

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made and entered into this 19th day of March, 2014, by and between defendants UnitedHealthcare Insurance Company, OptumRx, Inc., Pacificare Life and Health Insurance Company, UHC of California d/b/a UnitedHealthcare of California, and UnitedHealth Group (collectively “United”) and the Plaintiffs listed below (“Plaintiffs”) (collectively defined below as “Parties”).

I. BACKGROUND

WHEREAS, on June 7, 2013, Plaintiff JOHN DOE (whose identity has been revealed to United pursuant to an agreement of confidentiality), individually and on behalf of a putative class, filed a complaint captioned *JOHN DOE v. UnitedHealthcare Insurance Company, OptumRx, Inc., Pacificare Life and Health Insurance Company and UnitedHealth Group*, U.S. Dist. Ct. C.D. Cal. Case No. SACV 13-00864-DOC (JPRx), alleging, *inter alia*, that United’s requirement that Members obtain HIV/AIDS Specialty Medications from a Specialty Pharmacy by mail violated state statutes, regulations and rights of privacy (the “Lawsuit”). The complaint asserted claims in the Lawsuit for: (1) Violation of Unfair Competition Law, Business and Professions Code section 17200, *et seq.*; (2) Common Counts and Assumpsit/Common Law Restitution; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; (4) Declaratory Relief; and (5) Violation of Unruh Civil Rights Act, Cal. Civil Code section 51, *et seq.*

WHEREAS, four additional JOHN DOE Plaintiffs, whose identities have also been revealed to United under an agreement of confidentiality, agreed to join in the Lawsuit, and have been added as plaintiffs in a First Amended Complaint (“Complaint”) filed by order of the Court on January 24, 2014, which reasserts the claims in the original complaint, adds additional claims

under the Employee Retirement Income Security Act (“ERISA”) and the Americans with Disabilities Act (“ADA”), adds UHC of California d/b/a UnitedHealthcare of California as a defendant, and amends the definition of the proposed class on whose behalf the Lawsuit has been filed. Plaintiffs JOHN DOES 1 through 5 are collectively referred to herein as “Plaintiffs”;

WHEREAS, United denies any wrongdoing or liability of any kind whatsoever with respect to United’s requirement that Members obtain HIV/AIDS Specialty Medications from a Specialty Pharmacy by mail, the Lawsuit, the Complaint, and any and all allegations made therein;

WHEREAS, without admitting any wrongdoing or liability whatsoever, United nevertheless has agreed to enter into this Agreement to avoid further litigation expense and the uncertainties of litigation;

WHEREAS, Plaintiffs have been fully advised by their counsel Whatley Kallas, LLP and Consumer Watchdog (collectively, “Plaintiffs’ Counsel”) as to the terms and effects of this Agreement, including the nature of the claims released, the potential for success if the Lawsuit was to be litigated to its conclusion, and the relief obtained by the settlement;

WHEREAS, in evaluating the settlement set forth in this Agreement, Plaintiffs’ Counsel have concluded that the substantial benefits provided under this Agreement make a settlement with United pursuant to such terms and conditions reasonable when weighed against the uncertainties and complexities of such litigation and overcoming the legal and factual defenses that have been asserted by United and the expense and length of time necessary to prosecute this action through trial;

WHEREAS, the Parties desire to settle all issues that either are, were, or could have been asserted arising out of the claims asserted in the Lawsuit or the Complaint by or on behalf of the Plaintiffs and the Class Members as set forth herein;

WHEREAS, the Parties, through their respective counsel, have engaged in extensive arm's length negotiations in reaching this Agreement, including extensive negotiations between counsel for all parties in the Lawsuit and the informal exchange of relevant information;

WHEREAS, the Parties, and their respective counsel, believe that the terms of the settlement set forth in this Agreement are fair, reasonable and adequate; and,

WHEREAS, the Parties desire and intend to seek Court approval of the dismissal of the Lawsuit with prejudice and entry of a Final Order as set forth in this Agreement;

NOW, THEREFORE, it is agreed that, in consideration of the promises and mutual covenants set forth in this Agreement and the entry by the Court of a Final Order as set forth in this Agreement in the form attached hereto as Exhibit 2, the Lawsuit shall be settled on the terms and conditions set forth below.

The recitals stated above are true and accurate and are hereby made a part of this Agreement.

II. DEFINITIONS

In addition to any definitions set forth above or elsewhere in this Agreement, the following terms, as used in the Agreement, shall have the meanings set forth below:

A. The term "Affiliate" when used with respect to United means United's predecessors and successors-in-interest, including, but not limited to, all of its respective past and

present parents, subsidiaries, joint ventures, partnerships, related companies, controlled entities, entities with common control or ownership, unincorporated entities, divisions, groups, present or former directors, officers, members, agents, employees, representatives, administrators, and attorneys.

B. The term “Agreement” means this Settlement Agreement and Release, including its recitals and Exhibits.

C. The term “Best Efforts” means the efforts that a reasonable person in the position of the Party would use so as to fulfill an obligation diligently and expeditiously.

D. The term “Bodily Harm” means any injury to the body or bodily functions.

E. The term “Class Member” means a natural person who has been diagnosed as having HIV or AIDS (“HIV/AIDS”), who is or has in the past been prescribed a medication that the Specialty Pharmacy identifies as a medication for the treatment of HIV/AIDS, who does not opt out of the class defined in the Order of Preliminary Approval and who, as of the date of this Agreement, (i) is enrolled in or covered by any health plan offered or administered by United or its Affiliates that includes a prescription drug benefit, including but not limited to insured and self-funded ERISA plans, individual plans, governmental plans, and church or group plans, (ii) is prescribed HIV/AIDS Specialty Medications, and (iii) is required to participate in the Program.

F. The term “Complaint” means the First Amended Complaint filed in the Lawsuit.

G. The term “Compliance Dispute Officer” means a person the Parties agree upon in writing and approved by the Court in the Final Order to initially hear and decide various

issues identified in this Agreement pursuant to the Compliance Protocol attached hereto as Exhibit 6.

H. The term “Court” means the United States District Court for the Central District of California, Southern Division.

I. The term “Effective Date” means (i) if no appeal is filed, the first business day after the last date on which a notice of appeal from the Final Order could have been timely filed; and, (ii) if an appeal is filed, the first business day after the Final Order is affirmed, all appeals are dismissed, or no further appeal to, or discretionary review in, any Court remains. Subsection (ii) does not apply if the attorneys’ fees and/or payments approved by the Court pursuant to Section III.6 or 7 herein are the only issue(s) raised or remaining on appeal.

J. The term “Exemption Right” means the right of any Member to decline to receive his or her HIV/AIDS Specialty Medication by mail through the Program and to obtain such HIV/AIDS Specialty Medication instead from or through a retail, in-network pharmacy, by stating that: (1) the Member is concerned about his or her privacy in connection with receiving medication packages by mail where the Member lives or works, or (2) the Member is concerned about the timing, accuracy or other problems with the delivery of his or medications from the Specialty Pharmacy, or (3) the Member is unable to effectively discuss his or her condition over the phone with the Specialty Pharmacy due to an HIV/AIDS-related neurocognitive disorder or other significant HIV/AIDS-related impairment that is being monitored or treated.

K. The term “Final Order” means a final judgment and order of dismissal entered by the Court in the Lawsuit according to the terms set forth in this Agreement in the form attached

hereto as Exhibit 2, which is incorporated by reference, pursuant to Fed. R. Civ. Proc. Rule 23(e).

L. The term “Future Member” means a natural person who has been diagnosed as having HIV/AIDS, who is or has in the past been prescribed a medication that the Specialty Pharmacy identifies as a medication for the treatment of HIV/AIDS, who is not a Class Member and did not opt out of the class, but who after the date of this Agreement, (i) is enrolled in or covered by any health plan offered or administered by United or its Affiliates that includes a prescription drug benefit including but not limited to insured and self-funded ERISA plans, individual plans, governmental plans, and church or group plans, (ii) is prescribed HIV/AIDS Specialty Medications, and (iii) is or may be required to participate in the Program.

M. The term “Group Plans” means plans that are established and maintained by organizations (including but not limited to employers, religious organizations, associations, and unions) and that provide healthcare coverage to a defined group of people.

N. The term “HIV/AIDS Specialty Medication” means any medication prescribed by a physician that is subject to the Program and that Specialty Pharmacy identifies as a medication for the treatment of HIV/AIDS, Immune Deficiency, Growth Hormones, Neutropenia, and Anemia, and any other category that may be agreed to by the Parties.

O. The term “Member” means someone who is either a Class Member or a Future Member.

P. The terms “Party” and “Parties” means Plaintiffs and United.

Q. The term “Personal Injury” means any emotional distress, pain, or suffering.

R. The term “Persons” means all persons and entities, including, without limitation, natural persons, firms, corporations, limited liability companies, joint ventures, joint stock companies, unincorporated organizations, agencies, bodies, governments, political subdivisions, governmental agencies and authorities, associations, partnerships, limited liability partnerships, trusts, and their predecessors, successors, administrators, executors, heirs, and assigns.

S. The term “Plaintiffs” means the individuals referenced as JOHN DOE Plaintiffs 1-5 in the Complaint, all of whom have been previously identified to United pursuant to an agreement of confidentiality.

T. The term “Program” means any program pursuant to which the only way for Members to obtain HIV/AIDS Specialty Medications on an in-network basis as part of their health care pharmacy benefit is to obtain HIV/AIDS Specialty Medications from the Specialty Pharmacy by mail.

U. The term “Released Claims” means any and all known and unknown, suspected and unsuspected, ripe and contingent, claims, claims for relief, causes of action, suits, rights of action, or demands, whether sounding in contract, tort, or equity, or involving an alleged violation of any law or regulation, for any form of legal, equitable, injunctive relief, damages, debts, indemnity, contribution, or for costs, expenses and attorney’s fees, based upon, arising from, or relating to the claims and allegations asserted in the Complaint or the Lawsuit, but not including any possible claims for Personal Injury or Bodily Harm. The term “Released Claims” includes, without limitation, any claim alleging that an action taken by the Released Parties that is in compliance with this Agreement violates any legal right. All claims under California Civil

Code section 1542 and any other comparable laws, whether state or federal, are waived with regard to the Released Claims as described below in Section 8 of this Agreement.

V. The term “Released Parties” means United and all of its Affiliates. With respect to a Group Plan, to the extent the Program is operated in compliance with the provisions of Section III.3 below, the term “Released Parties” also means the Group Plan and any Persons who purchased, provided, controlled or administered such Group Plan except as to self-insured Group Plans as set forth under Section III.3m below.

W. The term “Specialty Pharmacy” shall refer to OptumRx or any other entity that provides HIV/AIDS Specialty Medications to Members by mail.

III. TERMS OF AGREEMENT

1. **Non-Admission of Liability.** This Agreement is for settlement purposes only, and neither the fact of, nor any specific provision contained in, this Agreement nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any fact alleged by Plaintiffs or by any other Person or Member of any wrongdoing, fault, violation of law, or liability of any kind on the part of the Released Parties. This Agreement constitutes a compromise pursuant to Fed. R. of Evid. Rule 408 and all similar state or federal laws, rights, rules, or legal principles of any other jurisdiction that may be applicable. It shall not be offered or be admissible in any proceeding, either in whole or in part, as evidence against the Released Parties, except in any action or proceeding to enforce its terms.

2. Entry of Final Order.

a. Utilizing the procedures set forth below, the Parties shall jointly request that the Court enter the Final Order dismissing the Lawsuit pursuant to Fed. R. Civ. Proc. 23(e). The actual form of the Final Order entered by the Court may include additional provisions as to which the Parties may subsequently agree in writing, or as the Court may direct, so long as such provisions are not inconsistent with any of the express terms or conditions of this Agreement.

b. Upon full execution of this Agreement, the Parties shall present this Agreement to the Court by way of motion or application seeking preliminary approval of this Agreement (the “Submission for Preliminary Approval”). In connection with the Submission for Preliminary Approval, the Parties, through counsel, shall apply for an order substantially in the form of Exhibit “1” to this Agreement (“Order of Preliminary Approval”). The Submission for Preliminary Approval shall request:

- (i) Preliminary approval of the Agreement;
 - (ii) Provisional certification for settlement purposes only of a Class pursuant to Fed. R. Civ. Proc. Rule 23(a) and (b)(3);
 - (iii) Appointment of Plaintiffs’ Counsel as counsel for the Class and appointment of Plaintiffs as class representatives for the Class Members;
 - (iv) Approval of the proposed notices set forth in Exhibits “3” and “4”;
- and

(v) Establishment of a schedule for completing the class notice program, submitting papers in support of the Parties' joint motion for entry of the Final Order, for Class Members to object to the Agreement or request exclusion from the class, and for the Court to hear the joint motion for entry of the Final Order ("Fairness Hearing").

c. No later than ten (10) days after the entry of the Order of Preliminary Approval (unless otherwise specifically modified or provided for as set forth in that Order) (the "Notice Deadline"), Plaintiffs shall, at United's sole cost and expense, (i) cause class-wide notice to be disseminated as directed in the Order of Preliminary Approval by disseminating the full version of the class notice in a form substantially similar to that attached as Exhibit "3" to this Agreement (the "Full Notice") to all Persons who would be Class Members if they did not Opt Out ("Putative Class Members"), that Defendants can reasonably identify, by first class regular mail postage prepaid and (ii) establish a settlement website that will contain this Agreement and the relevant exhibits, relevant pleadings and a list of relevant deadlines, and other agreed-to materials and information.

d. The Parties shall request that the deadline for requesting exclusion from the Class ("Opt Out") be no later than forty-two (42) days after the Notice Deadline ("Opt-Out Deadline"). Putative Class Members may Opt Out by timely submitting a request to Opt Out in accordance with the Opt Out procedure approved by the Court.

Putative Class Members who properly request to Opt Out shall not be entitled to the benefits of this Agreement and shall not be Class Members. Within ten (10) days after the Opt Out Deadline, either Plaintiffs' Counsel or the Settlement Administrator shall furnish United with a complete list of all timely and valid Opt Out requests.

e. Class Members shall have up to forty-two (42) days after the Notice Deadline ("Objection Deadline") to file, in the manner specified in the Full Notice, any written objection or other response to this Agreement.

f. In addition, consistent with the timing set forth in the entry of the Order of Preliminary Approval, Plaintiffs' counsel shall also cause to be published, at United's sole cost and expense, a summary form of the Notice (the "Summary Notice"), as set forth in Exhibit "4" to this Agreement in newspapers or publications agreed to by the Parties and approved by the Court to ensure nationwide notice is provided to Class Members.

g. The Parties agree that the methods of notice set forth in this Section constitute the best form of notice to the Class Members that is practicable under the circumstances.

h. United shall cause to be served notice of this settlement that meets the requirements of and includes all the information required by 28 U.S.C. § 1715, on the appropriate federal and state officials and on Plaintiffs' Counsel not later than ten (10) days after the filing of this Agreement with the Court, and advising all appropriate persons of the relevant proposed hearing dates.

i. The Parties shall request that the Court hold the Fairness Hearing no later than seventy-five (75) days from entry of the Order of Preliminary Approval, unless otherwise agreed or ordered. At the Fairness Hearing, the Parties shall jointly request that the Court enter the Final Order, which shall (1) finally approve the terms of this Agreement and certify, for settlement purposes only, a settlement class of all persons who qualify as Class Members, pursuant to Fed. R. Civ. Proc. Rule 23(b)(3), (2) dismiss the entire Lawsuit with prejudice, (3) discharge the Released Parties of and from all further liability to the Plaintiffs and Class Members with respect to the Released Claims (but not as to any obligations created or owed pursuant to this Agreement), and (4) permanently bar and enjoin Plaintiffs and Class Members from bringing, filing, commencing, prosecuting (or further prosecuting), maintaining, intervening in, participating in, assisting in any way, formally or informally, except as required by law, or receiving any benefits from, any other lawsuit, arbitration, or administrative, regulatory or other proceeding or cause of action in law or equity that asserts or arises from the Released Claims. The actual form of Final Order entered by the Court may include additional provisions as to which the Parties may subsequently agree, or which the Court may direct, that are not inconsistent with any of the express terms or conditions of this Agreement.

j. Following entry by the Court of the Final Order, no default by any Person in the performance of any covenant or any obligation arising under this Agreement, or any order of judgment entered in connection therewith, shall affect the

dismissal of the Lawsuit, the discharge and release of the Released Parties, or any other provision of this Agreement. The above notwithstanding, nothing in this subsection shall prevent a Party from seeking enforcement of or compliance with the terms of this Agreement, or the intervention of the Court to compel such enforcement or compliance based on the continuing jurisdiction of the Court to enforce the Final Order and as otherwise provided herein.

3. **Settlement Consideration.** In consideration for the dismissal of the Lawsuit under the terms of this Agreement, United shall, in accordance with the terms of this Agreement and the Final Order, unless otherwise specifically modified below, implement procedures to provide the following:

a. **Exercising Exemption Right.** Any Member may exercise his or her Exemption Right at any time after the Effective Date by mail, facsimile, telephone, or on the Specialty Pharmacy's website as set forth herein.

b. **Implementation of Notice Program.** No later than thirty (30) days after the Effective Date, United shall send by regular U.S. mail a letter to all Class Members as set forth in Exhibit 5 hereto (the "Notice Letter").

c. **Exemption Process.** United and its Specialty Pharmacy will establish and implement the following communications, procedures and processes to implement any Member's decision to exercise his or her Exemption Right (the "Exemption Process"), and will do so by no later than the date on which the Notice Letter is sent:

(1) United will establish and maintain a unique and designated toll-free telephone number to handle calls relating to the Exemption Process as

described in this Section III.3.c. United also may use this dedicated line to handle calls from Members relating to other issues involving HIV/AIDS. The dedicated line will be staffed with live personnel Monday - Friday, 5 a.m. - 7 p.m., Pacific Time except to the extent such days are federal holidays.

(2) The dedicated phone line will be staffed by customer service representatives (“CSRs”) who have completed at least two hours of training in communicating with and assisting Members, including training with respect to HIV/AIDS issues and concerns and Members’ exercise of their Exemption Right. Each CSR will be specifically trained to use the script, attached as Exhibit 7 (the “Script”), about the Program and such Member’s ability to exercise his or her Exemption Right. Beginning on the Effective Date and continuing for a period of three months (the “Initial Period”), the Specialty Pharmacy shall internally monitor on a daily basis its performance under this Agreement, and it shall provide United with a summary of the results of that monitoring on a weekly basis. After the Initial Period, the Specialty Pharmacy shall internally monitor on a monthly basis its performance under this Agreement, and it shall provide United with a summary of the results of that monitoring on a monthly basis.

(3) A sufficient number of CSRs will be made available to assure that incoming calls to the toll-free telephone number described above are answered by a CSR within approximately 30 seconds on average (measured annually) and 60 seconds on average (measured monthly) after a call is received into the customer

service queue, and that no calls are placed on hold immediately upon initial answering of the call. After the initial greeting, no calls will be placed on hold for any unreasonable time period during the call, and then only for the purpose of verifying information as set forth in the Script or processing a Member's exercise of his or her Exemption Right. The number of CSRs shall be adjusted, as needed, to meet the Specialty Pharmacy's needs based on call volume.

(4) The Notice Letter will also include a separate tear off sheet, attached as Exhibit 8. This sheet will permit Members to exercise their Exemption Right either by regular mail or facsimile. United may include in that tear sheet an optional section where the Member is requested to provide an explanation of the reasons for exercising his or her Exemption Right, but failure to provide an explanation or complete that section shall not be a basis to deny a Member's Exemption Right. United shall mail Members who return the form by mail or facsimile a letter that shall include a confirmation number confirming their exercise of their Exemption Right (the "Confirmation Code"), and a copy of the Pharmacy Designation Change Form attached hereto as Exhibit 9. A Member's exercise of his or her Exemption Right by mail or facsimile shall be processed by United within five (5) business days of receipt. A Member will not need the confirmation letter in order to obtain an HIV/AIDS Specialty Medication at an in-network retail pharmacy.

(5) Members who exercise their Exemption Right using the telephone process described above will be provided a Confirmation Code by the CSR during their telephone call. All Members who exercise their Exemption Right by telephone will also be sent a letter, which shall include the Confirmation Code and a copy of the Pharmacy Designation Change Form, confirming in writing that they have exercised their Exemption Right. A Member will not need the confirmation letter in order to obtain an HIV/AIDS Specialty Medication at an in-network retail pharmacy.

(6) Once a Member exercises his or her Exemption Right and after it has been processed by United, United shall treat prescriptions for HIV/AIDS Specialty Medications filled at any in-network retail pharmacy designated by the Member as set forth below as having been filled on an in-network basis. The Member shall designate the in-network retail pharmacy at the time the Member exercises his or her Exemption Right. The Member may change this designation at any time either by (a) calling the Specialty Pharmacy, (b) using the Specialty Pharmacy secure website (subject to Section III.3.c.7 below), (c) mailing or faxing a Pharmacy Designation Change Form to the Specialty Pharmacy, or (d) having an in-network retail pharmacist call the Specialty Pharmacy on the Member's behalf prior to or at the time HIV/AIDS Specialty Medications are to be dispensed using the telephone number(s) provided to in-network retail pharmacists that enable them to speak with Specialty Pharmacy representatives

24-hours-a-day. Change requests made by telephone by either the Member or the in-network retail pharmacist shall be processed immediately. Change requests submitted on the Specialty Pharmacy website shall be processed by 5:00 p.m. (Pacific Time) of the first business day after the day on which the request was submitted. Change requests submitted by faxing or mailing a Pharmacy Designation Change Form shall be processed within five (5) business days after receipt.

(7) No later than July 1, 2014 or the ninetieth (90th) day after the Effective Date, whichever is later, United or the Specialty Pharmacy shall implement a method for Members to exercise their Exemption Right and designate or change their designation of an in-network retail pharmacy through the Specialty Pharmacy's secure website. United will provide information to Plaintiffs on the proposed format of this method at least three weeks prior to its implementation, and shall be required to obtain Plaintiffs' agreement, prior to its implementation. Plaintiffs shall provide that agreement at least one week before the scheduled implementation date, and such agreement shall not be unreasonably withheld. United shall mail Members who exercise their Exemption Right using the website described above a letter that shall include a Confirmation Code, and a copy of the Pharmacy Designation Change Form attached hereto as Exhibit 9.

(8) Any disputes over these processes shall be submitted to the Compliance Officer for resolution pursuant to the terms of the Compliance Protocol.

d. **Notice After Program Initiation.** For Future Members, United shall send the Notice Letter to such Members within ten (10) business days of United's systems recognizing that such Member is subject to the Program or within thirty (30) calendar days after the Effective Date, whichever is later. The Notice Letter may be sent to a Future Member separately, or included as part of a welcome packet as long as the welcome packet includes a cover letter containing the bolded phrase: "**IMPORTANT INFORMATION ABOUT YOUR RIGHT TO AN EXEMPTION FROM THE REQUIREMENT TO OBTAIN SPECIALTY MEDICATIONS BY MAIL INCLUDED IN THIS PACKET.**"

e. **Initial Retail Re-Fill.** Any Member who is informed for the first time after the Effective Date that he or she is subject to the Program will be permitted upon request one initial fill or re-fill at an in-network retail pharmacy.

f. **Exercising Exemption Right After Entry into Program.** Any Member who is receiving HIV/AIDS Specialty Medications through the Program by mail may exercise his or her Exemption Right at any time after the Effective Date.

g. **Exemption is Perpetual.** Once a Member has exercised his or her Exemption Right and after it has been processed by United, the Member's exercise of his or her Exemption Right shall be immediately effective and valid and shall continue to be

recognized as effective and valid as long as the Member continues to be a Member who is subject to the Program, unless the Member subsequently decides to participate in the Program.

h. **No Loss of or Decrease in Benefits for Exercising Exemption Right.**

United will not impose any additional personal expense or decrease in benefits on a Member solely as a result of the Member's exercise of his or her rights under the terms of this Agreement.

i. **Filling Prescriptions.** United will not cause the altering of the "in-network" status and will not penalize an in-network retail pharmacy because such pharmacy dispenses HIV/AIDS Specialty Medication to a Member who has exercised his or her Exemption Right pursuant to this Agreement.

j. **Individual Request for Reimbursement.** Any Class Member may submit a claim for reimbursement of any Out-of-Pocket Costs incurred prior to the Effective Date. For purposes of this Section, "Out-of-Pocket Costs" means the difference between (i) what the Class Member actually paid out-of-pocket for his or her HIV/AIDS Specialty Medications and (ii) what the Class Member would have paid out-of-pocket had the Class Member purchased those HIV/AIDS Specialty Medications from the Specialty Pharmacy. "Out-of-Pocket Costs" shall not include any Member's co-pay or co-insurance requirements. The Notice to Class Members will include information that Class Members have a right to be compensated for their Out-of-Pocket Costs, how and where to obtain information and a claim form to do so, and any deadlines for submitting such a

claim. Class Members seeking compensation for Out-of-Pocket Costs shall submit receipts or any other records of payment supporting their claims, including but not limited to credit card payment records or evidence of payments made to a pharmacist, to the claims administrator along with a completed claim form. Upon confirming the validity of the submitted documents, the claims administrator shall determine the total amount of valid Out-of-Pocket Costs incurred by each Class Member who timely submitted a claim for payment of Out-of-Pocket Costs. United, or the claims administrator on United's behalf, shall then reimburse those Class Members for their valid Out-of-Pocket Costs. If the total amount of valid Out-of-Pocket Costs exceeds \$240,000, then the amount of reimbursement to be paid to each Class Member shall be prorated by dividing \$240,000 by the total value of timely and valid claims submitted, and applying that percentage to the reduce the amount of each individual claim to be paid. Under no circumstances shall United be required to pay more than \$240,000 to Class Members pursuant to this paragraph. United shall provide Class Counsel a declaration that may be filed with the Court as part of the Submission for Preliminary Approval explaining how the above amount was calculated.

k. **Costs and Expenses of Agreement.** All costs and expenses that are required to be paid or incurred under the terms of this Agreement relating to (i) providing notice of this Agreement pursuant to Section III.2; (ii) the implementation of new procedures and payment of individual requests for reimbursement pursuant to this Section III.3; (iii) the payment of Attorneys' Fees and Expenses pursuant to Section III.6;

and (iv) the payment of Compensation to Plaintiffs pursuant to Section III.7, shall be paid or borne by United.

1. **Enforceability of Final Order.**

(1) All Members who have an Exemption Right under the terms of the Agreement are intended third-party beneficiaries of the Final Order (but not of Section III.3.j of the Agreement). The terms of the Final Order are to be directly enforceable by the Parties and the Members under the continuing jurisdiction of the Court, to which the Parties agree.

(2) If Plaintiffs believe there is evidence there has been a material non-compliance with the terms of this Agreement, they shall present that issue to the Compliance Dispute Officer for resolution pursuant to the provisions of a compliance protocol, the terms of which are set forth in Exhibit 6 hereto (the “Compliance Protocol”). The Compliance Dispute Officer shall be appointed by the Court in the Final Order and empowered to issue various orders and provide such relief as set forth in the Compliance Protocol.

(3) United shall appoint an internal compliance officer with whom Plaintiffs’ Counsel or Members may interact to attempt to resolve any disputed issues relating to United’s compliance with Section III.3.

m. **Self-Insured Customers.** United shall implement and apply the procedures specified in this Section III.3 with respect to all Members who are not enrolled in a self-insured Group Plan. United also shall implement and apply the procedures in Section III.3 with respect to all Members enrolled in a self-insured Group

Plan except to the extent that those Persons who purchase, provide, control or administer such self-insured Group Plan instruct United to implement and apply different procedures; provided, however, that United shall recommend to any such Persons that United implement and apply the procedures in Section III.3. To the extent United is instructed to implement and apply different procedures for a self-insured Group Plan notwithstanding United's recommendation, then such Group Plan and the Persons who purchase, provide, control and administer such group plan shall not be Released Parties. The full class notice shall include a provision for advising Class Members how to determine if their self-insured Group Plan has instructed United to follow procedures that differ from those delineated in Section III.3.

n. **Future Modifications.** The Parties recognize that technological and other changes and developments in the future that the Parties cannot currently anticipate may make it appropriate in the future to modify one or more of the practices described in Sections III.3.a, c, and d above. The Parties agree that, by agreement of the Parties or, if after using their Best Efforts to reach agreement they fail to do so, as ordered by the Compliance Dispute Officer, the practices described in Sections III.3.a, c, and d above may be modified to take into account such future changes and developments, provided that such modifications do not materially alter or reduce the benefits and rights of members under those Sections or materially increase the costs to United of complying with its obligations under those Sections.

4. Best Efforts of Parties. The Parties agree to undertake their Best Efforts to expeditiously effectuate the settlement described in this Agreement. The Parties further represent, agree and acknowledge that the settlement reflected in this Agreement is a fair resolution of these claims for the Parties and the Class Members.

5. Termination.

a. If the Effective Date does not occur, and United or Plaintiffs provide written notice to the other of the failure of the Effective Date to occur, then this Agreement shall be terminated.

b. If the number of Putative Class Members submitting Opt-Out requests exceeds three percent (3%) of the total number of Class Members, United may in its sole and absolute discretion terminate this Agreement by delivering a notice of termination to the other Parties within ten (10) business days of its receipt of the complete list of Opt-Out requests from either Plaintiffs' Counsel or the Settlement Administrator.

c. If this Agreement is terminated pursuant to Section 5.a or 5.b above, this Agreement shall be null and void, shall have no further force and effect with respect to any Party, and shall not be offered in evidence or used in the Lawsuit (or in any other matter or proceeding, including any regulatory proceeding or inquiry) for any purpose. In such event, this Agreement and all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Released Parties or Plaintiffs, shall not be deemed or construed to be an admission or confession by any Party of any fact, matter or proposition of law, and shall not be used in any matter or

proceeding for any purpose, and all Parties shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court. To the extent feasible, the Parties shall be returned to their respective positions in the Lawsuit as of the date of this Agreement. The Lawsuit shall then proceed in all material respects as if this Agreement and any related orders had never been executed.

6. Payments of Attorneys' Fees and Expenses.

a. In consideration for entering into the terms of the Agreement and the releases provided for herein, Plaintiffs' Counsel may petition the Court to be paid their attorneys' fees and expenses up to a total of \$1.5 million. United agrees not to oppose any application for an award by the Court of up to \$700,000.00 for attorneys' fees and expenses, but reserves the right to oppose any application above that amount. United shall pay to Plaintiffs' counsel whatever amount of attorneys' fees and expenses is awarded by the Court up to a total of \$1.5 million, subject to United's right to appeal any award of more than \$700,000.00 and Plaintiffs' right to appeal any award of less than \$1.5 million. Plaintiffs' Counsel shall allocate such attorneys' fees and expenses among themselves in a manner that, in their sole discretion, reflects the respective contributions of Plaintiffs' Counsel to the results achieved in this matter. The Parties represent that their negotiation of and agreement to the foregoing amounts did not occur until after the substantive terms of the Agreement had been negotiated and agreed.

b. All such amounts shall be payable within thirty (30) calendar days after the entry of the Final Order and after United has been provided with any necessary tax identification numbers to the client trust account of Whatley Kallas, LLP or as separately

agreed to in writing by the Parties, subject to the obligation of Plaintiffs' Counsel to repay such amounts in the event the Agreement does not take effect.

c. Other than as set forth in Section 6 and Section 7, the Released Parties shall have no responsibility or liability whatsoever regarding the payment of attorneys' fees, costs, expenses or incentive awards or compensation of any other kind to Plaintiffs' Counsel or other attorneys representing Plaintiffs or any other Persons as to the Released Claims.

7. Compensation to Plaintiffs. United agrees to pay incentive awards to Plaintiffs in an amount approved by the Court up to a total of \$10,000 for each Plaintiff approved by the Court. Plaintiffs agree that they will not seek additional incentive awards or any other form of compensation from the Released Parties as to the Released Claims or the resolution of the Lawsuit and that under no circumstances shall United have any obligation to pay incentive awards in an amount greater than agreed to herein. The Parties represent that their negotiation of and agreement to this amount did not occur until after the substantive terms of the Agreement had been negotiated and agreed. This amount shall be payable within ten (10) business days after the Effective Date and after United has been provided with any necessary tax identification numbers to the client trust account of Whatley Kallas, LLP or as separately agreed to in writing by the Parties, and distributed as agreed to with Plaintiffs by their legal counsel.

8. Releases, Waiver and Covenant Not to Sue.

a. Effective as of the Effective Date, and in consideration of this Agreement, Plaintiffs and all Class Members, on behalf of themselves and their respective successors,

assigns, past, present, and future parents, subsidiaries, joint ventures, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, attorneys, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, dependents, and heirs do fully release and forever discharge the Released Parties from the Released Claims and fully release and forever discharge the Released Parties and their counsel from any claims arising out of the investigation, filing, defense or resolution of the Lawsuit, and hereby covenant they shall not take any adverse action against the Released Parties or their counsel in response to or in retaliation to settling or dismissal of the Lawsuit or any publicity in connection therewith, or as a result of entering into this Agreement.

b. Effective as of the Effective Date, and in consideration of this Agreement, the Released Parties, on behalf of themselves and their respective successors, assigns, past, present, and future parents, subsidiaries, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors, successors, descendants, dependents, and heirs, do fully release and forever discharge Plaintiffs and Plaintiffs' Counsel, on behalf of themselves and his or her respective successors, assigns, past, present, and future parents, subsidiaries, joint ventures, partnerships, related companies, affiliates, unincorporated entities, divisions, groups, directors, officers, shareholders, employees, agents, representatives, servants, partners, executors, administrators, assigns, predecessors,

successors, descendants, dependents, and heirs, from any claims arising out of the investigation, publication, filing, prosecution or resolution of the original or amended Complaint filed in the Lawsuit through the date of this Agreement and hereby covenant they shall not take any adverse action against Plaintiffs or Plaintiffs' Counsel in response to or in retaliation to the filing of the Lawsuit or any publicity in connection therewith through the date of this Agreement, or as a result of entering into this Agreement.

c. The Parties understand that if any fact relating to any matter covered by this Agreement is later found to be other than or different from the facts now believed by them to be true, they expressly accept and assume the risk of such possible differences in fact and agree and acknowledge that this Agreement shall nevertheless remain fully binding and effective.

d. The Parties expressly understand and acknowledge that certain state statutes and principles of common law provide that a "general" release does not extend to claims that a creditor does not know or suspect to exist in his, her, or its favor. For example, Cal. Civil Code section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HER OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

To the extent that it could be argued that such statutes or principles of common law are applicable here, the Parties agree that any such statutes, principles of common law or

other sources of legal authority of any and all jurisdictions that may be applicable are hereby knowingly and voluntarily waived and relinquished, and further agree and acknowledge that this is an essential term of this Agreement. The Parties understand the statutory language of Section 1542 of the California Civil Code and nevertheless elect to release the Released Parties from the Released Claims, whether known or unknown, and specifically waive any rights that each may have under said Civil Code section, and by executing below fully understand that if the facts with respect to this Agreement are found hereafter to be other than or different from the facts now believed to be true, each expressly accepts and assumes the risk of such possible difference in fact and agrees that this Agreement shall be and remain effective, notwithstanding any such difference. The Parties declare that prior to and in connection with the execution of this Agreement, they have been apprised of sufficient relevant data from sources selected by them so as to exercise their judgment intelligently in deciding whether to execute this document and further declare that their decision is not predicated on or influenced by any declarations or representations of any other party. The Parties state that this Agreement is executed voluntarily by them with full knowledge of its significance and legal effect.

e. In addition to the extent provided for in the Order of Preliminary Approval and the timing set forth therein, Plaintiffs and Class Members shall be directed to refrain from instituting, maintaining, or proceeding in any action against the Released Parties, or counsel for the Released Parties, as applicable, with respect to any of the claims released by Section III.8. The agreement set forth in this Section 8.e shall terminate on the

Effective Date or, if the Effective Date does not occur, when this Agreement is terminated pursuant to Section III.5 above. Plaintiffs and Class Counsel make no warranty, covenant or representation that such claims will not be filed by Class Members other than Plaintiffs.

f. Upon the Effective Date, Plaintiffs and Class Members shall, by operation of the Final Order, be restrained from instituting, maintaining, or proceeding in any action against the Released Parties, or counsel for the Released Parties, as applicable, with respect to any of the claims set forth in this Section III.8 except as provided under the terms of this Agreement. Plaintiffs hereby represent they are not aware of any related action pending that asserts any of the claims set forth in this Section III.8. Plaintiffs and Class Counsel make no warranty, covenant or representation that such claims will not be filed by Class Members other than Plaintiffs.

g. This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for a temporary restraining order or preliminary or permanent injunction against, any action, suit or other proceeding, which has been or may be instituted, prosecuted, continued to be prosecuted, or attempted, asserting any claim released by this Agreement. However, nothing contained in this Agreement is intended to, or shall, in any way reduce, eliminate or supersede any Party's existing obligation to comply with applicable provisions of relevant state and federal law and regulations, and United shall comply with such state and federal law and regulations.

9. **Entire Agreement.** This Agreement shall constitute the entire agreement between the Parties, and supersedes and replaces any prior agreements and understandings, whether oral or written, between and among them, with respect to such matters. This Agreement shall not be subject to any change, modification, amendment, or addition, without the express written consent of the Parties, and may be amended or modified only by a written instrument signed by or on behalf of a Party or their representative or their respective successors-in-interest.

10. **Binding Agreement.** This Agreement shall benefit and bind the Parties, as well as their representatives, Affiliates, heirs and successors.

11. **Continuing Jurisdiction.** Except as provided herein and as set forth in the Compliance Protocol, the Court shall retain continuing and exclusive jurisdiction over the Parties, and over the administration and enforcement of the Agreement. Any disputes or controversies arising with respect to the interpretation, enforcement or implementation of this Agreement or the Final Order are to be submitted by any affected Person by motion or *ex parte* application to the Court or to the Compliance Dispute Officer as provided herein and in the Compliance Protocol, as may be applicable.

12. **No Assignment.** The Parties each represent and warrant that they have not assigned, transferred or purported to assign or transfer, in whole or in part, any interest in any of the rights and claims that are the subject of this Agreement.

13. **Choice of Law.** The validity, construction, interpretation, performance, and enforcement of this Agreement shall be governed by the internal, substantive laws of the State of California without giving effect to applicable choice of law principles.

14. **Counterparts.** This Agreement may be executed in one or more counterparts, either manually or by facsimile. All executed counterparts, and each of them, shall be deemed to be one and the same original instrument. This Agreement shall be deemed executed as of the date set forth on the first page of this Agreement. The Parties shall exchange among themselves original, signed counterparts.

15. **Advice of Counsel.** Each of the Parties has had the benefit of the advice of counsel in the negotiation, drafting and execution of this Agreement, and the language in all parts of this Agreement is the product of the efforts of such counsel. Accordingly, neither this entire Agreement, nor any specific provision within the Agreement, shall be deemed to have been proposed or drafted by any Party or construed against any Party on that alleged basis. This Agreement shall be construed as a whole, according to its plain meaning.

16. **Authority.** The Parties each represent and warrant that they have authority to enter into this Agreement either directly or through their counsel.

17. **No Party is Drafter.** None of the Parties to this Agreement shall be considered to be the primary drafter of this Agreement or any provision hereof for the purpose of any rule of interpretation or construction that might cause any provision to be construed against the drafter.

18. **Notification.** All notices and other communications between the Parties referenced in this Agreement shall be in writing and shall be served by overnight mail or by registered or certified mail, return receipt requested, addressed to the Parties' counsel at their respective addresses as set forth below:

Notices to Plaintiffs:

WHATLEY KALLAS, LLP
Edith M. Kallas, Esq.
1180 Avenue of the Americas, 20th Floor
New York, NY 10036

Notices to United:


Peter Bisio, Esq.
HOGAN LOVELLS US LLP
Columbia Square
555 Thirteenth Street,
NW Washington, DC
20004

19. Time for Compliance. If the date for performance of any act required by or under this Agreement to be performed on a particular day or within a specified period of time falls on a Saturday, Sunday or legal or Court holiday, such act may be performed upon the next business day, with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement. If an act is to be performed on a particular day, it must be completed no later than 4:30 p.m. Pacific Time on that day.


20. No Benefits To Third Parties. This Agreement shall not confer any rights or benefits upon any Person other than Plaintiffs and Members and their authorized caregivers. No Persons other than Plaintiffs and Members and their authorized caregivers are entitled to claim any rights under this Agreement whether as a third party beneficiary, assignee, in subrogation, or otherwise. Plaintiffs and Members and their authorized caregivers may not assign any of their rights under this Agreement to any person, and any purported assignments of such rights shall be deemed invalid and unenforceable.

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement and
Release to be executed effective as of this 19th day of March, 2014.

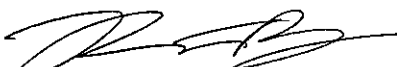
UNITEDHEALTHCARE INSURANCE
COMPANY


By: Peter Bisio
Title: Counsel
Dated: March 19, 2014

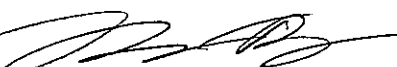
OPTUM RX, INC.


By: Peter Bisio
Title: Counsel
Dated: March 19, 2014

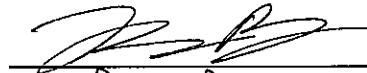
PACIFICARE LIFE AND HEALTH
INSURANCE COMPANY


By: Peter Bisio
Title: Counsel
Dated: March 19, 2014

UHC OF CALIFORNIA D/B/A
UNITEDHEALTHCARE OF CALIFORNIA


By: Peter Bisio
Title: Counsel
Dated: March 19, 2014

UNITEDHEALTH GROUP



By: Peter Bisio

Title: Counsel

Dated: March 19, 2014

JOHN DOE (ACTUAL SIGNATURE TO
BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)

By: JOHN DOE ONE

Dated: _____, 2014

JOHN DOE TWO (ACTUAL SIGNATURE
TO BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)

By: JOHN DOE TWO

Dated: _____, 2014

JOHN DOE THREE (ACTUAL
SIGNATURE TO BE SEPARATELY
SUPPLIED IN CONFIDENCE
PURSUANT TO NON-DISCLOSURE
AGREEMENT)

By: JOHN DOE THREE

Dated: _____, 2014

UNITEDHEALTH GROUP

By:
Title:
Dated: _____, 2014

JOHN DOE (ACTUAL SIGNATURE TO
BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)



By: JOHN DOE ONE
Dated: 3/15, 2014

JOHN DOE TWO (ACTUAL SIGNATURE
TO BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)




By: JOHN DOE TWO
Dated: 3/15, 2014

JOHN DOE THREE (ACTUAL
SIGNATURE TO BE SEPARATELY
SUPPLIED IN CONFIDENCE
PURSUANT TO NON-DISCLOSURE
AGREEMENT)




By: JOHN DOE THREE
Dated: 3/14, 2014

JOHN DOE FOUR (ACTUAL
SIGNATURE TO BE SEPARATELY
SUPPLIED IN CONFIDENCE
PURSUANT TO NON-DISCLOSURE
AGREEMENT)

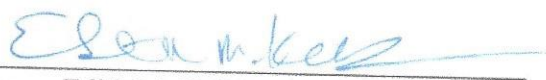

By: JOHN DOE FOUR
Dated: 3/19, 2014

JOHN DOE FIVE (ACTUAL SIGNATURE
TO BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)


By: JOHN DOE FIVE
Dated: 3/19, 2014

PLAINTIFFS' COUNSEL:

WHATLEY KALLAS, LLP


By: Edith M. Kallas
Dated: 3/19, 2014

CONSUMER WATCHDOG

By: Harvey Rosenfield, Esq.
Dated: _____, 2014

JOHN DOE FOUR (ACTUAL
SIGNATURE TO BE SEPARATELY
SUPPLIED IN CONFIDENCE
PURSUANT TO NON-DISCLOSURE
AGREEMENT)

By: JOHN DOE FOUR
Dated: _____, 2014

JOHN DOE FIVE (ACTUAL SIGNATURE
TO BE SEPARATELY SUPPLIED IN
CONFIDENCE PURSUANT TO NON-
DISCLOSURE AGREEMENT)

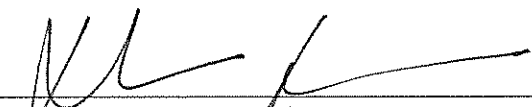
By: JOHN DOE FIVE
Dated: _____, 2014

PLAINTIFFS' COUNSEL:

WHATLEY KALLAS, LLP

By: Edith M. Kallas
Dated: _____, 2014

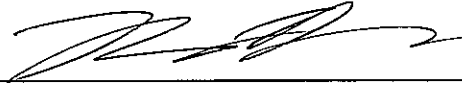
CONSUMER WATCHDOG



By: Harvey Rosenfield, Esq.
Dated: 3-19, 2014

DEFENDANTS' COUNSEL:

HOGAN LOVELLS US LLP

A handwritten signature in black ink, appearing to read "Peter Bisio", written over a horizontal line.

By: Peter Bisio, Esq.

Dated: March 19, 2014