

STATE OF NEW JERSEY
DEPARTMENT OF HEALTH AND SENIOR SERVICES

IN THE MATTER OF)	ADMINISTRATIVE
UNITED HEALTHCARE OF NEW)	CONSENT
JERSEY, INC., AND ITS CONTRACT)	ORDER
WITH ABDOLAI KHAJAVI)	

This Administrative Consent Order ("ACO") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Health and Senior Services ("DHSS") by N.J.S.A. 26:2J-1 et seq. with United Healthcare of New Jersey, Inc. ("United"), an entity having been authorized to offer coverage for services, or benefits therefor, as a health maintenance organization in New Jersey, among other things, in order to amicably resolve the matters set forth below without need of formal hearing or further litigation, and without any specific admission of liability or fact by either party, with the hope of achieving a more cooperative relationship in the future.

BACKGROUND

1. DHSS received a complaint on August 26, 1999¹ made by an individual regarding a referral from United's customer service staff of a member of the individual's family to Abdolai Khajavi, in May or early June. After obtaining services from Abdolai Khajavi, the individual determined that Abdolai Khajavi's license was suspended or possibly revoked. The individual stated that s/he had made several complaints by telephone regarding Abdolai

¹ The complaint was sent by e-mail to the Department of Banking and Insurance on August 23rd, and forwarded by that agency to DHSS.

Khajavi's license to United, but that United apparently continued to refer people, including the complainant, to Abdolai Khajavi following receipt of the licensing complaints².

2. Pursuant to this complaint, DHSS conducted a targeted on-site investigation on September 7th and 8th, 1999, of United's operational systems regarding complaints, credentialing and CQI, among other things, conducting interviews with United's management and staff, reviewing United's written policies and procedures regarding its complaint system, CQI and credentialing programs, as well as the documents and files related to the immediate incident.

3. DHSS determined that United had a contractual relationship on or before July 1, 1999 through approximately August 20, 1999 with Abdolai Khajavi for Abdolai Khajavi to provide medical services as a primary care provider to individuals covered under various health benefits plans issued by United, including individuals enrolled in its HMO health benefits plan(s). United included Abdolai Khajavi within its directory of health care providers, printed both in paper and electronic format, as a health care provider from whom HMO members could seek health care services consistent with the terms of their HMO health benefits plan(s), and listed Abdolai Khajavi as an available primary care provider on or before July 1, 1999 through August 20, 1999. Accordingly, United directed various individuals, including HMO members, to Abdolai Khajavi for the provision of health care services on or before July 1, 1999 through approximately August 20, 1999 telephonically through United's customer service staff and via United's provider directories.

² It may be noted that the individual who made the complaint was not covered under one of United's HMO health benefits plans, but rather, was covered under a self-funded welfare plan administered through an affiliate of United. That notwithstanding, the network of health care providers offered to United's HMO members and those individual's covered under the self-funded welfare plan administered by United's affiliate for New Jersey was substantially the same, and Abdolai Khajavi was included as a network provider for individuals covered under both United's HMO health benefits plan(s), and the self-funded welfare plan.

4. United's records indicate that, although United became aware no later than July 1, 1999, of the probability that Abdolai Khajavi's license to practice medicine in the State of New Jersey had been suspended, and possibly revoked by the New Jersey Board of Medical Examiners (BME), or otherwise not renewed, United did not effectively remove Abdolai Khajavi from its provider network until August 20, 1999. On or about August 20, 1999, United removed Abdolai Khajavi's name from its electronic provider directory, clearly directed its customer service staff to no longer indicate to callers that Abdolai Khajavi was available as a participating provider, and began the process of notifying members who had selected him as their primary care provider of the need to select a new participating provider.

5. United is required by N.J.A.C. 8:38-4.2(a) to maintain a credentialing committee under the direction of its medical director, that has the responsibility, among other things, to establish a system for verification of provider credentialing, recertification, performance reviews, and obtaining notice of disciplinary actions that may be taken against a provider by a licensing entity. In addition, United is required by N.J.A.C. 8:38-7(a) and (d) to maintain a CQI program under the direction of United's medical director (or his or her designee who is licensed as a physician), that addresses, among other things: a system of ongoing evaluation activities, including individual case reviews and pattern analyses; peer review activities of providers; a system for monitoring member satisfaction and network providers' response and feedback on HMO operations; and, accessibility, continuity and quality of care, including a mechanism for evaluating all providers of care. Further, United is required by N.J.A.C. 8:38-7.1(f) to coordinate its CQI program and activities with other performance monitoring activities, including monitoring of member and provider complaints. United is required by N.J.S.A. 26:2J-12 and

N.J.A.C. 8:38-3.6(a) to maintain a complaint system that, among other things, must be linked into United's continuous quality improvement (CQI) program.

6. DHSS determined following its targeted on-site investigation that, although United had a credentialing committee, a complaint system and a CQI program, the company's internal operations on or before July 1, 1999 through August 20, 1999 were not adequately designed to provide timely and effective transmission of information to the appropriate credentialing and CQI committees to determine whether complaints and other sources of information regarding a provider contain accurate information, the nature of a license suspension or other disciplinary action by a licensing authority, and the appropriate action to be taken by United's staff in the face of a license suspension or other disciplinary action by a licensing authority on an on-going basis³, thereby violating N.J.A.C. 8:38-4.2(a), 7.1(a), 7.1(d), and 7.1(f)⁴.

7. DHSS alleges that United should have initiated action regarding the status of Abdolai Khajavi's license and continued participation as a health care provider in the network offered by United to its HMO members no later than July 1, 1999, but did not, and failed to effectively remove the health care provider from the network until August 20, 1999.

8. DHSS required United to submit a Plan of Correction (POC) to assure that the immediate situation would be unlikely to recur, and United submitted such a plan which DHSS determined is satisfactory for the purposes for which submitted. While acknowledging that the POC is satisfactory, and that the alleged violations cited herein would represent the first violations for United in New Jersey, DHSS believes that the specific incident not only is

³ Removal of the health care provider occurred promptly when the information of a licensing problem in New Jersey finally was brought to the attention of United's medical director responsible for New Jersey business.

⁴Although DHSS questions the operational status of United's complaint system for its HMO members during the time period in question, because the individual making the complaint in this specific instance was not an HMO member, and indeed, the individual's complaints were administered initially through a different entity because the

sufficiently egregious to warrant imposition of a financial penalty against United, but to warrant application of a penalty exceeding the minimum penalty amount permitted under N.J.S.A. 26:2J-24, for the 49 days during which United's records indicate knowledge of the problem of the license status of one of its participating providers licensed by the BME without removal or significant constructive action to remove the participating provider from United's network of participating providers available to its HMO members. Accordingly, DHSS believes it appropriate to assess a penalty of \$650 per violation (four violations), per day of violation (49 days).

ORDER

NOW, THEREFORE, DHSS and United agree and stipulate to the following terms and conditions:

1. Within ten (10) business days of the execution by all parties of this ACO, United shall pay a penalty of a single sum of One Hundred Twenty-Seven Thousand Four Hundred Dollars (\$127,400) by bank draft made payable to the Treasurer, State of New Jersey, submitted to the New Jersey Department of Health and Senior Services, P.O. Box 360, Trenton, NJ 08625-0360, to the attention of Elisabeth Salberg, Director, Office of Managed Care;

2. In the event that the sum of One Hundred Twenty-Seven Thousand Four Hundred Dollars (\$127,400) is not remitted as provided in Paragraph 1 above, DHSS may institute a summary proceeding for collection of such penalty in accordance with the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.;

3. That DHSS shall make every effort to assure that any requests for information concerning the specific matter contained herein shall include a copy of this ACO;

individual was covered under a self-funded welfare plan, DHSS is not determining that there was an explicit violation of N.J.A.C. 8:38-3.6 pursuant to this ACO.

Force Majeure

4. If any event occurs that United believes will or may cause delay in the achievement of any provision of the ACO, United shall notify DHSS in writing within three (3) calendar days of becoming aware of the delay or anticipated delay, referencing this paragraph and describing the anticipated length of the delay, the precise cause or causes of the delay, any measures taken or to be taken to prevent or minimize the delay, and the time required to take any such measures to prevent or minimize the delay. United shall take all necessary action to prevent or minimize any such delay.

5. If DHSS finds that (a) United has complied with the notice requirements of the preceding paragraph, (b) any delay or anticipated delay has been or will be caused by fire, flood, riot, strike or other circumstances beyond the control of United, and (c) United has taken all necessary actions to prevent or minimize the delay, DHSS shall extend the time for performance hereunder for a period no longer than the delay resulting from such circumstances.

6. If DHSS determines that either United has not complied with the notice requirements of paragraph 4, or that the event causing the delay is not beyond the control of United, or that United has not taken all necessary actions to prevent or minimize the delay, failure to comply with the provisions of the ACO shall constitute a breach of the requirements of this ACO. The burden of proving that any delay is caused by circumstances beyond the control of United and the length of any such delay attributable to those circumstances shall rest with United. Increases in costs or expenses incurred by United in fulfilling the requirements of this ACO shall not be a basis for an extension of time.

General Provisions

7. This ACO shall be binding on United, its successors, assigns, any trustee in bankruptcy or other trustee, or any receiver appointed to a proceeding in law or equity.

8. Nothing in this ACO shall preclude DHSS from taking enforcement action against United for matters not set forth herein or the investigations conducted in connection therewith, and United reserves all rights to appeal, challenge or otherwise contest should any such action be taken. If United complies with the terms and conditions of this ACO, then DHSS shall not take enforcement action against United for the alleged violations set forth herein. However, if United violates any of the terms of this ACO, then DHSS may take any enforcement action it deems appropriate for any violations set forth herein.

9. United's failure to comply with any of the terms and conditions of this ACO shall entitle DHSS to enforce as a Final Agency Order the terms and conditions of this ACO.

10. Obligations under this ACO are imposed pursuant to the police powers of the State of New Jersey for the enforcement of law and the protection of public health, safety, and welfare and are not intended to constitute a debt or debts which may be limited or discharged in a bankruptcy proceeding.

11. United shall not contest the authority or jurisdiction of DHSS to issue this ACO, nor shall United contest its terms in any action to enforce the provisions of this ACO.

12. Nothing in this ACO shall constitute a waiver of any statutory right of DHSS to require United to undertake additional measures regarding the alleged violations contained herein as determined necessary by DHSS to protect the health, safety or welfare of United's members or the general public, nor of any statutory right of United to contest such requirements, should DHSS act pursuant to this paragraph.

13. No modification or waiver of this ACO shall be valid except by written amendment made to this ACO, duly executed by United and DHSS.

14. This ACO shall be governed and interpreted under the laws of the State of New Jersey.

15. The individuals executing this ACO have the authority to bind United and DHSS respectively to the terms of the ACO.

16. This ACO shall be effective from the latest date of execution by either party.

CHRISTINE GRANT
COMMISSIONER OF HEALTH AND
SENIOR SERVICES

DATE

AMY KNAPP
CEO, UNITED HEALTHCARE OF
JERSEY, INC.

DATE

Effective March 15, 2000