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December 2, 2013

Marilyn Tavenner  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Kathleen Sebelius  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Christie L. Hager, J.D., M.P.H.  
Regional Director- Region One  
U.S. Dept. of Health and Human Services  
John F. Kennedy Federal Building  
Government Center - Room 2100  
Boston, MA 02203

Dear Ms. Tavenner, Ms. Sebelius and Ms. Hager:

The Connecticut State Medical Society ("CSMS") is in receipt of a letter from the Centers from Medicare & Medicaid Services ("CMS") dated November 22, 2013 in response to CSMS' letter dated October 23, 2013.

While CSMS appreciates CMS' response, we continue to have significant concerns regarding the unilateral physician terminations undertaken by UnitedHealthcare ("UHC") in their Medicare Advantage ("MA") network and the impact on patients. Our concerns are as follows:

Network Adequacy: In your November 22, 2013 letter (hereinafter the "CMS Letter"), you indicate that you are "currently reviewing UHC's networks against CMS standards." It would seem that such a review of network adequacy should have been completed by this point. In accordance with CMS regulations, UHC is required to submit rosters of its networks and proposed network changes to CMS. In accordance with CMS process, a network adequacy review should be on-going and it should be readily apparent that a drastic removal of roughly one-third of participating MA physicians would significantly impact the

adequacy of such a network as well as access to care for the tens of thousands of MA beneficiaries in Connecticut. Additionally, CSMS, as well as other state medical societies and the American Medical Association, have pointed out areas where there will be significant holes in UHC's MA network as it relates to specialty and sub-specialty care. While we appreciate your response to our concern regarding cardiologists in the Norwalk, Connecticut metro area, our letter of October 23 specifically indicated that the cardiologists that remain "active" on UHC's provider roster in the Norwalk area are retired, semi-retired, deceased or not accepting new patients. While the CMS Letter indicated that "UHC submitted current network data on cardiologists in Fairfield County," there is no indication that CMS vetted and verified the accuracy of UHC's submission. CSMS has verified that UHC's cardiology roster is inaccurate. It is difficult for us to understand how network adequacy can be established when UHC's roster is not accurate. CSMS was told by UHC's Chief Medical Officer and National Networks Vice President that UHC was limited in tracking specialty care. In our October 23 letter, CSMS specifically raised this concern and did not receive a direct response in the CMS Letter. CSMS is asking for a thorough investigation of the accuracy of UHC's provider roster, in the context of a complete network adequacy review and determination.

Accessibility for Disabled/Elderly Beneficiaries: In our October 23 letter, CSMS also raised the concern of access by disabled and elderly MA beneficiaries to care. CSMS raised important questions as to how disabled and elderly members were to access care when the closest specialist will now be several towns away and not accessible via public transportation. Again, other than a cursory statement as to UHC's obligations to provide appropriate care to the disabled, the CMS Letter failed entirely to respond to CSMS' concerns and questions regarding access to care for the disabled and elderly population. CSMS reiterates its concern that the significant narrowing of UHC's MA network will cause the disabled and elderly significant distress in attempting to access needed medical care. CSMS again requests that CMS undertake a review of UHC's MA network to ensure that elderly and disabled MA beneficiaries have access to primary care and specialty services *within a reasonable time and distance and accessible via public transportation.*

Federal Cultural Competency Requirements: In CSMS' letter of October 23, CSMS noted that federal law requires that services provided to MA beneficiaries are provided in a "culturally competent manner to all enrollees, including those with limited English proficiency or reading skills, and diverse cultural and ethnic backgrounds." As further noted, UHC's terminations deeply impact the urban areas of Connecticut where many patients have limited English proficiency and come from diverse cultural and ethnic backgrounds. Many of the physicians terminated are trained in cultural competent medical care and speak languages other than English, offering high levels of care to those patients with limited English proficiency. CSMS specifically asked CMS to review United's proposed MA network terminations in light of federal cultural competency requirements. While the CMS Letter recognized that CSMS "raised specific concerns regarding the ability of United's remaining network to provide culturally competent and appropriate care to all enrollees, including those with limited English proficiency" and simply reiterated the federal regulations, CMS failed to provide any response or assessment as to whether UHC's physician network in fact meets this federal standard. As such, CSMS once again

requests that CMS undertake a full review of the capacity of UHC's physician network to provide culturally competent care in accordance with federal regulatory standards.

Notice to Impacted Beneficiaries: In the CMS Letter, CMS indicates that "UHC has reported to CMS that it mailed notices to the affected beneficiaries in Connecticut on November 14 and November 15, 2013, which is more than 30 days in advance of the February 1, 2014 termination." While CSMS recognizes that such notices were in fact mailed, CMS fails to even recognize the importance of these termination notices within in the context of the Medicare Open Enrollment period. As noted in the CMS Letter, UHC is required to "make a good faith effort to provide writing notification of a terminated provider." The key words in that sentence being *good faith*. It is unfathomable to us how notifying beneficiaries less than three weeks before the end of the Medicare Open Enrollment period in the middle of a national holiday constitutes anything resembling "good faith." In fact, the timing of the notices appears to be made in bad faith as MA beneficiaries losing access to providers will have to scramble to determine if they are going to continue participation in United's MA plan as well as assess the other very confusing options and alternatives available under the Medicare program. This represents the ultimate in consumer deception. Additionally, UHC has made many changes and updates to its online provider directory since the announcement of the unilateral network terminations. Initially, terminated providers were listed on the online provider director as in network. Then, inconsistently, some terminated providers were removed entirely from the directory (with no indication that they were still participating until at least February 1, 2014) while others remain listed as in network (with no indication as to a pending termination). The confusion created by UHC with regard to their online directory is again representative of consumer deception. Consumers are entitled to make educated and informed decisions as to vital question of who provides their medical care. UHC's failure to simply accurately update and reflect the status of their network in an online provider directory demonstrates the level of disarray and disorganization by UHC by which these unilateral terminations were done. Unfortunately, the victims of this ineffective approach will be the MA beneficiaries who are not equipped with accurate information regarding MA network providers and has been given virtually no time to make an informed decision about his/her healthcare. The MA populations consists of elderly and disabled patients, many of whom have not had to make a choice of physician provider or Medicare plan in many years and are now being forced, with virtually no time or information, to make critical decisions about the future of their healthcare.

Request for Stay of Terminations: In its October 23 letter, CSMS repeatedly requested that CMS stay UHC's unilateral terminations until such time as an adequate review can be done regarding the concerns raised in CSMS' October 23 letter and reiterated above in this letter. CMS failed entirely to respond to CSMS' request or even acknowledge that such a request was made. As such, CSMS again reiterates and requests that CMS immediately suspend or rescind UHC's MA terminations until such time as an extensive review can be conducted and *specific responses received* to CSMS' concerns.

CSMS is frustrated that CMS failed to respond to the specific questions and issues raised in CSMS' October 23 letter. CMS' generic response to the issues, questions and concerns raised by CSMS, as well as similar generic responses to issues, questions and concerns raised by the Connecticut Attorney General and the Connecticut Congressional Delegation, will negatively impact the provision of medical

care to MA beneficiaries in Connecticut. The physicians of Connecticut, and their patients, believe that CMS has abrogated its responsibility to patients by failing to responding with specific reviews and simply reiterating that requirements are in place for United to meet with no detailed verification on its own. CSMS formally requests that CMS provide specific answers to the points noted in this letter and is extremely dissatisfied with the veiled attempt at generalities presented in the initial response by CMS to the very specific inquiry and concerns raised by CSMS on behalf of its members and the MA beneficiaries impacted in Connecticut. CSMS is highly distressed at the lack of oversight and lack of responsiveness by CMS to very real concerns and issues impacting seniors who are reliant on valid information for their health care coverage and decision making. CMS' assertion that UHC's website is functional and that network adequacy requirements are fulfilled without verification is not an acceptable professional standard.

CSMS expects to receive a timely and detailed response to the concerns outlined in this letter.

Regards,



Matthew C. Katz  
EVP/CEO



Michael F. Saffir, M.D.  
President

cc: Senator R. Blumenthal  
Senator C. Murphy  
Congressman J. Larson  
Congressman J. Courtney  
Congresswoman R. DeLauro  
Congressman J. Himes  
Congresswoman E. Esty  
George Jepsen, Connecticut Attorney General  
Victoria Veltri, Connecticut Healthcare Advocate