

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

IN THE MATTER OF:)
)
UNITEDHEALTHCARE OF)
ARKANSAS, INC.)
)
CERTIFICATE OF AUTHORITY)
NO. 2361)

A.I.D. NO. 2018 - 106

CONSENT ORDER

On this day, the matter of UnitedHealthcare of Arkansas, Inc., and its affiliated Arkansas licensed insurance entities, (hereinafter, collectively the “Company”), came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Melissa Grisham, Associate Counsel, in this matter. From the facts and law before him, the Commissioner finds as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner’s acceptance and has no force or effect until such acceptance is evidenced by the entry of the Commissioner.
2. By the signature affixed below, Company affirmatively states that the entry of this Consent Order has been freely entered into, and that no threats or promises of any kind have been made by the Commissioner, the Department, or any agent or representative thereof.
3. The parties state their agreement to be bound by the terms of this Consent Order, and aver that no promises or offers relating to the circumstances described herein have been made, other than the terms of settlement set forth herein.

FINDINGS OF FACT

1. On March 7, 2017, the Department contacted the Company in regards to the payment of claims for orthotic and prosthetic devices to Snell Prosthetics & Orthotics (“Snell”) after Snell complained of not receiving an adequate response to prior inquires.

2. On June 12, 2017, the Department requested the Company provide it with claims data related to the payment of Snell’s claims for orthotic and prosthetic devices beginning in August 2015 to current in order to identify whether the correct Center for Medicare & Medicaid Services (“CMS”) Fee Schedule and Medicare allowable rate was being applied during payment adjudication.

3. On June 16, 2017, the Company informed the Department that a mistaken fee calculation had unintentionally been applied to claims for orthotic and prosthetic devices, but that the issue had been corrected.

4. On August 7, 2017, the Department received and analyzed the previously requested data and verified that in many instances an incorrect CMS Fee Schedule and/or Medicare allowable rate was applied to claims.

5. On August 16, 2017, Snell alleged and the Department verified that the claims for orthotic and prosthetic devices were still being adjudicated and paid incorrectly.

6. On September 14, 2017, the Department held an Investigative Conference with the Company during which the Company acknowledged the mistaken application of an incorrect CMS Fee Schedule and/or Medicare allowable rate had occurred and agreed to take immediate corrective action.

7. During the Investigative Conference, the Department requested claims data for all other orthotic and prosthetic providers in Arkansas, which the Department received January 31, 2018.

8. The claims data received by the Department on January 31, 2018, revealed that the Company's application of an incorrect CMS Fee Schedule and/or Medicare allowable rate had resulted in an underpayment of approximately 1,200 claims.

9. The claims data received on January 31, 2018, also revealed that the Company had readjudicated all incorrectly paid claims to Snell and all other Arkansas orthotic and prosthetic providers and had taken corrective action to apply the correct CMS Fee Schedule and/or Medicare allowable rate to future orthotic and prosthetic claims.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

2. Pursuant to Department Rule 109, health benefit plans that are subject to Ark. Code Ann. § 23-99-417 are required to update their coverage for eligible charges for prosthetic and orthotic devices and services to no less than eighty percent (80%) of the Medicare allowable rates for such devices and services as of January 1 of each year in which the health benefit plan is issued or renewed.

3. The Department alleges that the Company violated Department Rule 109 when it applied an incorrect CMS Fee Schedule and/or Medicare allowable rate resulting in underpayment of approximately 1,200 claims. Additionally, the Department alleges that the Company's provision of information that was incorrect, incomplete, and/or after the date requested delayed the resolution of this matter.

4. Pursuant to Ark. Code. Ann. § 23-60-108, a violation of a statute or regulation enforceable by the Insurance Commissioner is punishable by the refusal, suspension, revocation or nonrenewal of a license or certificate of authority; and a fine no greater than one thousand dollars (\$1,000) per violation, not to exceed fifty thousand dollars (\$50,000) in any six-month period.

5. Additionally, pursuant to § 23-66-206(13) of the Trade Practices Act, the Company's alleged actions may be considered unfair claims settlement practices. Potential additional monetary penalties under § 23-66-210(a)(2) are not more than one thousand dollars (\$1,000) for each violation, not to exceed an aggregate of ten thousand dollars (\$10,000), unless the Company knew or reasonably should have known of the violation. In that situation, the penalty is not more than five thousand dollars (\$5,000) for each violation, not to exceed an aggregate of fifty thousand dollars (\$50,000) in any six-month period.

6. The Company does not admit, deny, or concede any wrongdoing in connection with any facts or claims that have been or could have been alleged against it but considers it desirable for this matter to be resolved.

7. Based on the Department's findings, the Company agrees to pay a monetary penalty in the amount of \$85,000.

IT IS HEREBY ORDERED AND JOINTLY AGREED that:

1. In consideration of the Commissioner's Findings of Fact and Conclusions of Law, Company shall pay a monetary penalty in the amount of \$85,000.

2. The Department will complete a future compliance check to ensure Company is in compliance with Department Rule 109.

IT IS SO ORDERED THIS 27th day of November, 2018.


ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS


MICHAEL BALCER
CHIEF FINANCIAL OFFICER, Health Plan
UNITEDHEALTHCARE OF ARKANSAS, INC.