IN THE DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION STATE OF MISSOURI

DIVISION OF INSURANCE MARKET REGULATION,	)	**Case No. 150723381C**
Petitioner,	)	
v.	)	
UNITED HEALTHCARE INSURANCE COMPANY (NAIC #79413)	)	
Respondent.	)	
and	)	
In Re:	)	
UNITED HEALTHCARE INSURANCE COMPANY (SERFF TRACKING NUMBERS UHLC-130128696 and UHLC-130172788)	)	**Case No. 150622344C** **Case No. 150813392C**
and	)	
In Re:	)	
UNITED HEALTHCARE INSURANCE COMPANY	)	**Market Conduct Investigation #236803**
and	)	
In Re:	)	
ALL SAVERS INSURANCE COMPANY	)	**Market Conduct Investigation #236806**
and	)	
In Re:	)	
UNITED HEALTHCARE INSURANCE COMPANY, UNITED HEALTHCARE LIFE INSURANCE COMPANY, and ALL SAVERS INSURANCE COMPANY	)	**Market Conduct Investigation #269908**

ORDER OF THE DIRECTOR

NOW, on this 7th day of July, 2016, Director John M. Huff, after consideration and review of the Stipulation of Settlement (hereinafter "Stipulation") entered into by the Division of Insurance Market Regulation (hereinafter "Division"), United Healthcare Insurance Company (NAIC #79413) (hereinafter "UHC"), All Savers Insurance Company (NAIC # 82406) (hereinafter "All Savers") and United Healthcare Life Insurance Company (NAIC #97179) (hereinafter "UHC Life"), relating to the case numbers and investigations set out in the caption above, does hereby issue the following orders:

This order, issued pursuant to §374.046.15 RSMo (Cum. Supp. 2013), §374.280 RSMo (Cum. Supp. 2013), and 20 CSR 800-1.070 (2) (B) is in the public interest.

IT IS THEREFORE ORDERED that UHC, All Savers, UHC Life and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that UHC, All Savers and UHC Life shall fully comply with the requirements of the Stipulation, including, but not limited to, implementing the remedial actions contained in the Stipulation, and shall maintain those remedial actions at all times.

IT IS FURTHER ORDERED that UHC, All Savers and UHC Life shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept the Voluntary Forfeiture of $150,000 payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 7th day of July, 2016.

John M. Huff
Director

IN THE DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI

FILED
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DIRECTORS OFFICE
MO. DEPT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

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UNITED HEALTHCARE INSURANCE COMPANY (SERFF TRACKING NUMBERS UHLC-130128696 and UHLC-130172788)	**Case No. 150622344C** **Case No. 150813392C**
and	
In Re:	
UNITED HEALTHCARE INSURANCE COMPANY	**Market Conduct Investigation #236803**
and	
In Re:	
ALL SAVERS INSURANCE COMPANY	**Market Conduct Investigation #236806**
and	
In Re:	
UNITED HEALTHCARE INSURANCE COMPANY, UNITED HEALTHCARE LIFE INSURANCE COMPANY, and ALL SAVERS INSURANCE COMPANY	**Market Conduct Investigation #269908**

STIPULATION OF SETTLEMENT

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter "the Division"), United Healthcare Insurance Company (NAIC #79413) (hereinafter "UHC"), All Savers Insurance Company (NAIC #82406) (hereinafter "All Savers"), and United Healthcare Life Insurance Company (NAIC #97179) (hereinafter "UHC Life"), (hereinafter collectively referred to as "the Companies") as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, "the Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri.

WHEREAS, UHC, All Savers and UHC Life have been granted certificates of authority to transact the business of insurance in the State of Missouri.

WHEREAS, in Case Number 150723381C, the Division filed a Verified Statement of Charges pursuant to §374.046 naming UHC as respondent.

WHEREAS, in the Verified Statement of Charges, the Division alleged:

1. UHC made false entries in statements used in the course of an investigation by providing the Department with transcripts of two call recordings relating to a member complaint that did not accurately reflect the contents of the calls and which omitted material facts from the transcripts in violation of §374.210.1 (2) RSMo (Supp. 2013);

2. UHC made false entries in statements used in the course of an investigation by providing the Department with letters relating to member complaints that contained inaccuracies or omissions of material fact in violation of §374.210.1 (2) RSMo (Supp. 2013);

3. UHC omitted to disclose to two members that the purchase of a particular intrauterine device (IUD) would not be covered as a network benefit in violation of §375.445.1 (2) RSMo (Supp. 2013); and

4. UHC failed to maintain certain call recordings relating to the handling and disposition of policyholder claims in violation of 20 CSR 100-8.040 (3) (B).

WHEREAS, UHC denies each of the allegations set out above; and

WHEREAS, UHC asserts it later processed claims at the in-network benefit level at the Department's request.

WHEREAS, the Division sent Notices of Noncompliance to UHC, All Savers and UHC

Life in which it alleged certain policy forms that had been previously approved failed to comply with §375.936 (11) (b) RSMo 2000 because the forms unlawfully restricted members access to the Companies' network by utilizing primary care physicians as gatekeepers, to whom a member must go to for a referral prior to seeing other network providers.

WHEREAS, the Division initiated market conduct investigation number 269908 to investigate the facts and circumstances identified within Notices of Noncompliance issued to UHC, All Savers and UHC Life (hereinafter referred to as the "Notices of Noncompliance Issue"). The Notices of Noncompliance Issue encompassed health benefit plans that were filed and approved by the Division, as identified by the following SERFF tracking numbers:

- AMMS-129995286
- UHLC-129808082
- UHLC-129976359
- UHLC-129605877
- AMMS-129949441
- AMMS-129584853
- UHLC-129730944
- UHLC-129181782
- UHLC-129181847
- UHLC-129560850
- UHLC-130073180

WHEREAS, the Director of the Department (hereinafter "Director") issued Orders disapproving form filings of UHC for failing to comply with §375.936 (11) (b) RSMo 2000 and §376.405 RSMo (Supp. 2013).

WHEREAS, in such Orders, the Director concluded that UHC's forms did not provide full freedom of choice to its members within UHC's narrow networks by refusing to pay benefits or reducing such benefits in violation of §375.936 (11) (b) RSMo 2000.

WHEREAS, UHC has appealed such orders in Case Numbers 150622344C and 150813392C.

WHEREAS, the Division initiated market conduct investigations of UHC and All Savers in February 2015. The UHC investigation is number 236803 and the All Savers investigation is number 236806.

WHEREAS, based on market conduct investigation numbers 236803 and 236806, the Division further alleges that UHC and All Savers improperly denied claims, or reduced payment for claims, for certain services for lack of a referral, although UHC and All Savers acknowledged

that the services in question were subject to "direct access" and did not require a referral (hereinafter referred to as the "Direct Access Gatekeeper Issue"). The services encompassed within the Direct Access Gatekeeper Issue are set forth in Exhibit A, attached hereto and incorporated herein.

WHEREAS, the Companies deny all allegations made by the Division in connection with Case Numbers 150723381C, 150622344C and 150813392C, in connection with the Direct Access Gatekeeper Issue and in connection with the Notices of Noncompliance Issue.

WHEREAS, the Division and the Companies have agreed to resolve the issues raised in Case Numbers 150723381C, 150622344C and 150813392C and in connection with the Direct Access Gatekeeper Issue and the Notices of Noncompliance Issue as follows:

A. **Scope of Agreement.** This Stipulation of Settlement embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Applicability.** This Stipulation of Settlement applies to the Division and to the Companies and their affiliates, subsidiaries, parents, officers, employees, contractors, successors and assigns.

C. **Remedial Action.**

1. UHC agrees to take the following remedial actions and agrees to maintain such remedial actions at all times:

a. To develop and adopt written policies and procedures for ensuring that information and records provided to the Director, the Department or to any of its Divisions is complete and accurate.

b. To the extent phone calls are recorded, to maintain those recordings relating to the inception, handling and disposition of claims, grievances, appeals and utilization reviews for a period of at least three years after the year in which the call is recorded and to provide complete and accurate call recordings to the Director, the Department or any of its Divisions upon written request.

c. That for claims incurred on or after October 1, 2016, UHC will cease imposing referral requirements in non-HMO large and small group products. That

claims may initially be processed and benefits denied or reduced for failure to obtain a referral from a designated PCP and any claims denied for lack of referral will be identified and reprocessed within 15 business days without assessing a non-referral denial or reduction in benefits.

d. That beginning with the first renewal effective dates on or after January 1, 2017, UHC will transition small and large group business to non-HMO products that do not contain requirements for members to obtain a referral before being able to receive services from other network providers. Nothing in this paragraph is intended to impact otherwise lawful and allowed utilization review, prior authorization and other related requirements in any of UHC's approved products in Missouri.

e. That beginning with the first plan year renewal effective dates on or after January 1, 2017, UHC will modify its Student Resources Plans to remove the requirement that student/members obtain a referral before being able to receive services from other network or non-network providers. Nothing in this paragraph is intended to prohibit UHC from imposing cost-sharing differentials or revising existing cost-sharing differentials to incentivize the use of the Student Health Center.

2. The Companies represent that they will not offer, other than as may be allowed by law, any gated non-HMO products in Missouri after the date of the Director's Order approving this Stipulation without first notifying the Director or the Division Director, in writing, that UHC, All Savers or UHC Life intends to make a filing in a non-HMO product that includes a gatekeeper provision, filing new policy forms, and receiving approval of the forms by the Department as required by Missouri law. The obligation to notify the Director or Division Director shall sunset on January 1, 2017.

3. UHC and All Savers further represent that they have re-adjudicated known claims for the services outlined in Exhibit A that were subject to "direct access" and were improperly denied or reduced for lack of a referral due to a claims processing error, and paid those claims according to the terms of their policy provisions without subjecting the claims to any referral requirement. UHC and All Savers agree to provide the Division with data and information to validate the claims processing error was resolved. To the extent

the identification and re-adjudication of claims is complete, no further review or re-adjudication of claims related to referral requirements for claims that were subject to "direct access" will be required. To the extent identification and re-adjudication of the above claims is not complete, UHC and All Savers agree to identify and re-adjudicate and pay claims subject to "direct access" as outlined herein, without subjecting the claims to any referral requirement.

D. **Compliance Standards.** In addition to the remedial actions agreed to above, All Savers and UHC Life agree to take the following actions and agree to maintain such compliance standards at all times:

1. To the extent not already in place, develop and adopt written policies and procedures for ensuring that information and records provided to the Director, the Department or to any of its Divisions is complete and accurate.

2. To the extent phone calls are recorded, to maintain those recordings relating to the inception, handling and disposition of claims, grievances, appeals and utilization reviews for a period of at least three years after the year in which the call is recorded and to provide complete and accurate call recordings to the Director, the Department or any of its Divisions upon written request.

E. **Compliance.** The Companies agree to file documentation with the Division within 90 (ninety) days of the entry of a final order of all remedial actions taken to implement compliance with the terms of this Stipulation and to document payment of any restitution required by this Stipulation. Documentation for the purposes of this provision can include, but is not limited to, copies of written policies and procedures, data confirming payment of claims, written summaries of actions taken, and or other documentation the Companies believe will demonstrate compliance or which the Division indicates are necessary to determine compliance.

F. **Voluntary Forfeiture.** UHC agrees, voluntarily and knowingly, to surrender and forfeit the sum of $150,000, with such sum payable to the Missouri State School Fund in accordance with § 374.280.

G. **Other Penalties and Remedies.** The Division agrees that it will not seek penalties, fines, or any other administrative remedies against the Companies other than those agreed to in this Stipulation in connection with: (1) Case Numbers 150723381C, 150622344C, 150813392C, the Direct Access Gatekeeper Issue and the Notices of Noncompliance Issue; (2) any other

products previously filed with and approved by the Division for unlawfully restricting members access to the Companies' networks by utilizing primary care physicians as gatekeepers, to whom a member must go to for a referral prior to seeing other network providers; and (3) those gated non-HMO products in Missouri which were filed and approved prior to the date of the Director's Order approving this Stipulation for not providing full freedom of choice to the Companies' members within the Companies' narrow networks by refusing to pay benefits or reducing such benefits where a member failed to obtain a referral from a gatekeeper in violation of §375.936 (11) (b) RSMo 2000 and §376.405 RSMo (Supp. 2013). However, the Division may seek penalties and other administrative or legal remedies against the Companies for violations of this Stipulation and the Order approving this Stipulation.

H. **Non Admission.** This Stipulation of Settlement is a compromise of disputed claims. The terms and conditions of this Stipulation of Settlement are not to be construed as an admission of liability or wrongdoing by any party, or as a concession by any of the parties as to the correctness or incorrectness of any position asserted by the parties. The parties acknowledge that this Stipulation of Settlement is entered into in good faith and for no collusive purpose.

I. **Waivers.** The Companies, after being advised by legal counsel, do hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to Case Numbers 150723381C, 150622344C, 150813392C, the Direct Access Gatekeeper Issue and the Notices of Noncompliance Issue.

J. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by all signatories to the Stipulation.

K. **Governing Law.** This Stipulation of Settlement shall be governed and construed in accordance with the laws of the State of Missouri.

L. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation of Settlement.

M. **Effect of Stipulation.** This Stipulation of Settlement shall become effective only upon entry of a Final Order by the Director approving this Stipulation. The parties agree that entry of a Final Order by the Director approving this Stipulation will constitute a final resolution of (1) Case Numbers 150723381C, 150622344C, 150813392C, the Direct Access Gatekeeper Issue and the Notices of Noncompliance Issue; (2) the parties' past, present or future disputes regarding any

other products previously filed with and approved by the Division for unlawfully restricting members access to the Companies' networks by utilizing primary care physicians as gatekeepers, to whom an insured must go to for a referral prior to seeing other network providers; and (3) the parties' past, present or future disputes regarding those gated non-HMO products in Missouri which were filed and approved prior to the date of the Director's Order approving this Stipulation and which do not provide full freedom of choice to its Companies' members within the Companies' narrow networks by refusing to pay benefits or reducing such benefits where a member failed to obtain a referral from a gatekeeper in violation of §375.936 (11) (b) RSMo 2000 and §376.405 RSMo (Supp. 2013), but does not preclude the Division from pursuing other administrative or legal remedies concerning matters not identified in Paragraph M of this Stipulation. The parties agree that upon the entry of the final Order by the Director approving this Stipulation, the filings in case numbers 150622344C and 150813392C shall remain disapproved.

N. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation of Settlement and Voluntary Forfeiture and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 6/23/2016

Angela Nelson
Director, Division of Insurance
Market Regulation

DATED: 6/23/2016

Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation

DATED: 6/24/16

Ross Kaplan
Senior Counsel
Division of Insurance Market Regulation

DATED: June 20, 2016

Patrick F. Carr
CEO, UHCLIC
CEO, ASIC

DATED: 6-21-16

Payman Pezhman
General Counsel
Employer & Individual, UnitedHealthcare