

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850



**PROGRAM COMPLIANCE AND OVERSIGHT GROUP**

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November 19, 2012

**VIA:**  
**EMAIL** ([drdesai@univhc.com](mailto:drdesai@univhc.com))  
**AND FACSIMILE (727-822-3556)**

Dr. Akshay M. Desai  
President and Chief Executive Officer  
Universal Health Care Insurance Company, Inc.  
100 Central Avenue, Suite 200  
Saint Petersburg, FL 33701  
Phone: (727) 456-6521

Re: Notice of Immediate Imposition of Intermediate Sanction (Suspension of Enrollment) for Medicare Advantage-Prescription Drug Plan Contract Numbers: H5096, H5820, H8098 – State of Georgia Only

Dear Dr. Desai:

Pursuant to 42 C.F.R. §§ 422.756 and 423.756, the Centers for Medicare & Medicaid Services (CMS) hereby informs Universal Health Care Insurance Company, Inc. (UHC) of its determination to immediately impose an intermediate sanction on the following Medicare Advantage-Prescription Drug Plan (MA-PD) Contracts: H5096, H5820, H8098 (Service areas within the state of Georgia only).

This intermediate sanction will consist of the suspension of the enrollment of Medicare beneficiaries (42 C.F.R. §§ 422.750(a)(1) and 423.750(a)(1)). CMS is imposing these intermediate sanctions immediately, effective November 19, 2012 at 11:59 p.m. EST, pursuant to 42 C.F.R. §§ 422.756(c)(2) and 423.756(c)(2).

Consistent with the consent order from the State of Georgia, UHC “may renew business and may cover those customers who have already enrolled in the current open enrollment period, but Universal Health Care shall not enroll any new customers after the date the Commissioner signs this Consent Order”. Pursuant to 42 C.F.R. §§ 422.756(c)(3) and 423.756(c)(3), these sanctions will remain in effect until CMS receives notification from the state of Georgia that the consent order is lifted.

## **Summary of Noncompliance**

On November 15, 2012, the Office of Commissioner of Insurance (COI) for the State of Georgia and UHC entered into a consent order which prohibits UHC from “writing new business” to “enroll any new customers into its plans”. Pursuant to 42 C.F.R. §§ 422.504(a)(1) and 423.505(b)(2), organizations that contract with CMS to offer MA-PDs must accept new enrollments. UHC, therefore, is noncompliant with CMS’s contract requirements.

## **Legal Basis for Immediate Imposition of Enrollment Sanctions**

CMS has determined that UHC’s deficiencies provide a sufficient basis for the immediate imposition of intermediate sanctions (42 C.F.R. §§ 422.752(b) and 423.752(b)). CMS has determined that UHC no longer substantially meets the applicable conditions to carry out its contract with CMS (42 C.F.R. §§ 422.510(a)(3) and 423.509(a)(3)).

## **Corrective Action Steps**

Pursuant to 42 C.F.R. §§ 422.756(c)(3) and 423.756(c)(3), the sanctions will remain in effect until CMS is satisfied that the basis for the sanction determination has been corrected and is not likely to recur. The CMS enrollment suspension shall remain in effect until such time as the Georgia COI, by order, lifts the consent order. Further, CMS will consider Georgia’s lift of the Consent Order as demonstration to merit lifting of the CMS sanction.

## **Opportunity to Respond to Notice**

Pursuant to 42 C.F.R. §§ 422.756(a)(2) and 423.756(a)(2), UHC has ten (10) calendar days from the date of receipt of this notice to provide a written rebuttal, or by Thursday November 30, 2012. Please note that CMS considers receipt as the day after the notice is sent by fax, e-mail, or overnight mail, or in this case, November 20, 2012. If you choose to submit a rebuttal, please send it to the attention of Gerard J. Mulcahy at the address noted below. Note that the sanctions imposed pursuant to this letter are not stayed pending a rebuttal submission.

## **Right to Request a Hearing**

UHC may also request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. §§ 422.660-684 and 423.650-662. Pursuant to 42 C.F.R. §§ 422.756(b) and 423.756(b), a written request for a hearing must be received by CMS within fifteen (15) calendar days of receipt of this notice, or by December 5, 2012.<sup>1</sup> Please note, however, a request for a hearing will not delay the date specified by CMS when the sanction becomes effective. Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier.

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<sup>1</sup> If the 15<sup>th</sup> day falls on a weekend or federal holiday, you have until the next regular business day to submit your request.

The request for a hearing must be sent to the CMS Hearing Office at the following address:

Benjamin Cohen  
CMS Hearing Officer  
Office of Hearings  
ATTN: HEARING REQUEST  
Centers for Medicare & Medicaid Services  
2520 Lord Baltimore Drive  
Suite L  
Mail Stop: LB-01-22  
Baltimore, MD 21244-2670  
Phone: 410-786-3169  
Email: [Benjamin.Cohen@cms.hhs.gov](mailto:Benjamin.Cohen@cms.hhs.gov)

A courtesy copy of the request should also be sent to the following CMS Official:

Patricia Axt  
Director, Division of Compliance Enforcement  
Program Compliance and Oversight Group  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Mail Stop: C1-22-06  
Baltimore, MD 21244  
Email: [Trish.Axt@cms.hhs.gov](mailto:Trish.Axt@cms.hhs.gov)  
FAX: 410-786-6301

CMS will consider the date the Office of Hearings receives the e-mail or the date it receives the fax or traceable mail document, whichever is earlier, as the date of receipt of the request. The request for a hearing must include the name, fax number and e-mail address of the contact within UHC (or an attorney who has a letter of authorization to represent the organization) with whom CMS should communicate regarding the hearing request.

Pursuant to 42 C.F.R. §§ 422.506(b)(3), 422.510(c) 423.507(b)(3), and 423.509(c) this notice also informs UHC of its opportunity to correct the deficiencies stated in this notice. According to our regulations, UHC is solely responsible for the identification, development and implementation of its Corrective Action Plan and for demonstrating to CMS that the underlying deficiencies have been corrected and are not likely to recur.

Please note that we are closely monitoring your organization and UHC may also be subject to other applicable remedies available under law, including the imposition of additional sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O.

Dr. Akshay Desai  
November 19, 2012  
Page 4 of 6

If you have any questions about this notice, please call or email the enforcement contact provided in your email notification.

Sincerely,

/s/

Gerard J. Mulcahy  
Acting Director  
Program Compliance and Oversight Group

cc: Ms. Colleen Carpenter, CMS /CMHPO/Region IV  
Ms. Teresa Kries, CMS/CMHPO/Region IV  
Mr. Erick Bowen, CMS/CMHPO/Region IV

Dr. Akshay Desai  
January 17, 2013

## ADDENDUM

Re: Notice of Immediate Imposition of Intermediate Sanction (Suspension of Enrollment) for Medicare Advantage-Prescription Drug Plan Contract Numbers: H5096, H5820, H8098 – **State of Ohio effective January 17, 2013.**

On November 19, 2012, Universal Health Care Insurance Company, Inc. (UHC) received notice pursuant to 42 C.F.R. §§ 422.756 and 423.756, of the Centers for Medicare & Medicaid Services (CMS) determination to immediately impose an intermediate sanction on the following Medicare Advantage-Prescription Drug Plan (MA-PD) Contracts: H5096, H5820, H8098. The intermediate sanction consisted of the suspension of the enrollment of Medicare beneficiaries (42 C.F.R. §§ 422.750(a)(1) and 423.750(a)(1)) and was effective November 19, 2012 at 11:59 p.m. EST, pursuant to 42 C.F.R. §§ 422.756(c)(2) and 423.756(c)(2) for State of Georgia enrollments only.

The purpose of this revised notice is to expand the enrollment suspension to include State of Ohio enrollments. Consistent with the consent order issued by the State of Ohio, UHC shall not enroll any new customers after December 18, 2012. Pursuant to 42 C.F.R. §§ 422.756(c)(3) and 423.756(c)(3), these sanctions will remain in effect until CMS receives notifications from the state of Ohio that the consent order is lifted.

### **Summary of Noncompliance**

On December 18, 2012, the State of Ohio Department of Insurance and UHC entered into a consent order in which UHC affirmed that it would not “solicit, issue or otherwise write any new policies or contracts of insurance” or “assume any new risk in the State of Ohio.”

Pursuant to 42 C.F.R. §§ 422.504(a)(1) and 423.505(b)(2), organizations that contract with CMS to offer MA-PDs must accept new enrollments. UHC is, therefore, unable to comply with CMS’ requirements.

### **Legal Basis for Immediate Imposition of Enrollment Sanctions**

CMS has determined that UHC’s deficiencies provide a sufficient basis for the immediate imposition of intermediate sanctions (42 C.F.R. §§ 422.752(b) and 423.752(b)). CMS has determined that UHC no longer substantially meets the applicable conditions to carry out its contract with CMS (42 C.F.R. §§ 422.510(a)(3) and 423.509(a)(3)).

### **Additional Consent Orders**

On January 3, 2013, UHC notified CMS it expects to enter into consent orders with the states of Virginia and West Virginia. Once CMS receives fully executed copies of the consent orders for those states (or any other state(s)), CMS will apply the intermediate sanctions to the additional state(s). This document serves as your notice for any impending sanctions.

Dr. Akshay Desai  
January 17, 2013

State	Consent Order Effective Date	CMS Sanction Effective Date	Consent Order/CMS Sanction Lift Date	Contract Numbers
Georgia	11/16/12	11/19/12		H5096, H5820, H8098
Ohio	12/18/12	01/17/13		H5096, H5820, H8098
Virginia				H5096, H5820, H8098
West Virginia				N/A

Please note that CMS will be closely monitoring UHC and CMS will consider applicable remedies available under law, including the imposition of an intermediate sanction that suspends enrollment for all UHC contracts, civil money penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O, if the situation warrants.

If you believe that we have received incorrect information and are imposing the aforementioned sanction(s) in error, please call or email the enforcement contact provided in your email notification.