DEPARTMENT OF HEALTH

UCare

QUALITY ASSURANCE EXAMINATION - 2021

UCare Final Report

For the Period: March 1, 2018 to February 28, 2021
Examiners: Elaine Johnson, RN, BS, CPHQ; Tom Major, MA, MDiv.
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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 should:

1. Review UCare delegate, Delta Dental of Minnesota's (DDMN), internal processes to assure that a quality-of-care case flows through the review process without time gaps. DDMN may want to set targets or goals for quality-of-care case review completion.

2. Review its process for determining what procedures and services require a review by a physician of the same or similar specialty for adverse determinations. UCare may want to develop criteria to specify what services and procedures require a same or similar physician specialty review, particularly for unique services or procedures.

To address mandatory improvements, UCare must:

1. Revise its *CLS001 Utilization Review* policy and procedure to include and clarify the listed statutory requirements.

To address deficiencies, UCare and its delegates must:

1. UCare delegate, Delta Dental of Minnesota (DDMN), must revise its quality-of-care process to include the investigation and documentation of all allegations of quality of care and quality of service. The investigation must also include an assignment of severity level and follow up with any provider(s) involved in the allegation. There should be prompts, scripts and established procedures in place in the case file to review both quality of care and quality of service complaints when both quality of care and quality of service events occur for the enrollee.

2. Send internal appeal acknowledgement letters in accordance with UCare delegate, DDMN's written policy, which is within 10 days of receipt of the appeal.

3. UCare delegate, DDMN, provide notice to the attending provider by telephone or fax within one business day after making a determination to deny or limit services for Minnesota Health Care Program (MHCP) enrollees.

4. UCare delegate, DDMN, make reasonable efforts to provide prompt oral notice to enrollees of an extension of the resolution of an appeal, and the written notice must include the enrollee's right to file a grievance regarding the delay.

5. UCare delegate, DDMN, must send the written acknowledgement letter of an appeal request within 10 days of receiving the request.

6. UCare delegates, DDMN and Care Continuum, must communicate utilization review determinations to the provider and enrollee within the timelines specified in statute and regulation.

7. UCare delegate, DDMN, must provide telephone, fax, or secure email notification of a utilization review denial within the time periods specified (per 62M.05 Subd. 3(a)) to attending health care professionals.

8. Update its appeals rights notice to be consistent with Minnesota Statutes chapter 62M utilization review requirements, effective January 1, 2021.

9. Notify the enrollee and attending health care professional by telephone of its determination on expedited appeals as expeditiously as the enrollee's medical condition requires, but no later than 72 hours after receiving the expedited appeal.

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.

Diane Rydrych Digitally signed by Diane Rydrych
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Diane Rydrych, Director
Health Policy Division

Date

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I. Introduction

1. History:

In 1984, the University of Minnesota Medical School's Department of Family Medicine and Community Health (DFMCH) created UCare Minnesota as a demonstration project for Medical Assistance beneficiaries in Hennepin County. At the time, DHS was moving Medical Assistance beneficiaries into managed care. Creating a health plan helped ensure that patients of the DFMCH family practice clinic group – University Affiliated Family Physicians (UAFP) – could continue seeing their doctors.

UCare operated as a health plan through UAFP. In addition to being UCare's key provider group, UAFP was UCare's sole corporate member and managed UCare through a management services agreement. From an office near the Medical School, UCare offered Prepaid Medical Assistance Program (PMAP) and Prepaid General Assistance Medical Care (PGAMC) products. Enrollment began in 1984, for coverage in 1985, with fewer than 100 members. By the end of 1988, UCare was serving nearly 1,200 members.

UCare became an independent, nonprofit HMO in 1989, while maintaining clinical and other collaborative ties to the DFMCH. The DFMCH is represented on the UCare Board of Directors, and UCare provides annual financial support to the DFMHC for training primary care providers, and to support the development and growth of the primary care delivery model, health care workforce and health care delivery infrastructure across Minnesota. Over time, UCare expanded its product portfolio and coverage area. UCare added Medicare Advantage plans, a range of Minnesota Health Care Programs and commercial health plans available on MNsure. UCare pioneered plans for people with disabilities (including the former Minnesota Disability Health Options product) and developed innovative health care products and services responsive to changes in Minnesota's populations and Minnesota Health Care Programs (MHCP).

In 2016, UCare introduced its Special Needs Basic Care (SNBC) product (UCare Connect + Medicare), an integrated dual eligible Special Needs Plan for adults with disabilities and expanded its SNBC (UCare Connect) product in 20 additional Minnesota counties. MDH licenses UCare as an HMO in every Minnesota county. UCare serves approximately 550,000 Minnesotans of all ages.

UCare products include MinnesotaCare, Families and Children Medical Assistance, MSHO, MSC+, two SNBC products, a statewide Medicare Advantage plan, a Medicare Advantage Preferred Provider Organization (PPO) with Essentia Health in north-central Minnesota, a Medicare Advantage PPO with MHeath Fairview & North Memorial in the metropolitan area, a new Institutional Special Needs Plan in 14 counties, three statewide Medicare Supplement Plans and two commercial plans on MNsure. UCare also offers a Medicare Advantage PPO plan, EssentiaCare, in three counties in western Wisconsin to 772 members.

2. Membership: UCare self-reported Minnesota enrollment as of February 1, 2021 consisted of the following:

Self-Reported Enrollment

Product	Enrollment
Fully Insured Commercial	
Large Group	
Small Employer Group	
Individual	49,022
Minnesota Health Care Programs – Managed Care (MHCP-MC)	
Families & Children	290,972
MinnesotaCare	33,065
Minnesota Senior Care (MSC+)	7,086
Minnesota Senior Health Options (MSHO)	13,712
Special Needs Basic Care	33,660
Medicare Advantage	117,569
Total	545,086

3. Virtual Onsite Examination Dates: May 17, 2021, to May 21, 2021

4. Examination Period: March 1, 2018, to February 28, 2021
   File Review Period: March 1, 2020, to February 28, 2021
   Opening Date: March 5, 2021

5. National Committee for Quality Assurance (NCQA)**:** UCare is accredited by NCQA for its Commercial Exchange and Medicaid products based on 2020 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 were not 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 plan was accredited with less than 100% of the possible points or MDH identified an opportunity for improvement, MDH conducted its own examination.

6. 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.

7. 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 has sufficient evidence that a plan's overall operation is compliant with an applicable law. Sufficient evidence may be obtained through: 1) file review; 2) policies and procedures; and 3) interviews.

II. Quality Program Administration

Program

Minnesota Rules, Part 4685.1110

Subparts	Subject	Met	Not Met	NCQA
Subp. 1.	Written Quality Assurance Plan	☒Met	☐ Not Met	
Subp. 2.	Documentation of Responsibility	☒Met	☐ Not Met	☐ NCQA
Subp. 3.	Appointed Entity	☒Met	☐ Not Met	☐ NCQA
Subp. 4.	Physician Participation	☒Met	☐ Not Met	☐ NCQA
Subp. 5.	Staff Resources	☒Met	☐ Not Met	☐ NCQA
Subp. 6.	Delegated Activities	☒Met	☐ Not Met	☐ NCQA
Subp. 7.	Information System	☐Met	☐ Not Met	☒ NCQA
Subp. 8.	Program Evaluation	☒Met	☐ Not Met	☐ NCQA
Subp. 9.	Complaints	☒Met	☐ Not Met	
Subp. 10.	Utilization Review	☒Met	☐ Not Met	
Subp. 11.	Provider Selection and Credentialing	☐Met	☐ Not Met	☒ NCQA
Subp. 12.	Qualifications	☐Met	☐ Not Met	☒ NCQA
Subp. 13.	Medical Records	☒Met	☐ Not Met	

Finding: Delegated Activities

Subp. 6. Minnesota Rules, part 4685.1110, subpart 6, states that the HMO must develop and implement review and reporting requirements to assure that the delegated entity performs all delegated activities. The standards and processes 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	QOC	Complaints/ Grievances	Appeals	Cred	Claims	Network	Case Mgmt	Care Coord
Express Scripts, Inc (ESI) (PBM)	X				X	X	X		
Care Continuum	X								

Entity	UM	QOC	Complaints/ Grievances	Appeals	Cred	Claims	Network	Case Mgmt	Care Coord
Fulcrum Health, Inc (Chiro)	x				x	x	x		
Delta Dental of Minnesota (DDMN)	X	X	X	X	X	X	X		
National Imaging Associates (formerly Magellan)	x								
Becker County								x	x
Koochiching County								x	x

MDH Post Exam Note: UCare instituted a comprehensive corrective action plan (CAP) with Delta Dental-Minnesota (DDMN) in May 2021 addressing the DDMN deficiencies identified during the exam. The CAP consisted of interventions and additional monitoring and reporting as well as additional monitoring and audits performed by UCare. UCare submitted quarterly reports to MDH through December 2021, showing progressive improvement in all areas identified. UCare is commended for its timely and comprehensive approach to work with its delegate to improve outcomes and sustain that improvement.

Finding: Provider Selection and Credentialing

Subp. 11**.** Minnesota Rules, part 4685.1110, subpart 11, states the plan must have policies and procedures for provider selection, credentialing and recredentialing that, at a minimum, are consistent with community standards. MDH recognizes the community standard to be NCQA. UCare scored 100% on all 2020 NCQA Credentialing/recredentialing standards.

Activities

Minnesota Rules, Part 4685.1115

Subparts	Subject	Met	Not Met
Subp. 1.	Ongoing Quality Evaluation	☒Met	☐ Not Met
Subp. 2.	Scope	☒Met	☐ Not Met

Quality Evaluation Steps

Minnesota Rules, Part 4685.1120

Subparts	Subject	Met	Not Met
Subp. 1.	Problem Identification	☒Met	☐ Not Met

Subparts	Subject	Met	Not Met
Subp. 2.	Problem Selection	☒Met	☐ Not Met
Subp. 3.	Corrective Action	☒Met	☐ Not Met
Subp. 4.	Evaluation of Corrective Action	☒Met	☐ Not Met

Focused Study Steps

Minnesota Rules, Part 4685.1125

Subparts	Subject	Met	Not Met
Subp. 1.	Focused Studies	☒Met	☐ Not Met
Subp. 2.	Topic Identification and Selections	☒Met	☐ Not Met
Subp. 3.	Study	☒Met	☐ Not Met
Subp. 4.	Corrective Action	☒Met	☐ Not Met
Subp. 5.	Other Studies	☒Met	☐ Not Met

Filed Written Plan and Work Plan

Minnesota Rules, Part 4685.1130

Subparts	Subject	Met	Not Met
Subp. 1.	Written Plan	☒Met	☐ Not Met
Subp. 2.	Work Plan	☒Met	☐ Not Met
Subp. 3.	Amendments to Plan	☒Met	☐ Not Met

Finding: Written Quality Plan (Quality Program Description)

Subparts 1 and 3. Minnesota Rules, part 4685.1130, subparts 1 and 3, require that HMOs have a written quality plan (quality program description) that is consistent with the requirements set forth in Minnesota Rules, 4685.1110, subparts 1 through 13. The written quality plan must be submitted to MDH for approval with any changes/revisions.

MDH reviewed UCare's 2021 Quality Program Description during the exam and it was found to have met all the criteria of Minnesota Rules, 4685.1110, subparts 1 through 13 and was subsequently approved.

III. Quality of Care

MDH reviewed a total of 41 quality of care grievance and complaint system files.

Quality of Care File Review

File Source	# Reviewed
Quality of Care Complaints/Grievances	
MHCP QOC Grievances	8
Commercial QOC Complaints	3
DDMN MHCP QOC Grievances	30
Total	**41**

Quality of Care Complaints

Minnesota Statutes, Section 62D.115

Subparts	Subject	Met	Not Met
Subd. 1.	Definition	☐Met	☒ Not Met
Subd. 2.	Quality of Care Investigations	☐Met	☒ Not Met

Finding: Quality of Care Complaints

Subd. 1 Minnesota Statutes, Section 62D.115, Subdivision 1 and 2, outlines the requirements for Quality-of-Care (QOC) definition and investigations. The process includes the receipt, investigation and follow up of all QOC complaints. Any allegation regarding quality of care or service must be investigated by the organization. Investigation also includes the assignment of severity of the complaint.

Of the 30 Delta Dental of Minnesota (DDMN) Quality of Care files reviewed by MDH, 15 files did not meet the requirements of QOC investigation. In the majority of these files, there was no documentation to indicate the QOC issues were fully investigated, frequently without independent review and determination of severity level.

Discussion was held with UCare and DDMN staff on June 2, 2021, regarding the handling of DDMN QOC cases. DDMN stated that quality of care and quality of service are handled differently. DDMN logs quality of service as a Communication/Behavior grievance. QOC is considered technical competence only by DDMN. Minnesota Statutes §62D.115, states that *"Quality of care complaint" means an expressed dissatisfaction regarding health care services resulting in potential or actual harm to an enrollee. Quality of care complaints may include the following, to the extent that they affect the clinical quality of health care services rendered: access; provider and staff competence; clinical appropriateness of care; communications;*

behavior; facility and environmental considerations; and other factors that could impact the quality of health care services.

Four (4) files had long timelines from receipt of complaint to completion, (range 62 to 256 days). Long gaps in time were noted in DDMN's internal QOC process which resulted in long timelines for completion.

In one file the acknowledgement letter exceeded the 10-day requirement.

Therefore, MDH finds that UCare's delegate, DDMN, must revise its quality-of-care process to include the investigation and documentation of all allegations of quality of care and quality of service. The investigation must also include an assignment of severity level and follow up with provider(s) involved in the allegation. There should be prompts, scripts and established procedures in place in the case file to review both quality of care and quality of service complaints when both quality of care and quality of service events occur for the enrollee. **(Deficiency #1)**

While MN Stats § 62D.115 does not have a timeline requirement for the completion of a QOC investigation, DDMN should review its internal processes to assure that a QOC case flows through the review process without time gaps. DDMN may want to set targets or goals for QOC case review completion. **(Recommendation #1)**

IV. Complaint and Grievance Systems

Complaint Systems

MDH examined UCare's commercial complaint system for compliance with complaint resolution requirements of Minnesota Statutes, Chapter 62Q.

Complaint System File Review

File Source	# Reviewed
Commercial Complaint Files (oral and written)	
UCare	15
Commercial Non-Clinical Appeals	
UCare	8
DDMN	11
Total	***34***

Complaint Resolution

Minnesota Statutes, Section 62Q.69.

Section	Subject	Met	Not Met
Subd. 1.	Establishment	☒ Met	☐ Not Met
Subd. 2.	Procedures for Filing a Complaint	☒ Met	☐ Not Met
Subd. 3.	Notification of Complaint Decisions	☒ Met	☐ Not Met

Appeal of the Complaint Decision

Minnesota Statutes, Section 62Q.70

Section	Subject	Met	Not Met
Subd. 1.	Establishment	☐ Met	☒ Not Met
Subd. 2.	Procedures for Filing an Appeal	☐ Met	☒ Not Met

Section	Subject	Met	Not Met
Subd. 3.	Notification of Appeal Decisions	☒ Met	☐ Not Met

Finding: Establishment and Procedures for Filing Complaint

Subdivisions 1 and 2. Minnesota Statutes 62Q.70, subdivisions 1 and 2 state that the health plan shall establish an internal appeal process for reviewing a health plan's decision regarding a complaint filed in accordance with section 62Q.69. The health plan must follow its written procedures and provide notice to the enrollee of those procedures.

DDMN has included in its internal appeal procedure the requirement to send an acknowledgement letter to the enrollee within 10 calendar days. File review indicated two non-clinical commercial appeal files where the acknowledgement letters exceeded the 10-day requirement in policy.

Therefore, MDH finds UCare's delegate, DDMN, must send internal appeal acknowledgement letters in accordance with its written policy, which is within 10 days of receipt of the appeal. **(Deficiency #2)**

Finding: Appeal Rights with Notification of Appeal Decision

Subdivision 3. Minnesota Statutes, section 62Q.70, subdivision 3 states, if the appeal decision is partially or wholly adverse to the complainant, the notice must advise the complainant of the right to submit the appeal decision to the external review process described in section 62Q.73 and the procedure for initiating the external process.

In one DDMN non-clinical commercial appeal file, the wrong appeal rights notice was in the file. DDMN used the Minnesota Health Care Program (MHCP) appeal rights notice rather than the commercial appeal rights notice.

Notice to Enrollees

Minnesota Statutes, Section 62Q.71

Section	Subject	Met	Not Met
62Q.71.	Notice to Enrollees	☒ Met	☐ Not Met

External Review of Adverse Determinations

Minnesota Statutes, Section 62Q.73

Section	S/ubject	Met	Not Met
Subd. 3.	Right to External Review	☒ Met	☐ Not Met

Grievance System

MDH examined UCare's Minnesota Health Care Programs Managed Care Programs – Managed Care (MHCP-MC) grievance system for compliance with the federal law (42 CFR 438, subpart F) and the DHS 2020 Contract, Article 8.

MDH reviewed a total of 155 grievance system files.

Grievance System File Review

File Source	# Reviewed
Grievances	
UCare	8
DDMN	12
DTRs	
UCare32666	8
DDMN	30
ESI	8
Care Continuum	8
Fulcrum	8
Clinical Appeals	
UCare	11
DDMN	30
Non-Clinical Appeals	
UCare	8
DDMN	8
State Fair Hearing	
UCare	8
DDMN	8
Total	*155*

General Requirements

DHS Contract, Section 8.1

DHS Contract Section	42 CFR	Subject	Met	Not Met
Section 8.1.	§438.402	General Requirements		

DHS Contract Section	42 CFR	Subject	Met	Not Met
Sec. 8.1.1.		Components of Grievance System	☒Met	☐ Not Met

Internal Grievance Process Requirements

DHS Contract, Section 8.2

DHS Contract Section	42 CFR	Subject	Met	Not Met
Section 8.2.	§438.408	Internal Grievance Process Requirements		
Section 8.2.1.	§438.402 (c)	Filing Requirements	☒Met	☐ Not Met
Section 8.2.2.	§438.408 (b)(1), (d)(1)	Timeframe for Resolution of Grievances	☒Met	☐ Not Met
Section 8.2.3.	§438.408 (c)	Timeframe for Extension of Resolution of Grievances	☒Met	☐ Not Met
Section 8.2.4.	§438.406	Handling of Grievances		
8.2.4.1	§438.406 (b)(1)	Written Acknowledgement	☒Met	☐ Not Met
8.2.4.2	§438.416	Log of Grievances	☒Met	☐ Not Met
8.2.4.3	§438.402 (c)(3)	Oral or Written Grievances	☒Met	☐ Not Met
8.2.4.4	§438.406 (a)	Reasonable Assistance	☒Met	☐ Not Met
8.2.4.5	§438.406 (b)(2)(i)	Individual Making Decision	☒Met	☐ Not Met
8.2.4.6	§438.406 (b)(2)(ii)	Appropriate Clinical Expertise	☒Met	☐ Not Met
Section 8.2.5.	§438.408 (d)(1)	Notice of Disposition of a Grievance		
8.2.5.1	§438.404 (b) §438.406 (a)	Oral Grievances	☒Met	☐ Not Met
8.2.5.2	§438.404 (a), (b)	Written Grievances	☒Met	☐ Not Met

Finding: Written Grievance Acknowledgement Letter

Section 8.2.4.1. 42 CFR §438.406 (b)(1) (DHS Contract section 8.2.4.1) states the MCO must mail a written acknowledgment to the Enrollee or Provider acting on behalf of the Enrollee, within ten (10) days of receiving a written grievance.

DDMN grievance file review included one file where the acknowledgement letter exceeded the 10-day requirement (13 days).

Finding: Prompt Oral Notice of Extension and Right to File Grievance

Section 8.2.3 42 CFR §438.408 (c) (DHS Contract section 8.2.3) states the MCO must make reasonable efforts to provide prompt oral notice and provide written notice within two (2) calendar days to the Enrollee of the reason for the decision to extend the timeframe if the MCO determines that an extension is necessary. The MCO must notify the Enrollee of the right to file a grievance regarding the delay.

DDMN grievance file review included one file with an extension where there was no documentation of reasonable efforts to provide prompt oral notice of the extension and the written notice did not notify the enrollee of the right to file a grievance regarding the delay.

DTR Notice of Action to Enrollees

DHS Contract, Section 8.3

DHS Contract Section	42 CFR	Subject	Met	Not Met
Section 8.3.	**§438.10 §438.404**	**DTR Notice of Action to Enrollees**		
Section 8.3.1.	§438.10(c), (d) §438.402(c) §438.404(b)	General Requirements	☒Met	☐ Not Met
Section 8.3.2	§438.402 (c), §438.404 (b)	Content of DTR Notice of Action	☒Met	☐ Not Met
8.3.2.1	§438.404	Notice to Provider	☒Met	☐ Not Met
Section 8.3.3.	**§438.404 (c)**	**Timing of DTR Notice**		
8.3.3.1	§431.211	Previously Authorized Services	☒Met	☐ Not Met
8.3.3.2	§438.404 (c)(2)	Denials of Payment	☒Met	☐ Not Met
8.3.3.3	§438.210 (c)(d)	Standard Authorizations		
(1)		As expeditiously as the enrollee's health condition requires	☒Met	☐ Not Met
(2)		To the attending health care professional and hospital by telephone or fax within one working day after making the determination	☐Met	☒ 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	☒Met	☐ Not Met
8.3.3.4	§438.210 (d)(2)(i)	Expedited Authorizations	☒Met	☐ Not Met
8.3.3.5	§438.210 (d)(1)	Extensions of Time	☒Met	☐ Not Met
8.3.3.6	§438.210(d)(3) and 42 USC 1396r-8(d)(5)	Covered Outpatient Drug Decisions	☒Met	☐ Not Met
8.3.3.7	§438.210 (d)(1)	Delay in Authorizations	☒Met	☐ Not Met

Finding: Telephone/fax One Working Day Notification of the Determination

Section 8.3.3.3(2) 42CFR §438.210 (c)(d) (DHS Contract section 8.3.3.3(2)) states for standard authorization decisions that deny or limit services, the MCO must provide the notice to the attending provider by telephone or fax within one business day after making the determination.

File review of DDMN prior authorization denials indicated 10 files where evidence of one working day telephone/fax notification was not in the file.

Therefore, MDH finds that UCare's delegate, DDMN, must provide notice to the attending provider by telephone or fax within one business day after making a determination to deny or limit services for MHCP enrollees. **(Deficiency #3)**

Finding: Standard Authorization Decision within 10 Business Days

Section 8.3.3.3(3) 42 CFR §438.210 (c)(d) (DHS Contract section 8.3.3.3(3)) states for standard authorization decisions that deny or limit services, the MCO must provide the notice to the provider, enrollee. and hospital, in writing, including the process to initiate an appeal, within ten (10) business days following receipt of the request for the service.

File review showed one DDMN file that exceeded the 10-business day authorization decision requirement (33 business days).

Internal Appeals Process Requirements

DHS Contract, Section 8.4

Section	42 CFR	Subject	Met	Not Met
Section 8.4.	§438.404	Internal Appeals Process Requirements		
Sec. 8.4.1.	§438.402 (b)	One Level Appeal	☒Met	☐ Not Met
Sec. 8.4.2.	§438.408 (b)	Filing Requirements	☒Met	☐ Not Met
Sec. 8.4.3.	§438.408	Timeframe for Resolution of Appeals		
8.4.3.1	§438.408 (b)(2)	Standard Appeals	☒Met	☐ Not Met
8.4.3.2	§438.408 (b)(3)	Expedited Appeals	☒Met	☐ Not Met
8.4.3.3	§438.408 (c)(3)	Deemed Exhaustion	☒Met	☐ Not Met
Sec. 8.4.4.	§438.408 (c)	Timeframe for Extension of Resolution of Appeals	☐Met	☒ Not Met
Sec. 8.4.5.	§438.406	Handling of Appeals		
8.4.5.1	§438.406 (b)(3)	Oral Inquiries	☒Met	☐ Not Met
8.4.5.2	§438.406 (b)(1)	Written Acknowledgment	☐Met	☒ Not Met
8.4.5.3	§438.406 (a)	Reasonable Assistance	☒Met	☐ Not Met
8.4.5.4	§438.406 (b)(2)	Individual Making Decision	☒Met	☐ Not Met
8.4.5.5	§438.406 (b)(2)	Appropriate Clinical Expertise (See Minnesota Statutes, sections 62M.06, and subd. 3(f) and 62M.09	☒Met	☐ Not Met
8.4.5.6	§438.406 (b)(4)	Opportunity to Present Evidence	☒Met	☐ Not Met
8.4.5.7	§438.406 (b)(5)	Opportunity to Examine the Care File	☒Met	☐ Not Met
8.4.5.8	§438.406 (b)(6)	Parties to the Appeal	☒Met	☐ Not Met
8.4.5.9	§438.410 (b)	Prohibition of Punitive Action Subsequent Appeals	☒Met	☐ Not Met

Section	42 CFR	Subject	Met	Not Met
Sec. 8.4.6.		Subsequent Appeals		
Sec. 8.4.7.	§438.408 (d)(2)	Notice of Resolution of Appeals		
8.4.7.1	§438.408 (d)(2)	Written Notice Content	☒Met	☐ Not Met
8.4.7.2	§438.210 (c)	Appeals of UM Decisions	☒Met	☐ Not Met
8.4.7.3	§438.410 (c) and .408 (d)(2)(ii)	Telephone Notification of Expedited Appeals (Also see Minnesota Statutes section 62M.06, subd.2)	☒Met	☐ Not Met
Sec. 8.4.8.	§438.424	Reversed Appeal Resolutions	☒Met	☐ Not Met
Sec. 8.5.	§438.420 (b)	Continuation of Benefits Pending Appeal or State Fair Hearing	☒Met	☐ Not Met

Finding: Extension of Resolution of Appeals

Section 8.4.4. 42 CFR §438.408 (c) (DHS Contract Section 8.4.4) states the MCO must make reasonable efforts to provide prompt oral notice and provide written notice within two (2) calendar days to the Enrollee of the reason for the decision to extend the timeframe if the MCO determines that an extension is necessary. The MCO must notify the enrollee of the right to file a grievance regarding the delay.

DDMN appeal file review indicated 2 files in which there was no documentation of reasonable efforts to provide prompt oral notice of the extension. And in one of those files, the written notice failed to notify the enrollee of the right to file a grievance regarding the delay.

Therefore, MDH finds that DDMN must make reasonable efforts to provide prompt oral notice of the extension and the written notice must include the enrollee's right to file a grievance regarding the delay. **(Deficiency #4)**

Finding: Written Acknowledgment

Section 8.4.5.2 42 CFR §438.406 (b)(1) (DHS Contract section 8.4.5.2) states the MCO must send a written acknowledgment within ten (10) days of receiving the request for an Appeal.

File review of DDMN appeals files indicated one clinical appeal and one non-clinical appeal with acknowledgement letters that exceeded the 10-day requirement (20 days and 30 days respectively)

Therefore, MDH finds that DDMN must send the written acknowledgement letter within 10 days of receiving the request. **(Deficiency #5)**

State Fair Hearings

DHS Contract, Section 8.8

Section	42 CFR	Subject	Met	Not Met
Section 8.8.	§438.416 (c)	State Fair Hearings		
Sec. 8.8.2.	§438.408 (f)	Standard Hearing Decisions	☒Met	☐ Not Met
Sec. 8.8.5.	§438.424	Compliance with State Fair Hearing Resolution	☒Met	☐ Not Met

V. Access and Availability

Geographic Accessibility

Minnesota Statutes, Section 62D.124

Subdivision	Subject	Met	Not Met
Subd. 1.	Primary Care, Mental Health Services, General Hospital Services	☒Met	☐ Not Met
Subd. 2.	Other Health Services	☒Met	☐ Not Met
Subd. 3.	Exception	☒Met	☐ Not Met

Essential Community Providers

Minnesota Statutes, Section 62Q.19

Subdivision	Subject	Met	Not Met
Subd. 3.	Contract with Essential Community Providers	☒Met	☐ Not Met

Availability and Accessibility

Minnesota Rules, Part 4685.1010

Subparts	Subject	Met	Not Met
Subp. 2.	Basic Services	☒Met	☐ Not Met
Subp. 5.	Coordination of Care	☒Met	☐ Not Met
Subp. 6.	Timely Access to Health Care Services	☒Met	☐ Not Met

Emergency Services

Minnesota Statutes, Section 62Q.55

Subdivision	Subject	Met	Not Met
Subd. 1.	Access to Emergency Services	☒Met	☐ Not Met
Subd. 2.	Emergency Medical Condition	☒Met	☐ Not Met

Licensure of Medical Directors

Minnesota Statutes, Section 62Q.121

Section	Subject	Met	Not Met
62Q.121.	Licensure of Medical Directors	☒Met	☐ Not Met

Coverage of Nonformulary Drugs for Mental Illness and Emotional Disturbance

Minnesota Statutes, Section 62Q.527.

Subdivision	Subject	Met	Not Met
Subd. 2.	Required Coverage for Anti-psychotic Drugs	☒Met	☐ Not Met
Subd. 3.	Continuing Care	☒Met	☐ Not Met
Subd. 4.	Exception to Formulary	☒Met	☐ Not Met

Coverage for Court-Ordered Mental Health Services

Minnesota Statutes, Section 62Q.535

Subdivision	Subject	Met	Not Met
Subd. 2.	Coverage required	☒Met	☐ Not Met

Continuity of Care

Minnesota Statutes, Section 62Q.56

Subdivision	Subject	Met	Not Met	N/A
Subd. 1.	Change in health care provider, general notification	☒Met	☐ Not Met	☐
Subd. 1a.	Change in health care provider, termination not for cause	☒Met	☐ Not Met	☐
Subd. 1b.	Change in health care provider, termination for cause	☒Met	☐ Not Met	☐
Subd. 2.	Change in health plans (applies to group, continuation and conversion coverage)	☒Met	☐ Not Met	☐ N/A

VI. Utilization Review

MDH examined UCare's commercial HMO utilization review (UR) system under Minnesota Statutes, chapter 62M. A total of 144 utilization review files were reviewed.

UR System File Review

File Source	# Reviewed
UM Denial Files Commercial	
UCare	17
DDMN	27
ESI	32
Care Continuum	21
Fulcrum	8
National Imaging Associates	8
Commercial Clinical Appeal Files	
UCare	30
DDMN	(Total files available for review) 1
Total	***144***

Standards for Utilization Review Performance

Minnesota Statutes, Section 62M.04

Subdivision	Subject	Met	Not Met
Subd. 1.	Responsibility on Obtaining Certification	☒Met	☐ Not Met
Subd. 2.	Information upon which Utilization Review is Conducted	☒Met	☐ Not Met

Procedures for Review Determination

Minnesota Statutes, Section 62M.05

Subdivision	Subject	Met	Not Met	NCQA
Subd. 1.	Written Procedures	☐Met	☒ Not Met	
Subd. 2.	Concurrent Review	☒Met	☐ Not Met	☐ NCQA
Subd. 3.	Notification of Determination	☒Met	☐ Not Met	

Subdivision	Subject	Met	Not Met	NCQA
Subd. 3a.	Standard Review Determination			
(a)	Initial determination to certify or not (10 business days)	☐Met	☒ Not Met	☐ NCQA
(b)	Initial determination to certify (telephone notification)	☒Met	☐ Not Met	
(c)	Initial determination not to certify (notice within 1 working day)	☐Met	☒ Not Met	
(d)	Initial determination not to certify (notice of right to appeal)	☐Met	☒ Not Met	☐ NCQA
Subd. 3b.	Expedited Review Determination	☒Met	☐ Not Met	☐ NCQA
Subd. 4.	Failure to Provide Necessary Information	☒Met	☐ Not Met	
Subd. 5.	Notifications to Claims Administrator	☒Met	☐ Not Met	

Finding: Written Procedures

Subd. 1. Minnesota Statutes 62M.05, subdivision 1, states that a utilization review organization must have written procedures to ensure that reviews are conducted in accordance with the requirements of 62M.05.

Review of policy/procedure *CLS001 Utilization Review* indicated missing language or language inconsistent with the new statutory language as follows:

- Clinical criteria definition slightly different in policy than in statute
- Timelines for review should state 14 days for Medicaid and 5 for commercial plans.
- Physician review requirement is the same or similar medical specialty as a provider that typically treats or manages the condition for which the health care service has been requested.
- Clarify lack of information process for commercial versus Medicaid
- Include appeal written notification information

Therefore, MDH finds that UCare must revise its *CLS001 Utilization Review* policy and procedure to include and clarify the listed statutory requirements. **(Mandatory Improvement #1)**

{Resolved: UCare revised its policy and procedure *CLS001 Utilization Review* and submitted it to MDH on May 19, 2021. The revised policy covers the issues identified in the Mandatory Improvement.}

Finding: Initial Determination Timeline

Subd. 3a(a). Minnesota Statutes, section 62M.05, subdivision 3a(a) states, a standard review determination on all requests for utilization review must be communicated to the provider and enrollee within five business days after receiving the request. For pharmacy, a non-formulary drug determination follows the federal guidance indicating a 72-hour turnaround for standard cases.

File review indicated as follows:

- DDMN – Seven (7) files exceeded timeline (range 34 to 69 days)

- Care Continuum – One (1) file exceeded timeline (16 days)

Therefore, MDH finds that UCare's delegates - DDMN, and Care Continuum, must communicate utilization review determinations to the provider and enrollee within timelines specified in statute and regulation. **(Deficiency #6)**

Finding: Telephone/Fax Notice of Denial

Subd. 3a(c) Minnesota Statutes, 62M.05, subdivision 3a(c), states that when an adverse determination is made, notification must be provided within the time periods specified in subdivision 3a, by telephone, facsimile, or secure electronic mail (email) to the attending health care professional.

MDH reviewed 27 DDMN prior authorization denial files. None of the files contained evidence that a telephone/facsimile to the attending health care professional was made to notify the provider of the denial determination.

Therefore, MDH finds that UCare's delegate, DDMN, must provide telephone, fax, or secure email notification of a utilization review denial within the time periods specified (per 62M.05 Subd. 3(a)) to the attending health care professional. **(Deficiency #7)**

Finding: Notice of Right to Appeal

Subd. 3a.(d) Minnesota Statutes 62M.05, subdivision 3a(d) states, that when an adverse determination is made, the written notification must inform the enrollee and the attending health care professional of the right to submit an appeal to the internal appeal process described in section 62M.06 and the procedure for initiating the internal appeal.

UCare clinical appeal file review indicated 17 files where outdated appeal rights were utilized. Appeal rights changed in January 2021 with new legislative changes made to utilization review requirements.

Therefore, MDH finds that UCare must update its appeals rights notice to be consistent with Minnesota Statutes chapter 62M utilization review requirements, effective January 1, 2021. **(Deficiency #8)**

{Follow-up: UCare instituted a Corrective Action Plan (CAP), and the new appeal rights will be approved and in place the week of May 21, 2021. MDH recommends that that follow-up monitoring take place after initiation of the new appeal rights.}

Finding: Expedited Review Determination

Subd. 3b. Minnesota Statutes, 62M.05, subdivision 3b, states notification of an expedited determination to authorize or an expedited adverse determination must be provided to the attending health care professional and the enrollee as expeditiously as the enrollee's medical condition requires, but no later than 48 hours.

Care Continuum file review indicated one expedited file that exceeded the 48-hour requirement (7 days).

Appeals of Determinations Not to Certify

Minnesota Statutes, Section 62M.06

Subdivision	Subject	Met	Not Met
Subd. 1.	Procedures for Appeal	☒Met	☐ Not Met
Subd. 2.	Expedited Appeal	☐Met	☒ Not Met
Subd. 3.	Standard Appeal		
(a)	Procedures for appeals written and telephone	☒Met	☐ Not Met
(b)	Appeal resolution notice timeline	☒Met	☐ Not Met
(c)	Documentation requirements	☒Met	☐ Not Met
(d)	Review by a different physician	☒Met	☐ Not Met
(e)	Defined time period in which to file appeal	☒Met	☐ Not Met
(f)	Unsuccessful appeal to reverse determination	☒Met	☐ Not Met
(g)	Same or similar specialty review	☒Met	☐ Not Met
(h)	Notice of rights to external review	☒Met	☐ Not Met
Subd. 4.	Notifications to Claims Administrator	☒Met	☐ Not Met

Finding: Expedited Appeal Telephone Notification of Determination

Subd. 2. Minnesota Statutes 62M.06, subdivision 2, states that the plan shall notify the enrollee and attending health care professional by telephone of its determination on an expedited appeal as expeditiously as the enrollee's medical condition requires, but no later than 72 hours after receiving the expedited appeal.

UCare clinical appeal file review indicated five expedited appeals that had no evidence of a telephone notification to the provider and enrollee of its determination.

Therefore, MDH finds that UCare must notify the enrollee and attending health care professional by telephone of its determination on expedited appeals as expeditiously as the enrollee's medical condition requires, but no later than 72 hours after receiving the expedited appeal. **(Deficiency #9)**

Finding: Appeal Rights Notice

Subd. 3. Minnesota Statutes 62M.06, subdivision 3(h), states that if the adverse determination is not reversed on appeal, the plan must include in its notification the right to submit the appeal to the external review process described in section 62Q.73 and the procedure for initiating the external process.

DDMN commercial clinical appeal file review indicated one file contained the wrong appeal rights. MHCP appeal rights were in the file instead of the commercial appeal rights.

Confidentiality

Minnesota Statutes, Section 62M.08

Subdivision	Subject	Met	Not Met
Subd. 1.	Written Procedures to Ensure Confidentiality	☒Met	☐ Not Met

Staff and Program Qualifications

Minnesota Statutes, Section 62M.09

Subdivision	Subject	Met	Not Met	NCQA
Subd. 1.	Staff Criteria	☒Met	☐ Not Met	☐ NCQA
Subd. 2.	Licensure Requirements	☒Met	☐ Not Met	☐ NCQA
Subd. 3.	Physician Reviewer Involvement	☒Met	☐ Not Met	
Subd. 3a.	Mental Health and Substance Abuse Review	☒Met	☐ Not Met	
Subd. 4.	Dentist Plan Reviews	☒Met	☐ Not Met	☐ NCQA
Subd. 4a.	Chiropractic Reviews	☒Met	☐ Not Met	☐ NCQA
Subd. 5.	Written Clinical Criteria	☐Met	☐ Not Met	☒ NCQA
Subd. 6.	Physician Consultants	☒Met	☐ Not Met	☐ NCQA
Subd. 7.	Training for Program Staff	☐Met	☐ Not Met	☒ NCQA
Subd. 8.	Quality Assessment Program	☒Met	☐ Not Met	☐ NCQA

Finding: Physician Reviewer Involvement

Subd. 3. Minnesota Statutes, section 62M.09, subdivision 3, states that the physician conducting the review and making the adverse determination must have the same or similar medical specialty as a provider that typically treats or manages the condition for which the healthcare service has been requested.

MDH noted during file review that services such as genetic testing and vein procedures were reviewed and denied by family practice physicians.

MDH is not prescriptive as to what specialty should make the adverse determination, however MDH recommends UCare review its process for determining what procedures and services require a review by a physician of the same or similar specialty for adverse determinations. UCare may want to develop criteria to specify what services and procedures require a same or similar physician specialty, particularly for unique services or procedures. **(Recommendation #2)**

Complaints to Commerce or Health

Minnesota Statutes, Section 62M.11

Section	Subject	Met	Not Met
62M.11.	Complaints to Commerce or Health	☒Met	☐ Not Met

Prohibition of Inappropriate Incentives

Minnesota Statutes, Section 62M.12

Section	Subject	Met	Not Met	NCQA
62M.12.	Prohibition of Inappropriate Incentives	☐Met	☐ Not Met	☒NCQA

VII. Summary of Findings

Recommendations

1. To better comply with Minnesota Statutes, Section 62D.115, Subdivision 1 and 2, DDMN should review its internal processes to assure a quality-of-care case flows through the review process without time gaps. DDMN may want to set targets or goals for quality-of-care case review completion.

2. To better comply with Minnesota Statutes, section 62M.09, subdivision 3, UCare should review its process for determining what procedures and services require a review by a physician of the same or similar specialty for adverse determinations. UCare may want to develop criteria to specify what services and procedures require a same or similar physician specialty review, particularly for unique services or procedures.

Mandatory Improvements

1. To comply with Minnesota Statutes 62M.05, subdivision 1, UCare must revise its *CLS001 Utilization Review* policy and procedure to include and clarify the listed statutory requirements.

   UCare revised its policy/procedure *CLS001 Utilization Review* and submitted it to MDH on May 19, 2021. The revised policy covers the issues identified in the Mandatory Improvement.

Deficiencies

1. To comply with Minnesota Statutes, Section 62D.115, Subdivisions 1 and 2, UCare's delegate, Delta Dental of Minnesota (DDMN) must revise its quality-of-care process to include the investigation and documentation of all allegations of quality of care and quality of service. The investigation must also include an assignment of severity level and follow up with any provider(s) involved in the allegation. There should be prompts, scripts and established procedures in place in the case file to review both quality of care and quality of service complaints when both quality of care and quality of service events occur for the enrollee.

2. To comply with Minnesota Statutes 62Q.70, subdivisions 1 and 2, DDMN must send internal appeal acknowledgement letters in accordance with DDMN's written policy, which is within 10 days of receipt of the appeal.

3. To comply with 42 CFR §438.210 (c)(d) (DHS Contract section 8.3.3.3(2)), DDMN must provide notice to the attending provider by telephone or fax within one business day after

making a determination to deny or limit services for Minnesota Health Care Program (MHCP) enrollees.

4. To comply with 42 CFR §438.408 (c) and DHS Contract Section 8.4.4, DDMN must make reasonable efforts to provide prompt oral notice to enrollees of an extension of the resolution of an appeal, and the written notice must include the enrollee's right to file a grievance regarding the delay.

5. To comply with 42 CFR §438.406 (b)(1) and DHS Contract section 8.4.5.2, DDMN must send the written acknowledgement letter of an appeal request within 10 days of receiving the request.

6. To comply with Minnesota Statutes, section 62M.05, subdivision 3a(a), UCare delegates - DDMN, and Care Continuum, must communicate utilization review determinations to the provider and enrollee within the timelines specified in statute and regulation.

7. To comply with Minnesota Statutes, 62M.05, subdivision 3a(c), UCare delegate DDMN must provide telephone, fax, or secure email notification of a utilization review denial within the time periods specified to attending health care professionals.

8. To comply with Minnesota Statutes 62M.05, subdivision 3a(d), UCare must update its appeals rights notice to be consistent with Minnesota Statutes chapter 62M utilization review requirements, effective January 1, 2021.

   {UCare instituted a CAP, and the new appeal rights will be approved and in place the week of May 21, 2021. MDH recommends that follow-up monitoring take place after initiation of the new appeal rights.}

9. To comply with Minnesota Statutes 62M.06, subdivision 2, UCare must notify the enrollee and attending health care professional by telephone of its determination on expedited appeals as expeditiously as the enrollee's medical condition requires, but no later than 72 hours after receiving the expedited appeal.