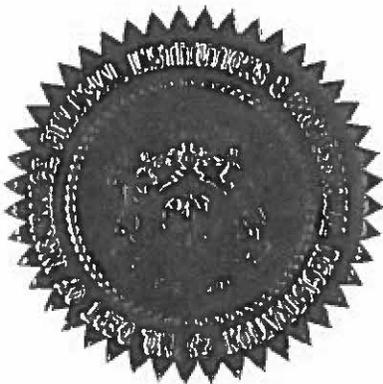




- C. Issue an order requiring UHC to cure or take other action necessary or appropriate to comply with the insurance laws of this state.
- D. Issue an order requiring the payment by UHC of monetary penalties and forfeitures pursuant to §§ 374.046, 374.049 and 374.280 RSMo. (Cum. Supp. 2013).
- E. Issue an order requiring UHC to pay the reasonable costs of the investigation and/or the actual cost of the investigation or prosecution of this action pursuant to §374.046.1 (4) and 374.046.8 RSMo. (Cum. Supp. (2013).
- F. Issue an order suspending or revoking the Certificate of Authority of UHC pursuant to §§374.210, 375.445 and 375.881RSMo. (Cum. Supp. 2013).
- G. Such other relief as the Director deems just and appropriate.

Pursuant to 20 CSR 800-1.060 (1) (A), you are hereby notified of your obligation to file an Answer to the Division's Verified Statement of Charges within thirty days of receipt of this Order unless a request for additional time is granted. Pursuant to 20 CSR 800-1.030 (4), a prehearing conference may be ordered. If either party wishes a prehearing conference, a request for the same shall be filed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 24<sup>th</sup> day of July, 2015.



  
John M. Huff, Director  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of this Order to Show Cause and of the Verified Statement of Charges filed by the Division of Insurance Market Regulation was sent by certified mail this 24<sup>th</sup> day of July, 2015, on:

United Healthcare Insurance Company  
185 Asylum Street  
Hartford, CT 06103

and hand-delivered to:

Stewart M. Freilich  
Kelly A. Hopper  
301 West High Street, Room 530  
P.O. Box 690  
Jefferson City, MO 65102



---

Kim Gerlt  
Special Assistant to the Director  
Missouri Department of Insurance, Financial  
Institutions, and Professional Registration



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of this Order Appointing Hearing Officer was sent by certified mail this 24<sup>th</sup> day of July, 2015, on:

United Healthcare Insurance Company  
185 Asylum Street  
Hartford, CT 06103

and hand-delivered to:

Stewart M. Freilich  
Kelly A. Hopper  
301 West High Street, Room 530  
P.O. Box 690  
Jefferson City, MO 65102



\_\_\_\_\_  
Kim Gerlt  
Special Assistant to the Director  
Missouri Department of Insurance, Financial  
Institutions, and Professional Registration

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION  
STATE OF MISSOURI**

**DIVISION OF INSURANCE MARKET )  
REGULATION )  
)  
PETITIONER )  
)  
v. )  
)  
UNITED HEALTHCARE INSURANCE )  
COMPANY (NAIC #79413) )  
)  
RESPONDENT )  
)  
Serve: 185 Asylum Street )  
Hartford, CT 06103 )**

Case No. 150723381c

**FILED**

JUL 23 2015

DIRECTORS OFFICE  
MO. DEPT OF INSURANCE,  
FINANCIAL INSTITUTIONS &  
PROFESSIONAL REGISTRATION

**VERIFIED STATEMENT OF CHARGES**

The Division of Insurance Market Regulation (hereinafter the "Division") of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter the "Department"), by and through counsel, requests that John M. Huff, the Director of the aforementioned Department (hereinafter the "Director"), find that United Healthcare Insurance Company (hereinafter "UHC"), has violated Missouri laws relating to insurance, and issue an Order:

- 1) Requiring UHC to cease and desist violating Missouri law;
- 2) Directing UHC to cure or take other action necessary or appropriate to comply with the insurance laws of this state;
- 3) Requiring UHC to pay a civil penalty or forfeiture;
- 4) Suspending or revoking the Certificate of Authority of UHC;
- 5) Awarding the Division the reasonable costs of the investigation and/or the actual cost of the investigation or prosecution of this action; and

6) Providing such other relief, preliminary or final, as is warranted against UHC, including but not limited to, Issuing an Order to Show Cause why the relief requested in this Verified Statement of Charges should not be granted.

### **PARTIES**

1. The Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration, an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri.

2. UHC is a Connecticut domiciled life and health insurance company, authorized by the Director to engage in the business of insurance in the State of Missouri pursuant to a certificate of authority. UHC's main administrative office is located at 185 Asylum Street, Hartford, CT 06103.

### **JURISDICTION**

3. The Director has jurisdiction to hear and administer this proceeding pursuant to §374.046 RSMo,<sup>1</sup> which provides in pertinent part:

1. If the director determines based upon substantial and competent evidence that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, and chapters 375 to 385, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, and chapters 375 to 385, or a rule adopted or order issued pursuant thereto, the director may order the following relief:

(1) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;

---

<sup>1</sup> All references, unless otherwise noted, are to the 2013 Supplement to the Revised Statutes of Missouri 2000.

(2) A curative order or order directing the person to take other action necessary or appropriate to comply with the insurance laws of this state;

(3) Order a civil penalty or forfeiture as provided in section 374.049; and

(4) Award reasonable costs of the investigation.

\* \* \*

8. In a final order under subsection 6 of this section, the director may charge the actual cost of an investigation or proceeding for a violation of the insurance laws of this state or a rule adopted or order issued pursuant thereto.

4. The Director also has jurisdiction to hear and administer this proceeding pursuant to §374.210.5, which provides in pertinent part: “If the Director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046.”

5. The Director also has jurisdiction to hear and administer this proceeding pursuant to §375.881, which provides in pertinent part: “The director may revoke or suspend the certificate of authority of a foreign insurance company under section 374.047 or issue such administrative orders as appropriate under section 374.046 whenever he finds that the company . . . (6) Has violated any law of this state or has in this state violated its charter or exceeded its corporate powers . . . .”

6. The Director also has jurisdiction to hear and administer this proceeding pursuant to §375.445.2, which provides in pertinent part: “If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. . . . The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.”

**RELEVANT STATUTORY AND REGULATORY PROVISIONS**

7. Section 374.210.1 provides:

1. It is unlawful for any person in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, or chapters 375 to 385, to:

(1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354, and chapters 375 to 385; or

(2) Make any false certificate or entry or memorandum upon any of the books or papers of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed in the department, or used in the course of any examination, inquiry, or investigation under this chapter, chapter 354 and chapters 375 to 385.

8. Section 375.445 provides in pertinent part:

1. It is unlawful for any insurance company transacting business under the laws of this state to:

(1) Conduct its business fraudulently;

(2) Fail to carry out its contracts in good faith; or

(3) Habitually and as a matter of business practice compelling claimants under policies or liability judgment creditors of the insured to either accept less than the amount due under the terms of the policy or resort to litigation against the company to secure payment of the amount due.

9. 20 CSR 100-8.040 (3) (B) provides in pertinent part:

A Missouri claim file shall be maintained for the calendar year in which the claim is closed plus three (3) years. The claim file shall be maintained so as to show clearly the inception, handling, and disposition of each claim. The claim file(s) shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. A Missouri claim file(s) shall include the following:

1. Any notification of claim, proof of loss, claim form(s), proof of claim payment check/draft, notes, contract, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, and any documented or recorded telephone communication related to the handling of the claim, including the investigation, payment and/or denial of the claim, and any claim manual(s) or other information necessary for reviewing the claim. . . .

#### **STATEMENT OF FACTS**

#### **CONSUMER COMPLAINT INVESTIGATION TRACKING ID 185644**

10. On February 1, 2013, the Department received a consumer complaint against UHC.

The complaint was coded with Tracking ID 185644.

11. The complainant in Tracking ID 185644 alleged, in part, that UHC misrepresented benefits related to the intrauterine device (IUD), Paragard, by not disclosing that Paragard would be covered as a non-network benefit.

12. A letter was sent by the Department's Consumer Complaint Specialist to UHC dated February 5, 2013 informing the Company that an investigation was being conducted relating to

Tracking ID 185644 pursuant to §§374.085 and 374.190, and requesting information from UHC relating to the complaint.

13. UHC responded to Tracking ID 185644 on February 25, 2013.

14. In UHC's February 25, 2013 response to the Department, UHC provided "a chronological listing of events as it relates to this issue."

15. The chronological list provides eight dates on which the complainant contacted UHC by phone. The dates contained in the list are:

- a. March 2, 2011
- b. August 22, 2011
- c. January 23, 2012
- d. April 14, 2012
- e. May 3, 2012
- f. May 11, 2012
- g. June 20, 2012
- h. September 14, 2012

16. In conjunction with UHC's February 25, 2013 response, UHC also provided the Department with screen shots from its online routing system (ORS). The online routing system chronicled the following dates as the dates the complainant called UHC:

- a. March 22, 2011
- b. August 22, 2011
- c. January 23, 2012
- d. April 18, 2012
- e. May 3, 2012
- f. May 7, 2012
- g. June 20, 2012
- h. September 14, 2012

### Call Recordings

17. On June 13, 2013, the Department's Consumer Complaint Specialist sent a follow up request to UHC which, in pertinent part, requested UHC provide "a transcribed copy of all the calls."

18. The Department received UHC's response dated June 24, 2013. The response stated, in pertinent part: "Additionally, you requested a copy of the call records that I included with my original response; however, not all call recordings are available. Therefore, I have enclosed a copy of the transcribed call recordings United Healthcare has on file."

19. The transcripts provided on June 24, 2013 were titled:

- a. C12341202106276 - Date of call 08/22/2011
- b. C21091455034442 - Date of call 04/18/2012
- c. C21241643551602 - Date of call 05/03/2012
- d. C21281254025767 - Date of call 05/07/2012
- e. C22581755007383 - Date of call 09/12/2012

20. Several months later on October 11, 2013, in a separate investigation, the Division sent UHC an interrogatory. In pertinent part, the interrogatory requested that UHC provide all correspondence which had transpired between themselves and the enrollees in question, including the complainant in Tracking ID 185644. Correspondence was specifically identified as including all written communications regarding IUD claims sent to and received from the insureds and voice recordings of all phone calls including calls with customer service representatives, claim specialists, resolution specialists, etc.

21. On November 7, 2013, UHC provided the Division with seven audio recordings.

22. The first audio recording was titled 041812 call recording.wma. UHC provided a transcribed version of this call to the Department's Consumer Complaint Specialist on June 24, 2013. The transcript was titled C21091455034442 – Date of call 04/18/2012.

23. The second audio recording was titled 050312 call recording.wma. UHC provided a transcribed version of this call to the Department's Consumer Complaint Specialist on June 24, 2013. The transcript was titled C21241643551602 – Date of call 05/03/2012.

24. The third audio recording was titled 050712 call recording.wma. UHC provided a transcribed version of this call to the Department's Consumer Complaint Specialist on June 24, 2013. The transcript was titled C21281254025767 – Date of call 05/07/2012.

25. The fourth audio recording was titled 051112 call recording.wma.

26. The fifth audio recording was titled 062012 call recording.wma.

27. The sixth audio recording was titled 082211 call recording.wma. UHC provided a transcribed version of this call to the Department's Consumer Complaint Specialist on June 24, 2013. The transcript was titled C12341202106276 – Date of call 08/22/2011.

28. The seventh audio recording was titled 091412 call recording.wma. UHC provided a transcribed version of this call to the Department's Consumer Complaint Specialist on June 24, 2013. The transcript was titled C22581755007383 – Date of call 09/14/2012.

29. UHC did not provide a transcribed copy of all calls as requested by the Department's Consumer Complaint Specialist. Neither transcripts nor audio recordings were provided to the Consumer Complaint Specialist for call recordings titled 051112 call recording.wma and 062012 call recording.wma.

Transcript C21281254025767

30. The transcripts provided to the Department's Consumer Complaint Specialist on June 24, 2013 did not accurately reflect the contents of the source audio recordings.

31. A true and correct copy of transcript C21281254025767 – Date of call 05/07/2012 (with personal identifying information for the complainant redacted) is attached hereto as Exhibit A and incorporated by reference herein. This transcript relates to 050712 call recording.wma.

32. The Division retained Midwest Litigation Services (hereinafter “Midwest”) to transcribe 050712 call recording.wma. Midwest used UHC’s audio recording of 050712 call recording.wma, to create a transcript. A true and correct copy of Midwest’s transcript for 05072012 call recording.wma (with personal identifying information for the complainant redacted) is attached hereto as Exhibit B and incorporated by reference herein.

33. The audio recording of 050712 call recording.wma relates to a telephone conversation between the complainant and a UHC customer care representative relating to the complainant’s purchase of Paragard.

34. A comparison of the transcripts demonstrates that UHC omitted material information from its transcription of 050712 call recording.wma. Those material omissions include the following:

- a. UHC’s customer care representative agreed with the complainant that “voluntary sterilization, contraceptive supplies and services” were covered services. See Exhibit B, pg. 18, line 20 to pg. 19, line 4.
- b. UHC’s customer care representative stated: “And I totally agree with you on that one.” See Exhibit B, pg. 19, line 20 to 25.
- c. The complainant told UHC’s customer care representative that before she sent in her claim for the purchase of the IUD, she called to make sure that she was doing everything correctly and “I didn’t receive any indication that it wasn’t covered.” See Exhibit B, pg. 20, line 1 to 5.

- d. UHC's customer care representative provided information to the complainant about forwarding her claim for another review. Exhibit B, pg. 20, line 13 to 20.
- e. UHC's customer care representative stated that "it is covered." Exhibit B, pg. 20, line 24 to 25.

35. The complainant's claim was applied to the out-of-network deductible until June 25, 2014 when UHC issued payment based on a one-time benefit exception requested by the Department.

Transcript C22581755007383

36. A true and correct copy of transcript C22581755007383 – Date of call 09/14/2012 (with personal identifying information for the complainant redacted) is attached hereto as Exhibit C and incorporated by reference herein. This transcript relates to 09142012 call recording.wma.

37. The Division retained Midwest to transcribe 09142012 call recording.wma. Midwest used UHC's audio recording of 09142012 call recording.wma, to create a transcript. A true and correct copy of Midwest's transcript for 09142012 call recording.wma (with personal identifying information for the complainant redacted) is attached hereto as Exhibit D and incorporated by reference herein.

38. The audio recording relates to the complainant's appeal rights. The Complainant submitted an appeal on January 30, 2013. UHC denied the appeal on the ground that UHC did not receive the request within 180 days of the date of the denial notice. UHC took the position that it needed to receive the appeal by January 11, 2013.

39. Page X of the coverage documents provided to the Department by UHC states in pertinent part: "Your first appeal request must be submitted to us within 180 days after you receive the claim denial."

40. A comparison of the transcripts demonstrates that UHC omitted material information from its transcription of 09142012 call recording.wma. Those material omissions include the following:

- a. UHC's customer care representative told the complainant: "Yeah, it doesn't really say there's a time frame to submit the appeal," and "but it doesn't say when you can submit an appeal for a claim." See Exhibit D, pg. 31, line 10 to 15.
- b. The complainant explained to UHC's customer care representative that "it's 180 days from the time that the – that the decision is made – the insurance company makes the decision you have 180 days to file the appeal." See Exhibit D, pg. 31, line 16 to 19.
- c. The complainant explained that she "didn't know when that 180 days is supposed to start." See Exhibit D, pg. 31, line 20 to 21.
- d. UHC's customer care representative stated in response to the complainant's question as to when the 180 days would start: "Yeah, I mean either way if you're going to be – in June or July, so you're – you're pretty much good to go." See Exhibit D, pg. 32 line 2 to 4.

Transcript C12341202106276

41. A true and correct copy of transcript C12341202106276 – Date of call 08/22/2011 (with personal identifying information for the complainant redacted) is attached hereto as Exhibit E and incorporated by reference herein. This transcript relates to 08222011 call recording.wma.

42. The Division retained Midwest to transcribe 08222011 call recording.wma. Midwest used UHC's audio recording of 08222011 call recording.wma, to create a transcript. A true and correct copy of Midwest's transcript for 08222011 call recording.wma (with personal identifying

information for the complainant redacted) is attached hereto as Exhibit F and incorporated by reference herein.

43. In the Midwest transcript, UHC's customer care representative asks the complainant: "Do you have an in network physician that you're going to for the – for the procedure?" Exhibit F, pg. 5, line 21 to 23. The customer service representative then tells the consumer that: "I just wanted to double check, because the out of network benefits are less than what the in network ones were, so --." Exhibit F, pg. 6, line 2 to 4.

44. In the UHC transcript, UHC's customer care representative asks the complainant: "Do you have a network physician you are going to for the procedure, because I want to be sure. Out of network benefits are less than network ones are."

45. In either transcript, the UHC customer care representative did not disclose to the complainant that the IUD provider must also be in-network in order for the complainant to receive network benefits.

46. UHC processed the claim as an out-of-network benefit because the IUD was obtained from an out-of network provider.

#### UHC's February 25, 2013 Response

47. UHC responded to the complaint in Tracking ID 185644 on February 25, 2013. The subject of that complaint was that the complainant's purchase of an IUD was treated as a non-network benefit.

48. In UHC's response the Company stated: ". . . I did not find any documentation that our Customer Care Staff (CCS) misquoted benefits. **The member's plan allows for both network and non-network benefits; therefore, the member can choose to receive services from a network or non-network provider.** Based on my review of this information, because Paragard

Direct is a non-network provider with United Healthcare, the claim was processed correctly.”  
(emphasis added)

49. On June 13, 2013, in conjunction with the investigation of Tracking ID 185644, the Department’s Consumer Complaint Specialist asked UHC to “[P]lease explain who is a network provider for Paragard or other non-hormonal IUD in-network provider that [consumer] could have bought an IUD from. If Paragard Direct is an out of network provider, where should she have gone to receive in-network benefits?”

50. UHC’s response to the June 13, 2013 query stated: “United Healthcare currently does not have a network provider/facility that the member could have used to purchase the IUD brand name ‘Paragard’ or another non-hormonal IUD at the network level.”

CONSUMER COMPLAINT INVESTIGATION TRACKING ID 190242

51. On April 3, 2013, the Department received a consumer complaint against UHC coded with the tracking number 190242.

52. In part, the complainant in Tracking ID 190242 alleged that he had contacted UHC for guidance about purchasing an IUD and was told to purchase the device and submit the claim for reimbursement. The complainant alleged that he was never told that Paragard was not an in-network provider.

53. UHC responded to the Department’s Consumer Complaint Specialist regarding the complaint in Tracking ID 190242 on May 30, 2013.

54. In its response, UHC wrote: “You asked, ‘How was the insured to know that Paragard Direct is classified as a “provider” or “pharmaceutical Company?’” I provided you with the transcript of the call we received on November 21, 2011. Our Customer Service Staff (CCS) tried to inform the member of his benefit; however, without more information such as – codes,

tax identification numbers etc. . . ; our CCS could not inform the member where the claim submission would be processed according to the network or non-network benefit level. The CCS tried calling the physician's office to obtain this information on behalf of the member; however, the office was closed. **The CCS asked the member to call back with additional information. The member indicated that he would call back; however, our records do not show that the member called our Customer Care Center prior to the purchase of the IUD from Paragard Direct.**" (emphasis added).

55. UHC's own April 30, 2013 letter shows two call dates before the purchase of the IUD was made, November 21, 2012 and November 26, 2012. The letter states in part:

- i. "On November 21, 2012, [Complainant's Name Withheld] contacted our Customer Care (CC) department to verify if an IUD was a covered benefit for Ms. [Member's Name Withheld]. Our Customer Care staff (CCS) advised IUD's were covered and recommended to him that he get the actual procedure code that will be billed to ensure it is covered. [Complainant's Name Withheld] stated he would call back. No additional information was asked or provided during the call."
- ii. "On November 26, 2012, [Complainant's Name Withheld] contacted our CCS and provided them with procedure code j7300. The CCS advised the procedure code provided would be covered. [Complainant's Name Withheld] did not ask the CCS for a network provider or inquire about the Network status of Paragard."

56. UHC's Online Routing System notes also show that the complainant called the Company on November 26, 2012 to verify benefits and coverages prior to purchasing the IUD.

57. In UHC's response dated April 30, 2013 to Tracking ID 190242, the Company stated: "Upon review, the call record for the call received on Mrs. [Member's Name Withheld] behalf,

prior to the services provided on November 26, 2012 indicates our CCS informed [Complainant's Name Withheld] that an IUD is covered under [Member's Name Withheld] medical benefits. [Complainant's Name Withheld] did not inquire about providers of the IUD or inquire about the benefits that would apply to the services. **The member's plan allows for both network and non-network benefits; therefore, the member could choose to receive services from a network or non-network provider.**" (emphasis added).

58. On May 14, 2013, as part of the investigation of Tracking ID 190242, the Department's Consumer Complaint Specialist asked: "If Paragard Direct is not in In-Network, who is? Who should the insured have ordered the IUD from that would've been In-Network?"

59. On May 24, 2013, in response to these additional questions, UHC's representative wrote: "Since Paragard Direct is not a contracted provider with United Healthcare, the member did not have the ability to purchase the brand name IUD 'Paragard' at the network level."

60. On May 28, 2013, the Department's Consumer Complaint Specialist assigned to Tracking ID 190242 further asked: "My question from 5/14 asked who the insured should have purchased the IUD through to get the In-Network level. The insured could not purchase it through the physician as the physician does not sell that product and will not order it for their patients. So who, other than the manufacturer (Paragard Direct), should the insured have purchased the IUD through?"

61. On May 30, 2013, UHC's representative responded to Tracking ID 190242, in pertinent part: "United Healthcare currently does not have a network provider/facility that the member could have used to purchase the IUD brand name 'Paragard' at the network level."

DIVISION INVESTIGATION OF TRACKING ID 185644,  
TRACKING ID 190242 and TRACKING ID 176779

62. The Division conducted an investigation relating, in part, to the handling of the consumer complaints in Tracking ID 185644, Tracking ID 190242 and Tracking ID 176779.

63. On October 11, 2013 the Division asked UHC to supply all correspondence which transpired between UHC and the members in Tracking ID 185644, Tracking ID 190242 and Tracking ID 176779. Correspondence was described to include all written communication regarding IUD claims sent to and received from the insureds and voice recordings of all phone calls including calls with customer service representatives, claim specialists, resolution specialists, etc.

64. On November 7, 2013 UHC supplied:

a. 7 call recordings for Tracking ID 185644

- i. 041812 call recording.wma
- ii. 050312 call recording.wma
- iii. 050712 call recording.wma
- iv. 051112 call recording.wma
- v. 062012 call recording.wma
- vi. 082211 call recording.wma
- vii. 091412 call recording.wma

b. 2 call recordings for Tracking ID 176779

- i. 022412 call recording.wma
- ii. 062912 call recording.wma

c. 5 call recordings for Tracking ID 190242

- i. 112612 call recording.wma
- ii. 11\_26\_2012 call recording.wma
- iii. 013013 call recording.wma
- iv. 021813 call recording.wma
- v. 112112 call recording.wma

65. UHC's log notes and the contents of the audio recordings provided demonstrate that other calls took place for which UHC failed to provide audio recordings. These missing calls include the following:

- a. Tracking ID 190242
  - i. January 14, 2013 – ORS Number C30141124240162
- b. Tracking ID 185644
  - i. January 23, 2012 – ORS Number C20231310152793
  - ii. May 3, 2012 – ORS Number C21241631166778
  - iii. May 3, 2012 – ORC Number C21241705284578
  - iv. May 7, 2012 – Transfer Call
  - v. September 14, 2012 – Transfer Call
- c. Tracking ID 176779
  - i. January 17, 2012 – ORC Number C20171149021365
  - ii. February 21, 2012 – ORC Number C20521745170274
  - iii. April 20, 2012 – ORC Number C21110832437839
  - iv. April 3, 2012 – ORC Number C20941206501703

66. In a call recording dated February 24, 2012, between the complainant in Tracking ID 176779 and UHC's Customer Care Staff, the UHC representative told the complainant that calls could be pulled in her appeal evaluation. Specifically, the Customer Care Representative gave her call reference numbers for January 17, 2012 and February 21, 2012 calls. These two call recordings were not provided to the Division.

67. On January 28, 2014, the Division identified the missing audio files and requested that the identified call recordings be forwarded by February 17, 2014.

68. In UHC's response dated February 17, 2014, the UHC representative stated: "The Company has researched our records and is unable to locate the requested calls below at this time. Call recordings are stored with certain identifiers such as the customer care agent number, group number, and member number. The Company is currently unable to match the above calls with the agent number for the dates noted in the online-routing system (ORS) notes for those calls."

69. The Division provided Investigation Findings to UHC on August 12, 2014.

70. UHC responded to the Investigation Findings on September 20, 2014. In its response, UHC commenting on the transcripts provided to the Department's Consumer Complaint Specialist on June 24, 2013 stated as follows: "The transcriptions were prepared by the Company's RCA staff who do not ordinarily transcribe recordings, but who were familiar with the subject matter of the complaints and appear to have omitted repetitive comments and information immaterial to the complaints in an effort to assist the Department with its investigations. The omissions in question do not materially change the context of the conversations. The Company was not being evasive, uncooperative or in any way attempting to obstruct the Department's inquiries."

**COUNT I**  
**Violations of §374.210.1 (2) – False Entries**  
**In Transcript C21281254025767**

71. UHC made false entries upon statements or exhibits used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by providing the Department with a transcript of 050712 call recording.wma that did not accurately reflect the contents of the call and which omitted material facts from the transcription. UHC's actions violate §374.210.1 (2).

72. Each material omission in the transcripts provided by UHC to the Department is a separate false entry and therefore a separate violation of §374.210.1 (2).

73. The violations by UHC of §374.210.1 (2) are level four violations under §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

74. The violations may be enhanced to level five violations pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$50,000 per violation, because the violations resulted in actual financial loss to consumers.

75. The violations may also be enhanced to level five violations pursuant to §374.049.7 if the violations were knowing.

76. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT II**  
**Violations of §374.210.1 (2) – False Entries**  
**In Transcript C22581755007383**

77. UHC made false entries upon statements or exhibits used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by providing the Department with a transcript of 09142012 call recording.wma that did not accurately reflect the contents of the call and which omitted material facts from the transcription. UHC's actions violate §374.210.1 (2).

78. Each material omission in the transcripts provided by UHC to the Department is a separate false entry and therefore a separate violation of §374.210.1 (2).

79. The violations by UHC of §374.210.1 (2) are level four violations under §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

80. The violations may be enhanced to level five violations pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$50,000 per violation, because the violations resulted in actual financial loss to consumers.

81. The violations may also be enhanced to level five violations pursuant to §374.049.7 if the violations were knowing.

82. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT III**  
**Violations of §374.210.1 (2) – False Entries**  
**In Correspondence dated February 25, 2013**

83. UHC made false entries upon statements used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by stating in a correspondence to the Department dated February 25, 2013, relating to a consumer complaint that an IUD was not covered as an in-network purchase, that the member could choose to receive services from a network or non-network provider, when, in fact, there were no network providers from whom the member could purchase the IUD. UHC's actions violate §374.210.1 (2).

84. The violation by UHC of §374.210.1 (2) is a level four violation pursuant to §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

85. The violation may be enhanced to a level five violation pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$50,000 per violation, because the violation resulted in actual financial loss to consumers.

86. The violation may also be enhanced to a level five violation pursuant to §374.049.7 if the violation was knowing.

87. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT IV**  
**Violations of §374.210.1 (2) – False Entries**  
**In Correspondence dated April 20, 2013**

88. UHC made false entries upon statements used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by stating in a correspondence to the

Department dated April 20, 2013, relating to a consumer complaint that an IUD was not covered as an in-network purchase, that the member could choose to receive services from a network or non-network provider, when, in fact, there were no network providers from whom the member could purchase the IUD. UHC's actions violate §374.210.1 (2).

89. The violation by UHC of §374.210.1 (2) is a level four violation pursuant to §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

90. The violation may be enhanced to a level five violation pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$50,000 per violation, because the violation resulted in actual financial loss to consumers.

91. The violation may also be enhanced to a level five violation pursuant to §374.049.7 if the violation was knowing

92. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT V**  
**Violations of §374.210.1 (2) – False Entries**  
**In Correspondence dated May 30, 2013**

93. UHC made false entries upon statements used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by stating in a correspondence to the Department dated May 30, 2013, relating to Tracking ID 190242, that its records did not show that the member called UHC's Customer Care Center prior to the purchase of an IUD from Paragard Direct, when, in fact, UHC's own records show that the member did contact UHC's Customer Care Center prior to the purchase of the IUD. UHC's actions violate §374.210.1 (2).

94. The violation by UHC of §374.210.1 (2) is a level four violation pursuant to §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

95. The violation may be enhanced to level five violation pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$50,000 per violation, because the violation resulted in actual financial loss to consumers.

96. The violation may also be enhanced to level five violations pursuant to §374.049.7 if the violation was knowing

97. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT VI**  
**Violations of §374.210.1 (2) – False Entries**  
**In Correspondence dated June 24, 2013**

98. UHC made false entries upon statements used in the course of an investigation made pursuant to §374.085 and §374.190 RSMo. 2000, by stating in a correspondence to the Department dated June 24, 2013 that it had enclosed a copy of the call recordings UHC had on file, when, in fact, it possessed two additional call recordings which were not provided to the Department. UHC's actions violate §374.210.1 (2).

99. The violation by UHC of §374.210.1 (2) is a level four violation pursuant to §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

100. The violation by UHC may be enhanced to a level five violation pursuant to §374.049.8 if the violation resulted in actual financial loss to consumers.

101. The violation may also be enhanced to a level five violations pursuant to §374.049.7 if the violation was knowing.

102. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT VII**  
**Violations of §374.210.1 (2) – False Entries**  
**In Correspondence dated September 10, 2014**

103. UHC made false entries upon statements used in the course of an investigation made pursuant to §374.190 RSMo. 2000, by stating in a correspondence to the Department dated September 10, 2014, relating to the Division's allegation that transcripts provided to the Department on June 24, 2013 contained omissions, that the transcripts omitted repetitive comments and information immaterial to the complaints, when, in fact, numerous omissions were material. UHC's actions violate §374.210.1 (2).

104. The violation by UHC of §374.210.1 (2) is a level four violation pursuant to §374.049, subject to a penalty or forfeiture of up to \$10,000 per violation.

105. The violation may be enhanced to a level five violation pursuant to §374.049.7 if the violation was knowing.

106. A willful violation of §374.210.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT VIII**  
**Violations of §375.445.1 (2)**  
**Failure to Carry Out Contracts in Good Faith**  
**Tracking ID 185644**

107. UHC failed to carry out its contract in good faith with the member who filed Consumer Complaint Tracking ID 185644 because on a call dated August 22, 2011, UHC's representative omitted to disclose to the member that an IUD would not be covered as a network benefit unless the IUD provider was in-network. UHC's actions violate §375.445.1 (2).

108. The violation by UHC of §375.445.1 (2) is a level two violation under §374.049, subject to a penalty or forfeiture of up to \$1,000 per violation.

109. The violation may be enhanced one level pursuant to §374.049.8, subject to a penalty or forfeiture of up to \$5,000 per violation, because the violation resulted in actual financial loss to a consumer.

110. The violation may also be enhanced one level pursuant to §374.049.7 if the violation was knowing and two levels if the violation was knowingly committed in conscious disregard of law.

111. A willful violation of §375.445.1 (2) may subject UHC to the suspension or revocation of its certificate of authority.

**COUNT IX**  
**Violations of 20 CSR 100-8.040 (3) (B)**  
**Failure to Maintain Call Records**

112. UHC failed to maintain call records for claims relating to Tracking ID 185644 and Tracking ID 176779 in violation of 20 CSR 100-8.040 (3) (B).

113. The violation by UHC of 20 CSR 100-8.040 (3) (B) is a level one violation under §374.049.

**COUNT X**  
**Revocation or Suspension of Foreign Company's**  
**Certificate of Authority**  
**Pursuant to §375.881(6)**

114. The violations set forth in Counts I to IX also constitute grounds for the suspension or revocation of the Certificates of Authority of UHC pursuant to §375.881 (6).

115. UHC is a foreign insurance company domiciled in Connecticut.

116. As alleged in Counts I to IX, UHC has violated the laws of Missouri.

117. Pursuant to §375.881 the Director may revoke or suspend the certificate of authority of a foreign insurance company whenever he finds that the company has violated any of the laws of Missouri.

### **REQUEST FOR RELIEF**

The Division respectfully requests that the Director grant the following relief:

- A. Issue an order finding that UHC has engaged in acts, practices, omissions, or courses of business constituting violations of the laws of this state relating to insurance in Chapters 354 or 374 to 385, and specifically including violations of §§374.210.1 (2) and 375.445.1 (2), and 20 CSR 100-8.040 (3) (B).
- B. Issue an order requiring UHC to cease and desist violating Missouri law;
- C. Issue an order requiring UHC to cure or take other action necessary or appropriate to comply with the insurance laws of this state.
- D. Issue an order requiring the payment by UHC of monetary penalties and forfeitures pursuant to §§ 374.046, 374.049 and 374.280.
- E. Issue an order requiring UHC to pay the reasonable costs of the investigation and/or the actual cost of the investigation or prosecution of this action pursuant to §374.046.1 (4) and 374.046.8.
- F. Issue an order suspending or revoking the Certificate of Authority of UHC pursuant to §§374.210, 375.445 and 375.881.
- G. Such other relief as the Director deems just and appropriate.

### **REQUEST FOR A SHOW CAUSE ORDER**

The Division respectfully requests that the Director issue an order directing UHC to show cause why the relief requested in this Verified Statement of Charges should not be entered against UHC.

Respectfully submitted,

Stewart M. Freilich  
Stewart M. Freilich  
Senior Regulatory Affairs Counsel  
Missouri Bar No. 36924  
301 West High Street, Room 530  
Jefferson City, MO 65101

Kelly A. Hopper  
Kelly A. Hopper  
Legal Counsel  
Missouri Bar No. 65976  
301 West High Street, Room 530  
Jefferson City, MO 65101

ATTORNEYS FOR DIVISION OF  
INSURANCE MARKET REGULATION

VERIFICATION

I, James Mealer, Chief Examiner with the Division of Insurance Market Regulation, state that the factual allegations contained in this Statement of Charges are true and accurate to my best knowledge, information and belief.

James Mealer  
James Mealer  
Chief Market Conduct Examiner,  
Division of Insurance Market Regulation  
Department of Insurance, Financial Institutions and  
Professional Registration

Sworn to and subscribed before me this 17<sup>th</sup> day of July, 2015.

Kathryn Latimer  
Notary (Seal)

My commission expires:

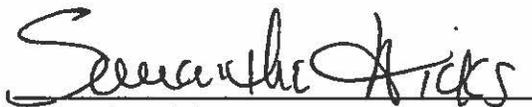


KATHRYN LATIMER  
My Commission Expires  
March 4, 2016  
Cole County  
Commission #12418395

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of this Verified Statement of Charges was sent by certified mail, postage prepaid, this 24<sup>th</sup> day of July, 2015, to:

United Healthcare Insurance Company  
185 Asylum Street  
Hartford, CT 06103

A handwritten signature in black ink that reads "Samantha Hicks". The signature is written in a cursive style and is positioned above a horizontal line.

Samantha Hicks  
Exam Technician  
Market Conduct Section  
Division of Insurance Market Regulation  
Missouri Department of Insurance, Financial  
Institutions, and Professional Registration