

# Final Report

QUALITY ASSURANCE EXAMINATION

## UCare Minnesota

For the Period: July 1, 2013 to November 30, 2015

Examiners: Elaine Johnson, RN, BS, CPHQ and Kate Eckroth, MPH

Final Issue Date: Revised August 15<sup>th</sup>, 2016

## **Quality Assurance Examination**

Minnesota Department of Health,  
Managed Care Systems Section  
P.O. Box 64882, St. Paul, MN 55164-0882  
(651) 201-5100  
<http://www.health.state.mn.us/hmo/>

As requested by Minnesota Statute 3.197: This report cost approximately \$125.00 to prepare, including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.

## Minnesota Department of Health Executive Summary

The Minnesota Department of Health (MDH) conducted a Quality Assurance Examination of UCare to determine whether it is operating in accordance with Minnesota law. Our mission is to protect, maintain and improve the health of all Minnesotans. MDH has found that UCare is compliant with Minnesota and federal law, except in the areas outlined in the “Deficiencies” and Mandatory Improvements” sections of this report. “Deficiencies” are violations of law. “Mandatory Improvements” are required corrections that must be made to non-compliant policies, documents or procedures where evidence of actual compliance is found or where the file sample did not include any instances of the specific issue of concern. The “Recommendations” listed are areas where, although compliant with law, MDH identified improvement opportunities.

### **To address recommendations, UCare (and its delegates, if applicable) should:**

Consider having the Board minutes demonstrate review, discussion and feedback on the part of the Board regarding UCare’s quality program and activities;

Enhance tracking and trending of complaints by:

- Presenting at least a quarterly summary report to the QIACC of all enrollee complaints by category in addition to the quality of care complaints to demonstrate tracking, trending and implementation of improvement initiatives when appropriate for all complaints;
- Specifically address each issue cited in the quality of care complaint so that it is clear that they were all investigated;
- Document on those complaints where the complainant wishes to remain anonymous that the issue will be tracked and trended;

Ensure, in the utilization management (UM) and appeal process, enrollees have knowledge of their additional right to complain to the Commissioner of Health at any time through inclusion of this right in the UM denial and appeal notifications.

### **To address mandatory improvements, UCare must:**

Align processes, policies, procedures, and appeal rights’ notifications to be consistent with the requirements of 62Q. 70 in relation to non-clinical appeals for commercial individual plans including the exclusion of extensions and clarifying the language regarding the right to external appeal consistent with the language as stated in UCare’s most recent COC.

Make the following revisions to its policies regarding expedited appeals:

- In the policy and procedure *Exchange Member Appeals* (policy CAG016 and procedure CAG-1601), delete the provision allowing an extension on expedited appeals;
- In the procedure *Exchange Member Appeals* (CAG-1601), clearly specify that the enrollee has the right to appeal an expedited determination not to certify over the telephone on an expedited basis.

**To address deficiencies, UCare and its delegates must:**

Exhibit adequate oversight of its delegate Express Scripts (ESI) in the delegated functions of pharmacy credentialing and utilization management;

Include a detailed description of the actual performance improvement and quality improvement projects in the annual quality work plan to be in alignment with the requirements of Minnesota Rule and DHS contractual obligations;

Include in the determination notification to the complainant for complaint and non-clinical appeals the right to complain to MDH at any time and this right must be added to the appropriate policies/procedures;

Notify the attending healthcare professional of the final decision for all prior authorization services;

Ensure the correct appeal rights are given to the enrollees;

Ensure a physician review all pharmaceutical utilization denials.

This report including these deficiencies, mandatory improvements and recommendations is approved and adopted by the Minnesota Commissioner of Health pursuant to authority in Minnesota Statutes, chapter 62D.

---

Gilbert Acevedo, Assistant Commissioner  
Health Regulation Division

---

Date

# Contents

|  |    |
|--|----|
| 1. Introduction.....   | 1  |
| A. History:.....   | 1  |
| B. Membership:.....  | 1  |
| 2. Quality Program Administration.....   | 2  |
| Minnesota Rules, Part 4685.1110. Program.....                                      | 2  |
| Minnesota Rules, Part 4685.1120. Quality Evaluation Steps.....                     | 6  |
| Minnesota Rules, Part 4685.1125. Focus Study Steps.....                            | 6  |
| Minnesota Rules, Part 4685.1130. Filed Written Plan and Work Plan.....             | 6  |
| 3. Complaints and Grievance Systems.....   | 7  |
| Complaint System.....  | 7  |
| Minnesota Statutes, Section 62Q.69. Complaint Resolution.....                      | 7  |
| Minnesota Statutes, Section 62Q.70. Appeal of the Complaint Decision.....          | 7  |
| Minnesota Statutes, Section 62Q.71. Notice to Enrollees.....                       | 8  |
| Minnesota Statutes, Section 62Q.73. External Review of Adverse Determinations..... | 8  |
| Grievance System.....  | 9  |
| Section 8.1.....   | 9  |
| Section 8.2.....   | 9  |
| Section 8.3.....   | 11 |
| Section 8.4.....   | 11 |
| Section 8.5.....   | 12 |
| Section 8.9.....   | 12 |
| 4. Access and Availability.....  | 14 |
| Minnesota Statutes, Section 62D.124. Geographic Accessibility.....                 | 14 |

PUBLIC FINAL REPORT

Minnesota Rules, Part 4685.1010. Availability and Accessibility ..... 14

Minnesota Statutes, Section 62Q.55. Emergency Services ..... 14

Minnesota Statutes, Section 62Q.121. Licensure of Medical Directors..... 14

Minnesota Statutes, Section 62Q.527. Coverage of Non-formulary Drugs for Mental Illness and Emotional Disturbance ..... 14

Minnesota Statutes, Section 62Q.535. Coverage for Court-Ordered Mental Health Services ..... 14

Minnesota Statutes, Section 62Q.56. Continuity of Care..... 14

5. Utilization Review ..... 15

Minnesota Statutes, Section 62M.04. Standards for Utilization Review Performance ..... 15

Minnesota Statutes, Section 62M.05. Procedures for Review Determination ..... 15

Minnesota Statutes, Section 62M.06. Appeals of Determinations not to Certify ..... 16

Minnesota Statutes, Section 62M.08. Confidentiality..... 17

Minnesota Statutes, Section 62M.09. Staff and Program Qualifications..... 17

Minnesota Statutes, Section 62M.11. Complaints to Commerce or Health ..... 17

6. Recommendations ..... 19

7. Mandatory Improvements ..... 19

8. Deficiencies ..... 19

## 1. Introduction

- A. History: In 1984, the Department of Family Medicine and Community Health at the University of Minnesota Medical School (DFMCH) created UCare Minnesota as a demonstration project for Medical Assistance recipients in Hennepin County. By creating a health plan, the DFMCH allowed its low-income patients to continue seeing their doctor at the family practice group, known as University Affiliated Family Physicians. UCare became an independent, nonprofit HMO in 1989. In 2014, commercial health plans became available on MNsure. Membership reached a peak of more than 510,000 in 2015 and included people from diverse communities and more children enrolled in Minnesota Health Care Programs than any other health plan in the state. In 2016, UCare continues to serve Minnesotans of all ages with nine products. They offer a Medicare Advantage plan statewide and a new Medicare Advantage PPO with Essentia Health in north-central Minnesota.
- B. Membership: UCare self-reported enrollment as of December 31, 2015 consisted of the following:

| <b>Product</b>  | <b>Enrollment</b> |
|---|-------------------|
| <b><i>Fully Insured Commercial</i></b>                              |                   |
| Large Group   | 0                 |
| Small Employer Group  | 0                 |
| Individual  | 10,153            |
| <b><i>Minnesota Health Care Programs-Managed Care (MHCP-MC)</i></b> |                   |
| Families & Children   | 304,985           |
| MinnesotaCare   | 53,852            |
| Minnesota Senior Care (MSC+)  | 3,735             |
| Minnesota Senior Health Options (MSHO)                              | 10,699            |
| Special Needs Basic Care (SNBC)                                     | 21,973            |
| <b>Total</b>  | <b>405,397</b>    |

C. Onsite Examinations Dates: March 14-18, 2016

D. Examination Period: July 1, 2013 to November 30, 2015  
 File Review Period: December 1, 2014 to November 30, 2015  
 Opening Date: December 23, 2015.

E. National Committee for Quality Assurance (NCQA): UCare is accredited for its Medicare and Marketplace products by NCQA based on 2013 standards. The Minnesota Department of Health (MDH) evaluated and used results of the NCQA review in one of three ways:

- a. If NCQA standards do not exist or are not as stringent as Minnesota law, the accreditation results will not be used in the MDH examination process [No NCQA checkbox].
- b. If the NCQA standard was the same or more stringent than Minnesota law and the health plan was accredited with 100% of the possible points, the NCQA results were accepted as meeting Minnesota requirements [NCQA ] unless evidence existed indicating further investigation was warranted [NCQA ].
- c. If the NCQA standard was the same or more stringent than Minnesota law, but the review resulted in less than 100% of the possible points on NCQA’s score sheet or as an identified opportunity for improvement, MDH conducted its own examination.

F. Sampling Methodology: Due to the small sample sizes and the methodology used for sample selection for the quality assurance examination, the results cannot be extrapolated as an overall deficiency rate for the health plan.

G. Performance standard: For each instance of non-compliance with applicable law or rule identified during the quality assurance examination, that covers a three-year audit period, the health plan is cited with a deficiency. A deficiency will not be based solely on one outlier file if MDH had sufficient evidence obtained through: 1) file review; 2) policies and procedures; and 3) interviews, that a plan’s overall operation is compliant with an applicable law.

## 2. Quality Program Administration

### Minnesota Rules, Part 4685.1110. Program

|          |                                      |   |   |  |
|----------|--------------------------------------|---|---|--|
| Subp. 1  | Written Quality Assurance Plan       | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |  |
| Subp. 2  | Documentation of Responsibility      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 3  | Appointed Entity                     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 4  | Physician Participation              | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 5  | Staff Resources                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 6  | Delegated Activities                 | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met | <input type="checkbox"/> NCQA            |
| Subp. 7  | Information System                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 8  | Program Evaluation                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subp. 9  | Complaints                           | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |  |
| Subp. 10 | Utilization Review                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |  |
| Subp. 11 | Provider Selection and Credentialing | <input type="checkbox"/> Met            | <input type="checkbox"/> Not Met            | <input checked="" type="checkbox"/> NCQA |
| Subp. 12 | Qualifications                       | <input type="checkbox"/> Met            | <input type="checkbox"/> Not Met            | <input checked="" type="checkbox"/> NCQA |
| Subp. 13 | Medical Records                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |  |



Subp. 3. Minnesota Rules, part 4685.1110, subpart 3., states the quality assurance entity, the Quality Improvement Advisory and Credentialing Committee (QIACC), will report to the governing body at least quarterly. The QIACC minutes go to the UCare Board of Directors for review, which meets the requirement for quarterly quality reporting. However, the Board minutes do not reflect review and discussion with the Board or feedback from the Board on the numerous quality improvement activities taking place at UCare. UCare may want to consider having the Board minutes demonstrate review, discussion and feedback on the part of the Board regarding UCare’s quality program and activities.

**(Recommendation #1)**

Subp. 6. Minnesota Rules, part 4685.1110, subpart 6., states the HMO must develop and implement review and reporting requirements to assure that the delegated entity performs all delegated activities. The standards established by the National Committee for Quality Assurance (NCQA) for delegation are considered the community standard and, as such, were used for the purposes of this examination. The following delegated entities and functions were reviewed:

| Delegated Entities and Functions |            |            |    |                           |      |        |         |            |                 |
|----------------------------------|------------|------------|----|---------------------------|------|--------|---------|------------|-----------------|
| Entity                           | UM         | UM Appeals | QM | Complaints/<br>Grievances | Cred | Claims | Network | Care Coord | Case Management |
| Express Scripts (ESI)            | X          |            |    |                           | X    | X      | X       |            |                 |
| Beacon Health                    | X          |            | X  |                           |      | X      |         |            | X               |
| ChiroCare                        | X          |            |    |                           | X    | X      | X       |            |                 |
| Delta Dental                     | X          | X          | X  | X                         | X    | X      | X       |            |                 |
| Fairview Partners                | X - SNF    |            |    |                           |      |        |         | X          |                 |
| Magellan Health Care             | X-PT/OT/ST |            |    |                           |      |        |         |            |                 |
| Wadena County                    |            |            |    |                           |      |        |         | X          |                 |
| Marshall County                  |            |            |    |                           |      |        |         | X          |                 |
| Mayo Health Solutions            | X          |            |    |                           |      |        | X       |            |                 |

Subp. 6. Minnesota Rules, part 4685.1110, subpart 6. MDH reviewed the above UCare delegates to ensure adequate oversight of the delegated activities. Beacon Health and Delta Dental were new delegates (since the last QA Exam) for which a very thorough pre-delegation assessment was done. Evidence submitted for review indicated adequate oversight by UCare of the delegated functions of the delegates with the following exceptions:

- The ESI delegation contract states ESI, in its pharmacy credentialing practices, will require pharmacies to meet or exceed minimum standards as established by the state in which the participating pharmacy is located. In its oversight, UCare reviews ESI’s credentialing policies,

however no evidence was submitted demonstrating how it ensures ESI is following those credentialing policies.

- In UCare’s oversight of ESI’s utilization management functions, UCare did not detect ongoing errors in ESI’s processes relating to §62M.05, subd. 3a(c) and §62M.09, subd. 3(a).

**(Deficiency #1) [See Deficiencies #4 and #6].**

Subd. 9. Minnesota Rules, part 4685.1110, subpart 9., states the quality program must conduct ongoing evaluation of enrollee complaints related to quality of care. A total of 17 quality of care complaint and grievance files were reviewed as follows:

| Quality of Care File Review           |            |
|---------------------------------------|------------|
| File Source                           | # Reviewed |
| <b>Complaints—Commercial Products</b> |            |
|                                       | 4          |
| <b>Grievances—MHCP-MC Products</b>    |            |
| UCare                                 | 5          |
| Delta Dental                          | 8          |
| <b>Total</b>                          | <b>17</b>  |

Subp. 9 Minnesota Rules, part 4685.1110, subpart 9., states the HMO must conduct ongoing evaluation of all complaints, which includes tracking, assessing trends, and implementing improvement initiatives on identified problems. UCare regularly reports quality of care complaints to the designated quality assurance entity, the Quality Improvement Advisory and Credentialing Committee (QIACC). UCare gives a very thorough summary of all enrollee complaints annually to the QIACC. MDH recommends UCare should give at least a quarterly summary report to the QIACC of all enrollee complaints by category in addition to the quality of care complaints to demonstrate tracking, trending and implementation of improvement initiatives when appropriate for all complaints. **(Recommendation #2)**

During review of complaint and quality of care complaint files the documentation indicated that the quality of care complaints were being investigated. To better allow for tracking and trending MDH noted:

In one complaint file the enrollee had a quality of care complaint but wanted to remain anonymous which prohibited the ability to do an investigation. According to UCare staff these complaints should be included in its tracking and trending. There was no notation in the file that the complaint was forwarded for tracking and trending.

In three of the quality of care complaint files there were multiple issues were cited by the enrollee. It was difficult for MDH to discern if each issue was being addressed during UCare’s investigation of the quality of care complaint, and what specific supporting evidence was used in making the decision for each specific issue cited by the complainant.

MDH suggests that UCare specifically address each issue cited in the quality of care complaint so that it is clear that they were all investigated. In addition, UCare may want to document tracking and

trending on those complaints where the complainant wishes to remain anonymous. (**Recommendation #2**)

**Minnesota Rules, Part 4685.1120. Quality Evaluation Steps**

|         |                                 |   |                                  |                               |
|---------|---------------------------------|---|----------------------------------|-------------------------------|
| Subp. 1 | Problem Identification          | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 2 | Problem Selection               | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 3 | Corrective Action               | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 4 | Evaluation of Corrective Action | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |

UCare's *Quality Program Evaluation (2014)* was an excellent summary of its quality activities, programs, and monitoring as well as an evaluation of the effectiveness of its entire quality program, outlining accomplishments and areas of focus for the next year.

**Minnesota Rules, Part 4685.1125. Focus Study Steps**

|         |                                    |   |                                  |                               |
|---------|------------------------------------|---|----------------------------------|-------------------------------|
| Subp. 1 | Focused Studies                    | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 2 | Topic Identification and Selection | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 3 | Study                              | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 4 | Corrective Action                  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 5 | Other Studies                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |

**Minnesota Rules, Part 4685.1130. Filed Written Plan and Work Plan**

|         |                            |   |   |                               |
|---------|----------------------------|---|---|-------------------------------|
| Subp. 1 | Written Plan               | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| Subp. 2 | Annual Work Plan           | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subp. 3 | Amendments to Written Plan | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |

Subp. 2 Minnesota Rules, part 4685.1130, subpart 2., states the annual work plan must give a detailed description of the proposed quality evaluation activities and outlines the requirements of what should be included for focus studies, which include topic to be studied, study methodology, and criteria for evaluation. In addition, in the Department of Human Services (DHS) contract, Article 7.1.7, it is stated the MCO shall provide "an annual written work plan that details the MCO's proposed quality assurance and performance improvement projects for the year". In UCare's 2015 annual work plan the majority of the proposed activities contained sufficient information about the activities that reflected the planned activity, objectives and expected work for the year. However, in the description of its performance improvement projects (PIPs) and quality improvement projects (QIP) the information provided does not meet the requirements as outlined in Minnesota Rule. For example, the work plan lists for activity (topic) as *Performance Improvement Projects (PIP)*; for yearly objective, *conduct focus studies directed at problems, potential problems, or areas with potential for improvement in care*; for planned activities, *select topic and document the study methodology and outcomes*. This information is generic and does not adequately address the requirements as outlined. UCare must include in its written annual work plan a detailed description of the proposed PIPs and QIPs which incorporates the requirements contained in Minnesota Rule and the contract with DHS. **(Deficiency #2)**

### 3. Complaints and Grievance Systems

#### Complaint System

MDH examined UCare’s fully-insured commercial complaint system under Minnesota Statutes, chapter 62Q.

MDH reviewed a total of 60 Complaint System files.

| Complaint System File Review          |           |
|---------------------------------------|-----------|
| Complaint Files (Oral and Written)    | 30        |
| Non-Clinical Appeal                   | 30        |
| <b>Total Number of Files Reviewed</b> | <b>60</b> |

#### **Minnesota Statutes, Section 62Q.69. Complaint Resolution**

|  |   |   |
|--|---|---|
| Subp. 1. Establishment                       | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Subp. 2. Procedures for Filing a Complaint   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Subd. 3. Notification of Complaint Decisions | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |

Subp. 2 Minnesota Statutes, 62Q.69, subdivision 2., contains procedures for filing a complaint that include resolving oral complaints within ten days, offering a written complaint and assistance if complainant is not satisfied. File review of complaints revealed one file in which the complainant was not notified of the resolution within ten days; one file in which there was no documentation of the offer of a written complaint and assistance; one file that contained no documentation that complainant was notified of the decision; and two files with minimal documentation of the offer of written complaint and assistance. UCare, through its internal compliance processes recognized this as an issue prior to opening the exam and instituted a corrective action plan. Subsequent internal audits indicated an improvement. MDH commends UCare for its quality improvement compliance efforts in the area of complaints and will follow up at mid-cycle to assure sustained improvement.

Subd. 3. Minnesota Statutes, section 62Q.69, subdivision 3(d)., states the notification must inform the complainant of the right to submit the complaint at any time to the commissioner of health for investigation and the toll-free telephone number of the appropriate commissioner. UCare policies provided for review do not contain this right nor does the appeal rights notice. The appeal rights notice utilized by UCare in all its commercial complaint and appeal files states *“If you not satisfied with UCare’s decision, you may request an external review through the State of Minnesota.”* The files must contain a notice that includes informing the enrollee of right to complain to MDH at any time and this right must be added to the appropriate policies/procedures. **(Deficiency #3) [Also applies to Minnesota Statutes, section 62Q.71]**

#### **Minnesota Statutes, Section 62Q.70. Appeal of the Complaint Decision**

|   |   |   |
|---|---|---|
| Subp. 1. Establishment                    | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Subp. 2. Procedures for Filing an Appeal  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Subd. 3. Notification of Appeal Decisions | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |

Subd. 3. Minnesota Statutes 62Q.70, subdivision 3., states the health plan must give the complainant written notice of the appeal decision within 30 days of receipt and distinguishes the requirements between group and individual plans. UCare must align processes, policies, procedures, and appeal rights' notifications to be consistent with the requirements of 62Q. 70 in relation to non-clinical appeals for commercial individual plans including the exclusion of extensions and clarifying the language regarding the right to external appeal consistent with the language as stated in UCare's most recent COC. **(Mandatory Improvement #1)**

**Minnesota Statutes, Section 62Q.71. Notice to Enrollees**

Met  Not Met

**[See 62Q.69, subdivision 3. Deficiency #3]**

**Minnesota Statutes, Section 62Q.73. External Review of Adverse Determinations**

Subd. 3. Right to External Review

Met  Not Met

**Grievance System**

MDH examined UCare’s Minnesota Health Care Programs Managed Care Programs-Managed Care (MCHP-MC) grievance system for compliance with the federal law (42 CFR 438, subpart E) and the DHS 2016 Model Contract, Article 8.

MDH reviewed a total of 35 grievance system files:

| <b>Grievance System File Review</b> |                   |
|-------------------------------------|-------------------|
| <b>File Source</b>                  | <b># Reviewed</b> |
| Grievances                          |                   |
| UCare                               | 8                 |
| Delta Dental                        | 5                 |
| Non-Clinical Appeals                |                   |
| UCare                               | 8                 |
| Delta Dental                        | 5                 |
| State Fair Hearing                  |                   |
| UCare                               | 8                 |
| Delta Dental                        | 1                 |
| <b>Total</b>                        | <b>35</b>         |

|                     |                     |   |   |                                  |
|---------------------|---------------------|---|---|----------------------------------|
| <b>Section 8.1.</b> | <b>§438.402</b>     | <b>General Requirements</b>                         |   |                                  |
| Sec. 8.1.1          |                     | Components of Grievance System                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| <b>Section 8.2.</b> | <b>438.408</b>      | <b>Internal Grievance Process Requirements</b>      |   |                                  |
| Sec. 8.2.1.         | §438.402 (b)        | Filing Requirements                                 | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.2.2.         | §438.408 (b)(1)     | Timeframe for Resolution of Grievances              | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.2.3.         | §438.408 (c)        | Timeframe for Extension of Resolution of Grievances | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.2.4.         | §438.406            | Handling of Grievances                              |   |                                  |
| (A)                 | §438.406 (a)(2)     | Written Acknowledgement                             | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (B)                 | §438.416            | Log of Grievances                                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (C)                 | §438.402 (b)(3)     | Oral or Written Grievances                          | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (D)                 | §438.406 (a)(1)     | Reasonable Assistance                               | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (E)                 | §438.406 (a)(3)(i)  | Individual Making Decision                          | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (F)                 | §438.406 (a)(3)(ii) | Appropriate Clinical Expertise                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.2.5          | §438.408 (d)(1)     | Notice of Disposition of a Grievance                |   |                                  |
| (A)                 | §438.408 (d)(1)     | Oral Grievances                                     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (B)                 | §438.408 (d)(1)     | Written Grievances                                  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

42 CFR, 438.408(d)(1) (DHS Contract 8.2.5(A)), states that when oral grievance is wholly or partially adverse to the enrollee then the MCO must inform the enrollee that the grievance may be submitted

in writing and the MCO must offer assistance in helping the enrollee write the letter. The MCO must also inform the enrollee of options for further assistance through the Managed Care Ombudsman and MDH review. During MDH file review, there were six oral grievances in which five files had limited notations from the Customer Services Representative (CSR) regarding what enrollee rights were offered during the oral notice disposition. Prior to opening the exam, UCare identified this as an issue and implemented a corrective action plan and training for CSR. UCare will continue to monitor for progress during the internal audits. MDH commends UCare for identifying and responding to the issue.

42 CFR, 438.408(d)(1) (DHS Contract 8.2.5(B)), requires that when the grievance is filed in writing, the written notice of resolution must include options for further review through the Managed Care Ombudsman and MDH. In one Delta Dental file that MDH reviewed the resolution was adverse to the enrollee, but the notification letter did not contain options for further review.



|                     |  |   |   |   |
|---------------------|--|---|---|---|
| <b>Section 8.3.</b> | <b>§438.404</b>  | <b>DTR Notice of Action to Enrollees</b>  |   |   |
| Sec. 8.3.1.         |  | General Requirements                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Sec. 8.3.1.         |  | General Requirements                      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Sec. 8.3.2.         | §438.404 (c)   | Timing of DTR Notice                      |   |   |
| (A)                 | §438.210 (c)   | Previously Authorized Services            | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (B)                 | §438.404 (c)(2)  | Denials of Payment                        | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (C)                 | §438.210 (c)   | Standard Authorizations                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (1)                 | As expeditiously as the enrollee’s health condition requires.  |   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (2)                 | To the attending health care professional and hospital by telephone or fax within one working day after making the determination   |   | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |
| (3)                 | To the provider, enrollee and hospital, in writing, and must include the process to initiate an appeal, within ten(10) business days following receipt of the request for the service, unless the MCO receives an extension of the resolution period |   | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |
| (D)                 | §438.210 (d)(2)(i)   | Expedited Authorizations                  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (E)                 | §438.210 (d)(1)  | Extensions of Time                        | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| (F)                 | §438.210 (d)   | Delay in Authorizations                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |
| Sec. 8.3.3.         | §438.420 (b)   | Continuation of Benefits Pending Decision | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |

42 CFR 438.210(c) (DHS Contract 8.3.2(C)(2) and (3)) states that when an initial determination is made not to certify that the notification must be provided by telephone or fax within one working day to the attending healthcare professional. Secondly, a written notification must inform the enrollee and the attending healthcare professional of the denial and the right to submit an appeal within ten business days. In three of the ten Express Scripts, Inc. (ESI) pharmacy denial files, the attending healthcare professional was not notified within one working day of the denial. In four of the ten ESI files reviewed the attending healthcare professional did not receive a written notification of the denial. During MDH’s interview with UCare, the reason cited for not notifying the attending healthcare professional of the denial was because these files were “administrative denials” for services that were not part of the enrollee’s covered benefits so the requests did not need to follow the utilization review process as outlined in Minnesota Statutes 62M.05. These files fall under the purview of utilization review and as such ESI must notify the attending healthcare professional as required under Minnesota Statute 62M.05, subdivision 3a., for all prior authorization services. **(Deficiency #4) [Also applies to the same deficiency under §62M.05, subdivision 3a.]**

|                     |                 |   |   |                                  |
|---------------------|-----------------|---|---|----------------------------------|
| <b>Section 8.4.</b> | <b>§438.408</b> | <b>Internal Appeals Process Requirements</b>  |   |                                  |
| Sec. 8.4.1.         | §438.402 (b)    | Filing Requirements                           | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.2.         | §438.408 (b)(2) | Timeframe for Resolution of Expedited Appeals | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

|                     |                                  |   |   |                                  |
|---------------------|----------------------------------|---|---|----------------------------------|
| <b>Section 8.4.</b> | <b>§438.408</b>                  | <b>Internal Appeals Process Requirements</b>  |   |                                  |
| Sec. 8.4.3.         | §438.408 (b)                     | Timeframe for Resolution of Expedited Appeals   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (A)                 | §438.408 (b)(3)                  | Expedited Resolution of Oral and Written Appeals  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (B)                 | §438.410 (c)                     | Expedited Resolution Denied   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (C)                 | §438.410 (a)                     | Expedited Appeal by Telephone   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.4.         | §438.408 (c)                     | Timeframe for Extension of Resolution of Appeals  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.5.         | §438.406                         | Handling of Appeals   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (A)                 | §438.406 (b)(1)                  | Oral Inquiries  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (B)                 | §438.406(a)(2)                   | Written Acknowledgement   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (C)                 | §438.406(a)(1)                   | Reasonable Assistance   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (D)                 | §438.406(a)(3)                   | Individual Making Decision  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (E)                 | §438.406(a)(3)                   | Appropriate Clinical Expertise [See Minnesota Statutes, sections 62M.06, and subd. 3(f) and 62M.09] | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (F)                 | §438.406(b)(2)                   | Opportunity to Present Evidence   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (G)                 | §438.406 (b)(3)                  | Opportunity to examine the Case File  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (H)                 | §438.406 (b)(4)                  | Parties to the Appeal   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (I)                 | §438.410 (b)                     | Prohibition of Punitive Action  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.6.         |                                  | Subsequent Appeals  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.7.         | §438.408 (d)(2) and (e)          | Notice of Resolution of Appeals   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (A)                 | §438.408 (d)(2) and (e)          | Written Notice Content  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (B)                 | §438.210 (c)                     | Appeals of UM Decisions   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| (C)                 | §438.210 (c) and .408 (d)(2)(ii) | Telephone Notification of Expedited Appeals [Also see Minnesota Statutes section 62M.06, subd. 2]   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.4.8.         | §438.424                         | Reversed Appeal Resolutions   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| <b>Section 8.5.</b> | <b>§438.416 (c)</b>              | <b>Maintenance of Grievance and Appeal Records</b>  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| <b>Section 8.9.</b> | <b>§438.416 (c)</b>              | <b>State Fair Hearings</b>  |   |                                  |
| Sec. 8.9.2.         | §438.408 (f)                     | Standard Hearing Decisions  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Sec. 8.9.5.         | §438.420                         | Continuation of Benefits Pending Resolution of State Fair Hearing                                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**Section 8.9. §438.416 (c)**  
Sec. 8.9.6. §438.424

**State Fair Hearings**  
Compliance with State Fair  
Hearing Resolution

Met

Not Met

**4. Access and Availability****Minnesota Statutes, Section 62D.124. Geographic Accessibility**

|          |   |   |                                  |
|----------|---|---|----------------------------------|
| Subd. 1. | Primary Care, Mental Health Services, General Hospital Services | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 2. | Other Health Services   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 3. | Exception   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**Minnesota Rules, Part 4685.1010. Availability and Accessibility**

|          |                                       |   |                                  |
|----------|---------------------------------------|---|----------------------------------|
| Subp. 2. | Basic Services                        | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subp. 5  | Coordination of Care                  | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subp. 6. | Timely Access to Health care Services | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**Minnesota Statutes, Section 62Q.55. Emergency Services**

Met  Not Met

**Minnesota Statutes, Section 62Q.121. Licensure of Medical Directors**

Met  Not Met

**Minnesota Statutes, Section 62Q.527. Coverage of Non-formulary Drugs for Mental Illness and Emotional Disturbance**

|          |  |   |                                  |
|----------|--|---|----------------------------------|
| Subd. 2. | Required Coverage for Anti-psychotic Drugs | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 3. | Continuing Care                            | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 4. | Exception to formulary                     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**Minnesota Statutes, Section 62Q.535. Coverage for Court-Ordered Mental Health Services**

|          |                        |   |                                  |
|----------|------------------------|---|----------------------------------|
| Subd. 1. | Mental health services | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 2. | Coverage required      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**Minnesota Statutes, Section 62Q.56. Continuity of Care**

|           |   |   |                                  |
|-----------|---|---|----------------------------------|
| Subd. 1.  | Change in health care provider, general notification      | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 1a. | Change in health care provider, termination not for cause | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 1b. | Change in health care provider, termination for cause     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 2.  | Change in health plans                                    | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 2a. | Limitations   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 2b. | Request for authorization                                 | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |
| Subd. 3.  | Disclosures   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met |

**5. Utilization Review**

| <b>UM System File Review</b> |                   |
|------------------------------|-------------------|
| <b>File Source</b>           | <b># Reviewed</b> |
| <i>UM Denial Files</i>       |                   |
| Commercial                   |                   |
| UCare                        | 21                |
| ChiroCare                    | 8                 |
| ESI                          | 16                |
| Magellan                     | 5                 |
| MHCP-MC                      |                   |
| UCare                        | 8                 |
| Delta Dental                 | 5                 |
| Beacon Health Strategies     | 2                 |
| ChiroCare                    | 8                 |
| Magellan                     | 8                 |
| Mayo Health Solutions        | 8                 |
| ESI                          | 10                |
| <i>Subtotal</i>              | 99                |
| <i>Clinical Appeal Files</i> |                   |
| Commercial                   | 30                |
| MHCP-MC                      |                   |
| UCare                        | 8                 |
| Delta Dental                 | 8                 |
| <i>Subtotal</i>              | 46                |
| <b>Total</b>                 | 145               |

**Minnesota Statutes, Section 62M.04. Standards for Utilization Review Performance**

- Subd. 1. Responsibility on Obtaining Certification  Met  Not Met
- Subd. 2. Information upon which Utilization Review is Conducted  Met  Not Met

**Minnesota Statutes, Section 62M.05. Procedures for Review Determination**

- Subd. 1. Written Procedures  Met  Not Met
- Subd. 2. Concurrent Review  Met  Not Met  NCQA
- Subd. 3. Notification of Determination  Met  Not Met
- Subd. 3a. Standard Review Determination  Met  Not Met
- (a) Initial determination to certify (10 business days)  Met  Not Met  NCQA
- (b) Initial determination to certify (telephone notification)  Met  Not Met

**Minnesota Statutes, Section 62M.05. Procedures for Review Determination**

|           |  |   |   |                               |
|-----------|--|---|---|-------------------------------|
| (c)       | Initial determination not to certify                             | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |                               |
| (d)       | Initial determination not to certify (notice of right to appeal) | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| Subd. 3b. | Expedited Review Determination                                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA |
| Subd. 4.  | Failure to Provide Necessary Information                         | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| Subd. 5.  | Notifications to Claims Administrator                            | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |

Subd. 3a Minnesota Statutes, section 62M.05, subdivision 3a, (c) and (d). **[See deficiency #4 cited under 42 CFR 438.210(c) (DHS Contract 8.3.2(C)(2) and (3))]**

**Minnesota Statutes, Section 62M.06. Appeals of Determinations not to Certify**

|          |  |   |   |                               |
|----------|--|---|---|-------------------------------|
| Subd. 1. | Procedures for Appeal                        | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| Subd. 2. | Expedited Appeal                             | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met |                               |
| Subd. 3. | Standard Appeal                              |   |   |                               |
| (a)      | Appeal resolution notice timeline            | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| (b)      | Documentation requirements                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| (c)      | Review by a different physician              | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA |
| (d)      | Time limit in which to appeal                | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| (e)      | Unsuccessful appeal to reverse determination | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met | <input type="checkbox"/> NCQA |
| (f)      | Same or similar specialty review             | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |
| (g)      | Notice of rights to external review          | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA |
| Subd. 4. | Notification to Claims Administrator         | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            |                               |

Subd. 2. Minnesota Statutes 62M.06, subdivision 2, sets forth the requirements for expedited appeals which includes a 72-hour timeline for a determination. UCare’s policy and procedure *Exchange Member Appeals* (policy CAG016 and procedure CAG-1601) states “the expedited timeframe for resolution of the expedited appeal may be extended up to 14 additional calendar days if the member or the member’s representative (which may include a provider acting on behalf of the member or the legal representative of the estate) requests an extension, or if UCare justifies a need for additional information and the extension is in the best interest of the member”. There is no provision in 62M.06 allowing for an extension of an expedited appeal. UCare must revise its policy and procedure to accurately reflect the requirements for expedited appeals. **(Mandatory Improvement #2)** The statute also states when an initial determination not to certify a health care service is made the utilization review organization must ensure that the enrollee and the attending health care professional have an opportunity to appeal the determination over the telephone on an expedited basis. The procedure *Exchange Member Appeals* (CAG-1601) states that a standard appeal may be requested orally or in writing. UCare must revise its policy to clearly specify the right to appeal the determination over the telephone on an expedited basis. **(Mandatory Improvement #2)**

Subd. 3. Minnesota Statutes 62M.06, subdivision 3(e)., sets forth the requirements of an appeal notification when the denial determination has been upheld upon appeal. In five files the MHCP-MC appeal rights were in the file rather than the commercial appeal rights and in one file there were no appeal rights. UCare believes the wrong appeal rights were placed in the review files prepared for the MDH exam but the enrollee received the correct appeal rights notice. UCare instituted a corrective action plan in March of 2015 to assure enrollees receive the correct appeal rights. They plan on instituting a new database where letters will be automated and business rules can be added to ensure product specific letters are accurately chosen. In the interim, staff education took place. However, implementation of the new database had not taken place nor had follow up audits been done to determine improved compliance at the time of the exam. UCare must ensure the correct appeal rights are given to the enrollees. **(Deficiency #5)**

**Minnesota Statutes, Section 62M.08. Confidentiality**

Met       Not Met       NCQA

**Minnesota Statutes, Section 62M.09. Staff and Program Qualifications**

|           |  |   |   |  |
|-----------|--|---|---|--|
| Subd. 1.  | Staff Criteria                           | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 2.  | Licensure Requirements                   | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 3.  | Physician Reviewer Involvement           | <input type="checkbox"/> Met            | <input checked="" type="checkbox"/> Not Met | <input type="checkbox"/> NCQA            |
| Subd. 3a  | Mental Health and Substance Abuse Review | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 4.  | Dentist Plan Reviews                     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 4a. | Chiropractic Reviews                     | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 5.  | Written Clinical Criteria                | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 6.  | Physician Consultants                    | <input checked="" type="checkbox"/> Met | <input type="checkbox"/> Not Met            | <input type="checkbox"/> NCQA            |
| Subd. 7.  | Training for Program Staff               | <input type="checkbox"/> Met            | <input type="checkbox"/> Not Met            | <input checked="" type="checkbox"/> NCQA |
| Subd. 8.  | Quality Assessment Program               | <input type="checkbox"/> Met            | <input type="checkbox"/> Not Met            | <input checked="" type="checkbox"/> NCQA |

Subd. 3. Minnesota Statutes, 62M.09, subdivision 3., states a physician must review all cases in which the utilization review organization has concluded that a determination not to certify for clinical reasons is appropriate. In all 30 of the ESI commercial utilization management denials, the denial was made by a pharmacist rather than a physician. This has been ESI’s practice since the inception of the commercial product in 2014. UCare must immediately change the process of its delegate ESI and ensure a physician is issuing the denial. **(Deficiency #6)** Ongoing progress towards this process correction will be monitored according to the approved corrective action plan.

**Minnesota Statutes, Section 62M.11. Complaints to Commerce or Health**

Met       Not Met

Minnesota Statutes, Section 62M.11., states an enrollee may file a complaint regarding a determination not to certify directly to the Commissioner of Health. The commercial appeals rights notice used by UCare and its delegates (ESI, ChiroCare, and Magellan), for all utilization management denials and clinical appeals reviewed, does not contain the right that the enrollee

may complain to the Commissioner of Health at any time. UCare and its delegates could better ensure enrollees have knowledge of their additional right of complaining to the Commissioner of Health at any time through inclusion in the UM denial and appeal notifications. **(Recommendation #3)**



## 6. Recommendations

1. To better comply with Minnesota Rules, part 4685.1110, subpart 3., UCare should consider having the Board minutes demonstrate review, discussion and feedback on the part of the Board regarding UCare's quality program and activities.
2. To better comply with Minnesota Rules, part 4685.1110, subpart 9., UCare should:
  - Give at least a quarterly summary report to the QIACC of all enrollee complaints by category in addition to the quality of care complaints to demonstrate tracking, trending and implementation of improvement initiatives when appropriate for all complaints.
  - Specifically address each issue cited in the quality of care complaint so that it is clear that they were all investigated.
  - Document on those complaints where the complainant wishes to remain anonymous that the issue will be tracked and trended.
3. To better comply with Minnesota Statutes, Section 62M.11., UCare and its delegates could better ensure, in the utilization review and appeal process, enrollees have knowledge of their additional right of complaining to the Commissioner of Health at any time through inclusion of this right in the UM denial and appeal notifications.

## 7. Mandatory Improvements

1. To comply with Minnesota Statutes 62Q. 70, subdivision 3., UCare must align processes, policies, procedures, and appeal rights' notifications to be consistent with the requirements of 62Q. 70 in relation to non-clinical appeals for commercial individual plans including the exclusion of extensions and clarifying the language regarding the right to external appeal consistent with the language as stated in UCare's most recent COC.
2. To comply with Minnesota Statutes 62M.06, subdivision 2, UCare must:
  - Revise its policy and procedure *Exchange Member Appeals* (policy CAG016 and procedure CAG-1601) by deleting the provision of an extension on expedited appeals.
  - Revise its procedure *Exchange Member Appeals* (CAG-1601) to clearly specify the right to appeal an expedited determination not to certify over the telephone on an expedited basis.

## 8. Deficiencies

1. To comply with Minnesota Rules, part 4685.1110, subpart 6., UCare must exhibit adequate oversight of its delegate ESI in the delegated functions of pharmacy credentialing and utilization management.
2. To comply with Minnesota Rules, part 4685.1130, subpart 2., UCare must include a detailed description of the actual performance improvement and quality improvement projects in the

annual quality work plan to be in alignment with the requirements of Minnesota Rule and DHS contractual obligations.

3. To comply with Minnesota Statutes, section 62Q.69, subdivision 3(d) and section 62Q.71., UCare must include in the notification to the complainant in its complaint and non-clinical appeal files the right to complain to MDH at any time and this right must be added to the appropriate policies/procedures.
4. To comply with Minnesota Statute 62M.05, subd. 3a. and 42 CFR 438.210(c) (DHS Contract 8.3.2(C)(2) and (3)), ESI must notify the attending healthcare professional of the final decision for all prior authorization services.
5. To comply with Minnesota Statutes 62M.06, subdivision 3(e)., UCare must ensure the correct appeal rights are given to the enrollees.
6. To comply with Minnesota Statutes, 62M.09, subdivision 3., UCare and its delegate ESI must ensure a physician review all pharmaceutical utilization denials.