

June 8, 2021

Brian Thompson
Chief Executive Officer
UnitedHealthcare
P.O. Box 1459
Minneapolis, MN 55440-1459

Dear Mr. Thompson:

America's hospitals and health systems are deeply concerned by UnitedHealthcare's (UHC) recent policy announcement to allow for the retroactive denial of coverage for emergency-level care in facilities. This policy would put patients' health and wellbeing in jeopardy, and we urge you to reverse the policy immediately.

Patients are not medical experts and should not be expected to self-diagnose during what they believe is a medical emergency. Threatening patients with a financial penalty for making the wrong decision could have a chilling effect on seeking emergency care. This is dangerous for patients' health at any time, but is particularly unsafe in the midst of a public health emergency. Deferred and delayed care during the pandemic has already contributed to adverse health conditions and increased acuity.¹ **This is exactly why federal law requires insurers to adhere to the prudent layperson standard, which prohibits insurers from putting up coverage roadblocks to emergency services, such as by determining retroactively whether a service will be covered based on the patient's final diagnosis.**

UHC's own guidance to its enrollees regarding when to access emergency services is vague and could confuse patients, especially in light of this new policy. For example, one UHC webpage specifically tells enrollees: "Do not ignore an emergency. Take action if a situation seems life-threatening. Head to your nearest emergency room or call 9-1-1 or your local emergency number right away."² That same webpage then over-generalizes symptoms that UHC suggests are appropriate for urgent care. This includes symptoms that could be signs of medical emergencies depending on the cause and severity, such as stomach pain, nausea, vomiting, diarrhea and abnormal vaginal bleeding.

UHC may believe inappropriate use of the emergency room is a widespread problem; however, there is limited evidence to support this view. Regardless, the policy brings potentially severe consequences and raises significant questions about the criteria UHC will use to determine emergency services coverage. For example, has UHC assessed whether its enrollees have enough providers available during non-traditional hours, such as evenings and weekends? Has it helped its enrollees connect with a primary care

¹ <https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a4.htm>

² <https://www.uhc.com/member-resources/know-your-care-options/urgent-care>

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provider? Do its networks offer sufficient access to alternate sites of care, and will UHC cover the care provided at those sites without excessive administrative barriers? **Also, can UHC confirm in writing that if the facility attests that a case met the prudent layperson standard that the services will be covered?**

In addition, we also urge UHC to evaluate whether its other policies that restrict enrollees' coverage for a wide range of hospital outpatient department services may contribute to access challenges for patients. For example, UHC has announced policies that would reduce or eliminate coverage for certain hospital-based surgeries, laboratory and other diagnostic services, specialty pharmacy therapies, and evaluation and management services, including those provided in the emergency department, as well as those that constitute primary care. If UHC is successful in denying coverage for these services in hospital outpatient departments, it could exacerbate UHC's concerns regarding emergency department use.

UHC acknowledges that this policy change is financially-motivated and suggests that the savings associated with it will accrue to consumers.³ We question whether this is true. Despite implementing policies to restrict enrollee coverage over the past several years, UHC premiums continue to rise in most markets, as do UHC's profits. As you know, UHC's parent company UnitedHealth Group posted a 35% year-over-year jump in operating profits in the first quarter of 2021.⁴ Despite earning \$6.7 billion in a single quarter, UHC enrollees are being asked to pay more for their coverage.

Individuals and families who purchase health insurance deserve reliable, worry-free coverage that meets their health care needs and complies with all applicable patient protection laws. We urge you to rescind this and other policies that restrict patients' access to care and put patients' health outcomes at risk.

Sincerely,

/s/

Richard J. Pollack
President and Chief Executive Officer

³ <https://www.modernhealthcare.com/payment/united-unveils-policy-retroactively-deny-patient-ed-claims>

⁴ <https://www.unitedhealthgroup.com/newsroom/2021/2021-4-15-first-quarter-results.html>