



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Mercycare Insurance Company  
P O Box 2770  
Janesville, WI 53547-2770

dated September 16-October 4, 2002, and served upon the company on April 14, 2003, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 24th day of July, 2003.

Jorge Gomez  
Commissioner of Insurance

**STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**MARKET CONDUCT EXAMINATION**

**OF**

**MERCYCARE INSURANCE COMPANY  
JANESVILLE, WISCONSIN**

**SEPTEMBER 16-OCTOBER 4, 2002**

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# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

*Jim Doyle, Governor*  
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October 4, 2002

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Honorable Jorge Gomez  
Commissioner of Insurance  
State of Wisconsin  
121 East Wilson Street  
Madison, Wisconsin 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted September 16, 2002 to October 4, 2002 of:

MERCYCARE INSURANCE COMPANY  
Janesville, Wisconsin

and the following report of the examination is respectfully submitted.

## I. INTRODUCTION

MercyCare Insurance Company (MercyCare) was incorporated September 14, 1993, under ch. 611, Wis. Stat., as a for-profit group model health maintenance organization (HMO) insurer. It commenced operation on September 16, 1993. MercyCare is owned by the Mercy Hospital of Janesville, Wisconsin, Inc., which is part of the Southern Wisconsin Health Care System, Inc., a multi-faceted health care holding company system.

MercyCare operates only in Wisconsin. During the period of review, the company's service area included Dane, Green, Jefferson, Rock, and Walworth counties.

The company has 226 listed agents. It markets a point of service, Medicare supplement and HMO plans.

The majority of the premium written by the company in 2000 and 2001 was in group accident and health. The company did not rank in the top 20 largest writers for group accident and health or for individual Medicare supplement policies in 2000 or 2001.

The following tables summarize the premium written and incurred losses in Wisconsin for 2001 and 2000 broken down by line of business.

### Premium and Loss Ratio Summary

<b>2001</b>				
<b>Line Of Business</b>	<b>Direct Premiums Earned</b>	<b>% of Total Premium</b>	<b>Direct Losses Incurred</b>	<b>Pure Loss Ratio</b>
Medical Only	\$49,657,447	99.40%	\$45,912,698	98.85%
Medicare Supplement	\$302,329	.60%	532,874	1.15%
Total	\$49,959,776	100%	\$46,445,572	100%
<b>2000</b>				
<b>Line Of Business</b>	<b>Direct Premiums Earned</b>	<b>% of Total Premium</b>	<b>Direct Losses Incurred</b>	<b>Pure Loss Ratio</b>
Medical Only	\$50,023,097	99.49%	\$43,929,960	99.36%
Medicare Supplement	254,981	.51%	281,504	.64%
Total	\$50,278,078	100%	\$44,211,464	100%

### Complaints

The Office of the Commissioner of Insurance (OCI) received 22 complaints against the company between July 1, 2000 through June 30, 2002. A complaint is defined as a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent. The company was not ranked on the OCI above-average complaint summary for the years of 2000 or 2001. The majority of the complaints involved claim handling and the denial of claims. The OCI complaints database showed that many of the complaints involving the company's claims practices were based on contract provisions.

The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

2002*						
Reason Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
HMO	7	0	1	4	0	2
Total	7	0	1	4	0	2
2001						
Reason Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
HMO	15	0	0	6	5	4
Total	15	0	0	6	5	4
2000*						
Reason Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
HMO	12	0	0	5	2	5
Total	12	0	0	5	2	5

\*complaints reported through June 30, 2002

### Grievances

The company submitted annual grievance summary reports to OCI for 2000 and 2001 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as "any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured."

The company reported it received 32 grievances in 2000, 19 or 59.36% which were reversed. The majority of the grievances filed in 2000 were related to referral requests and out-of-network providers.

The company reported it received 30 grievances in 2001, 3 or 17.64% of which were reversed. The majority of the grievances filed in 2001 were related to prior authorization.

The following tables summarize the grievances reported by the company for 2000 and 2001:

<b>2000</b>				
<b>Category</b>	<b>Number</b>	<b>No. Reversed</b>	<b>% Reversed</b>	
Out-of-Network Provider	9	6	18.75%	
Prescription Drug	0	0	0%	
Preexisting Condition	0	0	0%	
Out-of-Area Emergency	0	0	0%	
Emergency Room	1	1	3.12%	
Durable Medical	4	2	6.25%	
No Preauthorization	0	0	0%	
Noncovered Benefit	2	1	3.12%	
Not Medically Necessary	0	0	0%	
Usual and Customary	0	0	0%	
Request for Preauthorization	0	0	0%	
Request for Referral	11	5	15.62%	
Maximum Benefit Reached	0	0	0%	
Other	5	4	12.5%	
Total	32	19	59.36%	

<b>2001</b>				
<b>Category</b>	<b>Number</b>	<b>No. Reversed</b>	<b>% Reversed</b>	
Access to Care	0	0	0%	
Billing/Claim Processing	1	0	0%	
Continuity of Care	1	0	0%	
Drug & Drug Formulary	1	0	0%	
Emergency Services	0	0	0%	
Enrollment/Eligibility Requirements	0	0	0%	
Experimental Treatment	1	0	0%	
Prior Authorization	17	3	17.64%	
Not Covered Benefit	6	0	0%	
Not Medically Necessary	2	0	0%	
Other	0	0	0%	
Plan Administration	1	0	0%	
Quality of Care	0	0	0%	
Request for Referral	0	0	0%	
Total	30	3	17.64%	

## **II. PURPOSE AND SCOPE**

The examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from July 1, 2000 through June 30, 2002. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The scope of the examination included, but was not limited to, a review of small employer group marketing; policyholder service and complaints; marketing, sales, and advertising; Medicare supplemental insurance; managed care; grievances; company operations and management; claims; producer licensing; electronic-commerce; privacy program; rates and forms; and a review of compliance with the prior managed care desk audit recommendations.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.



### III. PRIOR EXAMINATION RECOMMENDATIONS

The previous managed care desk audit of the company, as adopted December 2, 1999, contained five recommendations. Following are the recommendations contained in the managed care desk audit and the examiners' findings regarding the company's compliance with each recommendation.

#### **Standing Referral**

1. It is recommended that MercyCare submit to and obtain approval of language in its policies and certificates regarding standing referrals, as required by s. 609.22 (4) (a) 3, Wis. Stat.

**Action:** Compliance

2. It is recommended that MercyCare develop a procedure for providing this information upon request to an enrollee or prospective enrollee, as required by s. 609.22 (4) (a) 3, Wis. Stat.

**Action:** Compliance

#### **Second Opinions**

3. It is recommended that MercyCare submit to OCI and obtain approval of language in its policies and certificates regarding second opinions, as required by s. 609.22 (5), Wis. Stat.

**Action:** Compliance

#### **Access Plan for Certain Enrollees**

4. It is recommended that MercyCare develop an access plan that includes specific procedures designed to ensure the needs, with respect to covered benefits, of its enrollees who are members of underserved populations are met, as required by s. 609.22 (8), Wis. Stat.

**Action:** Compliance

#### **Continuity of Care**

5. It is recommended that MercyCare submit to OCI and obtain approval of language in its certificates and policies regarding continuity of care, as required by s. 609.24, Wis. Stat.

**Action:** Compliance

#### IV. CURRENT EXAMINATION FINDINGS

##### Claims

The examiners reviewed the company's interrogatory response; claims administration processes and procedures; procedure manuals; administrative service agreements with Mercy Health Systems Corporation; procedure for paying interest on delayed claim payments; explanation of benefit (EOB) and remittance advice (RA) forms; and claim adjustment (ANSI) codes.

MercyCare's administrative agreement with Mercy Health Systems provided for the processing of all provider and facility claims. The claims are generally submitted electronically for processing.

In its response to the claims interrogatory, MercyCare stated, it did not have written documents regarding how complaints and allegations of misconduct and fraud involving claims are handled.

The examiners found that MercyCare's claims system included usual, customary, and reasonable (UCR) data that is updated only on an annual basis. Section Ins 3.60 (4) (c), Wis. Adm. Code, requires that the specific methodology on the database shall be updated at least every 6 months.

1. **Recommendation:** It is recommended that MercyCare institute a process for updating the UCR information in its health insurance claim database at least every 6 months in order to comply with s. Ins 3.60 (4) (c), Wis. Adm. Code.

The examiners found that MercyCare did not use ANSI codes as claim adjustment codes on its EOBs and RAs. The company used its own explanation of payment and explanation of benefits (EOB) codes. Section Ins 3.651 (5), Wis. Adm. Code, provides that in preparing remittance advice and explanation of benefits forms, an insurer shall use the claim adjustment reason codes provided by the OCI. Section Ins 3.651 (2), Wis. Adm. Code, defines claim adjustment reason codes as the claim disposition codes of the American national standards institute accredited standards committee.

2. **Recommendation:** It is recommended that MercyCare institute the use of ANSI codes as its claim adjustment reason codes on its EOB and RA forms in order to comply with s. Ins 3.651 (2) and (5), Wis. Adm. Code.

The examiners reviewed a random sample of 85 paid medical claims, 15 paid chiropractic claims, 23 Medicare supplement paid claims, 85 denied medical claims, 15 denied chiropractic claims, and 25 Medicare supplement denied claims.

The examiners found one of MercyCare's paid claims was not paid within 30 days after the company was furnished written notice of a covered loss, and that interest was not paid on these overdue claims. Section 628.46, Wis. Stat., provides that a claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at the rate of 12% per year. The company agreed that it should have paid interest on the claim. The company agreed that it should have paid interest on the claim.

No exceptions were noted regarding the company's processing of Medicare supplement and chiropractic claims.

### **Company Operations/Management**

The examiners reviewed the company's response to the company operations and management interrogatory, network, provider, and administrative service agreements, board of directors meeting minutes, and the minutes for the credentialing/peer review committee, quality improvement committee, quality & utilization management committee, pharmacy & therapeutics committee, and behavioral health committee. The examiners also reviewed the company's administrative service agreement with Catalyst Information Technologies, Inc., which provides information services, consulting, software, and the provision of HEDIS data.

The examiners reviewed a sample of 50 provider files, which included its standard provider service agreement and 11 network agreements. The examiners found that four of its network agreements did not contain a provision regarding the resolution of complaints and grievances. The examiners found that MercyCare's standard provider service agreement stated

that a provider shall make available a procedure for the resolution of complaints and other expressions of dissatisfaction by members, and that providers shall cooperate with the grievance procedures of the health plan. Section Ins 18.03 (2) (c) 1, a, Wis. Adm. Code, requires that an insurer offering a health benefit plan that is a managed care plan include in each contract between it and its providers, provider networks, and within each agreement governing the administration of provider services, a provision that requires the contracting entity to promptly respond to complaints and grievances filed with the insurer to facilitate resolution.

3. **Recommendation:** It is recommended that MercyCare include in each of its provider agreements, provider network agreements and within each agreement governing the administration of provider services, a provision regarding the handling and resolution of complaints and grievances as required by s. Ins 18.03 (2) (c) 1, a, Wis. Adm. Code.

The examiners found that four of MercyCare's network provider agreements did not contain language explaining the manner in which it reimburses providers who have terminated their provider agreement but that are required because of continuity of care to continue providing care to enrollees. Section Ins. 609.24 (1) (e), Wis. Stat., requires that an insurer issuing a managed care plan shall include in its provider contracts provisions addressing reimbursement to providers for services rendered under continuity of care.

4. **Recommendation:** It is recommended that MercyCare include in all of its provider contracts and agreements a provision addressing payment methodology the company uses and reimbursement the provider will be paid under continuity of care as required by s. 609.24 (1) (e), Wis. Stat.

### **Electronic Commerce**

The company's marketing department was responsible for the development and maintenance of the MercyCare website and for overseeing its Internet and World Wide Web activities. MercyCare's website oversight committee was responsible for all activities related to its website process. MercyCare had three registered URL's.

The examiners found that MercyCare provided quotes online but did not accept applications online. The company provided a sample certificate of coverage online for viewing

and an online index for accessing the certificate information. The company's website did not allow access to individual information for insureds. The company's provider directory was available online and allowed enrollees to identify providers by specialty, location, and gender.

The examiners found that the company's agency agreement prohibited agents from distributing, using or publishing any form of advertising identifiable with MercyCare or its products excepted as furnished or approved in writing by MercyCare. The company stated it did not have any agent generated advertisements of its products on the Internet at the time of the examination.

### **Privacy & Confidentiality**

The examiners reviewed MercyCare's response to the privacy interrogatory, privacy policies and procedures, employee confidentiality agreement, minutes from meetings of the privacy and confidentiality committee (PCC), standard enrollment packet, sample agent agreement, sample provider agreement, and contracts with all third parties with which enrollee information was shared. MercyCare stated that it established its privacy program in December 2001, and that the privacy program was still in its preliminary stages. The company's director of compliance, audit, data management, was responsible for oversight of MercyCare's privacy program. However, all decisions regarding the privacy program were made by the PCC. The PCC reported directly to the management team, which consisted of the director of finance, director of marketing and customer service, director of contracting, medical director, director of compliance, audit, data management, and vice president. All privacy policies and procedures were drafted by the PCC and reviewed and approved by the management team.

MercyCare employees were given informal privacy training at the time of hire, and were required to read and sign the company's confidentiality agreement. The examiners found that agents who were employees of MercyCare were given the same informal privacy-related training as all other employees. These agents were also required to sign a confidentiality agreement at the time of hire. Agents who were not employees of MercyCare but were

considered independent contractors were obligated by the terms of the company's agent agreements to comply with the company's privacy policies and procedures. The examiners found that the agents who were considered independent contractors did not receive formal or informal privacy-related training, nor did they sign a confidentiality agreement verifying that they understood MercyCare's privacy policies and procedures.

5. **Recommendation:** It is recommended that MercyCare develop and implement a procedure for providing agents considered by the company as independent contractors with training on the company's privacy program, to ensure compliance with s. 610.70, Wis. Stat., and ch. Ins 25, Wis. Adm. Code.

The examiners found that MercyCare provided an initial privacy notice to all new enrollees as part of its enrollment packet. The company also provided an annual privacy notice to enrollees in its winter 2001 newsletter. The company stated it planned to continue delivering the annual privacy notice to enrollees as part of its annual winter newsletter. However, the examiners found that MercyCare did not have a written policy and procedure for providing the initial and revised privacy notice to enrollees. Section Ins 25.10 (1) (a), Wis. Adm. Code, requires that an insurer shall provide to an individual who becomes a customer, not later than when the insurer establishes a customer relationship, a clear and conspicuous notice that accurately reflects its privacy policies and practices regarding nonpublic personal financial information. Section Ins 25.13 (1), Wis. Adm. Code, requires that an insurer provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices with regard to nonpublic personal financial information not less than annually during the continuation of the customer relationship.

The examiners also found that MercyCare did not have a written policy and procedure for providing enrollees with a revised privacy notice, should the initial or most recent annual notice provided cease to be accurate. Chapter Ins 25, Subchapter II, Wis. Adm. Code, provides specific timeframes for providing the initial privacy notice to consumers, annual privacy notice to customers, and revised privacy notice to consumers.

6. **Recommendation:** It is recommended that MercyCare develop a written policy and procedure for providing the initial privacy notice to consumers, annual privacy notice to customers, and revised privacy notice to consumers in order to document compliance with ch. Ins 25, subch II, Wis. Adm. Code.

The examiners found that MercyCare's policy CF-001.1, VI.C., provided that enrollees could inspect any recorded personal medical information in its possession. However, the company's policy did not set forth a procedure for providing enrollees with access to recorded personal medical information in MercyCare's possession. Sections 610.70 (3) (a) and (b), Wis. Stat., provide that, within 30 business days of receiving a written request for access to recorded personal medical information in its possession, an insurer shall, after proper identification is provided, (1) inform the individual of the nature and substance of the recorded personal medical information, (2) permit the individual to inspect the recorded personal medical information or provide a copy of the recorded personal medical information to the individual's health care provider and refer the individual to the health care provider, (3) disclose to the individual any persons to whom the insurer has disclosed the recorded personal medical information within 2 years prior to the request, and (4) provide to the individual a summary of the procedures by which the individual may request the correction, amendment, or deletion of any recorded personal medical information in the insurer's possession.

7. **Recommendation:** It is recommended that MercyCare develop and implement a policy and procedure for providing enrollees with access to their recorded personal medical information that the company has in its possession, as required by s. 610.70 (3) (a) and (b), Wis. Stat.

The examiners found that MercyCare did not have a written policy and procedure that sets forth a method whereby enrollees could make a request to correct, amend, or delete any recorded personal medical information in its possession. Section Ins 610.70 (4), Wis. Stat, provides that, within 30 business days of receiving a written request from an individual to correct, amend or delete any recorded personal medical information in its possession, an insurer shall either comply with the request or notify the individual that the insurer refuses to

comply with the request, the reasons for the refusal, and that the individual has a right to file a statement.

8. **Recommendation:** It is recommended that MercyCare develop and implement a policy and procedure for responding to enrollee requests to correct, amend, or delete recorded personal medical information that the company has in its possession, as required by s. 610.70 (4), Wis. Stat.

## **Managed Care**

Effective March 1, 2000, the market conduct requirements previously contained in ss. Ins 3.48 and 3.50, Wis. Adm. Code, were incorporated into subchapter III of ch. Ins 9, Wis. Adm. Code. Effective December 1, 2001, s. Ins 9.33, Wis. Adm. Code, was repealed and recreated as subchapter II of ch. Ins 18, Wis. Adm. Code, titled grievance procedures. This report references cites in the administrative code as currently drafted.

The examiners reviewed the company's response to the managed care interrogatory, and its policies and procedures regarding plan administration, compliance program, quality assurance and improvement, access to care, and credentialing and recredentialing.

The examiners' review of the company's plan administration activities included a review of its organization charts, medical director position description, and provider directories. The examiners found that MercyCare's medical director was responsible for oversight of the clinical protocols, quality assurance activities, utilization management, and credentialing and recredentialing activities as required by s. 609.34, Wis. Stat.

The examiners reviewed MercyCare's compliance program. The director of compliance, audit, and data management was responsible for maintaining MercyCare's compliance plan. MercyCare's board of directors was responsible for oversight and review of its compliance activities. The examiners also reviewed MercyCare's quality improvement plan, program description, and program evaluation. The company reviewed and evaluated its quality work plan each January and presented its findings to the quality and utilization management



committee, the quality improvement committee, and the board of directors. No exceptions were noted regarding MercyCare's compliance program.

The examiners reviewed MercyCare's standard operating procedure regarding access to care. This procedure was applicable to all providers. MercyCare defined access as the ratio of PCP and specialty care practitioners to MercyCare's members as calculated by zip code. MercyCare's senior management team and its quality medical committee were responsible for analyzing access to providers. No exceptions were noted regarding MercyCare's access standards.

The examiners reviewed the committee meeting minutes for the credentialing/peer review committee, the standard operating procedure for practitioner credentialing and recredentialing, and the applications for credentialing and recredentialing. MercyCare performed its own credentialing and recredentialing of its providers. Recredentialing was performed every two years. The company's credentialing procedure provided that all applications and summary sheets for reapplication that meet administrative criteria were reviewed individually by each member of the credentialing/peer review committee, a decision is made and a vote is taken on each application to accept, request further information, or reject. No exceptions were noted regarding credentialing. No exceptions were noted regarding MercyCare's credentialing procedures.

### **Grievances**

The examiners reviewed MercyCare's response to the grievance interrogatory, board of directors minutes, minutes for the grievance committee, the company's grievance procedure, and the annual grievance experience report. The customer service, finance and quality health management departments were all represented on the grievance committee. Grievances were analyzed by senior management during monthly quality management meetings in order to identify patterns and the need to change policies and procedures.

The examiners reviewed a random sample of 55 MercyCare grievance files. The examiners found 38 of MercyCare's grievance files included received, acknowledgement, and resolution dates that were different from those dates reported on the company's annual grievance experience report filed with the commissioner. Section Ins 628.34, Wis. Stat., forbids an insurer from making or causing to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness. MercyCare stated that the discrepancies were due to entering the wrong date on the grievance report, entering the wrong data into its database, using the acknowledgment letter date as the received date, using the date from the physician review letter, using the date the grievance was received in the customer service department rather than the date stamp, or using the date on the written dissatisfaction. MercyCare also stated that its database automatically changed to the current day's date when new comments were entered, which it then used on its grievance report.

9. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to report received, acknowledgement, and resolution dates for grievances that accurately reflect the actual dates in order to comply with s. 628.34, Wis. Stat.
10. **Recommendation:** It is recommended that MercyCare file with OCI within 90 days of the adoption of the examination report, a correct grievance experience report for 2001.

The examiners found four of the company's grievance files did not contain documentation that an acknowledgment of the grievance was sent to the grievance. Section Ins 18.03 (4), Wis. Adm. Code, requires that a letter acknowledging receipt of the grievance

must be sent to the grievant within 5 days of receipt of the grievance. MercyCare stated that it first began sending grievance acknowledgement letters for each grievance on February 13, 2001.

11. **Recommendation:** It is recommended that MercyCare ensure that grievance acknowledgment letters are sent to all grievants in order to document compliance with s. Ins 18.03 (4), Wis. Adm. Code.

The examiners found 18 of the company's grievance files were resolved in excess of 30 days but did not contain documentation that the grievant was notified that the company was extending review of the grievance for an additional 30 days. Section Ins 18.03 (6), Wis. Adm. Code, requires that a grievant be notified when a grievance cannot be resolved within 30 days of receipt.

12. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that in situations where grievances cannot be resolved within 30 days of receipt that the grievant is sent a letter as required by s. Ins 18.03 (6), Wis. Adm. Code.

The examiners found 13 of the company's grievance files did not contain documentation that the grievant was notified of the grievant meeting. Section Ins 18.03 (3) (b), Wis. Adm. Code, requires that a managed care plan inform the enrollee, in writing, of the time and place of the meeting at least 7 calendar days before the grievance meeting.

13. **Recommendation:** It is recommended that MercyCare develop and implement procedures to ensure that all grievants are informed in writing of the time and place of the grievance meeting at least 7 calendar days before the meeting in order to comply with s. Ins 18.03 (3) (b), Wis. Adm. Code.

The examiners found four of the company's grievance files did not include documentation that the grievances were handled as grievances and that grievance meetings were held. Section Ins 18.03 (3) (a), Wis. Adm. Code, requires that a grievance procedure to include a method whereby the insured who filed the grievance, or the insured's authorized representative, has the right to appear in person before the grievance panel to present written or oral information. MercyCare acknowledged that due to an oversight these grievances were not handled properly.

14. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that all written expressions of dissatisfaction are handled as grievances and that grievance meetings are held in order to comply with s. Ins 18.03 (3) (a), Wis. Adm. Code.

The examiners found two of the company's grievance files did not include documentation that a resolution letter was sent. Section 609.15 (2) (d), Wis. Stat., requires that a grievant be notified in writing of the disposition of the grievance.

15. **Recommendation:** It is recommended that MercyCare ensure that resolution letters are sent to all grievants to notify them of the disposition of their grievance as required by s. 609.15 (2) (d), Wis. Stat.

The examiners found eight of the 55 grievance files reviewed did not have resolution letters signed by one member of the grievance panel. Section Ins 18.03 (3) (g), Wis. Adm. Code, requires that the panel's written decision to the grievant as described in s. 609.14 (2) (d), Wis. Stat., shall be signed by one member of the panel and include a written description of position titles of panel members involved in making the decision.

16. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that all grievance resolution letters are signed by one member of the grievance panel as required by s. Ins 18.03 (3) (g), Wis. Adm. Code.

The examiners found two grievance files that took longer in excess of 60 days to resolve. However, the examiners also found that the company had instituted a procedure for ensuring that is compliant with s. Ins 18.03 (3) (b), Wis. Adm. Code, which requires that if the managed care plan is unable to resolve the grievance within 30 calendar days, the time period may be extended an additional 30 calendar days.

The examiners found one grievance file that did not include documentation that a meeting notice was sent to the grievant. Section Ins 18.03, (3) (b), Wis. Adm. Code, provides that the managed care plan shall inform the enrollee, in writing, of the time and place of the meeting at least 7 calendar days before the meeting. MercyCare responded that it had contacted the enrollee by telephone and set up the grievance meeting.

The examiners found that MercyCare did not regularly handle electronic mail as grievances. Section Ins 18.01 (4), Wis. Adm. Code, defines a grievance as any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured.

17. **Recommendation:** It is recommended that MercyCare develop and implement a procedure that ensures that email correspondence that expresses dissatisfaction is identified as and is handled as a grievance in order to comply with s. Ins 18.01 (4), Wis. Adm. Code.

The examiners reviewed MercyCare's internal procedure for independent review organization (IRO) and IRO notices. MercyCare had handled one request for independent review. The examiners found that the company's IRO process was compliant with s. 632.835, Wis. Stat., which was in effect during the last 7 months of the period of review. MercyCare had handled one request for independent review. No exceptions were noted regarding MercyCare's IRO process.

### **Policyholder Service & Complaints**

The policyholder service department provides customer service for members, providers, and employers regarding benefits, claims, and procedures. The examiners reviewed MercyCare's response to the policyholder service and complaint interrogatory, its internal complaint procedure, procedure for handling OCI complaints, company's complaint log, procedures and training manuals for employees, and reports and summaries used by the service quality committee and the quality improvement committee.

The examiners reviewed a random sample of 100 MercyCare complaint files. The examiners found that 13 complaint files were written expressions of dissatisfaction that were not handled as grievances. Section Ins 18.01 (4), Wis. Adm. Code, defines a grievance as any

dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured.

18. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that all written expressions of dissatisfaction received by or on behalf of an insured are handled as grievances in order to comply with s. Ins 18.01 (4), Wis. Adm. Code.

### **Marketing Sales and Advertising**

The examiners reviewed MercyCare's response to the marketing, sales, and advertising interrogatory, its advertising file and enrollment packet. The examiners also conducted an interview with the company's marketing director.

The examiners reviewed MercyCare's advertising file that consisted of 34 advertisements. The examiners found 20 MercyCare advertisements did not include a notation regarding manner and extent of use. Section Ins 3.27 (28), Wis. Adm. Code, requires each insurer to maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies disseminated, and that a notation be attached to each such advertisement indicating the manner and extent of distribution. MercyCare stated that it was not in compliance with or aware of the requirements of s. Ins 3.27 (28), Wis. Adm. Code.

19. **Recommendation:** It is recommended that MercyCare develop and implement a procedure that ensures all advertisements include a notation regarding manner and extent of use in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.

MercyCare's maintained its Medicare supplement advertisements in a separate file from other advertisements. The examiners found one of the company's Medicare supplement advertisements had not been filed with OCI prior to use. Section Ins 3.39 (15), Wis. Adm. Code, requires that prior to use in Wisconsin, every issuer shall file with OCI a copy of any advertisement used in connection with the sale of Medicare supplement. MercyCare stated that

the company was not aware of the provisions of s. Ins. 3.39 (15), Wis. Adm. Code, and that it had not filed its Medicare supplement advertisements with OCI during the period of review.

20. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that it files with OCI all Medicare supplement advertisements prior to use in order to comply with s. Ins. 3.39 (15), Wis. Adm. Code.

## **Producer Licensing**

The examiners reviewed MercyCare's response to the producer licensing interrogatory, and its agency agreements.

The examiners reviewed a random sample of 25 agent appointment files and 22 terminated agent files. MercyCare did not provide three of the terminated agent files that were requested. Section 601.42 Wis. Stat., states that the commissioner may require statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable for the commissioner designates, and at such reasonable intervals as the commissioner chooses.

21. **Recommendation:** It is recommended that MercyCare develop and implement procedures to ensure that it maintains documentation regarding all agent appointments and terminations so that it can make the information available to the commissioner upon request as required by s. 601.42, Wis. Stat.

The examiners requested from MercyCare a listing of all Wisconsin agents that represented the company as of the date the listing was run. The agent licensing data provided by the company was compared to the agents' database maintained by OCI. The examiners found that MercyCare's database included the names of 5 agents as representing the company that were not included in the OCI's database as listed with the company. MercyCare acknowledged that these individuals were not properly listed. The examiners also found that MercyCare did not reconcile the annual billing statement received from OCI with its internal agent list. Section Ins 6.57 (1), Wis. Adm. Code, provides that an application for an intermediary-agent appointment shall be submitted to OCI on or before the date of appointment.

22. **Recommendation:** It is recommended that MercyCare develop and implement procedures for maintaining agents' database with information that is accurate and corresponds with OCI listing information in order to document compliance with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found that the company allowed two agents without active listings each to place one group with the company, and that the company paid commissions for the business written. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary unless the intermediary is a licensed agent listed with that company.

23. **Recommendation:** It is recommended that MercyCare implement a process to ensure that it does not accept business from or pay commissions for business written by unlisted agents in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.

The examiners found one agent that was listed as active with the company but did not hold a current Wisconsin agent license. MercyCare also stated that it did not have a process that would document that terminations of agents were made in a timely manner. Section Ins 6.57 (2), Wis. Adm. Code, requires the company to file with OCI a notice of termination of appointment prior to or within 30 calendar days of the termination date, and that the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company. The notice must also include a formal demand for the return of all indicia of agency.

24. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to track and maintain up-to-date agent termination information in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

### **Rates & Policy Forms**

The examiners reviewed MercyCare's response to the rates and policy forms interrogatory, the policy forms in use during the period of examination. The examiners also compared a listing of forms in MercyCare's database with a listing from the OCI's database of MercyCare approved forms.



The examiners found that form MCSA JAN 1999 had not been approved by OCI. The company stated that MCSA JAN 1999 was the same as form MCSA JAN 1998 approved by the OCI in 1998. The company stated that the form number had been changed at the time of re-printing. Section Ins 631.20, Adm Code., requires prior approval of all forms used by insurers.

During the review of MercyCare's small employer files, the examiners found 4 files included a copy of an application form that did not include a form number. MercyCare stated that the application forms had been discontinued from use. Section Ins 6.05 (4) (a) 4, b, Wis. Adm. Code, requires that each form include a form number.

25. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that all forms have distinct form numbers printed on the form in order to comply with s. Ins 6.05 (4) (a) 4, b, Wis. Adm. Code.

The examiners compared a listing of forms shown as approved in OCI's policy form database with a listing provided by MercyCare of 28 forms it showed as approved and used by MercyCare during the period of review. The examiners found that although the immunization mandate became effective November 2000, the company did not amend the language in its policies until October 2001, when OCI approved form AJAN 2002. The examiners found that although the company's policies did not include language regarding the mandate, the company had instituted a process for providing benefits for the mandated immunizations. Section 632.895 (14), Wis. Stat., requires all policies issued and effective as of November 2000 to contain a mandated immunization benefit.

26. **Recommendation:** It is recommended that MercyCare implement a procedure to ensure that all forms are submitted and approved by OCI prior to the effective date of any new legislation in order to document compliance with s. 631.20 (6) (b), Wis. Stat.

The examiners found that MercyCare forms MHSEEAP September 9/99, MHSEEUWAP 9/99, MHSEEAP 1/01, and MHSEEUWAP 1/01 authorize release of medical information while coverage is in effect and for 3 years thereafter. Section 610.70 (2) (b) 1., Wis. Stat., states that any form used in connection with an insurance transaction and that authorizes the disclosure of personal medical information about an individual to an insurer may not exceed 30 months from the date on which the authorization is signed.

27. **Recommendation:** It is recommended that MercyCare review all its forms and ensure that the length of time for which authorization remains valid in its application forms does not exceed the 30 months provided under s. 610.70 (2) (b) 1., Wis. Stat.

The examiners found MercyCare's policy form MCCONJAN1997 did not include language regarding treatment for the correction of temporomandibular (TMJ) disorders. The examiners also found that form MCCONJAN1997 did not include language explaining the limitations for coverage of experimental treatment. Section 632.895 (11), Wis. Stat., states that every disability insurance policy that provides coverage of any diagnostic or surgical procedure involving a bone, joint, muscle or tissue shall provide coverage for diagnostic procedures and medically necessary surgical or nonsurgical treatment for the correction of temporomandibular disorders. Section Ins 632.855 (2), Wis. Adm. Code, states that a health care plan that limits coverage of experimental treatment shall define the limitation and disclose the limits in any agreement, policy or certificate of coverage.

28. **Recommendation:** It is recommended that MercyCare ensure its policy forms include language regarding coverage of TMJ and experimental treatment to comply with s. 632.895 (11), Wis. Stat. and s. 632.855 (2), Wis. Stat.

## Small Employer

The examiners reviewed the company's response to the small employer group marketing interrogatory, and its participation requirements, rating methodology, new business rates, renewal system, actuarial certifications, underwriting guidelines, small group qualifications document, employer submission guidelines, and agent submission guidelines. The company manually performed underwriting and rating, including generating quotes and renewal premium rates.

The examiners found that MercyCare's employer submission guidelines indicate that the small employer must be covered by workers' compensation in order to qualify for its small employer coverage. The company stated that it did not decline a risk for failure to carry workers' compensation coverage. The examiners did not find any instances where coverage had been declined. Section Ins 635.19, Wis. Stat., provides that a small employer insurer that offers a group health benefit plan in the small group market shall accept any small employer in the state that applies for coverage.

29. **Recommendation:** It is recommended that MercyCare revise its employer submission guidelines so that they do not state that a small employer must have workers' compensation coverage in order to qualify for health insurance coverage in order to document compliance with s. 635.19, Wis. Stat.

The examiners reviewed MercyCare's written disclosure of rating factors and renewability. The examiners documented that the company filed with OCI actuarial certification of its 2000 rating practices and of its 2001 rating practices as required by s. 635.13, Wis. Stat., and s. Ins 8.56, Wis. Adm. Code. The company reported in its actuarial certification for 2000 that it had identified several groups as being outside the required rating range for small employer groups. As a result, the company established rating tiers, and conducted audits of all renewals for a 12 month period in order to ensure compliance for existing groups. The company provided summaries of new and renewed groups to document compliance with rate variance restrictions, and summaries of renewed groups to document compliance with rate

change restrictions. The company stated that it relies on an outside actuarial firm's filing of its annual rate certifications as a method of auditing its processes.

The examiners reviewed 50 issued and 50 small employer quote files. The examiners found that MercyCare did not a process for providing disclosure of rating factors and renewability prior to the sale of its policies. Section 635.11, Wis. Stat., requires that prior to the sale of a plan or policy, the small employer insurers shall disclose the required information regarding the insurer's right to increase premium rates and the factors limiting the amount of increase, the extent to which benefit design characteristics and case characteristics affect premium rates, the extent to which rating factors and changes in benefit design characteristics and case characteristics affect changes in premium rates, and the small employer insurer's renewability rights. Section Ins 8.48, Wis. Adm. Code, requires that before completing an application for a policy, an agent shall provide the small employer with a form stating the information required under s. 635.11 (1m), Wis. Stat.

30. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that disclosure of small employer rating factors and renewability provisions are provided prior to the sale of a plan or policy in order to comply with s. 635.11, Wis. Stat. and s. Ins 8.48, Wis. Adm. Code.
31. **Recommendation:** It is recommended that MercyCare draft and use a disclosure of rating factors and renewability provisions form in order to comply with s. 635.11, Wis. Stat.

The examiners found that MercyCare's waiver form was incorporated into the application, and did not include notice of consequence of not applying for coverage. Section Ins 8.65 (2), Wis. Adm. Code, requires a small employer insurer to secure a waiver signed by the employee who declines an offer of coverage under a policy, whether during an initial enrollment period as a new entrant or as an underwritten individual. The waiver shall include a certification that the individual who declined coverage was informed of the availability of coverage under the policy, the reason for declining coverage, and a written warning of the consequences which may be imposed on late enrollees.

32. **Recommendation:** It is recommended that MercyCare develop a waiver of coverage form that is compliant with s. Ins 8.65 (2), Wis. Adm. Code.

The examiners found five small employer issued files did not include waivers of coverage. Section Ins 8.65 (2), Wis. Adm. Code, requires small employer insurers to secure a waiver signed by the eligible employee with respect to each eligible employee, and each dependent of an eligible employee, who declines an offer of coverage under a policy.

33. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that waivers of coverage are completed by all employees of small employers that decline an offer of coverage under a policy as required by s. Ins 8.65 (2), Wis. Adm. Code.

The examiners found 13 small employer issued files did not contain a list of eligible employees or dependents of eligible employees. The examiners found two small employer issued files did not identify the number of eligible employees. MercyCare acknowledged that these files did not include the number of eligible employees. Section Ins 8.65 (1), Wis. Adm. Code, requires a small employer insurer to require each small employer that applies for a policy to provide a complete list of eligible employees and dependents of eligible employees of the small employer. The small employer insurer shall require the small employer to provide appropriate supporting documentation to verify the information required.

34. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that it obtains a complete list of eligible employees or dependents of eligible employees during the application process and that it maintain the information in its small employer files in order to document compliance with s. Ins 8.65 (1), Wis. Adm. Code.

The examiners found six MercyCare small employer issued files included applications that did not indicate the date the application was taken. The examiners found three small employer issued files included applications that were not signed by the agent. Section Ins 3.31 (3) (a) 3, Wis. Adm. Code, requires that an insurer make provision for adequate underwriting procedures.

35. **Recommendation:** It is recommended that MercyCare develop and implement a procedure to ensure that all applications received by the company were dated and signed by its agents in order to document compliance with s. Ins 3.31 (3) (a) 3, Wis. Adm. Code.

### **Underwriting & Rating**

The examiners' review of underwriting and rating was limited to the company's Medicare supplement business only. The examiners reviewed the company's response to the Medicare supplement interrogatory, its Medicare supplement advertising file, and the MercyCare senior 2002 rating table.

The examiners reviewed a random sample of 50 Medicare supplement files and found that nine of the files contained applications where the individual filled out the health question portion of the application while seeming to qualify for guarantee issue. Section Ins 3.39 (34), Wis. Adm. Code, states that an issuer may not deny or condition the issuance or effectiveness of a Medicare supplement policy that is offered and is available for issuance to new enrollee by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. MercyCare stated that 25% or more of the Medicare supplement business was done through the mail citing this as the reason the health questions in the applications were completed by the applicants.

36. **Recommendation:** It is recommended that MercyCare revise its Medicare Select application to include a statement that applicants eligible for guarantee issue need not complete the health question portion of the application in order to document compliance with s. Ins. 3.39 (34), Wis. Adm. Code.

The examiners found that MercyCare did not have a written procedure that limited the acceptance of an application for Medicare supplement coverage to 3 months prior to Medicare eligibility. Section Ins 3.39 (25) (d), Wis. Adm. Code, limits the time in which an applicant can fill out and submit a Medicare supplement application to not more than 3 months prior to becoming eligible.

37. **Recommendation:** It is recommended that MercyCare develop and implement a written procedure and disseminate that procedure to the agents authorized to solicit the Medicare Supplement defining the requirements of s. Ins. 3.39 (25) (d), Wis. Adm. Code.

The examiners found two Medicare supplement files did not include a replacement form properly submitted with the applications. Section Ins 3.39 (23) (c), Wis. Adm. Code, states that upon determining that a sale will involve replacement, and issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage.

38. **Recommendation:** It is recommended that MercyCare develop and implement a procedure for identifying replacement situations and for ensuring that proper notice of replacement is given in order to comply with s. Ins. 3.39 (23) (c), Wis. Adm. Code.

## **V. CONCLUSION**

The examiners found that MercyCare complied with the five recommendations from the previous managed care desk audit. This targeted examination resulted in a total of 38 recommendations in the areas of claims; company operations & management; privacy & confidentiality; grievances; marketing, sales & advertising; policyholder service & complaints; producer licensing; policy rates & forms; small employer; and underwriting & rating. The company appears to lack sufficient written procedures in some functional areas. The examination found instances in which the company was not in compliance with Wisconsin insurance law and in which the company should document and annually review procedures to ensure compliance.



## VI. SUMMARY OF RECOMMENDATIONS

### Claims

- Page 7 1. It is recommended that MercyCare institute a process for updating the UCR information in its health insurance claim database at least every 6 months in order to comply with s. Ins 3.60 (4) (c), Wis. Adm. Code.
- Page 8 2. It is recommended that MercyCare institute the use of ANSI codes as its claim adjustment reason codes on its EOB and RA forms in order to comply with s. Ins 3.651 (2) and (5), Wis. Adm. Code.

### Company Operations/Management

- Page 9 3. It is recommended that MercyCare include in each of its provider agreements, provider network agreements and within each agreement governing the administration of provider services, a provision regarding the handling and resolution of complaints and grievances as required by s. Ins 18.03 (2) (c) 1, a, Wis. Adm. Code.
- Page 9 4. It is recommended that MercyCare include in all of its provider contracts and agreements a provision addressing payment methodology the company uses and reimbursement the provider will be paid under continuity of care as required by s. 609.24 (1) (e), Wis. Stat.

### Privacy & Confidentiality

- Page 11 5. It is recommended that MercyCare develop and implement a procedure for providing agents considered by the company as independent contractors with training on the company's privacy program, to ensure compliance with s. 610.70, Wis. Stat., and ch. Ins 25, Wis. Adm. Code.
- Page 12 6. It is recommended that MercyCare develop a written policy and procedure for providing the initial privacy notice to consumers, annual privacy notice to customers, and revised privacy notice to consumers in order to document compliance with ch. Ins 25, subch II, Wis. Adm. Code.
- Page 12 7. It is recommended that MercyCare develop and implement a policy and procedure for providing enrollees with access to their recorded personal medical information that the company has in its possession, as required by s. 610.70 (3) (a) and (b), Wis. Stat.
- Page 13 8. It is recommended that MercyCare develop and implement a policy and procedure for responding to enrollee requests to correct, amend, or delete recorded personal medical information that the company has in its possession, as required by s. 610.70 (4), Wis. Stat.

## Grievances

- Page 15 9. It is recommended that MercyCare develop and implement a procedure to report received, acknowledgement, and resolution dates for grievances that accurately reflect the actual dates in order to comply with s. 628.34, Wis. Stat.
- Page 15 10. It is recommended that MercyCare file with OCI within 90 days of the adoption of the examination report, a correct grievance experience report for 2001.
- Page 16 11. It is recommended that MercyCare ensure that grievance acknowledgment letters are sent to all grievants in order to document compliance with s. Ins 18.03 (4), Wis. Adm. Code.
- Page 16 12. It is recommended that MercyCare develop and implement a procedure to ensure that in situations where grievances cannot be resolved within 30 days of receipt that the grievant is sent a letter as required by s. Ins 18.03 (6), Wis. Adm. Code.
- Page 16 13. It is recommended that MercyCare develop and implement procedures to ensure that all grievants are informed in writing of the time and place of the grievance meeting at least 7 calendar days before the meeting pursuant to s. Ins 18.03 (3) (b), Wis. Adm. Code.
- Page 17 14. It is recommended that MercyCare develop and implement a procedure to ensure that all written expressions of dissatisfaction are handled as grievances and that grievance meetings are held in order to comply with s. Ins 18.03 (3) (a), Wis. Adm. Code.
- Page 17 15. It is recommended that MercyCare ensure that resolution letters are sent to all grievants to notify them of the disposition of their grievance as required by s. 609.15 (2) (d), Wis. Stat.
- Page 17 16. It is recommended that MercyCare develop and implement a procedure to ensure that all grievance resolution letters are signed by one member of the grievance panel as required by s. Ins 18.03 (3) (g), Wis. Adm. Code.
- Page 18 17. It is recommended that MercyCare develop and implement a procedure that ensures that email correspondence that expresses dissatisfaction is identified as and is handled as a grievance in order to comply with s. Ins 18.01 (4), Wis. Adm. Code.

## **Policyholder Service & Complaints**

- Page 19 18. It is recommended that MercyCare develop and implement a procedure to ensure that all written expressions of dissatisfaction received by or on behalf of an insured be handled as grievances in order to comply with s. Ins 18.01 (4), Wis. Adm. Code.

## **Marketing, Sales & Advertising**

- Page 19 19. It is recommended that MercyCare develop and implement a procedure that ensures all advertisements include a notation regarding manner and extent of use in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.
- Page 20 20. It is recommended that MercyCare develop and implement a procedure to ensure that it files with OCI all Medicare supplement advertisements prior to use in order to comply with s. Ins. 3.39 (15), Wis. Adm. Code.

## **Producer Licensing**

- Page 20 21. It is recommended that MercyCare develop and implement procedures to ensure that it maintains documentation regarding all agent appointments and terminations so that it can make the information available to the commissioner upon request as required by s. 601.42, Wis. Stat.
- Page 21 22. It is recommended that MercyCare develop and implement procedures for maintaining agents' database with information that is accurate and corresponds with OCI listing information in order to document compliance with s. Ins 6.57 (1), Wis. Adm. Code.
- Page 21 23. It is recommended that MercyCare implement a process to ensure that it does not accept business from or pay commissions for business written by unlisted agents in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.
- Page 21 24. It is recommended that the MercyCare develop and implement a procedure to track and maintain up-to-date agent termination information in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

## **Rates & Policy Forms**

- Page 22 25. It is recommended that MercyCare develop and implement a procedure to ensure that all forms have distinct form numbers printed on the form in order to comply with s. Ins 6.05 (4) (a) 4, b, Wis. Adm. Code.
- Page 23 26. It is recommended that MercyCare implement a procedure to ensure that all forms are submitted and approved by OCI prior to the effective date of any new legislation in order to document compliance with s. 631.20 (6) (b), Wis. Stat.

- Page 23 27. It is recommended that MercyCare review all its forms and ensure that the length of time for which authorization remains valid in its application forms does not exceed the 30 months provided under s. 610.70 (2) (b) 1., Wis. Stat.
- Page 23 28. It is recommended that MercyCare ensure its policy forms include language regarding coverage of TMJ and experimental treatment to comply with s. 632.895 (11), Wis. Stat. and s. 632.855 (2), Wis. Stat.

### **Small Employer**

- Page 24 29. It is recommended that MercyCare revise its employer submission guidelines so that they do not state that a small employer must have workers' compensation coverage in order to qualify for health insurance coverage in order to document compliance with s. 635.19, Wis. Stat.
- Page 25 30. It is recommended that MercyCare develop and implement a procedure to ensure that disclosure of small employer rating factors and renewability provisions are provided prior to the sale of a plan or policy in order to comply with to s. 635.11, Wis. Stat. and s. Ins 8.48, Wis. Adm. Code.
- Page 25 31. It is recommended that MercyCare draft and use a disclosure of rating factors and renewability provisions form in order to comply with s. 635.11, Wis. Stat.
- Page 26 32. It is recommended that MercyCare develop a waiver of coverage form that is compliant with s. Ins 8.65 (2), Wis. Adm. Code.
- Page 26 33. It is recommended that MercyCare develop and implement a procedure to ensure that waivers of coverage are completed by all employees of small employers that decline an offer of coverage under a policy as required by s. Ins 8.65 (2), Wis. Adm. Code.
- Page 26 34. It is recommended that MercyCare develop and implement a procedure to ensure that it obtains a complete list of eligible employees or dependents of eligible employees during the application process and that it maintain the information in its small employer files in order to document compliance with s. Ins 8.65 (1), Wis. Adm. Code.
- Page 27 35. It is recommended that MercyCare develop and implement a procedure to ensure that applications received by the company were dated and signed by its agents in order to document compliance with s. Ins 3.31 (3) (a) 3, Wis. Adm. Code.

### **Underwriting & Rating**

- Page 27 36. It is recommended that MercyCare revise its Medicare Select application to include a statement that applicants eligible for guarantee issue need not complete the health question portion of the application in order to document compliance with s. Ins. 3.39 (34), Wis. Adm. Code.
- Page 28 37. It is recommended that MercyCare develop and implement a written procedure and disseminate that procedure to the agents authorized to solicit

the Medicare Supplement defining the requirements of s. Ins. 3.39 (25) (d), Wis. Adm. Code.

- Page 28      38. It is recommended that MercyCare develop and implement a procedure for identifying replacement situations and for ensuring that proper notice of replacement is given in order to comply with s. Ins. 3.39 (23) (c), Wis. Adm. Code.

## VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Diane Dambach	Section Chief
Jo LeDuc	Insurance Examiner Advanced
Stephanie Cook, MHP, ACS, AIRC, AIE	Insurance Examiner
Kristy Jacobson	Insurance Examiner
Kevin Zwart	Insurance Examiner

Respectfully submitted,

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Examiner-in-Charge