



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

UnitedHealthcare Insurance Company of New York

No. 2022-0249-S

Respondent.

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CONSENT ORDER

WHEREAS, the Department of Financial Services (hereinafter “Department”) conducted an investigation of UnitedHealthcare Insurance Company of New York (hereinafter “Respondent”) regarding the use of unapproved rates in the student health insurance market.

WHEREAS, the Department concluded that Respondent’s use of unapproved rates constituted a violation of Insurance Law § 3231(d) and 11 NYCRR 52.21(f), which provide that no insurer shall enter into any contract unless and until it has filed premium rates and has obtained the Superintendent’s approval.

WHEREAS, the Department and Respondent are willing to resolve the matters cited herein in lieu of proceeding by notice and hearing.

NOW, THEREFORE, this Consent Order contains the Department’s findings and the relief agreed to by the Department and Respondent.

BACKGROUND

1. Respondent is domiciled in New York and is licensed as a health insurance company in New York. Pursuant to Insurance Law §1113(a)(3), Respondent is authorized to write accident and health insurance in New York. Respondent offers student blanket health insurance policies to institutions of higher education in New York.
2. For the 2019-2020 academic year, Respondent issued student blanket health insurance policies to sixty-two institutions of higher education in New York.
3. For the 2020-2021 academic year, Respondent issued student blanket health insurance policies to fifty-eight institutions of higher education in New York.
4. As part of the Department's annual review of student health insurers in the New York market, Respondent provided the names of the institutions of higher education to which Respondent issued student blanket health insurance policies, the number of insureds covered under the policies, the annual premium, the premium rate development for each plan, and copies of any brochures advertising the student blanket health insurance delivered to the students.
5. For the 2019-2020 academic year, for thirty-one institutions of higher education, Respondent deviated from the rating factors set forth in Respondent's premium rate manual filed with the Department, including experience year weights, completion factors, pooling charges, manual claims costs, and profit assumptions. Experience year weights are used to assign the relative importance each prior year has in setting the future premium weights. Completion factors are used to predict the total amount of claims that are expected to be paid for a plan year based on the partial claims paid so far. Pooling charges are used to replace the high, less predictable claims above a certain level with an average assumption. Manual claims costs are the expected claims that would be paid on average for a given plan design without taking the particular experience of the group into account. Rates are required to be self-supporting, so negative profit assumptions where the case is priced at a loss are not approvable. Respondent's changes to the rating factors after the rates were filed with the Department, resulted in Respondent charging unapproved premium rates to students covered under certain student blanket health insurance policies. Respondent's actions resulted in thirteen institutions of higher education being

overcharged. Respondent overcharged seven thousand one hundred and fifty-three (7,153) students and dependents for a total of one million two hundred eighty-seven thousand one hundred and eighty-eight dollars (\$1,287,188).

6. For the 2020-2021 academic year, for thirty-four institutions of higher education, the Respondent's rates were not submitted for the Department's review, or the Respondent deviated from the rating factors set forth in Respondent's premium rate manual filed with the Department, including the manual claims cost and the claims component of medical evacuation benefit. Manual claims costs are the average expected costs for a given benefit design without taking the specific experience of the group into account. Respondent's actions resulted in seventeen institutions of higher education being overcharged. Respondent overcharged five thousand two hundred and sixty (5,260) students and dependents for a total of ninety-two thousand four hundred and forty dollars (\$92,440).

FINDINGS

7. Respondent, for the 2019-2020 and 2020-2021 academic years, violated Insurance Law § 3231(d) and 11 NYCRR 52.21(f) by entering into agreements with sixty-five institutions of higher education using premium rates that deviated from the approved methodology and included premium rating factors not on file with the Department. Respondent's actions resulted in Respondent charging an unapproved premium rate to students covered under the student blanket health insurance policies. In addition, Respondent's actions in using unapproved premium rates may have gained Respondent an unfair competitive advantage in the student blanket health insurance market in New York.
8. Respondent's violations during the aforementioned time period contravened New York Insurance Law and Regulation.

VIOLATIONS

9. By reason of the foregoing, Respondent violated Insurance Law § 3231(d) and 11 NYCRR 52.21(f).

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by Respondent, its successors, and assigns (on behalf of its agents, representatives, employees, parent company, holding company, and any corporation, subsidiary, or division through which Respondent operates) that:

10. Respondent shall take all necessary steps to comply with New York Insurance Law with respect to the use of the prior approval process for rates in the student health insurance market.
11. Respondent shall immediately initiate actions to reimburse students who were overcharged premiums and provide quarterly status reports to the Department demonstrating that the seven thousand one hundred and fifty-three (7,153) students and dependents enrolled in the student blanket health insurance policy for the 2019-2020 academic year have been provided retroactive reimbursement totaling one million two hundred eighty-seven thousand one hundred and eighty-eight dollars (\$1,287,188) and the five thousand two hundred and sixty (5,260) students and dependents enrolled in the student blanket health insurance policy for the 2020-2021 academic year have been provided retroactive reimbursement totaling ninety-two thousand four hundred and forty dollars (\$92,440).

MONETARY PENALTY

12. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of one million dollars (\$1,000,000). Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.
13. The above referenced payment shall be payable to the New York State Department of Financial Services in accordance with the Department's instructions.

BREACH OF THE CONSENT ORDER

14. In the event that the Department believes Respondent to be materially in breach of this Consent Order (“Breach”), the Department will provide written notice of such Breach to Respondent and Respondent must, within ten (10) business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and have an opportunity to rebut the Department’s contention that a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.
15. Respondent understands and agrees that Respondent’s failure to appear before the Department to make the required demonstration within the specified period as set forth herein is presumptive evidence of Respondent’s Breach. Upon a finding of Breach, the Department has all the remedies available to it under New York or other applicable laws and may use any and all evidence available to the Department for all ensuing examinations, hearings, notices, orders, and other remedies that may be available under New York or other applicable laws.

OTHER PROVISIONS

16. If Respondent defaults on any of its obligations under this Consent Order, the Department may terminate this Consent Order, at its sole discretion, upon ten (10) days’ written notice to Respondent. In the event of such termination, Respondent expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against Respondent or from using in any way the statements, documents, or other materials produced or provided by Respondent prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.
17. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Respondent and the Department’s own factual examination. To the extent that representations made by Respondent are later found to be materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.

18. Upon the request of the Department, Respondent shall provide all documentation and information necessary for the Department to verify compliance with this Consent Order.

19. All notices, reports, requests, certifications, and other communications to the Department regarding this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York State Department of Financial Services
One State Street, 19th Floor
New York, NY 10004-1511
Attention: John F. Finston, Executive Deputy Superintendent for Insurance

If to the Company:

UnitedHealthcare Insurance Company of New York
1 Penn Plaza, 8th Floor
New York, NY 10119
Attn: Rebecca Bausch, Chief Executive Officer, UnitedHealthcare Student Resources

20. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

21. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.

22. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.

23. This Consent Order constitutes the entire agreement between the Department and Respondent relating to the violations identified herein and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

24. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.
25. Upon execution by the parties to this Consent Order, no further action will be taken by the Department against Respondent for the conduct set forth in this Consent Order, subject to the terms of this Consent Order.
26. This Consent Order may be executed in one or more counterparts and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services.

UnitedHealthcare Insurance Company of New York

By: /s/ Rebecca Bausch Dated: March 31, 2023

Rebecca Bausch
Chief Executive Officer, UnitedHealthcare Student Resources

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: /s/ John F. Finston Dated: May 4, 2023

John F. Finston
Executive Deputy Superintendent for Insurance

THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.

By: /s/ Adrienne A. Harris Dated: May 10, 2023

Adrienne A. Harris
Superintendent of Financial Services