Maryland
DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

September 13, 2022

The Honorable Guy Guzzone, Chair
Senate Budget and Taxation Committee
3 West Miller Senate Office Bldg.
Annapolis, MD 21401-1991

The Honorable Ben Barnes, Chair
House Appropriations Committee
121 House Office Bldg.
Annapolis, MD 21401-1991

Re: 2022 Joint Chairmen's Report (p. 90) Report on recoupment, forgiveness, and identification of amounts to be recouped

Dear Chairmen Guzzone and Barnes:

Pursuant to the 2021 Joint Chairmen's Report (p. 90), the Maryland Department of Health (MDH) respectfully submits this report with an update on the Behavioral Health Administrative Services Organization's efforts on recoupment, forgiveness, and identification of amounts to be recouped.

MDH is pleased to report the following progress:

- **Estimated Payments:** Since the beginning of this calendar year, the total estimated payments balance has decreased by over $73.5 million (from $223.5 to $146 million after forgiveness). The number of providers with outstanding balances has decreased by 1,383 (2,107 to 712).
    - Of the more than $1.06 billion originally paid out in estimated payments, nearly 86% of those payments have now been fully offset with paid claims, direct repayments from providers, or forgiveness.
- **Forgiveness:** In July 2022, forgiveness amounts of $25,000 were offered and applied to providers with balances owed of $25,000 or less.
    - In total, 1,235 providers were forgiven debts of up to $25,000, totaling $11,666,279. This amount was within the budgeted amount of $13 million provided in the FY24 budget.
    - 61% of providers (1,589 of 2,606) who owed money to the State have now fully paid their debt and have no more responsibility for this debt.
- **Recoupment:** 712 providers owe the remaining balance of $146 million and will have 12 months interest free to repay these amounts through payment plans beginning in October.

- We are working on payment plans, which should be completed by late September. We anticipate completing recoupment by the end of CY24.
- 251 accounts have been sent to the Central Collections Unit for collections of a little over $4 million. These balances primarily represent providers who may have closed locations, retired, moved out of state, stopped providing Medicaid services, etc.

- Negative balances caused by duplicate payments and other issues such as fee schedule changes, retro-eligibility and other causes have also decreased $41.6 million (49%) since the end of calendar year 2021.

MDH requests that the withheld funds, pending the submission of this report, be released. If you have questions or need more information, please contact Megan Peters, Acting Director, Office of Governmental Affairs at megan.peters@maryland.gov or 410-844-2318.

Sincerely,

Dennis R. Schrader
Secretary

cc: Steven R. Schuh, Deputy Secretary, Health Care Financing and Medicaid
Lisa Burgess, M.D., MBA, Acting Deputy Secretary, Behavioral Health Administration
Webster Ye, Assistant Secretary, Health Policy
Megan Peters, Acting Director, Office of Governmental Affairs
Sarah Albert, Department of Legislative Services (5 copies)

2022 Joint Chairmen's Report (p. 90)

Report on recoupment, forgiveness, and identification of amounts to be recouped

September 2022

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Executive Summary

On January 1, 2020, the Maryland Department of Health (MDH) transitioned to United Health Group/Optum Maryland (UHG/Optum) as its Behavioral Health Administrative Services Organization (BHASO). At its initial launch, the UHG/Optum system had technical and system failures that impacted behavioral health providers. While acknowledging deficiencies at the commencement of the contract, UHG/Optum has made significant progress to correct issues.

For the estimated payment period, UHG/Optum paid out $1.06 billion in estimated payments to providers between January 1, 2020, and August 3, 2020. The outstanding balance of these overpayments by October 2020 was approximately $359,610,797 across both federal Medicaid and state-only programs. That balance was down to $162,352,061 as of August 4, 2022 (before forgiveness is applied), representing a reduction of nearly 55% since the first overpayment amounts were calculated in October of 2020 and a nearly 86% completion rate for reconciliation and recoupment of the original estimated payments of $1.06 billion.

In July, providers who had either paid down or had remaining balances of less than or equal to $25,000 were forgiven the balance of that debt. Some 1,235 providers have therefore received forgiveness amounting to $11,666,279. As a result, 61% of all providers (1,589) have been notified that their debt to the State is fully paid.

The remaining 712 providers with estimated payment balances due are highly concentrated among a few providers. Twenty four (24) providers have balances over $1 million and account for approximately $44.2 million of the outstanding balance of $146 million after forgiveness is applied. All are actively engaged with Optum to reconcile their accounts and repay these amounts.

Finally, there has been a significant reduction in negative balances owed to the State due to issues related to duplicate payments made to providers caused by issues resulting from retro-eligibility, fee schedule changes, and other related causes. Recoupment has been under way for these overpayments since early 2022, and significant progress has been made. The total amount of overpayments due is currently $43.3 million as of 8/01/22. This represents a decrease of $41.6 million (49%) since the end of calendar year 2021.

Reconciliation and Recoupment Process

UHG/Optum has received nearly 24.5 million claims between January 2020 through June 2022 and successfully paid nearly $4.6 billion ($755.6 million in 2020, and $2.3 billion in 2021, and $1.6 billion through June 2022) associated with those claims to over 2,600 providers who participate in the Public Behavioral Health System.

UHG/Optum and MDH continue to work together to improve the system and to deliver on the functionality that providers need to render services to Marylanders within the Public Behavioral Health System. Since real-time processing of claims began in August 2020, UHG/Optum has maintained a weekly average of $30 to $40 million in payments to providers.

Key to reconciling provider billing accounts, the Electronic Remittance Advice (ERA), or 835 report, is an electronic transaction that provides claim payment information, and a PRA is a statement explaining what services are being paid on each claim. These files are used by practices, facilities, and billing companies to auto-post claim payments into their systems. As of the end of October 2021, all 835 reports and Provider Remittance Advice (PRAs) had been delivered to providers by UHG/Optum to facilitate provider record keeping and reconciliation of estimated payments made between January 1, 2020 and August 3, 2020. 835s are now automatically generated and provided on an ongoing basis for all claims.

In addition to 835 reports and PRAs, Optum, with the direct input of the provider community, developed a "Claims Lifecycle History Report" for every provider that makes it possible for providers to track the life of an individual claim through the system from beginning to end. Those reports are available to any provider on a monthly basis.

MDH and UHG/Optum consistently collaborate and communicate with providers through a twice-monthly Operations Improvement Meeting to discuss provider needs and concerns about overpayment and the recoupment and reconciliation processes to repay them. The meeting also includes a product roadmap that has been integrated into UHG/Optum's website so providers can readily access it. Functional areas covered in the document are wide-ranging and include:

- Claims processing
- Reporting claim status for claims payment/provider interaction
- Additional functionality related to claims export, download, and history (revenue-cycle management)
- System Status Notifications and Outage Report
- Authorization and eligibility processing
- Responsiveness and timeliness of communications and provider relations

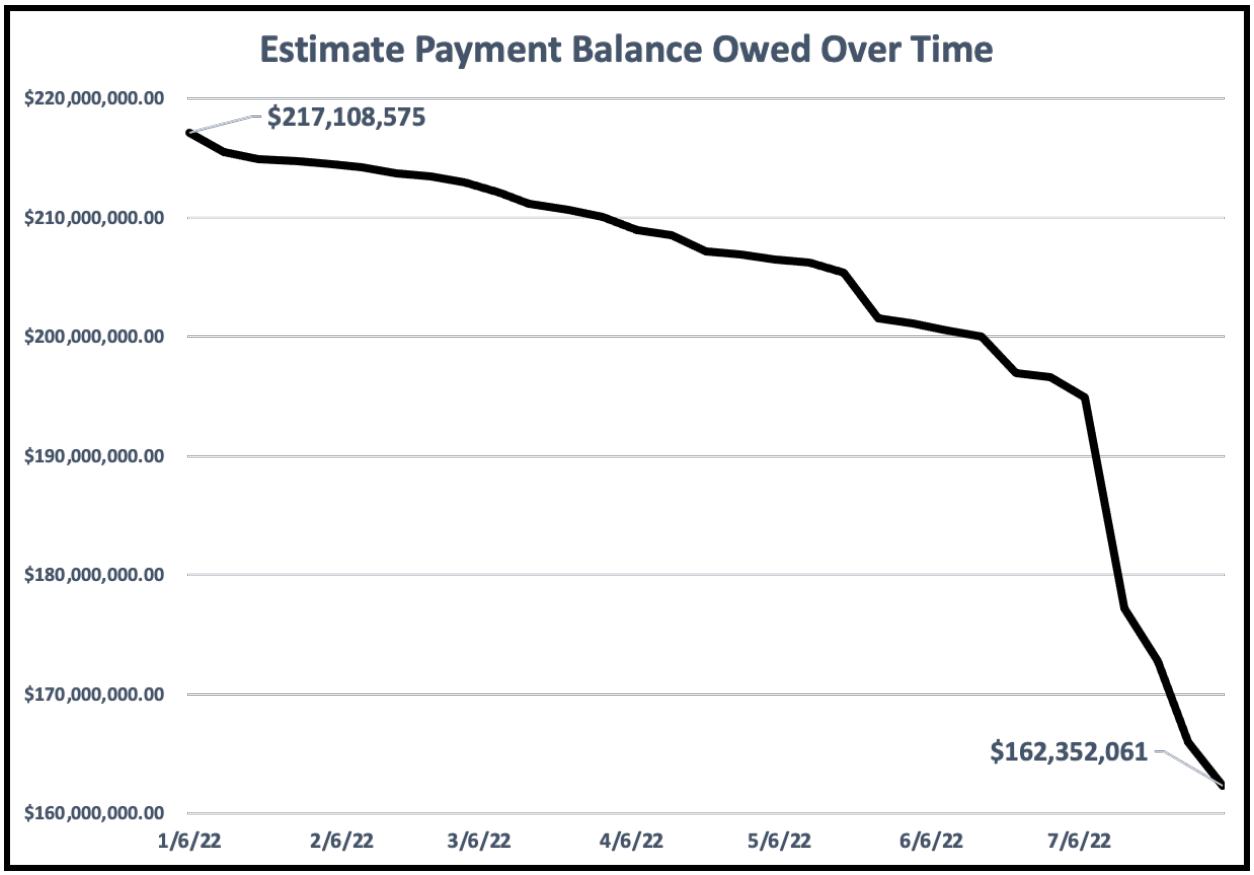
In addition to this meeting, there is a monthly Provider Council meeting with all providers, and every other week, there is an Executive Leadership meeting for the leaders of the large behavioral health associations, MCOs, hospitals, and other leaders who represent large institutions or groups of providers.

Due to the inability of UHG/Optum to pay claims when the system launched on January 1, 2020, MDH instituted estimated payments for providers based on their calendar year 2019 average weekly claims. Providers were informed at the time that the estimated payments would have to be reconciled against actual processed claims for service on those dates after the system went live. For the estimated payment period, UHG/Optum paid out $1.06 billion in estimated payments to providers between January 1, 2020, and August 3, 2020. In October 2020, UHG/Optum instituted a dual checkwrite cycle in which claims for dates of service during the estimated payment period were used to "offset" a provider's estimated payment balance, while claims for dates of service after the estimated payment period were processed normally. Providers generally have a year to submit claims from the date of service. For example, a service

rendered in June 2020 (during the estimated payment period) may be submitted in January 2021. In this example, the payment for that claim would be used to offset the provider's outstanding estimated payment balance. The offset would also apply if there was reprocessing of a June 2020 claim in October 2020 as part of a retroactive rate increase or special project.

Payments made prior to the establishment of the dual checkwrite for claims were not applied to the outstanding balance, as providers would essentially receive double "payment" for the same claim. With that in mind, the outstanding balance of overpayments in October 2020 was approximately $359,610,797 across both federal Medicaid and state-only programs. That balance was down to $162,352,061 as of August 4, 2022 (before forgiveness is applied), representing a reduction of nearly 55% since the first overpayment amounts were calculated in October of 2020 and a nearly 85% completion rate for reconciliation and recoupment of the original estimated payments of $1.06 billion. Figure 1 below shows the Estimated Payment Balance reduction over time.

Figure 1: Estimated payment balance over time as of August 4, 2022



Forgiveness Program

On June 13, 2022, MDH announced an expanded forgiveness program for providers to forgive their outstanding paid and unpaid balances of $25,000 or less. In addition, providers were given until July 15, 2022 to pay down any outstanding balances to $25,000 and receive forgiveness on the remaining balance. This incentive was aimed to provide relief to small providers and provided an incentive for all providers to reconcile their accounts quickly by benefiting from a significant reduction in debt.

A subset of providers are not eligible for forgiveness: hospitals, labs, out-of-state providers, and somatic non-behavioral health practitioners. In addition, 251 providers never submitted claims to offset the estimated payments received (i.e., "No-Offset Providers") during the initial period of January-August, 2020, and have thus far not responded to any communication attempts to collect these overpayments. These balances primarily represent providers who may have closed locations, retired, moved out of state, stopped providing Medicaid services, etc. These accounts have been forwarded to Central Collections to be worked through individually and pursued. This process has just begun.

Table 1: Provider Forgiveness as of 8/04/22.

Providers with Balance Due	712	$146,033,957
Providers <$25,000 forgiven	1,045	$10,124,429
Providers Sent to Collections	251	$4,082,793
Providers Who Paid Due Refund	192	$1,541,850
County Health Depts.	10	$569,032
Providers with No Payment Due	395	$0
Total Providers	**2,606**	**$162,352,061**

The remaining 712 providers with balances due are highly concentrated among a few providers. Twenty-four (24) providers have balances over $1 million and account for approximately $44.2 million of the outstanding balance. These providers are typically large entities, such as hospitals, large community substance use disorder providers, and large community-health providers. UHG/Optum has focused its reconciliation efforts on these larger providers and is engaged with 100% of the providers who have an outstanding balance of $1 million or more.

Table 2: Distribution of Provider Outstanding Payments as of 8/04/22

Provider Outstanding Balance	Provider Count	Total Outstanding
Providers Owing < $50K	279	$6,870,497
Providers Owing $50K < $100K	117	$8,809,879
Providers Owing $100K < $500K	258	$61,814,590
Providers Owing $500K < $1M	34	$24,366,554
Providers Owing $1M < $4M	23	$40,040,302
Providers Owing Over $4M	1	$4,132,135
Total	**712**	**$146,033,957**

A total of 1,237 (47%) of providers were either eligible for forgiveness because they had balances of $25,000 or less, paid their balance down to $25,000 to qualify for forgiveness, or paid in full by cash and have no negative balance due and are owed a refund. A majority of these balances are held by individual practitioners, such as licensed social workers and professional drug counselors, precisely the group for which relief was intended.

It is worth noting the progress made since the last JCR report MDH submitted in late January 2022.[1] **Since then, total estimated payment balances have decreased by over $73.5 million (from $223.5 to $150 million including collections), and the number of providers with outstanding balances has decreased by 1,383 (2,107 to 712). Of the more than $1.06 billion originally paid out in estimated payments, nearly 86% of those payments have now been fully offset with paid claims, direct repayments from providers, or forgiveness.**

Estimated payments are not the only claims that need to be recouped. A separate subset of claims, known as "negative balances," have occurred for a variety of reasons. Negative balances occur naturally in any insurance claims cycle. For example, retro-eligibility claims arise when Medicaid patients are billed initially as uninsured and later found to be eligible; such claims are reprocessed and approved. As a result, there is always some level of negative balance. These increased balances built up and accrued over time, primarily due to duplicate or overpayments

[1] 2021 Joint Chairmen's Report (p. 101-102) - Report on Status of ASO Functionality. January 2022. http://dlslibrary.state.md.us/publications/JCR/2021/2021_101-102_2022(1).pdf

that occurred when UHG/Optum was unable to properly transfer funds between the State and Medicaid accounts and, as a result, duplicate payments were made. Recoupment has been under way for these overpayments since early 2022, and significant progress has been made. **The total amount of overpayments due is currently $43.3 million as of 8/01/22. This represents a decrease of $41.6 million (49%) since the end of calendar year 2021.** The vast majority of these overpayments are small (< $5,000) but affect a large segment of providers. **These are true overpayments to providers and will not be discounted or forgiven.**

Table 3: Distribution of Negative Balances as of August 1, 2022

Provider Outstanding Balance	**Provider Count**
Providers Owing < $5K	1,825
Providers Owing >$5K and <$50K	361
Providers Owing >$50K	44
Providers Owing >$100K	55
Providers Owing >$500K	8
Providers Owing >$1M	5
Totals	**2,298**

Reconciliation and Recoupment Actions

UHG/Optum has added specific reconciliation resources to assist providers by hiring Reconciliation Managers. The Reconciliation Managers serve as the central points of contact for providers regarding estimated payment balances and reconciliation. Providers can send their questions to maryland.provpymt@UHG/UHG/Optum.com or request a Reconciliation Manager through that email address. This is in addition to the normal route of contacting customer service or UHG/Optum Provider Relations. The Reconciliation Manager then establishes contact with the provider to better understand their questions and to schedule a follow up meeting with the appropriate UHG/Optum resources to resolve the issue. The UHG/Optum Reconciliation Team consists of 11 Reconciliation Managers who service an average of 69 providers each and receive an average of 300 to 400 emails a week.

Although all the Assisted Reconciliation Reports are currently available to providers, UHG/Optum and MDH are continuing the Assisted Reconciliation process to allow providers time to review the denied claims and to submit any follow-up information. As such, MDH provided for certain flexibility to continue during the Assisted Reconciliation process. First, timely filing requirements for claims with dates of service within the estimated-payment period were waived so that providers would receive credit for those claims. Second, MDH waived the

reconsideration and appeal timelines that would normally apply to claims, recognizing that the estimated-payments period created significant information challenges for providers.

Recoupment Plans and Process

1. **February 2022 - Current:** Providers who owe negative balances (Table 3) are required to pay those balances in full. Recoupment efforts have been underway with discrete provider groups (based on the specific cause of their negative balance) and will increase in scope over time until all dollars are recouped.

2. **June 13 - July 15, 2022**: Forgiveness plan is announced, and providers are given 30 days to pay down their balance due and receive $25,000 forgiveness.

3. **July 15 - July 31**: Analysis, reconciliation of forgiveness amounts and calculations of final estimated payment amounts made.

4. **August 1:** Any claim denials remaining from the estimated-payment period that are adjudicated in the provider's favor will be paid in cash from this date forward. Up until this date, those funds were being automatically applied to a provider's estimated-payment balance.

5. **August 1 - August 12:** Individualized letters were mailed to providers on August 12 indicating final estimated-payment balances due as of 7/31/22, minus any forgiveness amount, and directing providers to a short survey to indicate how they would like to repay their balances owed. Letters were sent via USPS certified mail, placed in the provider's online billing folder, and emailed. Providers have one of four options for repayment:

    a. Payment in full by check or wire transfer
    b. Reduction of weekly claims amounts by 20%, 40%, 60% or 80% to pay the balance in 12 months at no interest
    c. Monthly ACH withdrawals of a set amount
    d. A combination of b and c.

6. **August 12 - August 26**: Providers had 10 business days to complete the survey.

7. **Early September:** Providers will receive individual confirmation of their survey choices, with an estimate of any balloon payment due at the end of the 12 months.

8. **Late September:** Recoupment begins.

Denials

Throughout this process, one of providers biggest concerns was that UHG/Optum still had a large volume of incorrect denials for claims submitted during the estimated-payment period that artificially inflated the estimated payment balances due.

At the beginning of the year, denials for the estimated-payment period amounted to $81 million in billed charges for the $223.5 million in total estimated payments remaining at that time, or roughly 36%. This number has now decreased to $51.8 million in *billed* denials. (Providers routinely bill at a much higher rate than the Medicaid fee schedule, which is generally the floor rate for providers.) The current billed claims to paid claims ratio is less than 60%. Therefore, that represents only about $32.3 million in actual dollars that *could* be paid out in the highly unlikely eventuality that 100% of all denials were overturned and paid. Current denials represent a 5.3% overall denial rate in billed claims and are close to, or within, industry standards. Even if another 10% of the billed claims were determined to be payable, that is only worth an estimated $3.2 million, which would be paid to providers in cash as the denials are adjudicated.

Another large area of concern among providers are the outstanding claims submitted for payment that were denied for third party liability and long term care codes. Both of these groups are in the process of being reprocessed and adjudicated and should be completed before recoupment begins. This amount will be reflected in the overall denial amount for this period and could amount to as much as an additional $13 million in reductions to denied claims.

Contract Management Steps

MDH initiated a Request for Proposal (RFP) process in August 2021, with the goal to have a new contract signed for the next Behavioral Health Administrative Services Organization by early 2023 in order to allow for up to two years of development and implementation. One of the key findings from the current contract issues is that not enough time (four months) was allowed for proper development and testing of UHG/Optum's system prior to launch. MDH continues work on the RFP process and any updates will be posted on eMaryland Marketplace (emma.maryland.gov).

MDH has four main contract management tools within the BHASO contract for damages/breach: service-level agreements (SLAs), liquidated damages, withholds, and termination.

SLAs are contract terms that require UHG/Optum to meet certain requirements, such as customer-service response times, system availability, staffing, and claims processing. Failing to meet SLAs allows MDH to withhold a percentage of the total invoice based on the number of SLAs not met. Since the contract started, MDH has withheld a total of 4% ($2,411,387.63) from UHG/Optum invoices for failing to meet 11 of the 12 service levels.

Liquidated damages are additional authorities to withhold and keep funds and are available only for specific reasons. The four reasons allowed in the contract are:

- Minority Business Enterprise (MBE) requirements

- late delivery of a Root Cause Analysis or Corrective Action Plan
- downtime occurrences, and
- failure to deliver a working system.

As UHG/Optum has maintained their MBE requirements, MBE damages are not applicable. Late delivery of an RCA/CAP allows for liquidated damages of $200 to $500 per day for failure to deliver the associated analysis or plan. However, these damages are not available if an RCA/CAP is delivered. UHG/Optum failed to deliver an acceptable CAP in a timely manner for the loss of claims images; MDH reserves all rights and remedies to ensure compliance by UHG/Optum.

Downtime occurrences are available if the system experiences an outage and is not available under certain conditions and allow for $1,000 per occurrence, with a $4,000 per-day maximum. MDH reserves all rights and remedies to ensure compliance by UHG/Optum.

The final form of liquidated damages is for failure to deliver a working system; damages of up to $25,000 per day may be assessed under this section. While the January 1, 2020, delivery did not go well, MDH determined that there had not been enough implementation time and permitted estimated payments for providers while system configuration continued. As UHG/Optum did deliver a system that paid claims starting in August 2020, the decision was made to focus on UHG/Optum deploying additional resources rather than assessing damages that would not provide a direct benefit to providers.

State contracts also have two other penalty measures within their basic structures that are also in the BHASO contract: withholding of payments and termination of the contract. Payment of an invoice can be withheld if the vendor fails to provide a required deliverable, typically associated with the invoice itself. MDH began withholding $150,000 per invoice beginning in March 2022 due to ongoing system issues and to Optum's inability to resolve certain operating processing in a timely manner. This withhold will continue until the processes are resolved and deadlines are met. MDH reserves the right to withhold more dollars or the entire payment of an invoice, but once the requested deliverable is provided, UHG/Optum would receive payment for those invoice withholds. MDH has also withheld one half of the implementation amount, retaining approximately $4 million for UHG/Optum's continued failure to deliver on critical claims-adjudication tools, other data as referenced above, and other necessary configurations to support BHASO operation of the Public Behavioral Health System.

The final contract-management measure would be termination of the contract with UHG/Optum. This is not a viable solution as it requires a replacement solution.