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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

January 3, 2020

Carl A. Mattson  
Vice President, Empire Plan  
UnitedHealthcare  
13 Cornell Road  
Latham, NY 12110

Re: UnitedHealthcare: Out-of-Network  
Providers Upcoding Selected  
Evaluation and Management  
Services  
Report 2019-F-46

Dear Mr. Mattson:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of UnitedHealthcare to implement the recommendations contained in our audit report, *Out-of-Network Providers Upcoding Selected Evaluation and Management Services* (Report [2017-S-34](#)).

**Background, Scope, and Objective**

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), covers active and retired State, participating local government and school district employees, and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP. Civil Service contracts with UnitedHealthcare (United) to administer the medical/surgical portion of the Empire Plan. United is responsible for processing and paying claims from in-network and out-of-network providers and ensuring compliance with the requirements of the Empire Plan.

Evaluation and Management (E/M) billing codes are divided into broad categories such as office visits, hospital visits, and consultations. Within each category, there are either three or five different billing levels (for example, code 99211 represents a level 1 visit – the lowest level of care, typically a 5-minute visit; whereas 99215 represents a level 5 visit – the highest level of care, typically a 40-minute visit). The amount of United's reimbursement depends on the level billed – the higher the level billed, the greater the

reimbursement. Billing for a higher level of care than the service actually provided is a practice known as upcoding.

We issued our initial audit report on December 31, 2018. The audit objectives were to determine if: United sufficiently monitored out-of-network providers who routinely billed for higher-level E/M services, and if out-of-network providers billed United for higher-paying E/M services than what were actually performed. The audit covered the period January 1, 2016 through December 31, 2016. The original audit found 42 claims (47 percent of the 90 claims sampled) totaling \$28,731 were upcoded or unsupported for the higher level of care billed. We also found United's method for monitoring out-of-network providers who billed for higher-level E/M services needed improvements. United's system did not always detect providers who routinely improperly billed the majority of their claims at higher-level E/M codes.

The objective of our follow-up was to assess the extent of implementation, as of December 17, 2019, of the two recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

United officials made progress in addressing the problems we identified in the initial audit. In particular, United saved the Empire Plan \$862,334 through reviews of claims from three providers identified in the initial audit. Of the initial report's two audit recommendations, both were partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Improve the monitoring of claims submitted for out-of-network E/M services by supplementing the current peer-to-peer review with an assessment of out-of-network providers who routinely bill the majority of their claims at a higher-level E/M CPT code (such as above 90 percent in an individual E/M category). Conduct reviews of these out-of-network providers to ensure payments reflect the services actually performed and recover any overpayments identified.*

Status – Partially Implemented

Agency Action – For three of the nine providers identified in the initial audit, United reviewed their claims and prevented \$862,334 in inappropriate payments as of September 31, 2019. United has not yet expanded its analysis to include other out-of-network providers who routinely bill the majority of their claims at higher-level E/M codes. However, United officials stated they developed a new Fraud Detection Module, which they believe will enhance detection of suspicious claim patterns, including upcoding and E/M utilization. While not yet implemented, this module has been formally proposed to Civil Service and is awaiting their approval.

## Recommendation 2

*Assess the results of our review of the nine out-of-network providers and, where warranted, expand the review of each provider to identify and recover other overpayments, in addition to the \$28,731 identified by our audit.*

Status – Partially Implemented

Agency Action – United officials reviewed the claims identified in the initial audit. As stated previously in the Agency Action section for Recommendation 1, United determined three of the nine providers billed improperly and prevented \$862,334 in inappropriate payments as of September 31, 2019. For the remaining providers, United officials stated they did not expand the review of the providers for various reasons. For instance, United determined claims from the providers were not improperly paid and, therefore, they did not review additional claims; and one provider stopped billing in 2018. United officials stated they did not recover the \$28,731, in part, due to the age of the claims at the time of the report.

Major contributors to this report were Paul Alois, Laura Brown, Arnold Blanck, and Tracy Glover.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of United for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Andrea Inman  
Audit Director

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