State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

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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

PHYSICIANS PLUS INSURANCE CORPORATION
2650 NOVATION PKWY
MADISON WI 53713-3399

dated December 18, 2012, and served upon the company on October 8, 2013, 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 19th day of NOVEMBER, 2013.

THEODORE K. NICKEL
Commissioner of Insurance

STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

PHYSICANS PLUS INSURANCE CORPORATION
MADISON, WISCONSIN

OCTOBER 29–NOVEMBER 8, 2012

TABLE OF CONTENTS

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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December 18, 2012

Honorable Theodore K. Nickel
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted October 29 to November 8, 2012, of:

PHYSICANS PLUS INSURANCE CORPORATION
Madison, Wisconsin

and the following report of the examination is respectfully submitted.

I.INTRODUCTION

Physicians Plus Insurance Corporation (PPIC or the company) is a for-profit network model health maintenance organization (HMO). An HMO insurer is defined by s. 609.01 (2), Wis. Stat., as "a health care plan offered by an organization established under ch. 185, 611, 613, or 614, Wis. Stat., or issued a certificate of authority under ch. 618, Wis. Stat., that makes available to its enrolled participants, in consideration for predetermined fixed payments, comprehensive health care services performed by providers selected by the organization."

The company was incorporated August 6, 1986, and commenced business October 3, 1986. Meriter Health Services, Inc. (MHS) owns two-thirds of PPIC, and Physicians Plus Investment Group, LLP (PPIG) owns the remaining one-third. Prior to December 15, 2000, PPIC was owned one-third each by Meriter Hospital, Inc. (Meriter), Wausau Service Corporation, and PPIG.

The following table summarizes the total premium written and benefits paid in Wisconsin in 2011 and 2010 broken down by line of business:

Premium and Loss Ratio Summary

2011				
Line of Business	**Net Premium Income**	**% of Total Premium**	**Net Losses Incurred**	**Medical Loss Ratio**
Comprehensive	$446,656,862	95.20%	$425,973,863	95.0%
Medicare Supplement	3,599,980	.77	2,376,560	66.0
All Other Health	18,904,517	4.03	16,519,447	87.0
Total	$469,161,359	95.97%	$444,869,870	95.0%

2010				
Line of Business	**Net Premium Income**	**% of Total Premium**	**Net Losses Incurred**	**Medical Loss Ratio**
Comprehensive	$411,780,149	95.12%	$385,462,514	94.0%
Medicare Supplement	3,672,756	0.85	2,409,390	65.6
All Other Health	17,445,586	4.03	14,293,513	82.0
Total	$432,898,491	95.97%	$402,165,417	93.0%

Complaints

The Office of the Commissioner of Insurance (OCI) received 65 complaints against the company between January 1, 2010, through June 30, 2012. A complaint is defined as "a written communication received by the commissioner's office that indicates dissatisfaction with an insurance company or agent." The most common reason for complaints was claim handling related to referral and access problems.

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.

Complaints Received

2011						
Reason Type	**Total**	**Underwriting**	**Marketing & Sales**	**Claims**	**Policyholder Service**	**Other**
Coverage Type	**No.**	**No.**	**No.**	**No.**	**No.**	**No.**
Group A&H	18	1		14		3
Individual A&H	2			2		
Misc. Health & Life	1			1		
Total	**21**	**1**		**17**		**3**

2010						
Reason Type	**Total**	**Underwriting**	**Marketing & Sales**	**Claims**	**Policyholder Service**	**Other**
Coverage Type	**No.**	**No.**	**No.**	**No.**	**No.**	**No.**
Group A&H	26	1		22		3
Individual A&H	5	1		3	1	
Misc. Health & Life	2			2		
Total	**33**	**2**		**27**	**1**	**3**

Grievances

The company submitted annual grievance experience reports to OCI for 2010 and 2011 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 123 grievances in 2010 and 120 grievances in 2011. The following table summarizes the grievances for 2010 and 2011:

	2011			2010		
Category	**No.**	**No. Reversed**	**% Reversed**	**No.**	**No. Reversed**	**% Reversed**
Access to Care	0	0		0	0	
Continuity of Care	0	0		2	0	
Drug and Drug Formulary	3	0		1	0	
Emergency Services	13	0		23	0	
Experimental Treatment	3	0		3	0	
Prior Authorization	65	0		36	0	
Not Covered Benefit	14	14	100%	29	20	70%

	2011			2010		
Category	**No.**	**No. Reversed**	**% Reversed**	**No.**	**No. Reversed**	**% Reversed**
Not Medically Necessary	1	0		7	0	
Other	16	0		3	0	
Plan Administration	5	4	80	15	13	87
Plan Providers	0	0		4	0	
Request for Referral	0	0		0	0	
Total	**120**	**18**	**15%**	**123**	**33**	**27%**

Independent Review

Independent review organizations (IROs) certified to do reviews in Wisconsin are required to submit to the OCI annual reports for the prior calendar year's experience indicating the name of the insurance company and whether the action on the claims was upheld or reversed. Issues eligible for independent review include adverse and experimental treatment determinations. The IRO reports indicate that for 2010 the company had eight IRO requests filed and for 2011 the company had one IRO request filed involving the company.

The following tables summarize the IRO review requests for the company for the last two years:

2010									
Total Review Requests Received	IPRO	Maximus-CHDR	MCMC	Medical Inst. of America	National Medical Reviews	Permedion	Prest	Upheld	Reversed
9	0	0	4	0	1	3	1	7	1
2011									
1	1	0	0	0	0	0	0	0	0

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules with respect to the areas of noncompliance identified in the prior examination report adopted May 9, 2003. The examination focused on the period from January 1, 2010, through June 30, 2012. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of claims; company operations and management; grievances and IRO; marketing, sales and advertising; policyholder service and complaints; producer licensing; small employer; and underwriting and rating.

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 market conduct examination of the company, as adopted May 9, 2003, contained 28 recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Company Operations/Management

1. It is recommended that the company include in its provider agreements language that requires providers to forward all correspondence regarding any complaint or member dispute to the company in a timely manner as required by s. Ins 18.03 (2) (c) 1., Wis. Adm. Code.

   Action: Compliance

2. It is recommended that the company revise its provider agreement template, and amend its existing provider agreements to include language requiring providers to promptly respond to grievances and complaints filed with the insurer to facilitate resolution as required by s. Ins 18.03 (2) (c) 1., Wis. Adm. Code.

   Action: Compliance

Claims

3. It is again recommended that the company pay interest on all claims not resolved within 30 days of receipt by the company or any of its contracted entities as required by s. 628.46, Wis. Stat.

   Action: Compliance

4. It is recommended that the company institute a procedure to ensure that contracted entities have in place a process for identifying delayed claims and calculating interest due on the delayed claims in order to comply with s. 628.46, Wis. Stat.

   Action: Compliance

5. It is recommended that if, on the basis of an independent evaluation, the company denies a chiropractic claim, it send a denial letter meeting the requirements outlined in s. 632.875 (2), Wis. Stat., to the patient and the treating chiropractor.

   Action: Compliance

6. It is recommended that the company maintain documentation that it does not restrict or terminate coverage for chiropractic treatment on the basis of other than

the recommendation of an independent chiropractor as required by s. 632.87 (3) (b), Wis. Stat.

Action: Compliance

7. It is recommended that the company maintain all records reasonably related to its claims function for a period of three years, including documentation for each claim received indicating the received date, denial reason, and denial date, as required by s. Ins 6.80 (4) (b), Wis. Adm. Code.

   Action: Compliance

8. It is recommended that the company record as the received date in its claims database the date that a claim is first received by the company or any of its contracted entities as documented by a date stamp to ensure compliance with s. 628.46, Wis. Stat.

   Action: Compliance

9. It is recommended that the company send EOBs and RAs on all claims for which the patient is responsible for a portion of the payment, and maintain records of the EOBs and RAs for each claim as required by ss. Ins 3.651 and 6.80, Wis. Adm. Code.

   Action: Compliance

Marketing, Sales and Advertising

10. It is recommended that the company develop and implement a procedure for monitoring agent Web sites to ensure that all advertisements are included in the company's advertising file as required by s. Ins 3.27, Wis. Adm. Code.

    Action: Compliance

Grievance

11. It is again recommended that the company resolve all grievances within 30 days of receipt, unless an extension letter is sent notifying the grievant that the time period for review will be extended an additional 30 days as required by s. Ins 18.03 (6) (b), Wis. Adm. Code.

    Action: Noncompliance

12. It is again recommended that the company review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 632.83 (2) (c), Wis. Stat., and s. Ins 18.03 (7), Wis. Adm. Code.

    Action: Noncompliance

Managed Care

13. It is recommended that the company develop and adopt a compliance program as required by s. Ins 9.42 (2), Wis. Adm. Code.

    Action: Compliance

14. It is recommended that the company develop a policy and procedure regarding access for underserved populations as required by s. 609.22 (8), Wis. Stat.

    Action: Compliance

Marketing, Sales and Advertising

15. It is recommended that the company submit all Medicare supplement advertisements to OCI for approval prior to use as required by s. Ins 3.39 (15), Wis. Adm. Code.

    Action: Noncompliance

16. It is recommended that the company include in its advertising file a notice indicating the form number of any policy form advertised and a copy of the policy form advertised as required by s. Ins 3.27 (28), Wis. Adm. Code.

    Action: Noncompliance

Policy Forms

17. It is recommended that the company submit to OCI and receive notice of approval of all policy forms prior to use as required by s. 631.20, Wis. Stat.

    Action: Noncompliance

Policyholder Service and Complaints

18. It is recommended that the company handle all written complaints as grievances as required by s. Ins 18.03, Wis. Adm. Code.

    Action: Noncompliance

Producer Licensing

19. It is recommended that the company develop and implement written procedures for reporting certain information to the Commissioner regarding terminated agents to ensure compliance with s. Ins 6.57 (2) (a), (b), and (c), Wis. Adm. Code.

    Action: Noncompliance

20. It is again recommended that the company revise its procedures and training materials to ensure that agent appointment forms are submitted to OCI in a timely manner as required by s. 628.11, Wis. Stat.

    Action: Compliance

21. It is recommended that the company revise its standard agent termination letter, prior to or within 15 days of filing a notice of termination with the Office of the Commissioner of Insurance, the company send written notice to the individual agent that he or she is no longer to be listed as a representative of the company and that he or she may not act as its representative.

    Action: Noncompliance

Small Employer

22. It is recommended that the company develop and use two separate notices to satisfy the specific notice requirements provided in s. Ins 8.44, Wis. Adm. Code, and s. 635.11, Wis. Stat.

    Action: Compliance

23. It is recommended that the company secure a signed waiver for every eligible employee waiving coverage under a small employer policy as required by s. Ins 8.65 (2), Wis. Adm. Code.

    Action: Compliance

24. It is recommended that the company develop written procedures regarding small employer terminations to ensure that small employers that fail to meet the minimum participation requirements are given appropriate notice of termination and the opportunity to increase the number of eligible employees to the required number as required by s. Ins 8.54 (4) (a), Wis. Adm. Code.

    Action: Compliance

Underwriting and Rating

25. It is recommended that the company cease accepting new business from agents not licensed to do business in Wisconsin in accordance with s. Ins 6.57 (5), Wis. Adm. Code.

    Action: Compliance

26. It is recommended that the company maintain for all large employer groups documentation indicating that all eligible employees were offered coverage to document compliance with s. 632.746 (10) (a) 1., Wis. Stat.

    Action: Compliance

27. It is recommended that the company develop procedures for monitoring the HIRSP program to ensure that accurate information is provided to applicants and enrollees to ensure compliance with s. 632.785, Wis. Stat.

    Action: Compliance

Company Operations

28. It is recommended that the company develop a plan for identifying and addressing any management and supervisory issues that prevent it from complying with the Wisconsin insurance laws in order to ensure future compliance.

    Action: Noncompliance

IV. CURRENT EXAMINATION FINDINGS

Claims

The examiners reviewed the company's response to OCI's claims interrogatory, claims administration processes and procedures, administrative services agreements with Chirotech and Dell Services, procedure for paying interest on delayed claim payments, explanation of benefit (EOB) forms, and claim adjustment (ANSI) codes. The company had an administrative agreement with Dell Services that provided for the processing of all provider and facility claims, except chiropractic claims. The company stated that 95% of its claims were received electronically. Claims for chiropractic services were sent by chiropractors directly to ChiroTech.

The examiners reviewed the procedure documents used by the company to identify claims that would be reviewed for preexisting conditions. The company's hold for pre-ex-3 months procedure stated a hold was set up for a diagnosis requiring three months of continuous PPIC coverage for payment without investigating preexisting condition. The examiners found that the company's point of service (POS) member certificate indicated the preexisting exclusion period was six months. The company stated that the written procedure was inadvertently not updated when the certificate was changed to a six-month waiting period.

1. **Recommendation:** It is recommended that the company develop and implement a process to update all procedures when certificate language is changed.

The examiners reviewed a random sample of 25 denied chiropractic claims. The examiners found that 7 of the claims reviewed did not contain documentation that the denial of benefits was made based on the result of a review by an independent chiropractic consultant. The examiners did not find copies of letters to the patient and the treating chiropractor in the company records to document that an independent evaluation had been completed to ensure compliance with s. 632.875 (2), Wis. Stat. Section 632.875 (2), Wis. Stat., states that if, on the basis of an independent evaluation, an insurer restricts or terminates a patient's coverage for

the treatment of a condition or complaint by a chiropractor, it shall provide to the patient and to the treating chiropractor a written statement indicating the internal appeal process and a detailed explanation of the clinical rationale and the basis in the policy plan or contract or in applicable law for the insurer's restriction or termination of coverage and a list of records and documents reviewed.

2. **Recommendation:** It is recommended that the company maintain documentation that it provides a written statement to the patient and treating chiropractor when it restricts or terminates coverage for chiropractic treatment on the basis of the recommendation of an independent chiropractor as required by s. 632.87 (3), Wis. Stat.

Managed Care

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

The examiners' review of the company's plan administration activities included a review of its organization charts, board of directors meeting minutes, medical director position description, provider directories and provider agreements. The company's annual quality plan addresses the responsibilities of the medical director as required by s. 609.34, Wis. Stat.

The examiners' review of the company's quality assurance process included a review of its quality improvement program description, quality assurance plan and quality assurance program evaluations for 2010 and 2011. It included a review of the minutes from meetings of its quality and utilization management committee (QUM Committee) and the credentialing/peer review committee. The examiners found that the company's quality assurance standards met the requirements set forth in s. 609.32 (1), Wis. Stat.

The examiners' review of the company's credentialing and recredentialing activities included a review of the credentialing and recredentialing policies and procedures, provider

agreements and minutes from meetings of the credentialing/peer review committee. The credentialing committee minutes are viewed by the company's board of directors every quarter.

The company contractually delegated responsibility for credentialing and recredentialing of chiropractors to ChiroTech America. The company does not require credentialing and recredentialing of practitioners who practice exclusively within the inpatient setting (hospitals) and free-standing facilities (urgent care, surgery centers) and who provide care for members only as a result of members being directed to the inpatient setting.

The examiners' review of the company's activities regarding enrollee access included a review of its policies and procedures regarding access standards, access program evaluation and the 2010 and 2011 access to care and services annual report. The examiners found that the company's access standards were sufficient to document compliance with s. Ins 9.34 (2) (a) and (b), Wis. Adm. Code, which require that managed care plans ensure prompt and efficient access to plan providers.

The examiners' review of the company's activities regarding continuity of care included a review of its continuity of care policy and procedure, claim processing policies and procedures, and provider agreements. The examiners found that the company's procedures regarding continuity of care met the requirements of s. 609.24, Wis. Stat., which provides that, if the company represented that a provider was or would be a participating provider in marketing materials, it continue to provide coverage to enrollees for services of the provider for the time periods specified.

The examiners reviewed a random sample of 25 contracted provider agreements. No exceptions were noted.

The examiners requested copies of the certification of access standards, certification of managed care plan types, quality assurance plan, and the HEDIS/standardized data set that are required to be submitted to the commissioner on an annual basis. The company provided copies of the 2011 and 2012 quality assurance plan. The examiners found that the company

did not file a quality assurance plan for 2010. Section Ins 9.40 (2), Wis. Adm. Code, provides that an insurer with respect to a defined network plan shall submit to the commissioner a quality assurance plan that is consistent with the requirements of s. 609.32, Wis. Stat., by April 1 of each year.

3. **Recommendation:** It is recommended that the company ensure that it annually files its quality assurance plan as required by s. Ins 9.40 (2), Wis. Adm. Code.

The examiners reviewed the company's corporate and state compliance plans and interviewed the Compliance Officer. The examiners found that, although the company's compliance policy and procedure outlined the required auditing process, the company had not performed annual audits as written in their procedure. Section Ins 9.42 (3), Wis. Adm. Code, states the insurer's compliance plan shall include regular internal audits, including regular audits of any contractors or subcontractors who perform functions relating to compliance with ss. 609.22, 609.24, 609.30, 609.32, 609.34, 609.36 and 632.83, Wis. Stat.

4. **Recommendation:** It is recommended that the company develop and implement a regular audit schedule to ensure compliance with its state compliance plan and s. Ins 9.42 (3), Wis. Adm. Code.

Grievance

The examiners reviewed the company's response to the grievance interrogatory, grievance procedures, grievance committee meeting minutes, and annual grievance experience reports for 2010 and 2011.

The examiners reviewed a random sample of 50 grievance files. The examiners found that 7 of the grievance files included acknowledgment letters which stated that the grievance may take 60 days to resolve. An additional 5 grievance files contained a letter stating that the time for resolving the grievance would take longer than 30 days. None of the letters in the 12 files included a reason for extending the time over 30 days. Section Ins 18.03 (3) (6), Wis. Adm. Code, states an insurer may extend the time period for resolving a grievance over 30 days only if the insurer provides written notification that the insurer has not resolved the

grievance, when resolution of the grievance may be expected, and the reason additional time is needed. The company acknowledged that the letters did not include the reason for the extension.

5. **Recommendation:** It is again recommended that the company resolve all grievances within 30 days of receipt unless an extension letter is sent notifying the grievant that the time period for review will be extended an additional 30 days as required by s. Ins 18.03 (6) (b), Wis. Adm. Code.

The examiners found 4 grievance files in which the acknowledgment letter stated the grievance would be reviewed as an expedited grievance. The examiners found 1 file that included a letter from the member's physician requesting that the grievance be expedited. The grievances were not resolved within 72 hours of receipt as required by s. Ins 18.05, Wis. Adm. Code. The definition of an expedited grievance in s. Ins 18.01 (3) (c), Wis. Adm. Code, states that an expedited grievance is a grievance where any of the following applies: the duration of the standard resolution process will result in serious jeopardy to the life or health of the insured or the ability of the insured to regain maximum function, in the opinion of a physician with knowledge of the insured's medical condition, the insured is subject to severe pain that cannot be adequately managed without the care or treatment that is the subject of the grievance or a physician with knowledge of the insured's medical condition determines that the grievance shall be treated as an expedited grievance. The company indicated that the compliance staff would be retrained on how to process an expedited grievance request.

6. **Recommendation:** It is recommended that the company consider all grievances that meet any of the criteria listed in s. Ins 18.01 (3), Wis. Adm. Code, as an expedited grievance and resolve the grievance within 72 hours of receipt to ensure compliance with s. Ins 18.05, Wis. Adm. Code.

The examiners found 2 files in the grievance sample in which the grievance was date-stamped later than the date they were actually received. The company stated that grievances were date-stamped on the date of receipt in the appeals department and that the time period for resolving a grievance began on that date. The examiners found 3 files in which

the company's vendor ChiroTech received the grievances more than one month before forwarding to the company for resolution. The company stated that ChiroTech researched the grievance before forwarding to the company for resolution. The company indicated it would retrain the compliance staff on how to handle grievances in a timely manner to ensure compliance with s. Ins 18.03, Wis. Adm. Code.

7. **Recommendation:** It is recommended that the company date-stamp grievances on the date received by the company or its vendor to ensure that grievances are resolved within the time requirements in s. Ins 18.03 (6), Wis. Adm. Code.

8. **Recommendation:** It is recommended that the company include in its contract with ChiroTech a provision requiring the vendor to forward all grievances it receives to the company in a timely manner to ensure compliance with s. Ins 18.03, Wis. Adm. Code.

The examiners found 1 file in the grievance sample where the grievance resolution letter stated the claim was upheld because the service did not meet the company's clinical guidelines. The examiners found 1 file in which the grievance resolution letter stated that the company's denial was upheld because the procedure was considered experimental. Both letters stated that the grievances were not eligible for an independent review. A coverage denial determination eligible for an independent review includes an adverse determination, as defined by s. 632.835 (1) (a), Wis. Stat., and an experimental treatment determination, as defined by s. 632.835 (1) (b), Wis. Stat. Although the company stated that it considered both grievances to be benefit exclusion cases, the examiners did not find that the insurance policies involved included these specific exclusions.

9. **Recommendation:** It is recommended that the company modify its grievance and independent review procedure to ensure that each member is notified of the right to request and obtain an independent review of a coverage denial determination to document compliance with s. 632.835 (2), Wis. Stat.

10. **Recommendation:** It is recommended that the company provide to each member who filed a grievance during the exam review period regarding a coverage denial determination, and also received a grievance resolution letter that stated the member was not eligible for an independent review, a notice of the right to request and obtain an independent review within a

four-month period from the date of the notice to comply with s. 632.835 (2) (a), Wis. Stat.

The examiners found two grievance files in the sample that contained correspondence and other material that the company had received after the grievance had been resolved and the file closed. The correspondence indicated that the members continued to receive medical treatment and wished to grieve the company's denials of treatment dates that were not addressed in the initial grievance. The examiners found nothing in the files that indicated either that the files had been reopened or that new grievance files had been opened. The company stated that the correspondence was related to the initial grievance and that the new issues were addressed through phone conversations, e-mails and other correspondence.

11. **Recommendation:** It is recommended that the company develop and implement a procedure to review additional correspondence received from members after a grievance file is closed to ensure that new issues are resolved in compliance with s. Ins 18.03, Wis. Adm. Code.

The examiners compared the grievance sample files with the company's filed annual grievance report to make sure all grievances were listed in the report. The examiners found 2 of the grievance files were not included on the annual grievance report filed with OCI as required by s. Ins 18.06, Wis. Adm. Code. The company stated that the cases were in its data base and it could not explain why they were not included in the reports.

12. **Recommendation:** It is again recommended that the company review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 632.83 (2) (c), Wis. Stat., and s. Ins 18.03 (7), Wis. Adm. Code.

The examiners reviewed the company's quality of care complaint procedure. The examiners found that the company referred written quality of care grievances to its medical director for review and that this process did not include a method whereby the member had the right to appear before the grievance panel or a process to ensure that the grievance was resolved within 30 days of receipt as required by s. Ins 18.03, Wis. Adm. Code.

13. **Recommendation:** It is recommended that the company develop and implement a process for resolving quality of care grievances in compliance with s. Ins 18.03, Wis. Adm. Code.

The examiners reviewed the company's independent review procedure. The examiners found that the company followed the federal Department of Health and Human Services (HHS) administered process for requests subject to the federal external requirements. A review of the procedure showed that it did not include a process to handle independent review requests from grandfathered plans or Medicare select plans. The company responded that it followed a process consistent with Wisconsin independent review requirements for those products and that written procedures would be created.

14. **Recommendation:** It is recommended that the company develop and implement a procedure for handling independent review requests from members of grandfathered plans and Medicare select plans in compliance with s. 632.835, Wis. Stat., and s. Ins 18.11, Wis. Adm. Code.

The examiners reviewed the nine independent review organization grievances filed during the period of review. The examiners were unable to locate copies of the letter the company sent to OCI and the independent review organization selected by the insured or the insured's authorized representative within two business days of receipt to show compliance with s. Ins 18.11 (3) (a), Wis. Adm. Code. The examiners found that in five cases the letters sent with the complete files were not sent within two business days. The examiners found that the company did not send a separate notice to the IRO and OCI upon receipt of the request but sent a copy of the notice to OCI when it sent the file to the IRO. The company indicated it would update its policies.

15. **Recommendation:** It is recommended that the company modify its independent review procedures to ensure that it provides OCI and the independent review organization with notice of its receipt of a review request within two business days as required by s. Ins 18.11 (3) (a), Wis. Adm. Code.

The examiners interviewed the company's compliance officer regarding the company's grievance and independent review procedures. The compliance officer stated that

UW Behavioral Health (UWBH) administered the company's mental health and substance abuse disorder benefit and had the authority to deny claims or benefits on behalf of the company. The company did not provide documentation that its provider agreement with UWBH included a provision requiring UWBH to provide members with notice of grievance and independent review rights whenever it denied a claim or benefit as required by ss. Ins 18.03 (2) and 18.11 (2), Wis. Adm. Code.

The compliance officer stated that the company had never rescinded or reformed a policy. The company did not provide a copy of any internal procedures that explained the process for notifying the member of grievance and independent review rights when it rescinded or reformed a policy as required by ss. Ins 18.03 (2) and 18.11 (2), Wis. Adm. Code.

16. **Recommendation:** It is recommended that the company modify its provider agreement with UW Behavioral Health to include a provision requiring UWBH to provide notice of grievance and independent review rights whenever it denies a claim or benefit as required by ss. Ins 18.02 (2) and 18.11 (2), Wis. Adm. Code.

17. **Recommendation:** It is recommended that the company develop and implement a procedure to notify members of grievance and independent review rights when it rescinds or reforms a policy as required by ss. Ins 18.03 (2) and 18.11 (2), Wis. Adm. Code.

The examiners reviewed the company's *Commercial Appeal with Independent Review* informational sheet. The examiners found that the definition of a grievance in the material appeared to limit grievances to issues related to claims or benefits. The company responded that the definition is interpreted broadly. The company stated that it maintained a separate process for quality of care complaints. The company referred quality of care grievances to its medical director for review. The quality of care issues were tracked through the company grievance system to assure that the issue was handled timely. The examiners found that the informational sheet stated that the review must be requested within 180 days of the grievance resolution. The sheet also stated that the review must be requested within four months. The company indicated that its procedure had been updated to refer to the four-month

limit as required by s. 632.835 (2) (c), Wis. Stat. The examiners found that the notice of the right to contact OCI did not list the office's current address. The company stated it would modify this material to correct OCI's address.

The examiners reviewed the appeal process written in member certificates for 2010, 2011, and 2012. The examiners found that the notice of the right to contact OCI in each certificate did not list OCI's current address to show compliance with s. Ins 6.85, Wis. Adm. Code. The company acknowledged that OCI's address was not correct. The examiners found that the independent review process in the 2010 certificate stated that the minimum dollar amount was $296. The minimum dollar amount, as posted on OCI's Web site, for calendar year 2010 was $292. The company acknowledged that the amount stated in its 2010 certificate was incorrect and did not meet the requirements of s. Ins 18.105, Wis. Adm. Code. The examiners found that the independent review process in the 2011 certificate stated that the member had six months to request an independent review and also stated in a different section that the time period was limited to four months. The company stated that its materials had been updated to state that the member had four months to request an independent review as required by s. 632.835 (2), Wis. Stat. The examiners found that the grievance process in the company's 2012 certificate stated that the grievance must be submitted within 180 days of the adverse benefit notice or the other service. The company stated that it did not restrict the time for filing a grievance and the certificate language would be corrected.

18. **Recommendation:** It is recommended that the company modify the informational material that it provides to its members regarding the independent review process to consistently state that the independent review request must be submitted within four months from the date of the grievance resolution per s. 632.835 (2) (c), Wis. Stat.

19. **Recommendation:** It is recommended that the company modify the informational material that it provides to its members regarding the right to file a complaint to OCI to state its current address per s. Ins 6.85, Wis. Adm. Code

20. **Recommendation:** It is recommended that the company modify its policies and certificates to ensure that the minimum dollar amount required to request an independent review is correct and current per s. Ins 18.105, Wis. Adm. Code.

The examiners reviewed copies of the explanation of benefits (EOBs) used by the company. The notice of the right to request an independent review on the form appeared to be limited to adverse determinations and experimental treatment determinations. It did not include preexisting condition exclusions of a policy or certificate and the company did not send a separate notice for a preexisting determination. The examiners asked the company to explain how the language complied with s. 632.835 (2), Wis. Stat., which requires the notice be provided whenever an insurer makes a coverage denial determination. The company stated that the appeal rights for preexisting condition decisions are communicated on the EOB but did not provide documentation of this information.

21. **Recommendation:** It is recommended that the company modify its EOB forms to include preexisting condition limitation denial determination as required by s. 632.835 (2), Wis. Stat.

Marketing, Sales and Advertising

The examiners' reviewed the company's response to OCI's marketing, sales and advertising interrogatory, and advertising files. The examiners also interviewed the marketing and sales director.

The company began using social media sites such as Facebook, Twitter, and YouTube in late 2011. Posts were used to promote upcoming company events, inform and educate members, and convey health and wellness tips. Banner ads were used as active links to the product and the online quoting feature of the company Web site. The Physicians Plus YouTube channel was used to state the company position on local health care, provide a venue for members to record voluntary testimonials, and promote the MobileNurse triage application.

The examiners found that the company's Medicare Select Supplement flyer from 2010 (form P+5497-1003) and a Medicare Select Supplement flyer from 2012 (form P+5498-

1003) met the definition of an advertisement under s. Ins 3.27, Wis. Adm. Code. The company responded that staff did not view these materials as advertising therefore they were not filed. The company further stated that staff will be re-instructed on filing requirements for advertising materials.

22. **Recommendation:** It is again recommended that the company submit all Medicare supplement advertisements to OCI for approval prior to use as required by s. Ins 3.39 (15), Wis. Adm. Code.

The examiners selected a random sample of 19 advertisements for review. The company explained that advertising files were maintained electronically and provided the examiners with access, along with paper copies. The examiners found that few of the sample advertisements contained a policy form number, but not all did. The examiners found that the manner and extent was provided for some of the advertisements, but not all of them. The examiners were unable to complete a review of the advertising files as the number/code for the manner and extent was not located on the advertising piece making it difficult to determine what documents the company did have in its files. The examiners found that none of the files contained a copy of the policy advertised. The company responded that it agreed that the advertising files should be maintained consistent with s. Ins 3.27 (28), Wis. Adm. Code.

23. **Recommendation:** It is again recommended that the company develop an advertising file process and procedure that requires each advertisement contain a policy form number, that the manner and extent be filed with each advertisement, and that a copy of the policy be filed with each advertisement as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policy Forms and Rates

The examiners reviewed the company's response to OCI's policy forms and rates interrogatory and its policies, riders, applications, and outline of coverage that were used or in effect during the period of review. The company Compliance Officer was responsible for form and rate filings.

The examiners reviewed all of the forms filed during the period of review. Effective July 1, 2008, a change in s. 631.20, Wis. Stat., was made that allowed most policy forms to be

submitted to OCI on a file-and-use basis rather than prior-approval basis. Although the policy form filings were submitted to OCI with a certificate of compliance as required by s. Ins 6.05, Wis. Adm. Code, and the company certified pursuant to s. 631.20 (1m) (a) 3., Wis. Stat., that the forms were in compliance with all applicable provisions of the Wisconsin insurance laws and regulations, the examiners found the following exceptions:

P+6003-1201(Individual), P+6003-1201(Conversion), P+3872-1009 (Group Policy), P+6000-1201(HMO), P+6001-1201(POS), and P+6002-1201(PPO):

- The face page of the policy did not state the complete corporate name of the insurer required by s. 631.64, Wis. Stat.
- The notice of the right to file a complaint with OCI did not list OCI's current address required by s. Ins 6.85 (4), Wis. Adm. Code.
- Preexisting condition language was noncompliant with s. 632.746 (1), Wis. Stat., and the Affordable Care Act.
- The home health care mandate was incomplete per s. 631.895 (1) (b) and (2), Wis. Stat., and s. Ins 3.54, Wis. Adm. Code.
- Skilled nursing care language did not meet the requirements of s. 632.895 (3), Wis. Stat.
- The treatment for Autism Spectrum Disorders benefit maximums did not meet the requirements of s. 632.895 (12m) (c), Wis. Stat.
- The hearing aids, cochlear implants, and related treatment for infants and children benefit did not meet the requirements of s. 632.895 (16), Wis. Stat.
- The provision explaining contraceptives and services was missing as required by s. 632.895 (17), Wis. Stat.
- The maternity services benefit stated that the company will not cover "Clinic, Hospital or Facility charges or services after the 34th week of pregnancy" which did not meet the requirements of s. 632.85, Wis. Stat.
- Exclusion (N) under the inpatient care benefit regarding coverage for a re-admission after the member has left the hospital against medical advice was too restrictive per s. 631.20 (2) (a), Wis. Stat.
- The grievance process must meet the requirements of s. Ins 18.03 (3) (c), Wis. Adm. Code.

P+6003-1201(Individual), P+6000-1201(HMO), P+6001-1201(POS), and P+6002-1201(PPO):

- The notice of proof of loss did not include the one-year time frame as required by s. 631.81 (1), Wis. Stat.
- The face page of the certificate did not include the important notice regarding statements on the applications required by s. Ins 3.31 (3) (a), Wis. Adm. Code.

P+3872-1009(Group) and P+6003-1201(Individual):

- The prior authorization provision states that there will be no coverage if prior authorization was not obtained when required. An insurer may not

totally exclude coverage of mandated benefits solely because an administrative procedure has not been followed per s. 631.20, Wis. Stat.

P+6003-1201(Individual HMO):

- The free-look period was not displayed on the first page of the policy as required by ss. 631.32 and 632.73, Wis. Stat., and s. Ins 3.13 (2) (j) 2., Wis. Adm. Code.
- The reinstatement requirements were not provided as required by s. 632.74, Wis. Stat.
- The policy did not include a conversion provision for an insured whose coverage under the policy terminates due to divorce or annulment as required by s. 632.897, Wis. Stat.
- The policy did not include a provision explaining coverage of complications of pregnancy as required by s. Ins 6.55 (4) (b) 5., Wis. Adm. Code.
- The disenrollment provision which requires that coverage will continue until the policy anniversary date or for one year did not meet the requirements of s. Ins 9.39 (4), Wis. Adm. Code.

P+3872-1009(Group Policy):

- Exclusion "u" on page 32 excludes services for which there is non-group insurance providing medical payments or medical expense coverage which did not meet the requirements of s. 632.845, Wis. Stat., and s. 632.32 (4) (a), Wis. Stat.
- The certificate did not appear to include a benefit provision explaining coverage of certain nurse practitioner services required by s. 632.87 (5), Wis. Stat.
- The limitation for surgical services of TMJ/TMD on the summary of benefits, form P+4647-1009, did not comply with s. 632.895 (11), Wis. Stat.

P+6000-1201(HMO), P+6001-1201 (POS), and P+6002-1201 (PPO):

- The face page of the policy did not state the complete corporate name of the insurer required by s. 631.64, Wis. Stat.

P+3872-1009(Group), P+6000-1201(HMO), P+6001-1201(POS), and P+6002-1201(PPO):

- The independent review provision did not meet the requirements of s. Ins 18.105, Wis. Adm. Code. The company stated the certificates would be reviewed for compliance with current laws, updated and refiled.

The examiners found that the company filed Individual Policy (P+6003-1201) as an individual policy and the company conversion policy. The company stated it would correct the filings and create two separate forms. It also stated it would make corrections and refile all the forms as needed.

The examiners reviewed a list of all forms used by the company during the period of review. The examiners were unable to document that 11 forms had been filed with OCI. The company indicated that it had given the examiners the wrong reference numbers to look for the filings in the OCI systems for tracking filings. The examiners were unable to locate the filings with the new reference number provided by the company.

During the review of a random sample of 25 issued small employer group files the examiners found that the company used 3 different group employer applications for the period of review. The examiners were unable to document that forms P+5151-1003, P+5151-1109, and P+5151-1201 had been filed with OCI. The company stated it could find no record that the forms had been filed with OCI.

During the review of a random sample of 25 individual issued new business files and 25 declined individual files, the examiners found 7 forms (P+2943-1010, P+5705-1104, P+5705-1106, P+3985-0804, P+5632-1012, P+5852-1112, and P+2943-0908) which could not be documented to have been filed with OCI. The company stated it was unable to locate materials documenting the forms had been filed with OCI.

24. **Recommendation:** It is again recommended that the company submit to OCI and receive notice of approval of all policy forms prior to use as required by s. 631.20, Wis. Stat.

25. **Recommendation:** It is recommended that the company refile all forms used during the period of review that it has no records of filing within 90 days of adoption of the examination to ensure compliance with s. 631.20, Wis. Stat.

The examiners reviewed the Medicare Select policy forms used by the company during the period of review. The examiners determined that the following forms had not been filed with OCI: P+4999-0701 Welcome, P+3964-0110 Acceptance letter, P+4371-0911 2010 Medicare Select Outline of Coverage, P+4371-1111 2012 HMO Medicare Select Outline, P+4391 Medicare Select Brochure, P+4393 Medicare Select Summary of Benefits, P+4978-1201 Medicare Select Policy, and P+5876-1201 Medicare Select Application. Section Ins 3.39

(29) (a), Wis. Adm. Code, states that an issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner. Section 631.20 (1), Wis. Stat., provides that a Medicare replacement policy or a Medicare supplement policy form may not be used unless it has been filed with and approved by the commissioner. The company responded it had no record of the forms being filed prior to use.

26. **Recommendation:** It is recommended that the company file all Medicare supplement forms to ensure compliance with s. Ins 3.39 (29) (a), Wis. Adm. Code, and s. 631.20 (1)(c) 3., Wis. Stat.

Policyholder Service and Complaints

The examiners reviewed the company's response to OCI's policyholder service and complaints interrogatory and its complaint handling policies and procedures. The company had a detailed database for recording and tracking all complaints, grievances, and IROs. It indicated that all calls were documented under the member record and kept for seven years.

The company indicated that its Policyholder Service (PHS) department performed regular audits on call statistics and quality, including a daily call report, e-mail turnaround and quality reports, and accuracy of benefit information, identifying when to obtain a referral or authorization for a specific service and representative productivity statistics. The company used the AT&T language line for non-English speaking telephone calls. The company goal of answering e-mails was 95% within one day.

The examiners reviewed a random sample of 50 complaints. The examiners found that in 12 of the sample files the received date and/or closed dated that was provided by the company did not match the actual received and/or closed date in the file. The company responded that compliance staff would be retrained on the necessity of accurately recording information in the company's calendaring systems so the company can be assured of compliance with statutes and regulations.

The examiners found 7 sample files that were not complete as there was no documentation of the complaint received and/or documentation of the resolution. The company responded that copies of the remaining files had been provided for examiner review. The company response did not fully address the issue and no additional information was provided by the company to address the missing information in the complaint samples.

27. **Recommendation:** It is recommended that the company accurately document, report and maintain complete files for customer complaints in order to comply with s. Ins 18.01 (2), Wis. Adm. Code.

The examiners found that 16 of the sample files contained complaints submitted via e-mail or letter. Section Ins 18.01 (4), Wis. Adm. Code, states that ”grievance” means any dissatisfaction with 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 responded that procedures for documenting and responding to complaints would be reviewed and updated to assure compliance with all requirements.

28. **Recommendation:** It is again recommended that the company handle all written complaints that meet the definition of grievance as grievances as required by s. Ins 18.03, Wis. Adm. Code.

The examiners reviewed the 53 OCI complaint files for the period of review. The examiners were unable to verify in 12 files if the complainant was contacted within ten days of the company's receipt of the OCI complaint. The examiners found that in 27 files the contact had been made more than ten days after the company’s receipt of the OCI complaint. The cover letter from OCI requests that the company contact the complainant within ten days of receipt of the OCI complaint to try and resolve the complaint.

29. **Recommendation:** It is recommended that the company respond to the complainant within ten days of receiving the OCI complaint as instructed in the OCI cover letter.

30. **Recommendation:** It is recommended that the company provide requested information to OCI pursuant to s. 601.42, Wis. Stat.

The examiners found that the company requested an extension on 13 of the OCI complaints. In the OCI complaint cover letter, OCI requests that the company respond to the complainant within ten days of receipt of the complaint and OCI within 20 days of receipt of the complaint. The examiners asked the company to explain why it needed an extension on the files. The company responded that the OCI complaints were automatically assigned to the company grievance process when they were received. The complaints were put on the agenda for the next regularly scheduled grievance meeting. Grievance meetings were scheduled every three weeks, so the company would need an extension to allow for the grievance process to run its course. The company indicated that in the future its responses to grievants would specifically address the grievance committee scheduling.

31. **Recommendation:** It is recommended that if the company continues to automatically assign the OCI complaints to its grievance process, the frequency of the grievance meeting be updated in order for the company to comply with the OCI request that the company respond to OCI within 20 days of receipt of the complaint.

Producer Licensing

The examiners reviewed the company's response to the producer licensing interrogatory, including its agency agreements and its policies and procedures regarding producer licensing, terminations and training.

The examiners compared the company's appointed agents with OCI records. The examiners found 8 agents whose Wisconsin license number in the company data did not match the Wisconsin license number found in OCI records. The examiners found that 4 of the license numbers were entered incorrectly, 2 Wisconsin license numbers in the company records were actually the agents NPN number, 1 number did not match either the Wisconsin license number or the NPN number, and 1 agent was never appointed with the company. The company indicated it would review its appointment procedures to ensure compliance with all requirements.

The examiners found 36 agents whose names did not appear in the company records as being an appointed agent. OCI records showed the agents as being appointed with the company during the period of review. The company indicated that 4 agents had been continuously appointed during the review period and 2 had been active and then cancelled during the time period. The company acknowledged that the remaining agents did not appear in their records as being appointed with the company and would review their appointments to make sure its records were consistent with OCI records. Upon further review, the examiners found that 13 of the agents were listed in company records with the wrong license number.

The examiners found that OCI records indicated there were 66 agents shown as being appointed with the company that did not appear in the company records. The company stated that the agents were appointed prior to the use of current procedures and it would more carefully adhere to its current procedures going forward. Section 628.11, Wis. Stat., states an insurer shall report to the commissioner all appointments, including renewals of appointments and all terminations of appointments of agents.

32. **Recommendation:** It is recommended that the company develop, document and implement procedures to ensure that all producers appointed with OCI are recorded in the company system to show compliance with s. 628.11, Wis. Stat.

The examiners asked the company to describe its procedures for terminating an agent for cause. The company responded that they have only terminated one agent for cause and have since reinstated the agent. The examiners found that the company did notify OCI of the agent's termination but it did not notify OCI that the agent's termination was for cause. Section Ins 6.57 (2), Wis. Adm. Code, states notice of termination of appointment of an individual intermediary in accordance with s. 628.11, Wis. Stat., shall be filed prior to or within 30 calendar days of the termination date with the Office of the Commissioner of Insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company

and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity. The company did not provide documentation of compliance or a copy of the agent's file. The company responded that procedures will be amended.

33. **Recommendation:** It is again recommended that the company develop and implement written procedures for reporting certain information to the commissioner regarding terminated agents to ensure compliance with s. Ins 6.57 (2) (a), (b) and (c), Wis. Adm. Code.

The examiners reviewed a sample of 25 appointed and 25 terminated agents. The examiners found 2 agents with the wrong license number. The company stated that it verified agents listed against the billing notice by name and social security number.

34. **Recommendation:** It is recommended that the company develop written procedures to ensure that appointment information put in the company database is accurate.

The examiners reviewed a random sample of 25 terminated agents. Section Ins 6.57 (2), Wis. Adm. Code, requires the insurer to provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative within 15 days of filing a termination notice with OCI. This notice shall also include a formal demand for the return of all agency indicia. The examiners found 10 agent files did not contain any written notice to the agent.

35. **Recommendation:** It is again recommended that the company revise its standard agent termination letter to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Small Employer

The examiners reviewed the company's response to OCI's small employer interrogatory, including its underwriting requirements and disclosure notices. The company indicated it sold both individual and small group products. The company reported it did not

propose any rate increase of 10% or more. The company's medical loss ratio exceeds 80% for its individual and small group market and exceeds 85% for its large group market. Therefore, it did not owe rebates for 2011.

The examiners asked the company if it marketed to small employer groups through a trust or association and to explain how the company determined which individuals covered by the trust or association were subject to small employer regulations. The company provided a current list of active employer groups, the number of insured's and renewal exhibits for four association plans. The documents revealed that each association insured small employer groups as defined in ch. 635, Wis. Stat.

The Physicians Plus Insurance Corporation Underwriting Manual 2009 included a procedure that explained the criteria for a new group to join any of the company's association/chamber plans. The criteria indicated that the group asking to join must be considered a "standard group" based on its own merits.

The manual stated that if a small group was enrolling and it was not considered a "standard group" it could not join the association/chambers plan. The company would issue the group a quote for coverage as a stand-alone employer group.

The manual stated that the collective number of subscribers in the association/chamber plan determined how the plan would be rated. Associations of less than 50 total subscribers would be treated as a small group and associations with more than 51 total subscribers would be treated as a large group. Section 635.02 (7), Wis. Stat., defines a small employer as an employer that employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year. Section 635.02 (8), Wis. Stat., defines a small employer insurer as an insurer that offers group health benefit plans covering eligible employees of one or more small employers in this state. All small employer insurers must determine the rates charged to small employers pursuant to s. 635.05 (1), Wis. Stat., and s. 635.05 (2), Wis. Stat. Based on the company's internal underwriting guide for

associations, it appears the company may be determining whether small employer rating requirements apply to plans issued through an association and implementing small employer rating requirements based on the number of subscribers covered under the association rather than the composition of each employer group.

36. **Recommendation**: It is recommended that the company develop and implement a procedure that allows all small employer groups applying for coverage in an association/chamber plan the ability to join the association/chamber to ensure compliance with s. 635.19 (5) (a), Wis. Stat.

37. **Recommendation**: It is recommended that the company develop and implement a procedure that allows all small employer association plans to be rated pursuant to s. 635.05, Wis. Stat.

The examiners reviewed the company's Small Group Disclosure Form P+4359-0308. The examiners found that the form was missing the statement that if the employer employs less than 2 or more than 50 eligible employees during at least 50% of the number of weeks in any 12-month period, or moves the business outside this state, the protections provided under ch. 635, Wis. Stat., will cease to apply to the employer on renewal of the health benefit plan to show compliance with s. Ins 8.44 (2), Wis. Adm. Code.

38. **Recommendation:** It is recommended that the company revise its Small Group Disclosure Form to include the statement that if the employer employs less than 2 or more than 50 eligible employees during at least 50% of the number of weeks in any 12-month period, or moves the business outside this state, the protections provided under ch. 635, Wis. Stat., will cease to apply to the employer on the renewal of the health benefit plan to ensure compliance with s. Ins 8.44 (2), Wis. Adm. Code.

The examiners requested a random sample of 24 small group declined/withdrawn files to review. The company provided 8 of the requested files. The company indicated it was unable to locate the remaining 16 files. Section Ins 6.80 (4) (b), Wis. Adm. Code, states that domestic insurers shall retain records of insurance company operations and other financial records reasonably related to insurance operations for the preceding three years and the records be made available to the commissioner.

39. **Recommendation:** It is recommended that the company develop and implement a procedure to maintain records to ensure compliance with s. Ins. 6.80 (4) (b), Wis. Adm. Code.

Underwriting and Rating

The examiners reviewed the company's response to OCI's underwriting and rating interrogatory.

The examiners reviewed a random sample of 25 individual new business approved and 25 declined files. The Wisconsin uniform application (OCI 26-503) asks if coverage will replace other coverage. If yes, a notice was to be furnished to, and signed by the applicant. The examiners found 28 files that did not contain the notice. The company was asked to provide documentation showing compliance with s. Ins 3.29 (5) and (6), Wis. Adm. Code. The company stated that the underwriting and sales procedures would be amended to collect replacement notices as required.

40. **Recommendation:** It is recommended that the company develop and implement a process for handling replacement notices and to revise its underwriting and sales procedures to provide the replacement notice when required to show compliance with s. Ins 3.29 (5) and (6), Wis. Adm. Code.

The examiners requested that the company provide a copy of the annual report regarding multiple in force Medicare supplement insurance policies for the period of review. The company provided a copy of the report filed for 2011 but was unable to produce a copy of the report for 2010 to show compliance with s. Ins 3.39 (26), Wis. Adm. Code. OCI records indicated that the company did file the report for both years. Section Ins 6.80 (4) (b),Wis. Adm. Code, states that records of domestic insurance company operations and other financial records reasonably related to insurance operations shall be maintained and be available to the commissioner.

41. **Recommendation:** It is recommended that the company keep copies of annual filed reports to show compliance with s. Ins 6.80 (4) (b), Wis. Adm. Code.

The examiners requested that the company provide a description of its process for providing individuals access to their recorded personal medical information. The procedure followed by the company indicated that because the company did not treat the individual it did not have medical records nor did it allow amending. All individuals requesting information were referred to the providers of services.

The examiners reviewed the company form called The Notice of Physicians Plus Insurance Corporation Privacy and Confidentiality Practices, form P+3923-1111. It stated that the company did not keep medical records. The document indicated that the individual may inspect and copy protected health information (PHI) by contacting the company. It also stated that the individual had the right to amend their PHI for as long as the PHI was kept. The examiners asked the company to explain why the privacy notice differed with the process followed and to explain compliance with s. 610.70, Wis. Stat. The company stated it would review its internal procedures and the privacy statement to correct the inconsistency.

42. **Recommendation:** It is recommended that the company review its privacy notice and processes to ensure compliance with s. 610.70, Wis. Stat.

Company Operations

The examiners reviewed the company's response to OCI's company operations and management interrogatory and agendas and committee minutes for board of directors and executive committees.

The examiners reviewed the company's corporate and state compliance plans and interviewed the compliance officer. The corporate compliance plan indicated that the plan would be updated and maintained to address changes in state and federal laws and the evolving issues and needs of customers, members, shareholders, business partners, providers, and employees. However, based on the findings in this examination report, especially in reference to the grievance and IRO and the policy form areas of review, the examiners found

that the company did not consistently demonstrate oversight of functional areas or compliance with Wisconsin insurance law.

43. **Recommendation:** It is again recommended that the company develop and document a plan for identifying and addressing any management and supervisory issues that prevent it from complying with the Wisconsin insurance laws in order to ensure future compliance.

V. CONCLUSION

The prior examination report contained 43 market conduct recommendations in the areas of claims; company operations/management; grievances; marketing, sales, and advertising; producer licensing; provider agreements; and small employer marketing. The company was found to be out of compliance with a total of 9 recommendations from the prior examination report. In addition to the repeat recommendations, 34 new recommendations were written in the areas of company operations\management; claims; grievances; managed care; marketing, sales, and advertising; policy forms; policyholder service and complaints; producer licensing; small employer; and underwriting.

VI. SUMMARY OF RECOMMENDATIONS

Claims

Page 11 1. It is recommended that the company develop and implement a process to update all procedures when certificate language is changed.

Page 12 2. It is recommended that the company maintain documentation that it provides a written statement to the patient and treating chiropractor when it restricts or terminates coverage for chiropractic treatment on the basis of the recommendation of an independent chiropractor as required by s. 632.87 (3), Wis. Stat.

Managed Care

Page 14 3. It is recommended that the company ensure that it annually files its quality assurance plan as required by s. Ins 9.40 (2), Wis. Adm. Code.

Page 14 4. It is recommended that the company develop and implement a regular audit schedule to ensure compliance with its state compliance plan and s. Ins 9.42 (3), Wis. Adm. Code.

Grievance

Page 15 5. It is again recommended that the company resolve all grievances within 30 days of receipt unless an extension letter is sent notifying the grievant that the time period for review will be extended an additional 30 days as required by s. Ins 18.03 (6) (b), Wis. Adm. Code.

Page 15 6. It is recommended that the company consider all grievances that meet any of the criteria listed in s. Ins 18.01 (3), Wis. Adm. Code, as an expedited grievance and resolve the grievance within 72 hours of receipt to ensure compliance with s. Ins 18.05, Wis. Adm. Code.

Page 16 7. It is recommended that the company date-stamp grievances on the date received by the company or its vendor to ensure that grievances are resolved within the time requirements in s. Ins 18.03 (6), Wis. Adm. Code.

Page 16 8. It is recommended that the company include in its contract with ChiroTech a provision requiring the vendor to forward all grievances it receives to the company in a timely manner to ensure compliance with s. Ins 18.03, Wis. Adm. Code.

Page 16 9. It is recommended that the company modify its grievance and independent review procedure to ensure that each member is notified of the right to request and obtain an independent review of a coverage denial determination to document compliance with s. 632.835 (2), Wis. Stat.

Page 16 10. It is recommended that the company provide to each member who filed a grievance during the exam review period regarding a coverage denial determination, and also received a grievance resolution letter that stated the

member was not eligible for an independent review, a notice of the right to request and obtain an independent review within a four-month period from the date of the notice to comply with s. 632.835(2) (a), Wis. Stat.

Page 17 11. It is recommended that the company develop and implement a procedure to review additional correspondence received from members after a grievance file is closed to ensure that new issues are resolved in compliance with s. Ins 18.03, Wis. Adm. Code.

Page 17 12. It is again recommended that the company review its internal procedures for collecting and reporting to OCI annual grievance experience reports to ensure that the information is correctly reported to OCI as required by s. 632.83 (2) (c), Wis. Stat., and s. Ins 18.03 (7), Wis. Adm. Code.

Page 18 13. It is recommended that the company develop and implement a process for resolving quality of care grievances in compliance with s. Ins 18.03, Wis. Adm. Code.

Page 18 14. It is recommended that the company develop and implement a procedure for handling independent review requests from members of grandfathered plans and Medicare select plans in compliance with s. 632.835, Wis. Stat., and s. Ins 18.11, Wis. Adm. Code.

Page 18 15. It is recommended that the company modify its independent review procedures to ensure that it provides OCI and the independent review organization with notice of its receipt of a review request within two business days as required by s. Ins 18.11 (3) (a), Wis. Adm. Code.

Page 19 16. It is recommended that the company modify its provider agreement with UW Behavioral Health to include a provision requiring UWBH to provide notice of grievance and independent review rights whenever it denies a claim or benefit as required by ss. Ins 18.02 (2) and 18.11 (2), Wis. Adm. Code.

Page 19 17. It is recommended that the company develop and implement a procedure to notify members of grievance and independent review rights when it rescinds or reforms a policy as required by ss. Ins 18.03 (2) and 18.11 (2), Wis. Adm. Code.

Page 20 18. It is recommended that the company modify the informational material that it provides to its members regarding the independent review process to consistently state that the independent review request must be submitted within four months from the date of the grievance resolution per s. 632.835 (2) (c), Wis. Stat.

Page 20 19. It is recommended that the company modify the informational material that it provides to its members regarding the right to file a complaint to OCI to state its current address per s. Ins 6.85, Wis. Adm. Code.

Page 21 20. It is recommended that the company modify its policies and certificates to ensure that the minimum dollar amount required to request an independent review is correct and current per s. Ins 18.105, Wis. Adm. Code.

Page 21 21. It is recommended that the company modify its EOB forms to include preexisting condition limitation denial determination as required by s. 632.835 (2), Wis. Stat.

Marketing, Sales and Advertising

Page 22 22. It is again recommended that the company submit all Medicare supplement advertisements to OCI for approval prior to use as required by s. Ins 3.39 (15), Wis. Adm. Code.

Page 22 23. It is again recommended that the company develop an advertising file process and procedure that requires each advertisement contain a policy form number, that the manner and extent be filed with each advertisement, and that a copy of the policy be filed with each advertisement as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policy Forms and Rates

Page 25 24. It is again recommended that the company submit to OCI and receive notice of approval of all policy forms prior to use as required by s. 631.20, Wis. Stat.

Page 25 25. It is recommended that the company refile all forms used during the period of review that it has no records of filing within 90 days of adoption of the examination to ensure compliance with s. 631.20, Wis. Stat.

Page 26 26. It is recommended that the company file all Medicare supplement forms to ensure compliance with s. Ins 3.39 (29) (a), Wis. Adm. Code, and s. 631.20 (1)(c) 3., Wis. Stat.

Policyholder Service and Complaints

Page 27 27. It is recommended that the company accurately document, report and maintain complete files for customer complaints in order to comply with s. Ins 18.01 (2), Wis. Adm. Code.

Page 27 28. It is again recommended that the company handle all written complaints that meet the definition of grievance as grievances as required by s. Ins 18.03, Wis. Adm. Code.

Page 27 29. It is recommended that the company respond to the complaint within 10 days of receiving the OCI complaint as instructed in the OCI cover letter.

Page 27 30. It is recommended that the company provide requested information to OCI pursuant to s. 601.42, Wis. Stat.

Page 28 31. It is recommended that if the company continues to automatically assign OCI complaints to their grievance process, the frequency of the grievance meeting be updated in order for the company to comply with the OCI request that the company respond to OCI within 20 days of receipt of the complaint.

Producer Licensing

Page 29 32. It is recommended that the company develop, document and implement procedures to ensure that all producers appointed with OCI are recorded in the company system to show compliance with s. 628.11, Wis. Stat.

Page 30 33. It is again recommended that the company develop and implement written procedures for reporting certain information to the commissioner regarding terminated agents to ensure compliance with s. Ins 6.57 (2) (a), (b) and (c), Wis. Adm. Code.

Page 30 34. It is recommended that the company develop written procedures to ensure that appointment information put in the company database is accurate.

Page 30 35 It is again recommended that the company revise its standard agent termination letter to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Small Employer

Page 32 36. It is recommended that the company develop and implement a procedure that allows all small employer groups applying for coverage in an association/chamber plan the ability to join the association/chamber to ensure compliance with s. 635.19 (5) (a), Wis. Stat.

Page 32 37. It is recommended that the company develop and implement a procedure that allows all small employer association plans to be rated pursuant to s. 635.05, Wis. Stat.

Page 32 38. It is recommended that the company revise its Small Group Disclosure Form to include the statement that if the employer employs less than 2 or more than 50 eligible employees during at least 50% of the number of weeks in any 12-month period, or moves the business outside this state, the protections provided under ch. 635, Wis. Stat. will cease to apply to the employer on the renewal of the health benefit plan to ensure compliance with s. Ins 8.44 (2), Wis. Adm. Code.

Page 33 39. It is recommended that the company develop and implement a procedure to maintain records to ensure compliance with s. Ins 6.80 (4) (b), Wis. Adm. Code.

Underwriting and Rating

Page 33 40. It is recommended that the company develop and implement a process for handling replacement notices and to revise its underwriting and sales procedures to provide the replacement notice when required to show compliance with s. Ins 3.29 (5) and (6), Wis. Adm. Code.

Page 33 41. It is recommended that the company keep copies of annual file reports to show compliance with s. 6.80 (4) (b), Wis. Adm. Code.

Page 34 42. It is recommended that the company review its privacy notice and processes to ensure compliance with s. 610.70, Wis. Stat.

Company Operations

Page 35 43. It is again recommended that the company develop and document a plan for identifying and addressing any management and supervisory issues that prevent it from complying with the Wisconsin insurance laws in order to ensure future compliance.

VII. ACKNOWLEDGMENT

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.

Name	Title
Lisa Brandt	Insurance Examiner
Mary Kay Rodriguez	Insurance Examiner
Darcy Paskey	Insurance Examiner
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Respectfully submitted,

Linda Low
Examiner-in-Charge