BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
OF THE STATE OF CALIFORNIA

In the Matter of the Investigation of:

UHC OF CALIFORNIA, and U.S.
BEHAVIORAL HEALTH PLAN,
CALIFORNIA,

Respondents.

II.

Recitals

1. This Agreement (Agreement) is made and entered into on this 12th day of August 2013, by and between the following parties: UHC OF CALIFORNIA dba UNITEDHEALTHCARE CALIFORNIA ("UHC" or the "Plan") and U.S. BEHAVIORAL HEALTH PLAN, CALIFORNIA ("USBHPC") and the DEPARTMENT OF MANAGED HEALTH CARE (the "Department").

2. Medically necessary Speech Therapy services (hereinafter "ST") are basic health care services under the Knox-Keene Health Care Service Plan Act of 1975, as amended, ("the Act") that health plans must arrange and cover for their enrollees when medically necessary.

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3. UHC asserts that it provides basic health care service coverage to its enrollees for medically necessary ST for treatment of an illness, including Severe Mental Illness and Serious Emotional Disturbances of a Child, or injury in accord with UHC’s interpretation of coverage for ST in its Combined Evidence of Coverage and Disclosure Form ("Combined EOC/DF"). In addition, UHC and USBHPC assert that their interpretation of their coverage requirements for ST was made in reliance upon UHC’s Combined EOC/DF which was previously approved by the Department. However, the Department does not agree with UHC’s and USBHPC’s interpretation and application of the Combined EOC/DF.

4. UHC asserts that it has denied medically necessary ST based upon interpretations of its Combined EOC/DF and Policies, including but not limited to the UHC Signature Value™ Benefit Interpretation Policy, T-003 Rehabilitation. As noted above, the Department does not agree with UHC’s interpretation and application of the Combined EOC/DF.

a. UHC has denied medically necessary ST by citing the exclusion and limitation of benefits section in its EOC described as “Educational Services for Developmental Delays and Learning Disabilities.” This section states in relevant part that educational services to treat developmental delays or learning disabilities are not covered services. The section also states that educational services include language and speech training.

b. UHC has denied medically necessary ST by citing the exclusion and limitation of benefits section in its Combined EOC/DF described as “Rehabilitation Services and Therapy.” This section states in relevant part that ST “is limited to medically necessary therapy to treat speech disorders caused by an illness, including Severe Mental Illness and Serious Emotional Disturbances of a Child, injury or surgery (for example, cleft palate repair”).

5. UHC asserts that UHC relied upon the approval by the Department of UHC’s Combined EOC/DF to update UHC’s Signature Value TM Benefit Interpretation Policy and T-003 Rehabilitation to define the medically necessary basic health care service for ST as disorders caused by a defined illness, disease, injury, congenital anatomic anomaly, or surgery (e.g. cleft palate repair, macroglossia or
velo-pharyngeal incompetence).

6. The Department, UHC and USBHPC are willing to enter into this Agreement to address the needs of UHC enrollees and USBHPC enrollees that have medical and/or mental health coverage through UHC (collectively, the “enrollees”), in order to resolve the issues which are the subject of this Agreement and to avoid litigation between the parties over the extent of coverage for medically necessary ST for current and future enrollees.

II.

Agreement

WHEREAS, this Agreement is entered into based on the Recitals set forth above, which are incorporated into this Agreement by this reference.

WHEREAS, the parties desire to enter into this Agreement and thereby resolve the issues raised in the pending Enforcement Matter.

WHEREAS, the parties desire to enter into this Agreement to address the needs for all current and future UHC and USBHPC enrollees regarding coverage for medically necessary ST.

WHEREAS, by entering into this Agreement, UHC and USBHPC do not admit any liability or violation of the Act or any other law or regulation. However, the parties agree that it is in the best interests of the enrollees to enter into this Agreement, and

WHEREAS, by entering into this Agreement, UHC agrees to cover medically necessary ST for all current and future enrollees as described in this Agreement and the law.

WHEREFORE, the Department, UHC and USBHPC mutually agree to enter into this Agreement, as follows:

A. UHC agrees to cover medically necessary ST for all current and future enrollees as a basic health care service as provided under the Act using the clinical criteria as identified by UHC.

B. UHC agrees to provide written notice to its contracted provider groups explaining that with regard to medically necessary ST, UHC has clarified its internal policy and its Combined FOC/DF. UHC shall submit a draft of that written notice to the Department for its approval within ten (10)
calendar days after the date of execution of this Agreement. UHC shall send the written notice to its contracted provider groups within thirty (30) calendar days after approval by the Department.

C. UHC and USBHPC agree to revise their Combined EOC/DF and any and all other relevant health plan documents, including but not limited to any and all applicable medical policies to ensure compliance with the terms of this Agreement and the Act. Those revised documents shall be filed with the Department within thirty (30) calendar days after execution of this Agreement, and the filing shall highlight as well as underline the changes to the text as required by California Code of Regulations, title 28, section 1300.52(d).

D. UHC and USBHPC agree to reimburse enrollees for out-of-pocket expenses that were incurred by the enrollees for payments to providers for medically necessary ST evaluations and/or services provided, for treatment beginning from May 1, 2011 to the effective date of this Agreement, under all of the following conditions:

   (i) the enrollee was a UHC member when medically necessary ST evaluations and/or services were received;

   (ii) the medically necessary ST evaluations and/or services were performed by appropriately licensed providers;

   (iii) the medically necessary ST evaluations and/or services were denied by the Participating Medical Group or UHC;

   (iv) the enrollee submits documentation as reasonably necessary to UHC by July 30, 2014 verifying the enrollee’s out-of-pocket expenses for the ST services.

E. UHC will reimburse the enrollee the out-of-pocket expenses, less the cost-sharing required under that enrollee’s benefit plan, within (30) calendar days of when UHC receives the documentation described in subparagraph D. (iv) above.

F. UHC agrees to provide written notice to all subscribers as part of its November, 2013 mailing to all subscribers. UHC shall submit the content of the notice, for express Department approval. Concerning written notice to prior enrollees, within sixty (60) calendar days after the date of
execution of this Agreement, and after the express approval of the content by the Department, UHC agrees to provide written notice via a letter to all terminated UHC Subscribers and terminated custodial parents under a qualified medical child support order describing how they may be entitled to receive medically necessary ST and receive reimbursement of out-of-pocket expenses as provided for under this Agreement. Within ten (10) calendar days after the date of execution of this Agreement, UHC shall submit a draft of that written notice to the Department for its approval. Consistent with the terms of this Agreement, this notice will explain how enrollees can contact UHC and submit a claim for reimbursement. This notice will inform UHC enrollees that they have until July 30, 2014 to submit a claim for reimbursement and the notice will include information required by Health and Safety Code section 1368.02(b).

G. In addition to providing written notice to its enrollees pursuant to paragraph F. above, UHC and USBHPC shall, within sixty (60) calendar days after the date of execution of this Agreement and after the express approval of the content by the Department, publish a notice on its websites to all enrollees explaining the substance of the terms of this Agreement. Within ten (10) calendar days after the date of execution of this Agreement, UHC shall submit a draft of the notice to be published on its website to the Department for its approval. UHC agrees the intent of this section is to provide enrollees notice of all terms of this Agreement, including that they may be entitled to receive reimbursement of out-of-pocket expenses and to receive medically necessary ST. This notice will inform UHC enrollees that they have until July 30, 2014 to submit a claim for reimbursement and the notice will include information required by Health and Safety Code section 1368.02(b).

H. UHC and USBHPC may periodically reassess an enrollee’s clinical condition and the enrollee’s progress in order to evaluate the medical necessity of continued ST consistent with appropriate professional standards of care as permitted under the enrollee’s plan contracts and applicable provision of the Act. Any such review(s) shall be performed while the services continue. There shall be no interruption or cessation of services during the review process.

I. As to any reassessment as outlined in paragraph H. for an enrollee diagnosed with
autism and/or pervasive developmental disorder, the reassessment may not take place more frequently
than every six (6) months. Any such review(s) shall be performed while the services continue. There
shall be no interruption or cessation of services during the review process.

J. Nothing in this Agreement is intended to affect or limit an enrollee’s right to file,
consistent with the timeframes in the Act, a grievance with UHC and/or USBHPC, or a complaint with
the Department disputing any of the following:

(i) UHC’s and/or USBHPC’s transition plan proposing to transfer an enrollee’s ST
services from an out-of-network provider(s) to an in-network provider(s), and/or

(ii) UHC’s and/or USBHPC’s past delay, modification, and/or denial of a request
for ST services, and/or

(iii) UHC’s and/or USBHPC’s denial of or improper reimbursement for past ST
service claims.

K. Any future examination, survey, or audit conducted by the Department relating to the
provision of ST to UHC and USBHPC enrollees will be reviewed in consideration of the terms of this
Agreement.

L. UHC and USBHPC agree that if either breaches this Agreement, the Department will
notify UHC and USBHPC of the breach, with the intent to rectify the breach prior to commencement
of an enforcement action. UHC and USBHPC agree that the terms of this Agreement do not prevent
the Department from exercising any and all other aspects of its disciplinary authority to ensure that
UHC and USBHPC provide enrollees with medically necessary ST consistent with this Agreement.

M. The PARTIES agree that the terms of this Agreement are not only a contract but they
are additionally an Order of the Director, and the Department may exercise any and all aspects of its
enforcement authority to enforce UHC’s and USBHPC’s compliance with any and/or all of UHC’s
and USBHPC’s obligations under this Agreement, and that any remedy available to the Director is not
exclusive, and may be sought and employed in any combination with civil, criminal, and other
administrative remedies deemed warranted by the Director to enforce this Agreement.
N. This Agreement is the entire agreement between the parties and supersedes any prior negotiations, representations, or agreements, whether written or oral, which relate to the subject matter of this Agreement.

O. This Agreement may not be altered, amended or otherwise changed or modified, except in writing signed by both of the parties.

IT IS SO AGREED

IN WITNESS WHEREOF, the parties hereby execute this Agreement by the signatures of their respective duly authorized officials.

Dated: August 12, 2013

UNITED HEALTHCARE OF CALIFORNIA

Payman Pezhman
West Region General Counsel | VP Regulatory Affairs
UnitedHealthcare of California

Dated: August 12, 2013

U.S. BEHAVIORAL HEALTH PLAN, CALIFORNIA

Lloyd H. Dyk
Chief Operating officer
U.S. Behavioral Health Plan, California

Dated: August 23, 2013

DEPARTMENT OF MANAGED HEALTH CARE

Carol L. Ventura
Deputy Director | Chief Counsel
Department of Managed Health Care
Office of Enforcement

UHC and USBHPCST Agreement and Order
Matter ID: 12-153 / Doc. No. 127931