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Data Organization
Information | Insight | Improvement

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December 27, 2018

Ms. Katarina M. Horyn
Associate General Counsel
UnitedHealthcare Insurance Company
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Hartford, CT 06103
Email: katarina_m_horyn@uhc.com

Dear Ms. Horyn,

I am writing to you in response to your letter to me dated October 22, 2018 regarding the MaineHealth MHDO data request number 2018062601.

MHDO Data are obtained to fulfill MHDO's legislative mandate to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens **and** to issue reports promoting public transparency of health care quality, outcomes, and costs. The MHDO is required by its governing statute, to make the data it collects publically available and accessible to the broadest extent consistent with the laws protecting individual privacy, and confidential information.

The primary use of the MHDO Data as defined in 90-590 CMR Chapter 120 Release of Data to the Public, is to produce meaningful analysis in pursuit of improved health and health care quality for Maine people. Acceptable uses of MHDO Data include, but are not limited to, study of health care costs, utilization, and outcomes; benchmarking; quality analysis; longitudinal research; other research; and administrative or planning purposes.

The MHDO has been releasing health care data to authorized users for over ten years. MHDO's authorized users include the largest and smallest health insurance companies in the state of Maine as well as the state's largest health care systems and smaller hospitals. To date, there is no evidence that the release of MHDO claims data has resulted in an anticompetitive market in the state of Maine. In fact the opposite, as stated by several of your competitors and health care entities, transparency is what fosters a competitive market.

MaineHealth and or its member hospitals have been authorized users of MHDO's data for many years and have used the data for many analyses that are aimed to improve the health of Maine communities. In response to your concerns MaineHealth made the following comment:

It has never been, nor will it ever be MaineHealth's intent to cause harm, adverse effects, or anti-competitiveness as UnitedHealthcare suggests may occur in its comment letter to you. Furthermore, the MHDO data



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can be requested, purchased, and used by most industry stakeholders, therefore, MaineHealth is not in any special position by requesting, purchasing, and using this data.

Note, there is a provision in 90-590 CMR Chapter 120 Release of Data to the Public and in the MHDO Data Use Agreement, which all authorized data requestors and recipients are required to sign and comply with, that prohibits authorized MHDO data recipients from misusing MHDO data in any way that would violate law, including anti-competitive behaviors like collusion; and that the MHDO will report any such violation in the use of its data to the appropriate authorities.

In response to your request for additional information regarding how MaineHealth will use the MHDO data to improve the health and healthcare of patients and populations that they serve, please see below:

- Develop a state-wide assessment of aggregated service utilization and cost variation by hospital service area to enable MaineHealth to prudently monitor and assess its effectiveness at managing care delivery and reducing the cost of healthcare to residents of Maine. The data is instrumental in enabling MaineHealth to continuously measure its effectiveness at delivering high value health care across the entire community it serves. This analysis requires patient zip code so that patients may be assigned to hospital service areas.
- Gain better understanding of service utilization patterns throughout MaineHealth service areas so that the system can continuously improve its ability to deliver quality healthcare and better manage population health. These analyses include examining the distance that patients travel to receive various types of care which requires provider identifiable data.
- Assist the MaineHealth Accountable Care Organization with understanding broader utilization and cost variation patterns beyond its own attributed population for the purpose of performance assessment and improvement. This broader analysis will be augmented by the detailed claims data currently provided by our payer partners specific to our attributed patient populations.
- Segment data by Medicare, MaineCare, and Commercial enrollees to understand and address differences in patient populations.
- Partner with Vermont APCD data users to perform grant funded research examining the impact of legislation on opioid prescribing behaviors. Vermont and Maine APCD analyses are done in parallel and no data is shared.

- Study the intensity of healthcare delivery and hospice utilization for Maine patients at the end of life.
- Monitor the adoption of low dose CT scans for lung cancer screening across the state.
- Study the relationship between small area economic indicators and health outcomes.
- Continue studying the relationship between health behaviors, healthcare utilization, and outcomes.

Furthermore these details clarify that the data requested is in keeping with the “minimum necessary” requirement.

Proprietary Data as defined in 90-590 CMR Chapter 120 Release of Data to the Public, is data that is submitted to the MHDO by a Data Provider which has not been made available to the public and is information that if made available to the public will directly result in the data provider being placed in a competitive economic disadvantage.

Based on the information provided above and the MHDO’s interactions with MaineHealth, I disagree with your assertion that MaineHealth’s receipt and intended use of MHDO data has the potential to harm the healthcare marketplace in Maine and have adverse effects on the residents of Maine with the receipt and use of payers’ confidential and proprietary information. The MHDO claims data that you suggest is proprietary is publically reported on the MHDO’s CompareMaine website as required by MHDO’s governing statute 22 MRS §8712; and has been released to authorized MHDO data users for over ten years and as such is not proprietary data.

It is important to reiterate that the MHDO’s standard data release structure anonymizes all payer codes that appear in the claims and eligibility data. Each distinct payer code has been replaced with an integer value such that all instances of a particular code receive the same replacement value. The integers used to replace the payer codes are randomly assigned so that the authorized MHDO data user cannot use the order of the integer values to impute the underlying payer codes. The authorized MHDO data user is given a table that, for each integer value, identifies the payer as Commercial, Medicaid, or Medicare. No payer name information is provided in the data or in the table referenced above.

MHDO is allowed to release the paid data elements per the provisions in 90-590 CMR Chapter 120 Release of Data to the Public to approved data users which include hospitals, researchers, government and health plans; and has been doing so since 2003. There is no evidence that the release of claims data that includes payment data has resulted in an anticompetitive market. In fact quite the opposite, as previously mentioned above and stated by several of your competitors and hospitals, transparency helps fosters a competitive market.

After careful consideration of your concerns; MaineHealth’s comments in response to your concerns; a review of the health care transparency laws in the state of Maine, including the requirement that MHDO create and maintain a publically accessible website that includes the cost of healthcare procedures by payer and by facility; and the requirements in 90-590 CMR Chapter 120 Release of Data to the Public, I will be releasing the MHDO data as requested by MaineHealth in data request number 2018062601. MHDO has no reason to believe, based on MHDO’s current and historical experience with MaineHealth

as an authorized user of MHDO data, that their use of the MHDO data will cause harm, adverse effects or an anti-competitive market.

Pursuant to 90-590 CMR Chapter 120 Release of Data to the Public, either the data applicant or the data provider who comment on a data request application may appeal the decision to the MHDO Data Release Subcommittee. Any such appeal must be filed in writing within ten business days after this electronic notification to the attention of the MHDO Executive Director. Any such appeal must be received at MHDO either through e-mail at Karynlee.harrington@maine.gov or other mail or delivery before the close of business (5pm) on the tenth business day.

Assuming the data applicant meets all the requirements of data release, I intend to release the data requested in response to data request number 2018062601 , after January 11, 2019, unless any of the notified participants file an appeal to the MHDO Data Release Subcommittee. If any participant files such an appeal, all parties will be notified electronically by MHDO.

Sincerely,

Karynlee Harrington

Karynlee Harrington