



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
Attorney General

LINDA A. LACEWELL
Counsel for Economic and Social Justice

July 13, 2007

VIA FACSIMILE
AND FEDERAL EXPRESS

Thomas J. McGuire, Esq.
Regional Deputy General Counsel
UnitedHealthcare
Law Department
CT030-15NA
450 Columbus Boulevard
Hartford, Ct. 06103

Re: Premium Designation

Dear Mr. McGuire:

The Attorney General is informed that UnitedHealthcare¹ intends to introduce in the State of New York a program which would rank physicians according to alleged quality and cost-effectiveness. This program, referred to as Premium Designation, would apparently be used as a basis to steer consumers toward selected physicians based on these "ratings." To compound the situation, we understand that employers may act on these "ratings" to offer financial inducements such as lower co-payments or deductibles to promote "cost-effective" doctors to their employees.

We believe that such a program would have a strong likelihood of causing consumer confusion, if not deception. We have three principal concerns:

¹ "UnitedHealthcare" includes that entity, United Health Group, and all of their subsidiaries and affiliates.

- : Consumers may be steered to doctors based on faulty data and criteria.
- : Consumers may be encouraged to choose doctors because they are cheap rather than because they are good. This could undermine the integrity of the doctor-patient relationship.
- : UnitedHealthcare's profit motive may affect the accuracy of its quality rankings because high-quality doctors may cost UnitedHealthcare more money. This is a conflict of interest.

In addition to complaints and other relevant information we have received, we are aware of the problems caused by UnitedHealthcare's introduction of similar programs in other states, including in Missouri, where the problems were so severe that UnitedHealthcare withdrew the program.

We are therefore requesting that UnitedHealthcare refrain from introducing this program or any similar program in the State of New York without the prior consent of the Attorney General. Please be advised that the Attorney General is prepared to seek and obtain an injunction against the introduction of such a program should it become necessary to do so. Among other things, irreparable harm would be likely to occur should UnitedHealthcare disseminate erroneous rankings of physicians to consumers.

Please inform us within forty-eight business hours whether you intend to comply with our request.

Also, at your earliest convenience, please provide documents and information about the Premium Designation program as set forth in detail in the attachment to this letter.

Please do not hesitate to call me if you have any questions. Thank you.

Very truly yours,



Linda A. Lacewell
Counsel for Economic and Social Justice

cc: Nelson Boxer, Esq.
Bill Jordan, Esq.
Alston & Bird

Attachment

ATTACHMENT

With respect to the Premium Designation program or any other UnitedHealthcare program, policy, procedure or protocol related to the ranking, tiering, profiling or evaluating of physicians in the State of New York (the "Program"):

1. Explain how UnitedHealthcare has complied or will comply with New York Public Health Law §4406-d(4) and New York State Insurance Law §4803 (d), including, but not limited to:

(a) How UnitedHealthcare has ensured or will ensure that physicians participating in the in-network benefits portion of an insurer's network for a managed care product are regularly informed of information maintained by UnitedHealthcare to evaluate the performance or practice of the physician.

(b) How UnitedHealthcare has consulted with or will consult with physicians in developing methodologies to collect and analyze provider profiling data; how UnitedHealthcare will provide such information and profiling data and analysis to physicians; and how UnitedHealthcare will provide such information, data or analysis on a periodic basis appropriate to the nature and amount of data and the volume and scope of services provided.

(c) How any profiling data UnitedHealthcare uses to evaluate the performance or practice of a physician will be measured against stated criteria and an appropriate group of physicians using similar treatment modalities serving a comparable population and how, upon presentation of such information or data, each such physician will be given the opportunity to discuss the unique nature of the physician's patient population which may have a bearing on the physician's profile and to work cooperatively with UnitedHealthcare to improve performance.

2. Explain how the Program has been presented or marketed to physicians or other health care professionals, organizations representing physicians or other health care professionals, patients, employers, governmental agencies or other entities in New York State.

3. Explain how the Program will operate. Provide copies of relevant literature explaining the Program.

4. Explain the methodology for collecting and analyzing data or other information for the Program. Will UnitedHealthcare use claims data rather than reviewing information on medical records or charts? If so, why? Describe any problems that UnitedHealthcare is aware of with respect to the use of claims data or medical records/charts. Explain how the use of claims data will provide accurate, reliable and complete information.

5. Describe the sample size for physician/patient data to be used by the Program. Explain how the sample size was determined, and why UnitedHealthcare believes it is reliable and adequate. Explain known problems with the sample size.

6. Describe any other databases that the Program could use to obtain physician/patient information. If such databases exist, explain why UnitedHealthcare does not use or intend to use those other databases.

7. Explain how the Program ranks, tiers, profiles or evaluates physicians. Explain the criteria used to perform such ranking, tiering, profiling or evaluating and how such criteria was selected. Explain whether and how physician "report cards" or similar reports will be created and used.

8. Explain how the Program will be used to encourage, induce, steer or otherwise incentivize patients to use or not use certain physicians. Explain how any incentives, inducements or penalties, such as lower or higher co-payments or higher or lower deductibles, are related to a patient's choice of a physician.

9. Produce copies of correspondence to or from physicians or other health care professionals, organizations representing physicians or other health care professionals, patients, employers, governmental agencies or other entities regarding the Program.

10. Describe and produce any disclaimers pertaining to the Program.

11. Identify which computer systems, networks or databases will be used to create the Program or its components. Describe known problems with the accuracy of the information contained in such computer systems, networks or databases. Produce documents reflecting such problems.

12. Explain why UnitedHealthcare has delayed adoption or implementation of the Program to date.