MARTIN O'MALLEY
Governor

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November 14, 2014

The Honorable Martin O'Malley
Governor
State House
100 State Circle
Annapolis, MD 21401 – 1991

The Honorable Thomas V. Miller, Jr.
Senate President
State House, H-107
100 State Circle
Annapolis, MD 21401 – 1991

The Honorable Michael E. Busch
Speaker of the House of Delegates
State House, H-101
100 State Circle
Annapolis, MD 21401 – 1991

Re: Physician Rating Systems
2014 Annual Report
MSAR # 7918

Dear Sirs:

Section 15-1705 of the Insurance Article of the Annotated Code of Maryland requires the Insurance Commissioner and the Maryland Health Care Commission ("Commission") to annually report to you the number and types of appeals that have been filed by physicians regarding their ratings under a physician rating system, the outcome of the appeals, and the number of entities that have been approved by the Commission as ratings examiners under Title 19, Subtitle 1, Part V of the Health-General Article of the Annotated Code of Maryland.

Background

Chapter 586 of the Acts of 2009, effective January 1, 2010, added Title 15, Subtitle 17 to the Insurance Article. Subtitle 17 establishes requirements for carriers[1] that use physician rating

[1] Carrier means an insurer that provides health insurance in the State, a health maintenance organization, or a nonprofit health service plan.

systems. Section 15-1701(d) defines a physician rating system as any program that measures, rates, or tiers the performance of physicians under contract with a carrier and discloses the measures, rates, or tiers to enrollees or to the public. In accordance with §15-1702(a), a carrier may not use a physician rating system unless the physician rating system is approved by a ratings examiner.

A ratings examiner is an independent entity that is approved by the Commission to review physician rating systems. To be approved by the Commission as a ratings examiner, an entity examining a physician rating system must require the physician rating system to conform to the standards set forth in § 19-147 of the Health-General Article. Specifically, the ratings examiner shall require the physician rating system to:

- Use only quality of performance and cost efficiency as measurement categories;
- Calculate and disclose separately measures of cost efficiency and quality of performance;
- Disclose clearly to physicians and enrollees the proportion of the component score for cost efficiency and quality of performance in each combined score;
- In determining quality of performance, use measures that are based on nationally recognized, evidence–based or consensus–based clinical recommendations or guidelines; or when available, that are endorsed by entities whose work in physician quality of performance is generally accepted in the health care system;
- Disclose to physicians who are subject to the physician rating system:
    - The measurements for each criterion and the relative weight of each criterion and measurement in the overall rating of the physician;
    - The basis for the carrier's quality of performance ratings;
    - The data used to determine the quality of performance ratings;
    - The relative weight or relevance of quality of performance to the overall rating of a physician in the physician rating system;
    - The basis for determining whether there is a sufficient number of patients and episodes of care for a given disease state and specialty to generate reliable ratings for a physician; and
    - The methodology used to determine how data is attributed to a physician;
- Use appropriate risk adjustments to account for the characteristics of the patient population seen by a physician in determining the quality of performance and cost efficiency of the physician;
- In measuring the cost efficiency of the performance of a physician:
    - Compare physicians within the same specialty within the appropriate geographical market; and

  - ➢ Use appropriate and comprehensive episode of care computer software to evaluate the cost efficiency of the performance of a physician;

- Include an appeals process that a physician subject to the physician rating system may use to appeal the rating received under the physician rating system and based on the outcome of an appeal, make any necessary corrections to the data used to rate the physician in the physician rating system; and
- Disclose to physicians and enrollees how the perspectives of enrollees, consumer advocates, employers, labor unions, and physicians were incorporated into the development of the physician rating system.

Section 19-147(c) of the Health-General Article provides that an entity that has a physician performance rating certification program approved after August 1, 2008 by a national consortium of employer, consumer, and labor organizations working toward a common goal to ensure that all Americans have access to publicly reported health care performance information is deemed to be a ratings examiner and to meet the above standards. The National Committee for Quality Assurance (NCQA) has been deemed a ratings examiner. A carrier may use a physician rating system that has been granted certification under NCQA's Physician and Hospital Quality Certification Program.

Carrier reporting

Section 15-1704 of the Insurance Article requires carriers that use physician rating systems to report annually to the Commissioner the number of appeals filed by physicians who contest their ratings and the outcome of the appeals. Two carriers have been identified as using physician rating systems, UnitedHealthcare Insurance Company ("United") and Aetna Life Insurance Company ("Aetna"). NCQA has granted two-year certification under its Physician and Hospital Quality Certification Program to both United's and Aetna's physician rating system programs.

United reported that it had received 45 requests for appeal from physicians regarding the physician's rating during the reporting period.[2] Of the 45 requests for appeal to United, 18 ratings were upheld and 27 were overturned. United categorized the appeals as falling into three categories: quality, efficiency, and patient exclusion as found in Table 1.

[2] Section 15-1704(c) of the Insurance Article requires carriers to report annually to the Commissioner but does not specify the reporting period. United reported for the 12-month period 10/1/2013-9/30/2014 and Aetna reported for the period from 7/1/2013-9/30/2014.

Table 1
UnitedHealthcare Insurance Company Rating System Appeals

Reason for Appeal	# Upheld	# Overturned	Total
Quality	7	11	18
Efficiency	10	8	18
Patient Exclusion[3]	1	8	9
Total	18	27	45

Aetna reported that it performs physician ratings every two years, with the most recent ratings provided in mid-2013. It received 4 appeals from Maryland physicians regarding their ratings in 2013 and none in 2014. Three of the appeals were upheld and one was overturned. Aetna categorized the appeals as falling into two categories, clinical performance and efficiency, which are summarized in Table 2.

Table 2
Aetna Health, Inc. Physician Rating System Appeals

Reason for Appeal	# Upheld	# Overturned	Total
Clinical Performance	1	0	1
Efficiency	2	1	3
Total	3	1	4

[3] Physicians may request exclusion of a patient from their assessment for certain circumstances. For example, an exclusion may be requested if the physician's patient was in hospice care or if the patient had primary coverage through another plan.

Approved Ratings Examiners

As required by §15-1705 of the Insurance Article, the Commission reports that no entities have been approved by the Commission as rating examiners. NCQA, deemed approved under §19-147(c) of the Health-General Article, continues to be the sole ratings examiner authorized to review physician ratings systems in Maryland.

Sincerely,

[redacted]

Therese M. Goldsmith
Commissioner
Maryland Insurance Administration

[redacted]

Ben Steffen
Executive Director
Maryland Health Care Commission

cc: Sarah T. Albert, Library Associate, Department of Legislative Services (5 copies)
Brenda A. Wilson, Associate Commissioner
Nancy J. Egan, Director of Government Relations