



January 10, 2007

Rita Donovan
Director of Network Development
UnitedHealthcare of the River Valley
11141 Aurora Avenue
Des Moines, IA 50322

RE: United Healthcare's Policy on Non-Par Laboratory Use

Dear Rita:

By this letter, I would like to ask for clarification regarding UnitedHealthcare's "Protocol on the Use of Non-Participating Laboratory Services." It appears that this protocol was released by UnitedHealthcare in November of 2006.

That protocol requires that physicians use participating laboratories. The protocol states: **You are required to refer laboratory services to a participating provider in our network, except as otherwise authorized by UnitedHealthcare or a Payer.** If the physician believes it is necessary to refer laboratory work to an out-of-network lab, the physician is directed by the policy to call and receive prior authorization to do so.

United has taken this matter one step further by saying that if a physician continues to refer patients to non-par labs after March 1, 2007, the physician is subject, with notice, to sanctions. Sanctions include a financial penalty of \$50, and/or a change in eligibility for United's Premium Designation status, and/or a decreased fee schedule, and/or termination from network participation.

This protocol was released by UnitedHealthcare on the heels of its announcement of an exclusive laboratory relationship with LabCorp. At the time of that announcement, UnitedHealthcare informed IMS that in Iowa its exclusive relationship with LabCorp would affect *only* national lab services; laboratory work referred to a national lab would be reimbursed only if received through LabCorp. This national exclusive, however, would not affect laboratory services referred by physicians and/or utilized by United covered lives through regional or local laboratories. This new protocol seems to say, however, that the local labs must be United participating laboratories.

The Iowa Medical Society seeks clarification regarding United's new sanctioning protocol as implemented in our state. Could United clarify the following for me?

1. Do the terms of understanding relative to Iowa physicians' continued use of regional and local laboratories as outlined above remain intact? Has United set forth this policy in writing?
2. In what ways does United believe this new penalty protocol will be most applicable in Iowa and to Iowa providers? Is it clear to Iowa physicians and their patients who are United insureds which labs are in-network? Is the panel of United in-network labs sufficient to meet patient care needs in Iowa?
3. Does United take the position that this newly-developed unilaterally-imposed policy on mandated use of out-of-network labs, subject to penalty, invalidates existing contractual provisions addressing referral by the physician or use by the patient/insured of out-of-network services? Doesn't this new protocol constitute an amendment to the physician's contract with UnitedHealthcare? Hasn't United bypassed contractual requirements in adopting this protocol? Could the physician terminate the physician's contract with United if the physician finds this new policy objectionable?
4. What is the impact of this policy upon the United-covered patient? Do patients suffer any new consequences?
5. If the patient elects to have lab services performed by an out-of-network laboratory, would the physician be penalized?
6. What is United's rationale for imposing this sanctioning policy? Why are current contractual understandings relative to use of non-par laboratories not sufficient? Isn't this penalty clause particularly bothersome in light of public admissions that UnitedHealthcare's exclusive relationship with LabCorp will net considerable financial return over the life of the agreement?
7. What are UnitedHealthcare's standards and protocol in granting a laboratory in-network status? Does United employ an "open enrollment" process (i.e., so long as the lab meets United's criteria for participation, the lab is admitted to the network)? Why are some labs in the United network and others not?
8. What is the source of United's authority to impose a financial penalty upon physicians?
9. What is the relationship between "premium designation" status and referral to an out-of-network lab? Why should a doctor that refers to an out-of-network lab be

considered to have failed to meet United's premium designation criteria? Aren't these issues separate and distinct?

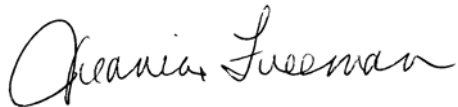
10. Does the possible sanction of a decreased fee schedule apply to a fee schedule for all UnitedHealthcare services provided by the physician or is it limited to the fee schedule for laboratory services? By what degree would the fee schedule be reduced? Is such a determination up to the case-by-case decision of United personnel? Which personnel would make such a decision?

The Iowa Medical Society is concerned with UnitedHealthcare's sanctioning protocol for use of out-of-network laboratory providers and questions UnitedHealthcare's authority to impose such a sanctioning system. It is one thing to say that contractually a health plan will not reimburse for or will pay less for or will not pay directly for services received by an out-of-network provider; it is quite another to impose a penalty for use of the services of an out-of-network provider. Patients and their physicians cannot be affirmatively sanctioned for making a marketplace decision. This United policy goes too far.

I look forward to learning more from UnitedHealthcare regarding the questions set forth above. As it now stands, however, IMS believes this penalty protocol is inappropriate and unnecessary and should be withdrawn. Indeed, if UnitedHealthcare is finding unacceptable levels of out-of-network laboratory referrals or use, it may be far more appropriate for UnitedHealthcare to ask whether its current network of laboratory providers is sufficient to meet patient healthcare needs.

Thank you for your attention to this communication. I am pleased to visit further.

Sincerely yours,



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