ones. It will connect people with their jobs and businesses.

I will spend pretty much every day, and my staff will too, making sure that our State gets its fair share of this investment and these jobs.

If you believe in the dignity of work, you fight for the people who make this country work. We are seeing results.

On Wednesday, the mayor of Findlay and I were talking about the Biden administration's announcement of $100 million in initial bridge funding already on the way to Ohio. That focus will continue.

We are doing roundtables. We are doing briefings with Federal officials, with local township trustees and county officials and mayors and city officials and State officials, talking about how they can apply for Federal funding, and to make sure communities are best positioned to make the most of this infrastructure.

Our goal is to leverage this investment to create jobs in every city, in every county, in every township across my great State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

EXECUTIVE CALENDAR

Mr. BROWN. Madam President, I ask unanimous consent that the Senate consider the following nomination: Calendar No. 638, Joseph Donnelly, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See; that the Senate vote on the nomination without intervening action or debate; that the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that any statements related to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of Joseph Donnelly, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See?

The nomination was confirmed.

EXECUTIVE CALENDAR

Mr. BROWN. Madam President, I ask unanimous consent that the Senate consider the following nominations: All nominations placed on the Secretary's desk in the Foreign Service; that the nominations be confirmed en bloc; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

PN480–2 FOREIGN SERVICE nomination of Leon Skarshinski, which was received by the Senate and appeared in the Congressional Record of April 27, 2021.

PN903 FOREIGN SERVICE nominations (2) beginning John Breidenstine, and ending Michael Lally, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 2021.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BROWN. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF A TIE VOTE UNDER S. RES. 27

Mr. DURBIN. Mr. President, I ask unanimous consent to print the following letters in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

To the Secretary of the Senate:

PN1501, the nomination of Dale E. Ho, of New York, to be United States District Judge for the Southern District of New York, having been referred to the Committee on the Judiciary, the Committee, with a quorum present, has voted on the nomination as follows—

(1) on the question of reporting the nomination favorably with the recommendation that the nomination be confirmed, 11 ayes to 11 noes; and

In accordance with section 3, paragraph (1)(A) of S. Res. 27 of the 117th Congress, I hereby give notice that the Committee has not reported the nomination because of a tie vote, and ask that this notice be printed in the Record pursuant to the resolution.

RICHARD J. DURBIN.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

To the Secretary of the Senate:

PN1509, the nomination of Charlotte N. Sweeney, of Colorado, to be United States District Judge for the District of Colorado, having been referred to the Committee on the Judiciary, the Committee, with a quorum present, has voted on the nomination as follows—

(1) on the question of reporting the nomination favorably with the recommendation that the nomination be confirmed, 11 ayes to 11 noes; and

In accordance with section 3, paragraph (1)(A) of S. Res. 27 of the 117th Congress, I hereby give notice that the Committee has not reported the nomination because of a tie vote, and ask that this notice be printed in the Record pursuant to the resolution.

RICHARD J. DURBIN.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

To the Secretary of the Senate:

PN1512, the nomination of Hernan D. Vera, of California, to be United States District Judge for the Central District of California, having been referred to the Committee on the Judiciary, the Committee, with a quorum present, has voted on the nomination as follows—

(1) on the question of reporting the nomination favorably with the recommendation that the nomination be confirmed, 11 ayes to 11 noes; and

In accordance with section 3, paragraph (1)(A) of S. Res. 27 of the 117th Congress, I hereby give notice that the Committee has not reported the nomination because of a tie vote, and ask that this notice be printed in the Record pursuant to the resolution.

RICHARD J. DURBIN.

(At the request of Mr. DURBIN, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

● Mr. TESTER. Mr. President, had I been present when the Senate voted on vote No. 11 on confirmation of Executive Calendar No. 635 Holly A. Thomas, of California, to be United States Circuit Judge for the Ninth Circuit, I would have voted aye.●

COVID–19 VACCINES

Mr. CASEY. Mr. President, as our Nation battles another wave of COVID–19, I want to detail my efforts to lower barriers for Americans to access lifesaving vaccinations against this terrible disease.

The Special Committee on Aging's investigation forced the largest commercial health insurer in the United States to reverse course and make whole providers who were paid far below the market rate for administering COVID–19 vaccines. These efforts will help ensure that every provider who can administer COVID–19 vaccines is doing so, helping get more shots in arms.

Last year, news reports detailed how UnitedHealth had been shortchanging pediatricians who were vaccinating children against COVID–19. In short, Medicare set reimbursement rates for participating providers at $40 per dose in mid-March 2021. The Federal Government strongly recommended that private carriers do the same and most appear to have done so within weeks, but UnitedHealth did not.

The committee's investigation found that UnitedHealth paid in-network providers roughly 40 percent below the Medicare rate until July 1, 2021. Further, the company delayed action to make providers whole. During the investigation, pediatricians in Pennsylvania and beyond raised concerns that UnitedHealth's original reimbursement rate could dissuade providers from administering the vaccine.

UnitedHealth covers 26 million people in employer and individual market health insurance plans, with 1.4 million

in-network providers and an estimated 14 percent market share. UnitedHealth's decision to reimburse providers below the Medicare rate had the potential to harm families across our Nation at a critical juncture, just as the Food and Drug Administration prepared to expand the availability of vaccines to children ages 5–11.

For parents with questions about vaccines, pediatricians are trusted advisers who can play a key role in overcoming lingering concerns or hesitancy, which remains a major issue in our Nation.

In the long term, ensuring that all hands are on deck to deliver vaccines will help end this pandemic. Data has shown time and again that being vaccinated against COVID–19 reduces infections, severe disease, hospitalization, and death. Vaccinating children also will help protect adults by increasing the number of Americans shielded from the virus, reducing its spread. It also reduces the chance for the virus to mutate and spawn variants, like Omicron, that has led to another wave of illness and death. These concerns are particularly important for older adults who are more likely than the general population to experience both severe COVID–19 and breakthrough infections. Vaccinating children helps protect older generations, particularly older adults living in multigenerational households, including more than 7 million grandparents who live with grandchildren under the age of 18.

Providing more parents with the information they need to ensure they are comfortable vaccinating their kids will help protect all of our children. While pediatric hospitalizations remain relatively rare, there has nonetheless been a significant increase of such hospitalizations as the Omicron variant has spread in recent weeks. The Wall Street Journal recently reported that pediatric hospitalizations due to COVID–19 reached pandemic highs in the United States.

Vaccinating more children is essential to keep schools open for in-person learning, a live issue for schools throughout our Nation that have been forced to return to online classes in the face of the Omicron variant. We must do all that we can to safely keep students in the classroom so that they can receive the high-quality education they deserve. School closures also cause a disruption in the lives of families, with parents often struggling to find childcare or forcing them to take time from work. Vaccinating children will help schools remain open, protect students and educators, and help parents stay in the workforce.

After Aging Committee investigators reached out to UnitedHealth, the company quickly and voluntarily committed to change course, commitments I detailed in an October 20, 2021, letter. In response to my letter, UnitedHealth confirmed its plans to retroactively increase reimbursements for approximately 2 million COVID–19 vaccine administration claims to the Medicare rate across its entire commercial network, including individual plans on the Affordable Care Act marketplace. On January 14, 2022, the company reported that it had processed 1.64 million claims in connection with its commitment to the committee—more than 99.8 percent of the affected total—at an average cost of $14.55 per claim for a total of $23.9 million. The company expects the remaining claims, which number less than 2,900, to be processed by February 1, 2022.

UnitedHealth also committed to more quickly update reimbursement rates for future emergent vaccines and therapeutics, whether for COVID–19 or the next pandemic. The company added that it is ''redirecting additional internal resources and automating updates whenever possible,'' while noting that their new processes still might involve withholding claims ''for a short time,'' which it characterized as no longer than 30 days. On January 14, the company went further, stating that it will implement new billing codes in a national public health emergency ''faster than industry standard,'' while noting that it has ''learned over the past few months the required technology and human resources that need to be brought forward to accelerate'' adoption of new billing codes in a public health emergency.

While lacking some details, the steps UnitedHealth has described appear to be an appropriate response. However, UnitedHealth has not adequately addressed an issue that a senior company official raised when speaking with Aging Committee investigators in September, that the company's size and numerous claims systems presented a barrier to quickly updating COVID–19 vaccine reimbursement rates in the first place. In its responses to subsequent questions about the issue from committee staff, UnitedHealth has cited reasons such as contracting language for the delay, but has failed to provide additional information or explanation in their written responses. The fact that a senior UnitedHealth official told the committee that the company's size negatively affected the quality and efficiency of its interactions with the market is concerning and a matter that deserves continued oversight from Congress and regulators.

In recent weeks, the world has been upended by the Omicron variant. Case rates have skyrocketed, and hospitals are once again filling up, primarily with people who have not gotten a COVID–19 vaccine or booster. In order to leave the tragedy, the disruptions and the closures of the pandemic behind, every person who can be vaccinated has a duty to the country to roll up their sleeves and get the shot.

We will continue to learn more about the Omicron variant and variants to come. However, there is one thing about this variant, past variants, and future variants that will not change: The key to ending this pandemic is getting more people vaccinated.

I remain committed to removing future roadblocks that may emerge to widespread vaccination against COVID–19.

This body should do the same.

In closing, I ask unanimous consent to have printed in the RECORD the following documents: a September 3, 2021 Modern Healthcare article detailing UnitedHealth's under reimbursement for COVID–19 vaccines compared to most other major carriers; my October 20, 2021 letter to UnitedHealth; UnitedHealth's November 5, 2021 response to my letter; a November 12, 2021 supplement to the company's original response; and a January 14, 2022 email from UnitedHealth providing further updates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Modern Healthcare, Sept. 3, 2021]

UNITEDHEALTHCARE PAYS PROVIDERS BELOW STANDARD RATES FOR COVID–19 VACCINES

(By Nona Tepper)

Pediatricians across the country are claiming the nation's largest insurer is shortchanging them for administering COVID–19 vaccines, jeopardizing access to the main tool for stopping the virus' spread.

The American Academy of Pediatrics has fielded complaints from providers nationwide who are frustrated that UnitedHealth Group is paying about 50% of the federal rate for vaccine administration, said Dr. Sue Kressly, who chairs the AAP's payment advocacy advisory committee and runs Pennsylvania-based Kressly Pediatrics. While UnitedHealthcare is not legally required to pay the federal rate, Kressly said the Minnetonka, Minnesota-based insurer is the only national carrier that has not agreed to pay at least $40 for vaccine administration.

The insurer also continues to pay pediatricians and family medicine providers below-market rates for COVID–19 tests, Kressly said, an issue the New York Times revealed in February.

With new variants of COVID–19 continuing to emerge, Kressly worried that low fees for testing and vaccine administration would lead some doctors to stop offering these services, worsening the public health crisis, increasing medical costs and inspiring more independent practices to shutter, particularly as providers struggle with overwork during the pandemic.

''They had record-breaking profits in 2020, and we struggled with getting them to pay adequately for COVID testing. That still not been resolved,'' Kressly said. ''Now pediatricians who are giving the vaccine to people covered by UnitedHealthcare, they're effectively opening their wallet, and subsidizing that patient to get the vaccine.''

At the end of the company's most recent second quarter on June 30, UnitedHealthcare generated $55.5 billion in revenue, up 13% from the $49.1 billion reported during the same period last year. The company counted more than 49.6 million enrollees, an increase of 1.2 million year-over-year. Meanwhile, the insurer's low vaccine reimbursement rates threaten the future of family practices, Kressly said. Unlike most medical services, federal legislation bars providers from balance billing patients for the COV[0–19 vaccine.

''If we don't at least make enough money to cover our costs, then we won't be here as practices to serve the community beyond the

public health emergency,'' Kressly said. ''That's a bigger problem.''

UnitedHealthcare is not the only payer offering clinicians low fees for vaccine administration—some regional plans and employers are also paying below the federal rate, Kressly said. But she said these payers are likely just slow to react to payment standards. In March, the Centers for Medicare and Medicaid Services nearly doubled what it was paying providers for giving the vaccine, after the American Medical Association found the previous rate did not cover the costs associated with administering the shot. Most of these payers are just confused about the update and, when Kressly reaches out to them, she said they generally immediately increase their rate. But UnitedHealthcare has refused to increase what it is paying pediatricians.

''They say, 'Our fee schedule is our fee schedule, it's up to the contract that the practice has with UnitedHealthcare, let them try to have the conversation,' '' Kressly said.

UnitedHealthcare, for its part, said it recently offered to increase reimbursement for COVID–19 testing for some pediatric and family medicine practices that met specific criteria. When it comes to vaccines, UnitedHealthcare said it is continually reviewing its reimbursement rates.

Dr. George Rogu, president of the Independent Pediatric Collaborative of Long Island and head of RBK Pediatrics, hopes to be one of the providers paid more for giving UnitedHealthcare enrollees COVID–19 vaccines.

When Rogu reached out to the insurer last month. a UnitedHealthcare customer service representative blamed his low rates on his different customers' plans and the different fee schedules associated with each. The customer service representative said Rogu was the first provider to complain about the matter and offered to refer his case to the company's management team.

''We cannot in good conscience say, 'Oh, we can't give you the vaccine because you have UnitedHealthcare.' That's not right,'' Rogu said. ''It's just not humanely right. But people that have a large panel of UnitedHealthcare customers? It's killing them.''

Rogu said he is still waiting to hear back from the insurer.

He said he noticed that he was being paid below the federal rates in May and asked New York-based Canid Vaccines, his vaccine administration software system, about the problem. The startup verified that UnitedHealthcare reimbursed him at about half the rate that other insurers did. Canid Vaccines said it has identified at least 25 independent practices representing more than 350 providers nationwide that UnitedHealthcare is paying at less than the federal rate.

Among pediatric circles, UnitedHealthcare is often referred to as the ''evil empire'' since they are the least transparent and least cooperative among the major insurers, said Dr. Peter Pogacar, vice president of the Rhode Island chapter of the AAP and a pediatrician at East Greenwich Pediatrics. He said UnitedHealthcare is underpaying physicians for COVID–19 vaccine administration there too.

''Healthcare should be about healing with business as a sideshow, not the main event,'' Pogacar wrote in an email.

The insurer isn't just offering low rates for administering the COVID–19 vaccine. UnitedHealthcare has also reimbursed providers for less than what it cost them to purchase COVID–19 testing kits. After significant media attention, the manufacturer and distributor of the tests dropped their prices so that providers were no longer losing money when they were paid UnitedHealthcare rates, said Dr. Reshma Chugani, a pediatrician at the Atlanta Children's Clinical Center. The insurer also announced it would increase the rate paid for the tests, as well as allow pediatricians to resubmit patient claims, she said. But they are still not offering to reimburse providers for tests previously paid at below-market rates.

''We lost money on every United patient,'' Chugani said.

Additionally, the insurer has made it difficult for providers to recoup the money it said it owes them, forcing them to go through multiple administrative layers and still failing to reimburse one type of test at the full rate, said AAP's Kressly. She said she talked to UnitedHealthcare about this issue two weeks ago and that it has still not been resolved.

''They've put barriers for us to have to act when we have no time, energy or resources to do so,'' she said.

OCTOBER 20, 2021.

Sir ANDREW WITTY,
Chief Executive Officer,
UnitedHealth Group.

DEAR SIR ANDREW: I write in regard to commitments UnitedHealth Group (UnitedHealth) made to the U.S. Senate Special Committee on Aging related to reimbursement policies for the administration of COVID–19 vaccines. UnitedHealth's past policies appeared to have created access barriers for children seeking COVID–19 vaccination from their primary care pediatrician—barriers that affected younger and older Americans alike. I appreciate the company's decision to reprocess certain COVID–19 vaccine claims, which I expect will facilitate the broadest possible access to COVID–19 vaccines among UnitedHealth's members. I expect that the steps UnitedHealth has committed to take will help children seeking COVID–19 vaccines as well as older Americans under the purview of the Aging Committee, including the millions who live with and care for their grandchildren or other younger relatives. I appreciate your company's assurance that UnitedHealth will keep the Aging Committee updated on its progress toward expeditiously resolving the concerns raised with the company.

The Aging Committee's attention was drawn to this issue by press reports highlighting that during a four-month period earlier this year, UnitedHealth reimbursed pediatricians at rates that failed to meet the costs of administering COVID–19 vaccines. During that time, other large insurers reportedly reimbursed pediatricians and other health care providers at a higher rate, in line with what the Centers for Medicare & Medicaid Services (CMS) set in March 2021. Pediatricians raised concerns that UnitedHealth's low reimbursement rates would deter in-network providers from administering COVID–19 vaccines, creating barriers for patients. The additional costs of administering COVID–19 vaccines have been significant for providers, a point that CMS noted at the time it increased reimbursement rates, citing ''updated information about the costs involved in administering the COVID–19 vaccine for different types of providers and suppliers and the additional resources you need to safely and appropriately administer the vaccine.'' The agency furthermore encouraged private payers to follow suit, noting that ''in light of CMS's increased Medicare payment rates, CMS will expect commercial carriers to continue to ensure that their rates are reasonable in comparison to prevailing market rates.'' Given UnitedHealth's status as the Nation's largest commercial payer—with 26 million people enrolled in employer and individual plans, 1.4 million in-network providers and an estimated 14 percent market share—it is critical that the company do all it can to ensure that vaccines are available to every person that is eligible to receive one. To that end, the Aging Committee requested that UnitedHealth provide information about the company's reimbursement rates, the timeliness of future fee schedule updates and the company's progress toward making providers whole for vaccines they administered while UnitedHealth was reimbursing below reimbursement rates set by CMS.

The ongoing effort to increase COVID–19 vaccination rates across our Nation demands an all-hands-on-deck approach. Ensuring that all eligible children are vaccinated against COVID–19 is key to improving the overall vaccination rate, which will better protect older Americans by helping stem the spread of the virus. Such efforts are of particular importance ahead of the Food and Drug Administration's (FDA) expected consideration of COVID–19 vaccines for young children later this month. Older Americans have been among those hit hardest by COVID–19 and face the greatest health risks if they contract the disease, even after being vaccinated. Recognizing the elevated risk of breakthrough infections in older adults, the Biden administration recently authorized third doses of the Pfizer-BioNTech vaccine for people ages 65 and over. The serious health risks COVID–19 poses for older adults are especially acute for those living in multi-generation households, including more than 7 million grandparents who live with grandchildren under the age of 18. Those older Americans are at even greater risk of exposure when they live with unvaccinated individuals, an important consideration given the greater impact of the delta variant on children. The current wave of COVID–19 has led to higher pediatric case rates, record pediatric hospitalizations and school closures that have affected more than 900,000 students at 1,800 schools across 44 states in August and September alone.

During calls in September with Aging Committee staff, UnitedHealth officials confirmed press accounts that reported a months-long period when the company was reimbursing providers up to 40 percent less for COVID–19 vaccine administration than the rate set by the CMS. While other major payers reportedly adopted the reimbursement rate set by CMS swiftly, UnitedHealth continued reimbursing at a lower rate until the end of June. During conversations with staff, UnitedHealth reported that it had problems uploading the CMS rate to the company's various fee schedules. Aging Committee staff have heard concerns from providers that the reimbursement issues pediatricians experienced with UnitedHealth earlier this year could resurface when the FDA authorizes a COVID–19 vaccine for 5–11 year-olds, which will carry a different billing code.

Following the concerns raised by the Aging Committee last month, UnitedHealth informed Aging Committee staff during a call on October 6 that the company planned to address the concerns outlined above. Specifically, UnitedHealth committed to reprocessing all of its commercial claims—not just pediatric claims—from the time CMS issued new rates for COVID–19 vaccines in mid-March to the time United updated its fee schedule on July 1. Company officials further stated that United Health would reprocess the claims automatically and that providers would *not* be required to resubmit claims for reprocessing. Noting that the company expected to reprocess ''millions'' of claims that

were submitted by providers during the three-and-a-half month period prior to July 1, UnitedHealth officials told Aging Committee staff that they hoped to make ''significant progress'' within 30–45 days. Company officials further committed to:

1. Review UnitedHealth's claims process to minimize delays in making payments to providers for COVID–19 vaccines;

2. Verify that there are no similar underpayment issues in its Affordable Care Act Exchange and Medicaid Managed Care books of business: and

3. Provide updates to Aging Committee staff on the company's progress toward meeting these goals.

As part of these updates, please also provide me with the following information no later than November 5, 2021:

1. How many claims does UnitedHealth expect to reprocess for COVID–19 vaccinations that were administered prior to July 1, 2021? What was the average difference between the initial reimbursement and the reprocessed claim? What was the total amount that UnitedHealth paid to providers to settle these claims at the CMS rates?

2. UnitedHealth told Aging Committee staff that it is difficult to quickly update its reimbursement rates when new vaccine billing codes and rates are issued by CMS. UnitedHealth further stated that its expected solution for this issue may involve delaying payments to providers to give the company's payment systems time to reflect new codes and rates. In order to minimize access delays in the future, what steps is UnitedHealth taking to ensure that pediatricians and other providers will be reimbursed in a timely manner when CMS issues new rates for COVID–19 vaccines or other emergent vaccines and therapeutics in the future?

Thank you for your attention to this important issue. If you or your staff has questions, please contact Peter Gartrell, Chief Investigator for Chairman Casey.

Sincerely,

ROBERT P. CASEY, Jr.,
Chairman,
U.S. Senate Special Committee on Aging.

NOVEMBER 5, 2021.

Chairman BOB CASEY,
U.S. Senate Special Committee on Aging,
Washington, DC.

DEAR CHAIRMAN CASEY: On behalf of UnitedHealth Group, including our over 120,000 frontline doctors, nurses, and other health care practitioners, thank you for your recent letter regarding retroactive payment for COVID–19 vaccine administration. Like many individuals and families, clinicians and essential health workers have sacrificed deeply these past two years as our country worked together to fight COVID–19.

We share your commitment to ensuring and expanding access to critically important health care services and understand these are extraordinarily challenging times for the millions of people we are privileged to serve, as well as employers, health care providers, governments, and the health care system. We welcome this opportunity to provide you with an overview of the significant actions we have voluntarily taken regarding vaccine reimbursement and the steps we are taking to quickly address the concerns expressed.

UnitedHealth Group is committed to helping people live healthier lives and making the health care system work better for everyone. We do this by working with stakeholders and partners to address the biggest challenges facing our system. As we shared during our conversation, we have been in close contact with the American Academy of Pediatrics regarding concerns they raised about vaccine reimbursement.

Consistent with the discussion with your staff on October 6th and your October 21st letter, we are writing to confirm the following details related to our reimbursement for COVID–19 vaccine administration:

UnitedHealthcare (UHC) has been reimbursing providers using the new CMS rates since July 1, 2021, consistent with timing specified in UHC's contracts with providers.

UHC will adjust claims paid less than $40 between March 15 and June 30, 2021 to reimburse at $40 per administration, so providers can benefit from the increase CMS announced on March 15, 2021.

The voluntary retroactive reimbursement changes are in process and claims will be adjusted accordingly. Providers will not need to take action to receive the change in reimbursement.

UnitedHealth Group recognizes the important role that reimbursement plays in addressing the COVID–19 pandemic, which is why we are taking action to adjust previous claims and accelerating our processes to update reimbursement rates when changes are announced by CMS. In your letter dated October 21, 2021, you asked for the following information:

The number of COVID–19 vaccine administration claims UHC expects to reprocess.

The average difference between the initial reimbursement and the reprocessed claim.

The total amount that will be reimbursed.

Information on how we will ensure providers will be reimbursed in a timely manner when CMS issues new rates for COVID–19 vaccine claims going forward.

Approximately two million COVID–19 vaccine administration claims paid between March 15 and June 30, 2021 will be impacted by this retroactive adjustment. We anticipate the average adjustment will be approximately $12.50 per claim, for total additional reimbursement of approximately $25 million. UHC has already begun processing these reimbursements.

With regard to new rates for COVID–19 vaccinations or other emergent therapeutics for COVID–19, we will be accelerating our process for updating our reimbursement to support the COVID–19 vaccine codes and rates implemented by CMS as they become available. Specifically, UHC will implement new COVID–19 codes and rates upon the publication of this information by CMS rather than including these changes in our scheduled quarterly reimbursement update processes. This will ensure provider payments are updated as quickly as possible.

We appreciate the services provided by health care professionals during the pandemic. The actions we are taking to adjust COVID–19 vaccine claims build on the many steps we have taken to support providers over the last eighteen months, including accelerating claims payments, assisting in processing and administering CARES Act Federal funding to providers, working with HHS to ensure clinicians who provided COVID–19 testing or treatment for individuals without insurance were reimbursed for their services, and removing administrative requirements in highly impacted areas.

We appreciate the opportunity to address the Committee's questions.

Sincerely,

BRIAN THOMPSON,
CEO, UnitedHealthcare.

NOVEMBER 12. 2021.

Addendum to UHG—Senate Aging Committee Response on 11/5/21

Thank you for the email of November 8, 2021 with follow-up questions to UHG's letter dated 11/5/2021, and for your continued engagement regarding how we reimburse providers for COVID–19 vaccine administration. Please see our additional responses below:

Staff asked that we clarify whether ''similar underpayment issues occurred in United's Affordable Care Act and Medicaid Managed Care plans.''

Answer: As discussed with staff, we have been paying providers according to their contracts since the vaccines first became available. These provider contracts explicitly provide how new procedure codes are implemented and on what timeline; those provisions are agreed to by all parties. Because United paid its network providers according to these contracts, there have been no ''underpayments.'' Nevertheless, after reviewing concerns about the contracted reimbursement amounts paid earlier this year, we elected to voluntarily increase reimbursement—above and beyond contractual rates—for all commercial plans (including individual plans purchased via ACA exchanges), for dates of service between March 15, 2021 and June 30, 2021.

Within ACA Exchanges, we similarly have paid according to contracts agreed to with providers. ACA Exchange plans will be included in the voluntary increase in reimbursement described above. The completion of that increase will be on the same time frame as commercial plans. With respect to managed Medicaid, as we noted in our first discussion with staff on September 22, 2021, those plans pay according to rates set by state law and state payment policies. United has paid for vaccine administration consistent with those parameters and will continue to do so.

Staff asked that we provide detail about how we will timely reimburse providers for emergent vaccines and therapeutics unrelated to COVID–19 and the current Public Health Emergency (PHE).

Answer: In the event of a future pandemic or new PHE we will take immediate actions (noted below) to accelerate reimbursement updates. Outside of a pandemic or PHE how we update codes and payment rates will continue to be guided by our existing contracts with providers. Consistent with industry practice, those contracts provide for timely and substantial payment to providers while we complete the update to our systems. At all times we will follow all applicable state and federal requirements.

Staff noted the complexity of adjusting reimbursement rates for new procedure codes and asked for details on how United might make those adjustments more quickly in the future.

Answer: We hope that under less exigent circumstances CMS will provide additional lead time for its pronouncements, but United is not relying on that to speed its processes during this PHE. Instead, we are devoting significant time and effort to ensuring that the process of updating new COVID–19-related codes within our systems begins at the time of publication of those codes and without regard to contractual timelines. This includes, for example, redirecting additional internal resources and automating updates whenever possible. While some claims filed immediately after new payment codes are announced might be held for a short time while those updates are being made (generally no longer than 30 days after receipt), we believe this will result in overall faster reimbursement at updated rates. Indeed, it is common in the industry to hold claims during a period of change or uncertainty to help ensure that those claims are paid accurately. We are confident we will be able to update new codes for all claims platforms on a timely basis.

Finally, staff asked for updates as to our progress on increasing the reimbursement amount for the approximately two million claims impacted by our decision to voluntarily increase reimbursement for COVID–19 vaccine administration.

Answer: To date, we have resolved approximately 60% of these claims. We expect the

remaining claims to be completed in the coming 6–8 weeks. We will update you when all claims are complete.

From: Prible, John M.
To: Gartrell, Peter (Aging)
Cc: Hartman, Doug (Aging); Shakow, Peter
Subject: RE: Follow Up on UnitedHealthcare's Response
Date: Friday, January 14, 2022 5:12:29 PM

Peter, thank you for your recent email, in which you asked for an update on our voluntary efforts to retroactively increase reimbursement to $40 for COVID–19 vaccine administration. Answers to your questions are provided below; however, we expect that this confidential information will not be shared with third parties.

To date, we have retroactively reimbursed providers for 1,640,996 claims, or more than 99.8% of all affected claims. The average additional payment for those claims was $14.55, for a total of approximately $23.9 million in additional payments. At this time, fewer than 2,900 claims (less than 0.2% percent of all affected claims) remain to be reprocessed. Because the original paid amount on those remaining claims averaged about $36, the average additional reimbursement to be paid will be about $4. Those remaining reimbursements continue to be prioritized and sent out the door. We anticipate those few remaining claims will be completed by February 1, 2022.

We note that you asked for claims and payment data by state. There are a few reasons we are not able to cut this data cleanly by state, including that providers submit claims via tax identification numbers (TIN), many of which cover physicians (and therefore claims) from multiple states.

You also asked for additional information about how we will shorten the adoption time of new rates in this or a future national public health emergency (NPHE). As we stated previously, contracts between United and its network provider groups specifically provide for time to implement new rates in an orderly way. We understand this to be routine across the industry, understood and long accepted by the provider community, and entirely proper. If there is another NPHE or there are exceptional circumstances which dictate more timely adoption of new rates, we have learned over the past few months the required technology and human resources that need to be brought forward to accelerate. As a point of reference, should circumstances justify it, we commit to implement new codes in an NPHE faster than industry standard.

JOHN PRIBLE,
Vice President, External Affairs, UnitedHealth Group.

MIGRATORY BIRD TREATY ACT

Mr. BARRASSO. Mr. President, I often hear from people in Wyoming who are concerned about the changes being proposed in Washington, DC. When the Federal Government changes the rules, authorities, or standards, it can significantly impact critical Wyoming industries.

In the ''Wyoming Livestock Roundup,'' a weekly news source for Wyoming's ranchers, farmers, and Agribusiness community, Sarah L. Falen authored an opinion editorial titled ''The Government's Word: Should We Trust It.''

She raises concerns about the Biden administration's rule revoking the Trump administration policy prohibiting prosecution for accidentally harming migratory birds under the Migratory Bird Treaty Act. While there has been a lot of discussion about the impact on the energy industries, Sarah Falen points out how the new rule could affect the agriculture industry. It is important that Congress note these consequences and the uncertainty created by the Biden administration's rule.

Mr. President, I ask unanimous consent to have printed in the RECORD the opinion editorial written by Sarah L. Falen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE GOVERNMENT'S WORD: SHOULD WE TRUST IT?

(By Sarah L. Fallen)

Americans trust the U.S. government less and less. In fact, according to the Edelman Trust Barometer, trust in the federal government hovers around 40%. Yet, with the revocation of the Trump Administration's rule that prohibits prosecution for accidentally harming migratory birds under the Migratory Bird Treaty Act (MBTA), the Biden Administration is asking citizens to do just that, ''trust'' the federal government.

People involved in industries such as energy or agriculture have a clear understanding of how environmental legislation, originally passed with the best intention, has been weaponized to negatively affect their livelihoods. One of the lesser known, but just as dangerous environmental swords is the MBTA. While it is easy to see that energy industries, such as oil and gas, wind or even solar would be impacted by the Biden decision, this Act has the potential for very serious impacts on the agriculture industry.

The MBTA is a statute that allows for the criminal prosecution of any person who ''incidentally takes'' a migratory bird. To understand the breath of this Act, there are two important concepts. First, nearly all birds in the U.S. are considered migratory. Second, what constitutes an ''incidental take.'' The MBTA states that ''it [is] unlawful at any time, . . . to pursue, hunt, take, capture, kill, . . . any migratory bird . . .'' 16 U.S.C. 703(a). If you read that language, it would make sense that this Act is referring to someone who intends to kill a migratory bird. That commonsense reading is what the Trump MBTA rule enforced . . . only those engaged in an action that purposefully ''takes'' a migratory bird would be subject to fines and prison time. This is not how the Biden Administration reads that language.

According to the Biden Administration, even if a person is doing something that accidentally harms a migratory bird, that person can still be criminally liable. Thus, someone can be prosecuted for an action or inaction that is otherwise legal, but just so happens to ''take'' a migratory bird.

We should all be concerned about the Biden Administration allowing ''incidental take'' to be prosecuted because there is no limit on what can be prosecuted. This means that if a farmer uses a pesticide that is legally administered and a migratory bird just so happens to ingest that pesticide, he could be subject to criminal prosecution. The MBTA allows for up to a $5,000 fine or six months in prison for an incidental take.

The scenarios under which a person can accidentally kill a migratory bird are infinite and can be ridiculous. Yet, the government expects us to believe that they will only prosecute ''foreseeable'' accidental killings of migratory birds. It is foreseeable that a bird can ingest a legally administered pesticide. Are farmers now risking prison time for growing the food that feeds America and the world?

The Biden Administration has entertained the idea of an ''incidental take permit'' that might remove some of the liability for birds that are accidentally killed, however they have not developed the idea enough to know what the permit would look like. There aren't any standards for what actions would be exempt from liability under the permit system and the MBTA office doesn't have enough staff to begin handling the undoubtedly thousands of permit applications they will receive.

The government has often implemented rules, promising it will not take advantage of its authority, but time after time this has proven to be just a way to get a rule approved or legislation passed. From wolves and grizzly bears to ever changing definitions of ''navigable waters,'' the government has proven that its word should not be trusted and the MBTA is no exception.

PUBLIC SERVICE REVIEW

Mr. WICKER. For all who are looking for encouragement about the future of our country, I want to call attention to the Fall 2021 issue of ''Public Service Review,'' produced by the Stennis Center for Public Service and available at www.stennis.gov. ''Public Service Review'' features rising young leaders across the country sharing their own experiences, insights, and aspirations as they engage in public service, both in their communities and around the world. The commitment of these future leaders to keeping our Nation strong and free is truly inspiring.

The eight authors featured in the fall 2021 issue are Alexis Eberlein of Ohio University, Sarah Glaser of the University of South Florida, Hannah Krawczyk of Auburn University, Mia Robertson of Mississippi State University, Alanna Cronk of Georgetown University, Katie Medford of Harvard University, Preeti Chemiti of Princeton University, and Amitoj Kaur of Miami University.

''Public Service Review'' provides young leaders a platform to share stories of both challenge and hope as they focus on causes that draw their unique passions. Their stories are hopegiving to those of us currently engaged in public service and offer valuable perspectives for younger students looking to become involved.

On behalf of my colleagues and fellow members of the Stennis Center Board of Trustees, U.S. Senator CHRIS COONS, Tom Daffron, U.S. Representative TERRI SEWELL, and former U.S. Representatives Martha Roby and Gregg Harper, I commend the Stennis Center for this excellent publication and encourage its wide distribution to audiences of all ages.

TRIBUTE TO LINDA WILSON

Ms. MURKOWSKI. Mr. President, I rise today to recognize and congratulate Linda Wilson, who recently retired from the U.S. Department of Education after over 33 years of service to the American people.