

Rhode Island Medical Society Council

Meeting of Monday, December 2, 2013

Meeting Highlights

UnitedHealthcare Medicare Advantage terminations Council members expressed frustration that for the past two months UnitedHealthcare has consistently declined to share information about its recent actions and intentions, and so far no state, federal or non-governmental authority has been able to compel information from United.

While it is clear that United is radically pruning its Medicare Advantage physician networks in many states including Rhode Island, the company remains unforthcoming in response to repeated inquiries about the algorithms by which physicians are selected for termination, the numbers and specialties of physicians affected, the numbers of United beneficiaries affected, or the adequacy of United's residual network to provide care for its beneficiaries. Moreover, United's notification to its beneficiaries appears to have been late and spotty, and RIMS has found the reliability of its published provider directories to be questionable.

When physicians began to receive surprise termination notices from United in early October, RIMS engaged the media, the Congressional Delegation, the Centers for Medicare and Medicaid Services, the AMA, neighboring state medical societies, the Rhode Island Attorney General, the Health Care Advocate, the Department of Health and the Health Insurance Commissioner, as well as UnitedHealthcare itself. RIMS sent broadcast emails with advice to its members on October 14, October 23 and November 27.

On November 14, RIMS' leadership hosted corporate leaders of UnitedHealthcare Group and UnitedHealthcare of New England in a face-to-face meeting at RIMS' headquarters. The meeting confirmed United's intransigence and provided few answers. (The December issue of *Rhode Island Medical Journal*, published and distributed electronically on Tuesday morning, December 3, 2013, carries a commentary on this meeting by RIMS President Elaine C. Jones, MD.)

In addition, recent reports from RIMS members indicate that for many physicians who received notices of their termination "without cause" from United's Medicare Advantage network effective February 1, 2014, the accompanying notice of their "appeal rights" had little meaning. This is because the sole basis for appeal, in many cases at least, is the question of whether United met its technical and contractual obligation to provide proper and timely notice of termination. (United's participation contracts require both parties to give 90 days' notice of termination.)

The impotence of state authorities to protect consumers in this situation was confirmed again in a letter received at RIMS on the day of this Council meeting, Monday, December 2. The letter was distributed to the Council along with several other timely handouts in supplement to the 154-page handbook that RIMS distributed in advance for this Council meeting. Addressed to Dr. Jones as President of RIMS, the letter responds to RIMS' October 23 complaint to the Office of the Health Insurance Commissioner and states in part that "Medicare Advantage insurance plans are regulated

exclusively by the federal Centers for Medicare and Medicaid [Services] (CMS). This Office is prohibited by federal law from regulating Medicare Advantage plans.”

While United’s action is disrupting thousands of patient-doctor relationships in Rhode Island alone and creating genuine hardships of access and discontinuity of care for untold numbers of elderly and vulnerable Rhode Islanders, no remedy in law, litigation or regulation appears to be available to stem the harm. Members of the RIMS Council suggested that recurrences of such abuse of patients and doctors might be preventable through the mechanism of well-drafted physician participation contracts.

Many patients are exercising their option to switch from United’s Medicare Advantage plan to traditional Medicare or to BCBSRI’s Medicare Advantage plan, but some are unable to move from an employer’s or former employer’s plan, and others remain unaware of their options.

The RIMS Council also:

- Received a report on the Interim Meeting of the AMA House of Delegates, which took place in National Harbor, MD, November 15-19. Dr. Jones commented on the large volume of business conducted and the sophisticated model of democracy under which the AMA House operates.
- Previewed and provided advice to the Public Laws Committee on a number of suggestions for new legislative initiatives that RIMS might launch or support in the **2014 General Assembly** session, in addition to the usual high priority items (provider tax repeal, liability reform) that will be carried over and reintroduced. The new GA session will convene on January 7. Both the Public Laws Committee and the Board of Directors of RIMPAC will meet at RIMS on December 12.
- Heard an update on the lawsuit by RIMS, the RI Academy of Physician Assistants and the RI State Nurses Association challenging the Health Department’s arbitrary infringement upon the “**universal signature**” law, a statute which empowers physicians to delegate signatures and facilitate practice workflow.
- Heard an update on the state’s **Health Benefits Exchange** (“HealthSource RI”). RIMS continues to argue against the illogic and injustice of putting medical practices, rather than insurers, at risk for on-again, off-again eligibilities during Exchange subscribers’ initial 90-day “grace period.” The effective period of risk has now been reduced to 60 days in most cases. Meanwhile, proliferation of high-deductible plans, both on the Exchange and elsewhere, represents yet another new and growing area of financial risk exposure for medical practices.
- Discussed RIMS’ opportunities for strategic, constructive engagement with the licensure process for **MinuteClinic** over the next four months or so.

Other Council actions

- Approved a 2014 budget for RIMS.