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By Federal Express and Electronic Mail:
Steve.schuch@maryland.gov
Steven R. Schuh
Deputy Secretary, Health Care Financing
and Medicaid Director
Maryland Department of Health
Herbert R. O'Conor State Office Building,
201 West Preston Street
Baltimore, Maryland 21201

Re: United Health Group/Optum Maryland

Dear Secretary Schuh:

We represent Gaudenzia with the ongoing Medicaid and other state program payment and billing issues with United Health Group/Optum Maryland.

Since the well-documented January, 2020 Optum system failure, its claims processing system has continued to be grossly dysfunctional. Nearly one year ago, on November 4, 2021, you accurately told the House Appropriations Committee that Optum could not give providers a complete claims history: "We have asked for that information, and the system is incapable of providing it." This remains true today.

Optum has conceded that it made duplicate payments and other overpayments to providers, but it has been unable to provide any meaningful or reliable reconciliation over those overpayments. Despite its nearly complete inability to give any significant accounting, Optum has now taken the extraordinary step of making arbitrary withdrawals from provider accounts. They have done so despite the lack of reliable accounting to support this withholding and clear evidence of massive errors on Optum's part.

There needs to be meaningful third-party supervision now. Gaudenzia requests a meeting with the State to discuss the following:

1. The installation of a third-party monitor to resolve issues with providers;

2. A suspension of the mandatory deduction and the development of a reasonable reconciliation and repayment process; and

3. Negotiate a fair settlement amount if Optum cannot provide adequate information to reconcile the claims submitted by Gaudenzia.

Gaudenzia has worked diligently through the catastrophic collapse of Optum's processing system. But unfortunately, it has been unable to resolve estimated payment issues with Optum despite Gaudenzia's extraordinary efforts to communicate and to remedy accounting issues, all of which were entirely due to Optum's failures.

The following background is essential:

1. **Duplicate Payment Reconciliation.** In 2021, Optum made $4.2 million in duplicate payments to Gaudenzia. These same payments were entirely the result of failures in the Optum system and through no fault of Gaudenzia. The charges were made between March and May 2021 and were interspersed with other regular payments. Duplicate payments were also made to other providers because of these Optum system failures.

   Guadenzia immediately undertook an extraordinary effort to reconcile duplicate reimbursements, confirming $4.2 million in the same payments. In June 2022, Gaudenzia paid Optum $4.2 million for the duplicate payments.

2. **Estimated Payments.** Because of the catastrophic failures in its processing system, Optum could not process reimbursements in early 2020 based on the actual claims submitted by providers. This resulted in a crisis in the reimbursement system and a significant challenge for the delivery of mental health and substance abuse services in the State. To address this emergency, the Health Department directed Optum to make weekly estimated payments to the State's 2,200 behavioral health providers from January 23, 2020, to August 3, 2020. The charges were based on the provider's 2019 historical payment average and included lump sum payments to make up for payment interruptions.

But then the unexpected happened. The onset of the pandemic in March 2020 resulted in the historic underutilization of provider services statewide, mirroring national trends. As a result, the estimated payments mandated by the Department exceeded the actual reimbursable value of services. The Department, relying on Optum's estimates, determined this amount to be approximately $230 million statewide. Still, this number turned out to be flawed because of the systemic flaws in Optum's claims processing.

As a result, Optum's claim for overpayment included claims marked paid but for which payments were never received, which Optum denied in error, and retracted claims from 2019, among others. In addition, a survey of behavioral health providers revealed that 40% of surveyed providers said their repayment numbers differ from Optum's by 60%.

In Gaudenzia's case, lump sum payments of $4 million were made in January and February 2020. Beginning on March 5, 2020, Optum paid Guadenzia the average weekly amount of $578,000. Then, amid Covid, Optum estimated that $3.2 million of its payments were overpayments.

These payments continued until August 6, 2020, when Optum began payment reimbursements purportedly based on actual claims submitted. Optum later estimated the repayments at $3.2 million. But much of this amount included valid Gaudenzia claims rejected by Optum. For example, during the estimated payment period (3/5/20 – 8/6/20), Optum rejected 6,951 claims from Gaudenzia, totaling $3.5 million. All of these claims were eligible for resubmission.

Gaudenzia undertook an extensive review of the 6,951 rejected claims and, in December 2021, resubmitted $1.9 million in claims and continued its study of other rejected claims. This was significant because approval of these payments would reduce the estimated $3.2 million repayment amount.

In December 2021, Optum approved $1.2 million of those claims without notifying Gaudenzia. Instead, it inadvertently interspersed this amount as a new payment along with other new claims when it should have reduced the balance of overestimated payments. Gaudenzia discovered this in July 2022, and Optum confirmed that they inadvertently sent a new payment instead of lowering the outstanding $3.2 million balance.

Optum promised to send meaningful information to reconcile these payments and reduce the purported overpayments. But it later admitted that it could not do so, further adding to the confusion, and to the burden on Gaudenzia. Optum provided Gaudenzia with a data file of the 6,951 claims totaling $3.2 million, along with what it described as a "Life Cycle Report." This file had 673,000 rows of data in Excel format. It was challenging to manage, but Optum insisted on using this format of their raw data, which is unheard of in the claims processing industry.

Nevertheless, Gaudenzia attempted to comply with Optum's request. They assigned a highly experienced data claims management team with years of experience reading EOBs and managing extensive data sets. Even this team was not able to reconcile Optum's data for reasons which shortly became obvious.

Gaudenzia requested Optum to simplify the process: It requested that Optum take the 6,951 claims in the ARE Report 5 format and identify which claims have been paid (by claim and check #), pending, and rejected. This would make reconciliation significantly easier.

Optum's response was extraordinary. On August 30, 2022, Tracy Bunge conceded hat Optum's ARE Report "had become obsolete" and that "the reporting team is no longer able to generate this report." Despite the admitted obsolescence of its former report format, Optum still needs to identify with specificity which claims have been: (1) paid, 2) rejected, or 3) are still being processed.

This resubmission process is essential. Because 63% of the $1.9 million resubmitted claims were approved, this indicates that a large percentage of the balance of the claims are also highly likely to be supported, reducing any repayment obligation.

Meanwhile, on August 2, 2022, Optum sent a form letter to Gaudenzia stating that as of "July 31, 2022, your estimated repayment balance is $3,565,316.40. However, Optum has not explained why this amount has increased by over $350,000 or how this calculation was determined. Based on the recent experience with the Optum data systems, it is apparent that they are unable to do so.

Optum has an apparent conflict of interest here. The catastrophic failure of its data system prevented the accurate and timely processing of actual claim forms, created a crisis in behavioral healthcare financing. This necessitated the State mandate of estimated payments on the eve of the pandemic. These events has made apparent Optum's obvious liability for its failure to comply with its contractual obligation to manage the behavior health reimbursement system. Presumably, the State will attempt to recover for the taxpayers Optum's failure to provide a functional claims processing system as their contract requires.

Now, Optum is charged with recouping excess estimated overpayments it necessitated. But it cannot effectively do so because of the continued deficiencies in its data management system. Because Optum operates without any real third-party supervision, it effectively has a license to undertake arbitrary and unsupported collection efforts to remedy a situation created by its own deficiencies – even though these collection efforts are not supported by any reasonable accounting or documentation.

This cannot continue. In Gaudenzia's case, Optum's undocumented demands, coupled with arbitrary withdrawals from its account, seriously impair the financial integrity of a well-run behavioral health program, the State's largest. It is creating substantial, immediate, and irreparable harm. It should be noted that Gaudenzia has never experienced anything remotely similar in any other state in which it operates.

The primary issue is Optum's undocumented request for $3.2 million in paybacks without any meaningful documentation corroborating this amount. It is profoundly unfair to claw back funds without straightforward reconciliation. Indeed, this is the standard operating procedure by MCOs throughout the country. Gaudenzia believes that it is reasonable in requesting a fair accounting. Like the State, we all share a responsibility to be good stewards of public money, and Optum's lack of accounting reflects extremely poor stewardship.

Gaudenzia has always been willing to make reasonable repayments based on proper accounting by Optum. Its repayment of $4.2 million in duplicate payments demonstrates its responsibility and accountability. In contrast, Optum has created this nightmare and cannot provide the accounting necessary to remedy it.

Optum has failed in its duty to communicate with providers. Its failure to communicate with Gaudenzia on the most fundamental issues is well documented. Optum failed to notify Gaudenzia of payments that were approved. It should have reduced repayment liability when it approved resubmitted claims adequately. And in one egregious example, it continues to insist that the Gaudenzia Foundation, the company's philanthropic and real estate arm, received $1.6 million when the Foundation has never offered services, submitted claims, or received payments.

Gaudenzia is committed to our shared mission, the behavioral health needs of the citizens of Maryland. We are also committed to a strong working relationship with the Department of Health. Unfortunately, the deeply flawed system of the State's vendor, Optum, is seriously interfering with this relationship and the delivery of behavioral health care.

The current $3.2 million takeback by Optum is unacceptable and needs to be resolved. Optum, the State's agent, cannot communicate in any meaningful way concerning these issues.

We request a meeting with you to address the issue outlined earlier in this letter:

1. The installation of a third-party monitor to resolve the problems with providers;

2. A suspension of the mandatory deduction and the development of a reasonable reconciliation and repayment process; and

3. Negotiation of a fair settlement amount if Optum is unable to provide adequate information to reconcile the claims submitted by Gaudenzia

We prefer to resolve these issues with the Department of Health. Still, if that becomes impossible, Gaudenzia will have no alternative but to seek emergency relief from the Circuit Court for Baltimore City.

Sincerely

JOSEPH, GREENWALD & LAAKE, P.A.

By: Timothy F. Maloney

TFM/kls