UnitedHealthcare Consumer Watchdog Settlement
Key Messages and FAQ

Overview
On June 7, 2013, Consumer Watchdog sued UnitedHealthcare and OptumRx in US District Court, Central District of California, on behalf of several anonymous members. The lawsuit claims that our Specialty Pharmacy Program, as it applies to members with HIV, violates aspects of ERISA, the Americans with Disabilities Act, and California state law. The lawsuit challenged our Specialty Pharmacy Program requirement that members fill their HIV medications at a designated specialty pharmacy.

The settlement is effective September 3, 2014. As part of the settlement, members being treated for HIV who have privacy or delivery concerns with the mail delivery process or have neuro-cognitive impairment from HIV can request an exemption (“opt-out”) from using the designated specialty pharmacy and choose to use a network retail pharmacy instead. Members may request the exemption via phone, mail, fax, or web. The settlement only applies to members with HIV and only applies to medications that treat these conditions as well as drugs used to treat complications.

Key Messages

- We are pleased that this issue has been settled. Both sides worked hard to resolve this matter. Our members with HIV have had, and will continue to have, access to our Specialty Pharmacy Program where health outcomes and savings are optimized.

- Where our Specialty Pharmacy Program does not work for a member with HIV due to privacy, delivery, or neuro-cognitive impairment, other options are provided for their HIV specialty medications.

- The settlement only applies to HIV patients and to a limited group of their medications, primarily their HIV specialty medications as well as closely associated therapeutic categories such as human growth hormone, which is used to treat complications.

- We believe strongly in our Specialty Pharmacy Program. Peer-reviewed studies have shown that our program improves patients’ health outcomes and decreases the total cost of care. In member surveys, the majority say they are very satisfied with the personalized, high-touch support they receive through our Specialty Pharmacy Program.

- Through our proven Specialty Pharmacy program, we guide members to the right care at the right time, including 24/7/365 access to a team of specialty-trained pharmacists, clinicians and care coordinators who help them manage their conditions and provide the compassionate support that members on specialty medications need.
Q: Who is affected by the settlement?

A: The settlement is limited to certain members, known as Class Members. These are current or future patients who have all of the following:

(i) A diagnosis for HIV;
(ii) Are taking or have taken an HIV specific drug; and,
(iii) In a plan with the Specialty Designated Pharmacy Program (i.e. closed specialty plan).

Class Members will have the right to an exemption (opt-out) from the Specialty Pharmacy Program for certain limited categories of drugs.

Q: On what grounds can a member opt-out of the Specialty Pharmacy Program under the settlement?

A: The settlement allows class members to exercise a right for an exemption from the Specialty Pharmacy Program if they have one of the following:

(i) Privacy concerns with the mail delivery process;
(ii) Service concerns with the mail delivery process; or,
(iii) Neurocognitive impairment from HIV.

For class members, UnitedHealthcare and OptumRx agreed to take members at their word and not independently verify the accuracy of these reasons.

Q: When does the settlement take effect?


Q: How does the exemption work?

A: The exemption means that for certain specialty medications, the class member can go to any in-network retail pharmacy and the restriction to fill at designated specialty pharmacies will not apply.

Note that while a member can use any in-network retail pharmacy, they must designate which retail pharmacy they want to use when they exercise their exemption right. Only one retail pharmacy may be designated at a time, though the designation can be changed at any time by phone, mail, fax, or web (web option available December 2014).

Members can call OptumRx at 1-866-803-8570 (translation for 200 languages available) to exercise their exemption right and designate their retail pharmacy. In addition to calling, members can also:

- Mail: OptumRx Specialty Pharmacy, P.O. Box 2508, Mission, KS 66201
- Fax: 1-855-873-2378
- Web: capability available by the end of 2014
Q: Does the exemption apply to all drugs?

A: No. Members who are taking eligible HIV medications can get an exemption. These members can also request exemptions for medications in the following related classes:

- Human Growth Hormone
- Immune Deficiency
- Neutropenia
- Anemia

The exemption does not apply to other specialty drugs that might be subject to the Specialty Pharmacy Program, such as Hepatitis C medications. Also, this settlement does not affect mandatory or other mail programs for non-specialty drugs.

Q: Do the closely associated therapeutic categories, such as growth hormones, apply to the settlement across the board or just when indicated for HIV?

A: For the other closely associated categories that are named, such as growth hormone, the exemption process applies. Members with HIV do not have to demonstrate that the growth hormone is for an HIV specific condition. The settlement was structured this way because the categories are so closely associated with treatment of HIV associated conditions, such as HIV-associated wasting or cachexia, but we will not require documentation that it is HIV related.

Q: Are there provisions for initial fills at a retail pharmacy?

A: Yes. As part of the settlement, class members will be allowed one short-term override for a fill at an in-network retail pharmacy upon request, without qualification. As with other short-term overrides, members, pharmacists, or authorized caretakers will need to call OptumRx to request the override.

Q: Will members be paid any money?

A: The settlement provides that class members who have purchased their HIV medications in the past at out-of-network retail pharmacies may file a claim by November 14, 2014, to be reimbursed for their out-of-pocket expenses. Any request for reimbursement is being managed by the settlement administrator. For related questions, members can call the administrator at 1-866-803-8570 or refer to the legal class notice.

Q: Will clients incur any costs related to the settlement and subsequent operationalization of the changes?

A: No, clients will not incur any costs related to the settlement.

Q: Does this impact Specialty Pharmacy Program savings for a self-funded employer?

A: Savings impact will vary for different clients based on program participation and number of employees with HIV who request an exemption. If you have concerns on how this might impact your specialty pharmacy savings, please ask your UnitedHealthcare representative.
Q: What are we doing to emphasize the value of the program so members can continue to access its benefits?

A: We are reinforcing the benefits of the program through the notification letter which will provide their settlement rights and a brochure with program details for newly diagnosed members. We will also highlight new services like online refills coming by the end of 2014. We have made additional customer service improvements including additional hours of HIV condition training, empathy training and settlement training.

Q: When are you notifying my employees?

A: Previously the class notice mailed on May 8, 2014 by the Doe v. United settlement administrator to impacted members on behalf of the U.S. District Court for the Central District of California. Legal notices were also included in four newspapers, including the New York Times, LA Times, USA Today and San Francisco Chronicle.

Members who received the notice and any new members since that date will receive a letter notifying them of the settlement effective date and their right to opt-out no later than October 3, 2014. If they choose to opt-out they will also receive a confirmation letter. Newly diagnosed members will continue to be identified and mailings will go out to these individuals approximately every 10 business days.

Please help us ensure all members get notified of their exemptions rights. You can do this by providing us timely eligibility file information so we have the most current member addresses.

Q: What are your standards to ensure member privacy?

A: OptumRx meets or exceeds strict federal rules and guidelines for privacy. We also protect privacy by ensuring that medication packages do not include information that identifies the contents, we ship medications to any location requested within the United States and can set up delivery so a signature for the package is required.

Q: Do self-funded clients have to follow the settlement requirements?

A: This settlement applies to all clients who participate in the Specialty Pharmacy Program.

Q: Who should I contact if I have further questions about this settlement?

A: Please contact your UnitedHealthcare representative.

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