaving 31 members outside the travel distance standard in three zip codes:

Urban zip codes:

- a. Zip code 21061 has 17 members outside the standard.
 - b. Zip code 21114 has 3 members outside the standard.
 - c. Zip code 21040 has 11 members outside the standard.
4. In urban areas, critical care services / intensive care units must be within 10 miles of enrollee residence. Critical care services / intensive care units met the required standard for 96.1% of urban enrollees, leaving 31 members outside the travel distance standard in three zip codes:

Urban zip codes:

- a. Zip code 21061 has 17 members outside the standard.
 - b. Zip code 21114 has 3 members outside the standard.
 - c. Zip code 21040 has 11 members outside the standard.
5. In urban areas, inpatient psychiatric hospitals must be within 15 miles of enrollee residence. Inpatient psychiatric hospitals met the required standard for 97.9% of urban enrollees, leaving 16 members outside the travel distance standard in three zip codes:

Urban zip codes:

- a. Zip code 21402 has 1 member outside the standard.
 - b. Zip code 21403 has 12 members outside the standard.
 - c. Zip code 21040 has 3 members outside the standard.
6. In urban areas, outpatient infusion / chemotherapy facilities must be within 10 miles of enrollee residence. Outpatient infusion / chemotherapy facilities met the required standard for 96.1% of urban enrollees, leaving 31 members outside the travel distance standard in three zip codes:

Urban zip codes:

- a. Zip code 21061 has 17 members outside the standard.
- b. Zip code 21114 has 3 members outside the standard.

- c. Zip code 21040 has 11 members outside the standard.
7. In urban areas, other behavioral health/substance abuse facilities must be within 10 miles of enrollee residence. Other behavioral health/substance abuse facilities met the required standard for 99.9% of urban enrollees, leaving 1 member outside the travel distance standard in zip code 20745.

Travel Distance Waiver Requests

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. The Administration “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.”

The Administration has considered UHCMA’s requests for waivers for the travel distance standard for Applied Behavioral Analyst, Urology, Acute Inpatient Hospitals, Critical Care Services / Intensive Care Units, Inpatient Psychiatric Facility, Outpatient Infusion/Chemotherapy, and Other Behavioral Health / Substance Abuse Facilities. The waiver requests were made on July 1, 2021 with additional information to support this request filed on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022.

The UHCMA Core 2021 Access Plan contains insufficient substantiation to justify granting a waiver for the travel distance standard for Inpatient Psychiatric Facilities in zip codes 21402 and 21403 and Other Behavioral Health/Substance Abuse Facilities in zip code 20745 based on the following:

- Contradictory statements within the waiver requests for Inpatient Psychiatric Facility in zip codes 21402 and 21403 which reported that there were no providers available to contract within 15 miles of 13 enrollees in these areas outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap as of March 1, 2022 (Section IV of the same document). Supplementary information submitted by UHCMA on August 11, 2022 in response to the Administration’s questions did not demonstrate that the coverage gap was closed in these zip codes for this facility type.
- Contradictory statements within the waiver request for BH/All Other Facilities¹ in zip code 20745 which reported that there were no providers available to contract within 10 miles of the enrollee outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap (Section IV).

The Administration has found good cause to grant the travel distance waiver requests for 1 year for the following provider types: Applied Behavioral Analyst and Urology; and for the following facility types: Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, Inpatient Psychiatric Facility in zip code 21040, and Outpatient Infusion /Chemotherapy facilities, because additional providers and facilities are not available or have not yet reached an agreement with the carrier, as evidenced by the following information which was presented by UHCMA:

- Efforts to locate any additional providers and provider types within the required travel distance standards in specific zip codes using both internal reporting, such as claims data and demographics, and external resources, including state-issued provider listings.
- A declaration by UHCMA that it is contracted with the nearest applied behavioral analyst for the 2 suburban enrollees residing outside of the regulatory standard of 30 miles in zip code 20634, who is located 42.9 miles from the furthest point in zip code 20634.
- A declaration by UHCMA that it is contracted with the nearest inpatient psychiatric facility for the 3 urban enrollees residing outside of the regulatory standard of 15 miles in zip code 21040, which is located 17.2 miles from the furthest point in zip code 21040.
- A declaration by UHCMA that there are no acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities within the travel distance standard of 10 miles for the 11 urban enrollees residing in zip code 21040, and a declaration of ongoing negotiation and continued good faith efforts to contract with facilities previously identified which, if contracted, would reduce the distance beyond the regulatory standard from 7 miles outside of the standard to 2 miles outside of the standard for these enrollees.
- A declaration by UHCMA that it is contracted with the nearest acute inpatient hospital, critical care services/intensive care units, and outpatient infusion / chemotherapy facilities for the 3 urban enrollees residing outside of the regulatory standard of 10 miles in zip code 21114, which is located 12 miles from the furthest point in zip code 21114.
- Ongoing negotiation and continued good faith efforts to contract with facilities previously identified for acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities which, if contracted, would resolve the deficiencies for the 17 urban enrollees residing outside of the travel distance standard in zip code 21061.
- Ongoing negotiation and continued good faith efforts to contract with providers previously identified for urology who, if contracted, would resolve the deficiencies for the 11 urban enrollees residing outside of the travel distance standard in zip code 21040.

While the waiver requests for the travel distance standards for Inpatient Psychiatric Facility in zip codes 21402 and 21403, and for Other Behavioral Health / Substance Abuse Facilities in zip code 20745 are denied, the Administration has determined, in its enforcement discretion and having considered the minimal number of enrollees impacted by the violation and potential resolutions that may apparently be available, a penalty will not be imposed for these deficiencies under the UHCMA Core 2021 Access Plan. In future filing years, the Administration expects each waiver request to:

- correctly list the name of the provider or facility type;
- clearly and unambiguously report on the availability of the provider or facility type in the geographic area for which the waiver is requested; and
- provide sufficient detail of the carrier's recent efforts to address the deficiency as described in COMAR 31.10.44.07C (1) – (7).

Appointment Waiting Time Standards

The data self-reported by UHCMA indicates that the required standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 94.66% of enrollees, representing a deficiency of .34 percentage points. UHCMA stated in the 2021 access plan that the Covid-19 pandemic negatively impacted wait time metrics. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that UHCMA provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if UHCMA intends to combine telehealth claims with provider survey results when measuring appointment waiting time in future access plan filings, UHCMA will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

UHCMA Navigate 2021 Access Plan

The access standards in COMAR 31.10.44 were not met by the UHCMA Navigate 2021 Access Plan for the following, based on the data self-reported by UHCMA. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. In rural areas, applied behavioral analyst providers must be within 60 miles of enrollee residence. Applied behavioral analyst providers met the required standard for 99.5% of rural enrollees, leaving 3 members outside the travel distance standard in zip code 20687.
2. In urban areas, urology providers must be within 10 miles of enrollee residence. Urology providers met the required standard for 98.5% of urban enrollees, leaving 7 members outside the travel distance standard in zip code 21040.
3. In urban areas, acute inpatient hospitals must be within 10 miles of enrollee residence. Acute inpatient hospitals met the required standard for 97.2% of urban enrollees, leaving 13 members outside the travel distance standard in two zip codes:

Urban zip codes:

- a. Zip code 21061 has 6 members outside the standard.
 - b. Zip code 21040 has 7 members outside the standard.
4. In urban areas, critical care / intensive care units must be within 10 miles of enrollee residence. Critical care / intensive care units met the required standard for 97.2% of urban enrollees, leaving 13 members outside the travel distance standard in two zip codes:

Urban zip codes:

- a. Zip code 21061 has 6 members outside the standard.
 - b. Zip code 21040 has 7 members outside the standard.
5. In urban areas, inpatient psychiatric facilities must be within 15 miles of enrollee residence. Inpatient psychiatric facilities met the required standard for 96.5% of urban enrollees, leaving 16 members outside the travel distance standard in two zip codes.

Urban zip codes:

- a. Zip code 21403 has 12 members outside the standard.
 - b. Zip code 21040 has 4 members outside the standard.
6. In urban areas, outpatient infusion / chemotherapy facilities must be within 10 miles of enrollee residence. Outpatient infusion / chemotherapy facilities met the required standard for 97.2% of urban enrollees, leaving 13 members outside the travel distance standard in two zip codes.

Urban zip codes:

- a. Zip code 21061 has 6 members outside the standard.

- b. Zip code 21040 has 7 members outside the standard.
7. In urban areas, other behavioral health/substance abuse facilities must be within 10 miles of enrollee residence. Other behavioral health/substance use disorders facilities met the required standard for 99.8% of urban enrollees, leaving 1 member outside the travel distance standard in zip code 20745.

Travel Distance Waiver Requests

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. The Administration “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.”

The Administration has considered UHCMA’s requests for waivers for the travel distance standards for Applied Behavioral Analysts, Urology, Acute Inpatient Hospitals, Critical Care Services / Intensive Care Units, Inpatient Psychiatric Facility, Outpatient Infusion /Chemotherapy, and Other Behavioral Health / Substance Abuse Facilities. The waiver requests were made on July 1, 2021 with additional information to support this request filed on November 16, 2021, January 21, 2022, March 14, 2022, May 9, 2022, July 22, 2022 and August 11, 2022.

The UHCMA Navigate 2021 Access Plan contains insufficient substantiation to justify granting a waiver for the travel distance standard for inpatient psychiatric facilities in zip code 21403 and Other Behavioral Health/Substance Abuse Facilities in zip code 20745 based on the following:

- Contradictory statements within the waiver request for inpatient psychiatric facility in zip code 21403 which reported that there were no providers available to contract within 15 miles of the 12 enrollees outside the standard (Sections II and IV), followed by a statement that a contract had been signed with a facility that would close the coverage gap effective March 1, 2022 (Section IV of the same document).
- Contradictory statements within the waiver request for BH/All Other Facilities¹ in zip code 20745 which reported that there were no providers available to contract within 15 miles of the enrollee outside the standard (Sections II and IV), followed by a description of negotiations with a facility that would close the coverage gap (Section IV).

The Administration has found good cause to grant the travel distance waiver requests for 1 year for the following provider types: Applied Behavioral Analyst and Urology; and for the following facility types: Acute Inpatient Hospitals, Critical Care Services/Intensive Care Units, Inpatient

Psychiatric Facility in zip codes 21040, and Outpatient Infusion /Chemotherapy facilities, because additional providers and facilities are not available or have not yet reached an agreement with the carrier, as evidenced by the following information which was presented by UHCMA:

- Efforts to locate any additional providers and provider types within the required travel distance standards in specific zip codes using both internal reporting, such as claims data and demographics, and external resources, including state-issued provider listings.
- A declaration by UHCMA that it is contracted with the nearest available applied behavioral analyst for the 3 suburban enrollees residing outside of the regulatory standard of 60 miles in zip code 20687, who is located 69.9 miles from the furthest point in zip code 20687.
- Ongoing negotiation and continued good faith efforts to contract with providers previously identified for urology who, if contracted, would resolve the deficiencies for the 7 urban enrollees residing outside of the regulatory standard in zip code 21040.
- A declaration by UHCMA that there are no acute inpatient hospitals, critical care services / intensive care units and outpatient infusion/chemotherapy facilities within the travel distance standard of 10 miles for the 7 urban enrollees in zip code 21040, and a declaration of ongoing negotiation and continued good faith efforts to contract with facilities previously identified which, if contracted, would reduce the distance beyond the regulatory standard from 7 miles outside of the standard to 2 miles outside of the standard for these enrollees.
- Ongoing negotiation and continued good faith efforts to contract with the only available acute inpatient hospital, critical care services / intensive care units and outpatient infusion/chemotherapy facilities, which, if contracted, would resolve the deficiencies for the 6 urban enrollees residing outside of the travel distance standard in zip code 21061.

While the waiver requests for the travel distance standards for Inpatient Psychiatric Facilities in zip code 21403, and for Other Behavioral Health / Substance Abuse Facilities in zip code 20745 are denied, the Administration has determined in its enforcement discretion, and having considered the minimal number of enrollees impacted by the violation and potential resolutions that may apparently be available, a penalty will not be imposed for these deficiencies under the UHCMA Navigate 2021 Access Plan. In future filing years, the Administration expects each waiver request to:

- correctly list the name of the provider or facility type;
- clearly and unambiguously report on the availability of the provider or facility type in the geographic area for which the waiver is requested; and

- provide sufficient detail of the carrier's recent efforts to address the deficiency as described in COMAR 31.10.44.07C (1) – (7).

Appointment Waiting Time Standards

The data self-reported by UHCMA indicates that the required standard of 10 calendar days for non-urgent behavioral health/substance use disorder services was met for 94.66% of enrollees, representing a deficiency of .34 percentage points. UHCMA stated in the 2021 access plan that the Covid-19 pandemic negatively impacted wait time metrics. The Administration has determined that it will exercise enforcement discretion in this particular case and not impose a penalty for this deficiency, having considered the lack of seriousness of the deficiency (which is less than one-half of a percentage point from meeting the required standard).

For the other appointment waiting time categories, while the Administration is satisfied that UHCMA provided sufficient explanation and documentation to demonstrate that the wait time compliance standard of 95% has been met for 2021, it is expected that if UHCMA intends to combine telehealth claims with provider survey results when measuring appointment waiting time in future access plan filings, UHCMA will utilize a methodology that ensures a proportional, representative balance of surveys and actual claims data.

The Administration has determined, in its exercise of enforcement discretion, not to impose a penalty in connection with its review of the UHCMA 2021 Access Plans, which contain only deficiencies that are marginal in nature.

This determination letter is limited to review of the UHCMA 2021 Access Plans, and is independent of the Administration's review of any other Network Adequacy Access Plans and submissions in connection thereof which are filed by UHCMA.

UHCMA has the right to request a hearing on this determination letter in accordance with § 2-210 of the Insurance Article. A request for a hearing must be made in writing and received by the Administration within thirty (30) days of the date of this letter. The rules for requesting a hearing are set forth in COMAR 31.02.01.

Very truly yours,



David Cooney
Associate Commissioner
Life and Health