

STATE OF ALABAMA
DEPARTMENT OF INSURANCE
MONTGOMERY, ALABAMA

TARGETED LIMITED SCOPE
REPORT OF EXAMINATION

OF

UNITEDHEALTHCARE OF ALABAMA, INC.

Birmingham, Alabama

AS OF

APRIL 30, 2012

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EXAMINER AFFIDAVIT

**STATE OF ALABAMA
COUNTY OF MONTGOMERY**

Frank M. Fricks, AIE, CFE, being duly sworn, states as follows:

1. I have authority to represent Alabama in the examination of UnitedHealthcare of Alabama, Inc.
2. Alabama is accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation.
3. I have reviewed the examination workpapers and examination report, and the examination of UnitedHealthcare of Alabama, Inc. was performed in a manner consistent with the standards and procedures required by the State of Alabama.

The affiant says nothing further.

Frank M. Fricks

Frank M. Fricks, AIE, CFE

Subscribed and sworn before me by

12th on this day of

Aug, 2013

(SEAL)

State of Georgia County of Gwinnett
Subscribed and sworn before me on 08/12/13
(Date)
[Signature]
(Notary Signature)

KYU J KIM
NOTARY PUBLIC
Gwinnett County - State of Georgia
My Comm. Expires May 8, 2014



ROBERT BENTLEY
GOVERNOR

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August 12, 2013

Honorable Jim L. Ridling
Commissioner of Insurance
State of Alabama
Department of Insurance
Post Office Box 303350
Montgomery, Alabama 36130-3350

Dear Commissioner Ridling:

Pursuant to your instructions and in compliance with the statutory requirements of the State of Alabama and the resolutions adopted by the National Association of Insurance Commissioners, a limited scope targeted market conduct examination as of April 30, 2012, has been made of

UnitedHealthcare of Alabama, Inc.

at its office where the Company's primary books and records are located at 9701 Data Park Drive, Minnetonka, Minnesota, 55343. The report of examination is submitted herewith.

Where the description "the Company" or "the Plan" appears herein, without qualification, it will be understood to indicate **UnitedHealthcare of Alabama, Inc.**

EQUAL OPPORTUNITY EMPLOYER

SCOPE OF EXAMINATION

The Company was last examined for the three-year period ended December 31, 2010. The current examination covers the period from January 1, 2011 through April 30, 2012, and was conducted by examiners representing the State of Alabama. Where deemed appropriate, transactions, activities and similar items subsequent to April 30, 2012, were reviewed.

This targeted limited-scope examination was conducted in order to ascertain the following:

- How the Company markets its products;
- How producers are tracked;
- Proper licensure and appointment of producers;
- Determine if incentive pay received by employees meets the definition of commissions;
- Determine if activities of consultants meet the definition of a producer and if payments to them meet the definition of a commission.

The examination was conducted in accordance with applicable statutory requirements of the State of Alabama for Health Maintenance Organizations as provided for in Title 27, Chapter 21A and in accordance with Alabama Insurance Department regulations and bulletins in addition to the procedures and guidelines promulgated by the National Association of Insurance Commissioners (NAIC), as deemed appropriate, and in accordance with generally accepted examination standards and practices.

The examination was conducted in accordance with the NAIC Market Regulation Handbook. The examination was planned and performed as a follow-up to the combined financial and market conduct examination of the Company as of December 31, 2010.

MARKET CONDUCT ACTIVITIES

How the Company Markets its Products:

The Company stated that during the examination period (1/1/11-4/30/12), products were marketed as follows:

1) Medicare and Retirement (M&R): Both internal and external producers are utilized to sell the Company's Medicare Advantage products. The Company stated that they "...held contracts with external agents as well as external vendor entities that in turn employed or contracted with individual agents to solicit Company products. Company products were sold and members were enrolled via telesales, direct/field sales and web based enrollments."

2) Employer and Individual (E&I): The Company utilized a Health Plan Marketing team, whereby brokers work directly with UHC of AL Account Executives to educate and train their staff. Products are marketed via targeted direct mail, telemarketing and email marketing.

How Producers are Tracked:

1) Medicare and Retirement (M&R): The Company stated that they assign each individual agent a unique agent identification number (also called writing ID). When an agent completes a sale (enrollment) using telephonic or direct/field sales methods, the agent enters their specific agent ID on the enrollment application form. The agent ID on the MA enrollment application is transmitted from the application into the enrollment system and finally into compensation systems.

Applications that are completed via the web are primarily non-agent assisted applications; however, if the web application is completed with agent assistance, the agent ID will be populated on the web enrollment application.

2) Employer and Individual (E&I): The Company tracks producers in the E&I section as follows:

a) External Agents/Brokers:

The Company stated that an appointed agent sells a group and a policy number is assigned. Once the policy is loaded it is tracked to the producer by an agent ID number. Commissions are then paid according to the producer performance guide until the group cancels. Producers are added to the Producer Credentialing Information System (PCIS), which is an internal mainframe database that maintains information for specific internal (sales representatives) and external (agents, agencies) producers, including demographic, license, appointments, relationships, assignments and Electronic Funds Transmission (EFT) information. Compensation plans are then

established in the Commission System (Broker & Sales Incentive Commissions Solution - BASICS) whose primary function is to identify commissionable events and gather data needed to pay commissions, along with associating producer with customer/billing transactions to determine who to pay.

Once the case has been installed and the agent/customer relationship has been established in BASICS, the payee's credentials are then validated in PCIS to ensure proper licensing and appointment information exists prior to compensation payment being made.

b) Internal Employees:

The Company stated that once a licensed employee sells a new group, a policy number is issued. The group is assigned to the employee by a sales ID # and commissions are then paid according to the sales incentive document.

Compliance with Producers' Licensing Requirements

Producers Not Licensed and/or Not Appointed:

Twelve producers responsible for the sale of 150 policies were identified as not appointed by the Company at the time of the sale/enrollment of policies. Two of these producers were also not licensed by the State of Alabama at the time of the sale/enrollment of these policies. The total member premium for the examination period was \$4,119. Company officials confirmed that these producers were not appointed at the time of the sale, but noted that all of the policies, except one for producer (UHC OF AL Producer Code 360650), were effective prior to completion of improvements to their processes for verifying agent qualification. See table below:

UHC of AL Producer Code	Number of Policies Sold	Member Premium (1/1/11- 4/30/12)
942010	52	\$1,241
DW2748	14	\$1,519
DW5176	30	\$654
DW1752	11	\$106
DW0055	32	\$143
DW2907	1	\$ -0-
360650	1	\$71
2022590 *	2	\$ -0-
2023902	1	\$ -0-

UHC of AL Producer Code	Number of Policies Sold	Member Premium (1/1/11- 4/30/12)
2019597	1	\$ -0-
2024908 *	1	\$ -0-
2007580 **	4	\$385
Totals	150	\$4,119

* Company officials confirmed that these two agents were also not licensed at the time of the sale/enrollment.

** Received “incentive pay” while not appointed.

For those producers who were not appointed, the Company was in violation of ALA. CODE § 27-7-4 (1975), which states:

“(a) No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person... (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter.”

For those producers who were also not licensed, the Company was in violation of ALA. CODE § 27-7-35.1 (1975), which states:

“(a) An insurance company or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed... (e) Any insurer or producer violating this section shall be liable for a fine in an amount of up to three times the amount of the commission paid. The fine shall be levied and collected by the commissioner. Upon failure to pay the fine the commissioner may, in his or her discretion, revoke the license of the producer or the insurer's certificate of authority, or both.

Data Issues Identified:

1) Missing AL License Numbers: The original M&R Producer Commissions file provided on 6/18/12 did not include AL license numbers for 234 producers. An updated file was provided on 6/28/12 that included all AL license numbers, except for 4 producers. However, this revised data file had errors in the Agent License/Producer Number field, due to a cut and paste error. On 8/23/12 the Company provided the 3rd and final correct version of this data file.

2) Incorrect Producer Appointment Dates: The revised M&R Producer Commissions file provided by the Company included errors in the Producer Appointment Date field for at least 132 producers. The Company acknowledged that “the appointment date in the commission file was actually the appointment termination date.”

3) Unknown Agent Codes: The M&R New Business data file did not include correct Company Producer Codes for 101 producers and had blank fields for an additional 50 producers.

It should be noted that the Company timely provided corrected data files after the errors indicated above were brought to their attention.

Amounts Classified as Incentive Pay

The Company included “Employee Incentive Pay” as Salaries and Wages in its Annual Statement. The Company stated that only two types of employed agents were eligible to receive incentive payments: Individual Sales Representatives, (also referred to as employed field agents) and Employed Telesales Agents. Company officials stated that there were only one or two Individual Sales Representatives (ISRs) working in Alabama. According to the Company, "For both groups, licensure and appointment are required to participate in the incentive program."

Independent agents/producers are not eligible for incentive pay in addition to commissions.

The following list comprises the criteria for an employee to receive incentive pay.

- A range of sales and customer service activities;
- Sales or enrollments that they personally facilitate, including enrollment of individuals new to Medicare, individuals new to a UHC Medicare Advantage plan or individuals switching from one UHC Medicare Advantage plan to another UHC Medicare Advantage plan;

- Leads that result in an enrollment by another agent;
- The member's enrollment must be accepted by the Centers for Medicare & Medicaid Services (CMS);
- The member must remain enrolled in the plan for at least four months.

According to Company officials, incentive pay is part of a targeted commissions structure. It was also stated that sales made become part of a pool, of which the amounts in the aggregate pool determines the payout. Telesales employees work the entire 50 states, so the pool is comprised of sales from the entire country, which are then split out among the employees. Specific amounts cannot be determined and cannot be traced to any individual.

Documentation of incentive payments at an employee level does not exist. The payments are passed down to UHC of AL by means of an allocation of management fees. These payments are included in the management fees that UHS charges to UHC of AL pursuant to the management agreement. (They are then allocated to the appropriate expense classification item [Salary, wages and other benefits] as if they had been borne directly by UHC of AL, pursuant to Annual Statement Instructions.)

The amount reported on the 2011 Annual Statement amount to \$12,559,575. Of this amount, the Company estimated that \$682,000 was allocated to incentive pay for ISRs and employed filed agents.

One agent was identified who received incentive pay and was not appointed at the time of the sale of four policies and is included in the table found under the caption "Producers Not Licensed and/or Not Appointed".

Amounts Classified as Consulting Services

Two telesales vendors were utilized by the Company, who employed and/or contracted with independent agents to perform telesales services. According to the SBS Business Entity file provided by the AL DOI and the Sircon PDB Data Report provided by the Company, the dates the vendors were appointed with the Company are as follows:

Vendor	AL License Number	Appointment Date per SBS and Sircon	License date per Sircon
Aegis Communication Group, LLC	265656	3/16/12	7/27/06
Connexions HCI, LLC	239442	9/13/11	5/16/05

While both vendors were licensed in the State of Alabama, neither was appointed for large time periods during the examination period. Aegis was not appointed for more than 14 of the 16 months of the examination period and Connexions HCI, LLC was not appointed for more than 8 months of the examination period.

This is a violation of ALA. CODE § 27-7-4 (1975), which states:

"(a) No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person; (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter."

The Company classified the payments to these two telesales vendors as "Consulting Services" in the Annual Statement. Company representatives stated in a conference call with the examiner that UHC categorizes payments to these vendors as consultant fees, which are paid to the vendor, not to the individual agents or employees. It is up to the vendor how they pay their employees.

Regarding the amount paid for Consulting Services for the 16 months under examination, the Company stated,

Consultant services payments are passed down to UnitedHealthcare of Alabama by means of an allocation of management fees, so it is difficult to have an exact number. Calculating an estimate of the allocation based on actual invoices received from Aegis and Connexions, we estimate \$1,535,868.

In both agreements, the term "marketing" is defined as the act of "steering, or attempting, to steer, an undecided potential enrollee towards a plan, or promoting a plan or a number of plans".

It was not possible to identify which telesales agents received payments, and for how much, since the payments are passed down to UnitedHealthcare of Alabama by means of an allocation of management fees, as described above.

The most current Marketing Agreements were revised and effective on 7/1/11. The revisions appear to be an attempt to prevent non-licensed agents from engaging in marketing activities, which would require licensure and appointment. The agreements specify that only licensed telemarketing representatives (TMRs) can enroll prospects.

* The Company represented that since UHC of AL has only Medicare Advantage plans, it is generally supported by licensed and appointed agents.

The most current agreements have also added language regarding licensed agents to the effect that they primarily support Medicare Advantage Plans.

These agreements also include language regarding enrollment of callers. Licensed agents are not allowed to enroll callers that reside in a state where the agents are not fully licensed, certified and appointed.

The Company also stated that controls are in place in their systems whereby a message appears if an agent creates or updated a lead opportunity in a state where the agent is not currently licensed reminding the agent of compliance requirements.

COMMENTS AND RECOMMENDATIONS

Compliance with Producers' Licensing Requirements - Page 4

It is recommended that the Company only utilize producers who are appointed, as required by ALA. CODE § 27-7-4 (1975), which states:

"(a) No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person; (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter."

It is recommended that the Company only utilize producers who are licensed, as required by ALA. CODE § 27-7-35.1 (1975), which states:

"(a) An insurance company or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to

a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed... (e) Any insurer or producer violating this section shall be liable for a fine in an amount of up to three times the amount of the commission paid. The fine shall be levied and collected by the commissioner. Upon failure to pay the fine the commissioner may, in his or her discretion, revoke the license of the producer or the insurer's certificate of authority, or both."

Amounts Classified as Consulting Services - Page 7

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"(a) No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person; (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter."

CONCLUSION

Acknowledgement is hereby made of the courtesy and cooperation extended by all persons representing the Company during the course of the examination.

The customary examination procedures, as recommended by the National Association of Insurance Commissioners for health maintenance organizations, have been followed in connection with the verification and valuation of assets and the determination of liabilities set forth in this report.

Respectfully submitted,



Frank M. Fricks, AIE, CFE
Examiner-in-Charge
Alabama Department of Insurance