

Mr. Brian Thompson
Chief Executive Officer
UnitedHealthcare
P.O. Box 1459
Minneapolis, MN 55440-1459

Dear Mr. Thompson:

As leading organizations in the United States dedicated to improving outcomes for people with mental health and substance use disorders, we write to object to UnitedHealthcare's (UHC) announced policy to allow for the retroactive denial of coverage for emergency care.

We are aware that UHC announced a temporary implementation delay until at least the end of the national COVID-19 public health emergency, however, a temporary pause does nothing to address the potentially devastating consequences of the underlying policy. **Therefore, we insist that you immediately and permanently rescind this policy to assure your members that they will not be harmed for their decision to seek behavioral health or other essential healthcare services.**

Policies that retroactively deny emergency care are likely to be especially detrimental to UHC plan members seeking behavioral healthcare. Behavioral health emergencies are often complicated, stressful situations that may present without warning. It is both cruel and unfair to force UHC plan members to second-guess the severity of their or a loved ones' crisis when determining whether to seek care from a hospital emergency department.

Given UHC's position as the largest behavioral healthcare provider in the nation, you are no doubt also aware that more than 6 million people with serious mental illness had an unmet need for mental health services in the past yearⁱ and that nearly 9 in 10 of those with a substance use disorder did not receive needed treatment.ⁱⁱ Even in states with the greatest levels of access, over 38% are not receiving the mental health services they need.ⁱⁱⁱ

Lack of access to needed behavioral health treatment has direct and serious consequences for the individual in need, their family and society. Nearly 2 million people with mental illness are booked into jails each year.^{iv} Thousands more become homeless – more than a third of the chronically homeless population is estimated to be living with a mental illness.^v

In lieu of accessible services, many in crisis may seek care for their behavioral health crisis at an emergency room. This has been especially true as demands for behavioral healthcare services skyrocketed during the COVID-19 pandemic. According to the CDC, the proportion of emergency department visits by children in mental health crises went up significantly during the pandemic — by 30% for adolescents ages 12-17 and 24% for children ages 5-11 between March and October of last year, compared to the same period in 2019.^{vi} We would hope you agree that subjecting parents to the added threat of a retroactive denial of coverage should be unthinkable.

We are especially concerned that emergency room visits for behavioral health crises may be uniquely vulnerable to retroactive denials. Behavioral health disorders are by their very nature transient, complicated to diagnose and not subject to easily confirmable diagnostics. Unfortunately, your announcement fails to provide adequate details to inform consumers. Is suicidal ideation sufficient for an

emergency room visit or is an overt act required? Is a crisis related to an eating disorders more likely to be denied than one involving chronic depression? How is a layperson to determine when they or their loved one is “sick enough” to overcome the retroactive denial barrier?

Finally, we would be remiss if we did not point out that behavioral health crises and access concerns can often be a direct consequence of a failure to meet state and federal mental health and addiction coverage requirements, including the Mental Health Parity and Addiction Equity Act. Moreover, in light of the court’s finding in *Wit v. United Behavioral Health* that that UBH used improperly narrow standards for assessing the medical necessity of mental health services, we are concerned this announced policy could serve as another means of inappropriately denying coverage of services. We urge UHC to instead revisit whether and to what extent its policies and actions contributed to access issues and increased emergency room use, as well as to consider increased coverage of peer support and crisis response services as a way to reduce emergency room use.

We again urge you to permanently rescind this policy in its entirety and work with the signatories here to ensure that those with behavioral health needs can receive the reliable, high-quality care they deserve and which they believe they have purchased.

Sincerely,

American Foundation for Suicide Prevention

American Psychiatric Association

American Psychological Association

The Kennedy Forum

Massachusetts Association for Mental Health

Mental Health America

National Alliance on Mental Illness

National Association for Behavioral Healthcare

National Council for Mental Wellbeing

Peg’s Foundation

The Steinberg Institute

Treatment Advocacy Center

Well Being Trust

ⁱ Substance Abuse and Mental Health Services Administration, “Mental Health and Substance Use Disorders,” Available at: <https://www.samhsa.gov/findhelp/disorders>.

ⁱⁱ Substance Abuse and Mental Health Services Administration. “Key substance use and mental health

indicators in the United States: Results from the 2018 National Survey on Drug Use and Health,” Available at:
<https://www.samhsa.gov/data/>.

iii Mental Health America. “The State of Mental Health in America 2021” Accessed June 16, 2021. Available at :

https://mhanational.org/sites/default/files/2021%20State%20of%20Mental%20Health%20in%20America_0.pdf

iv Steadman, H., Osher, F., Robbins, P., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric services*, 60 6, 761-5.

v Substance Abuse and Mental Health Services Administration. “Current statistics on the prevalence and characteristics of people experiencing homelessness in the United States,” available at

https://www.samhsa.gov/sites/default/files/programs_campaigns/homelessness_programs_resources/hrc-factsheet-current-statistics-prevalence-characteristics-homelessness.pdf

vi Leeb RT, Bitsko RH, Radhakrishnan L, Martinez P, Njai R, Holland KM. Mental Health–Related Emergency Department Visits Among Children Aged <18 Years During the COVID-19 Pandemic — United States, January 1–October 17, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1675–1680.