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January 13, 2021

Ms. Shannon Hall  
Executive Director  
Community Behavioral Health Association of Maryland

RE: MIA File Number: MIA-2020-12-23-00123898  
Company: United Behavioral Health (UBH)

Dear Ms. Hall:

I am writing in response to the complaint you submitted to the Maryland Insurance Administration (MIA) concerning the actions of Optum in its role as the administrative services organization for behavioral health claims under the Maryland Medical Assistance (Medicaid) program. For the reasons discussed below, the MIA has concluded, in consultation with the Office of the Attorney General, that the MIA does not have jurisdiction over the issues raised in your complaint. The MIA will forward your complaint to the Maryland Department of Health (MDH).

The role of the MIA is to enforce the provisions of the Insurance Article, Title 19, Subtitle 7 of the Health-General Article, and their associated regulations.

Optum is the trade name of United Behavioral Health. Optum is certified by the MIA to act as a private review agent, and is subject to enforcement action by the MIA when it is performing services under the jurisdiction of the MIA. However, Optum may act in other capacities that are not regulated by or subject to the jurisdiction of the MIA. That includes circumstances where, as here, Optimum is acting in an administrative role for a government program.

The Medicaid program is a separate State/federal program operated MDH. The statute that establishes the program is § 15-103 of the Health-General Article. For medical/surgical services, Medicaid has contracts with managed care organizations (MCOs). The MIA has limited jurisdiction over these entities, and the existence and extent of that jurisdiction is clearly and expressly specified in statute.

Section 15-103(b)(21) of the Health-General Article lays out the requirements for MDH to provide coverage of behavioral health services under Medicaid. Specialty behavioral health services are covered by Medicaid, through the Behavioral Health Administration within MDH, and are not provided by the MCOs. Section 15-103(b)(21)(vi) of the Health-General Article

states that the provisions of § 15-1005 of the Insurance Article apply to the delivery system for specialty mental health services administered by an administrative services organization. However, the law does not vest the MIA with enforcement authority with respect to compliance with those provisions by Optum when it is acting as the administrative services organization for MDH's system for delivering behavioral care services.

We will forward your complaint to the appropriate person at MDH. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Meyer', with a long horizontal stroke extending to the right.

Paul R. Meyer, FLMI  
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Life and Health Unit  
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CC:  
Leah Spence  
Manager  
Regulatory Affairs  
UnitedHealthcare Insurance Company