



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

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

Network Health Plan
1570 Midway Pl
Menasha WI 54952

dated April 4 - 8, 2005 and served upon the company on November 30, 2005 has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 15th day of May, 2006.

Jorge Gomez
Commissioner of Insurance

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

MARKET CONDUCT EXAMINATION

OF

**NETWORK HEALTH PLAN
MENASHA, WISCONSIN**

APRIL 4 - 8, 2005

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May 13, 2005

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Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted April 4 to April 8, 2005, of:

NETWORK HEALTH PLAN
Menasha, Wisconsin

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Network Health Plan (NHP) is a for-profit network model health maintenance organization (HMO) insurer. A health maintenance organization is defined by s. 609.01 (2), Wis. Stat., as "a health care plan offered by an organization established under ch. 185, 611, 613, or 614, or issued a certificate of authority under ch. 618, that makes available to its enrolled participants, in consideration for predetermined fixed payments, comprehensive health care services performed by providers" selected by the organization. Under the network model, NHP provides care through contracts with clinics and other independent practitioners operating out of separate offices. The major product lines for the insurer are a network model closed-panel HMO and a point-of-service (POS) plan.

NHP was incorporated on September 30, 1982, and commenced business on April 1, 1983, as a not-for-profit HMO. As of December 31, 1986, NHP was reincorporated as a for-profit HMO. Effective October 31, 1995, the company received an amended certificate of

authority as an indemnity insurer. NHP is owned by Network Health System, Inc. (NHS). On September 1, 1998, Affinity Health System (AHS) acquired the common and preferred stock of NHS. AHS was co-sponsored by Wheaton Franciscan Services, Inc., and Ministry Health Care, Inc. Effective December 6, 2001, the company received an amended certificate of authority as an HMO. Also in 2001, NHP established Network Health Insurance Corporation (NHIC) as a wholly owned subsidiary that provides indemnity health insurance coverage to NHP's POS members.

According to its business plan, the Network Health Plan's service area is comprised of the counties of Brown, Calumet, Dodge, Fond du Lac, Green Lake, Manitowoc, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago. The principal service area of the company is the Fox Valley region. For all HMO and POS products, NHP required an enrollee to choose a primary care practitioner to direct the member's care. Thus, a NHP member's primary care practitioner was responsible for the member's care. If the member's primary care practitioner felt that specialty care was needed, he or she could refer the member to a contracted specialist. Network Health Plan did not require a referral from a primary care practitioner to OB/GYN practitioners, chiropractors, mental health practitioners, and ophthalmologists or optometrists (for routine eye exams only).

The company did not write Medicare supplement business. However, it had a contract with the federal Centers for Medicare and Medicaid Services (CMS) to offer a Medicare Cost plan.

The company reported written premium in Wisconsin in 2002 and 2003 only for accident and health insurance business.

The following tables summarize the premium written and incurred losses in Wisconsin for 2002 and 2003 broken down by line of business.

Premium and Loss Ratio Summary

2003				
Line of Business	Direct Premiums Earned	% of Total Premium	Direct Losses Incurred	Pure Loss Ratio
Comprehensive	\$195,055,000	70%	\$168,799,000	87%
Medicare Supplement	17,034,000	6	15,805,000	93
All Others	66,651,000	24	57,541,000	86
Total	\$278,741,000		\$242,146,000	

2002				
Line of Business	Direct Premiums Earned	% of Total Premium	Direct Losses Incurred	Pure Loss Ratio
Comprehensive	\$148,043,000	66%	\$133,369,000	90%
Medicare Supplement	14,507,000	6	13,709,000	94
All Others	62,677,000	28	51,928,000	78
Total	\$225,227,000		\$204,874,000	

In 2002, NHP ranked as the 9th largest writer of group accident and health insurance in Wisconsin. In 2003, NHP also ranked as the 9th largest writer of group accident and health insurance in Wisconsin. In both 2003 and 2004, NHP ranked as the 11th largest writer of small employer group insurance in Wisconsin. The company's total small employer premiums reported increased from \$40,455,899 in 2003 to \$42,815,038 in 2004, representing a gain of 6%.

Complaints

The Office of the Commissioner of Insurance received 44 complaints involving the company between January 1, 2003, through December 31, 2004. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The company was not listed on the 2004 or 2003 complaint summaries for individual accident and health insurance nor for group accident and health insurance, which lists companies with above average complaint ratios. Twenty-one of the company's 44 complaints were claims related, with 10 complaints involving denials or delays.

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

Complaints Received

2004						
Reason Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
HMO	14		1	8		5
Total	14		1	8		5

2003						
Reason Type	Total	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Coverage Type	No.	No.	No.	No.	No.	No.
HMO	30		1	13	1	15
Total	30		1	13	1	15

Grievances

The company submitted annual grievance experience reports to OCI for 2002 and 2003 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as “any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan, or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured.”

The grievance report for 2003 indicated that the company received 190 grievances. The majority of the grievances filed with the company in 2003 were related to the “not covered benefit” category. The grievance report for 2004 indicated the company received 125 grievances. The majority of the grievances filed with the company in 2004 were related to the “not covered benefit” category.

The following table summarizes the grievances for the company for the last two completed report years:

Category	2004	2003
Access to Care	0	12
Continuity of Care	0	3
Drug & Drug Formulary	10	8
Emergency Services	5	3
Experimental Treatment	2	2
Prior Authorization	19	15
Not Covered Benefit	47	99
Not Medically Necessary	6	5
Other	42	32
Plan Administration	3	7
Plan Providers	8	0
Request for Referral	0	0
Total	142	190
Resolution Categories		
Plan Administration	7	30
Benefit Denial	127	168
Quality of Care	8	14
Total	142	212

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine compliance with the previous market conduct examination. The examination focused on the period from January 1, 2003, through December 31, 2004. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of claims, company operations and management, grievance and IRO (independent review), marketing sales and advertising, policyholder service and complaints, producer licensing, policy forms, privacy, and electronic commerce.

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

III. PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of the company, as adopted March 7, 2002, contained 22 recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Grievances and Complaints

1. It is again recommended that NHP revise and implement its complaint and grievance procedures to process all written expressions of dissatisfaction with the administration or claims practices or provision of services as grievances rather than complaints, as required by s. Ins 9.33, Wis. Adm. Code. The revised procedures should be submitted to OCI within 60 days of the adoption of the examination report.

Action: Compliance

2. It is again recommended that NHP revise and implement its grievance procedure to resolve all expressions of dissatisfaction it defines as grievances, whether in written or verbal form, in compliance with s. Ins 9.33, Wis. Adm. Code.

Action: Compliance

3. It is recommended that NHP revise and implement its grievance procedure to handle all quality of care complaints as grievances, as required by s. Ins 9.33, Wis. Adm. Code.

Action: Compliance

4. It is recommended that NHP revise and implement its grievance procedure to handle all expressions of dissatisfaction submitted to contracted providers or clinics as grievances, as required by s. Ins 9.33, Wis. Adm. Code.

Action: Compliance

Electronic Commerce

5. It is recommended that NHP develop and implement written procedures to ensure written expressions of dissatisfaction that are received electronically are handled as grievances, as required by s. Ins 18.03, Wis. Adm. Code.

Action: Compliance

6. It is recommended that NHP develop and implement written procedures for the monitoring of agent advertisements on the internet, as required by s. Ins 3.27 (27), Wis. Adm. Code.

Action: Non-Compliance

7. It is recommended that NHP require its agents to submit their personal Web sites for approval prior to use as required by s. Ins 3.27 (27) (b), Wis. Adm. Code, and that NHP maintain a copy of such advertisements in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.

Action: Non-Compliance

Provider Agreements

8. It is again recommended that NHP revise its provider contracts to include a provision which specifically requires the provider to identify complaints and grievances and forward these complaints and grievances in a timely manner to NHP for recording and resolution, as required by s. Ins 18.03, Wis. Adm. Code.

Action: Compliance

9. It is recommended that NHP at the renegotiating of its provider agreements and no later than one year after the examination report is adopted, redraft its provider agreements to include continuity of care language, as required by s. 609.24, Wis. Stat.

Action: Compliance

Claim Administration

10. It is again recommended that NHP modify its remittance advice forms and its explanation of benefits forms to include the use of ANSI (American National Standards Institute) codes, as required by s. Ins 3.651 (3), Wis. Adm. Code.

Action: Compliance

11. It is recommended that NHP develop claims administration procedures to ensure that interest is calculated and paid on delayed claims, as required by s. 628.46, Wis. Stat., and provide a copy of these procedures to OCI within 60 days of the adoption of the examination report.

Action: Compliance

12. It is recommended that NHP institute an internal auditing mechanism to ensure that interest is calculated and paid on delayed claims, as required by s. 628.46, Wis. Stat., and provide OCI with a copy of the audit guides within 60 days of the adoption of examination report.

Action: Compliance

13. It is recommended that NHP develop claims administration procedures to ensure that the usual, customary, and reasonable data received from its vendor is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of these procedures within 60 days of the adoption of the examination report.

Action: Non-Compliance

14. It is recommended that NHP institute an internal auditing mechanism to ensure that the usual, customary, and reasonable data used to process claims is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of the audit guides within 60 days of the adoption of the examination report.

Action: Non-Compliance

Policy Forms

15. It is again recommended that NHP develop and implement written procedures to ensure that all policy forms used by NHP have been approved by OCI before NHP uses the forms in Wisconsin, as required by s. 631.20 (1), Wis. Stat.

Action: Compliance

Advertising

16. It is again recommended that NHP identify itself with its complete corporate name in all advertisements, as required by s. Ins 3.27 (12), Wis. Adm. Code.

Action: Compliance

17. It is again recommended that NHP include a form number on all printed advertisements which distinguishes them from other advertisements, policies, and other forms used by the insurer, as required by s. Ins 3.27 (26), Wis. Adm. Code.

Action: Non-Compliance

18. It is recommended that NHP maintain hard screen prints of its most current Web site pages in its advertising file, as required by s. Ins 3.27 (28), Wis. Adm. Code.

Action: Non-Compliance

Agents

19. It is again recommended that NHP develop and implement written procedures for listing agents with OCI, and for verifying that an agent is properly licensed and listed prior to accepting business from the agent, as required by s. Ins 6.57 (2), Wis. Adm. Code. The written procedures should be submitted to OCI within 60 days of the adoption of the examination report.

Action: Non-Compliance

20. It is recommended that NHP develop and implement written procedures to ensure the prompt return of applications and premiums submitted from unlicensed and unlisted agents, as required by s. Ins 6.57, Wis. Adm. Code.

Action: Compliance

21. It is again recommended that NHP develop and implement written procedures for terminating an agent's listing with NHP, which includes providing a written notification to the agent that the agent no longer represents NHP and requesting return of all indicia of agency, as required by s. Ins 6.57 (2), Wis. Adm. Code. The written procedures should be submitted to OCI within 60 days of the adoption of the examination report.

Action: Non-Compliance

22. It is again recommended that NHP establish, maintain, administer, and enforce a compliance program to ensure that NHP, its employees, and its agents comply with the insurance regulations of the state.

Action: Non-Compliance

III. CURRENT EXAMINATION FINDINGS

Privacy

The examiners reviewed the company's response to OCI's privacy of consumer financial and health information interrogatory, training manuals and programs for employees regarding treatment of personally identifiable information, required privacy notices, enrollment and authorization forms, and employee privacy agreements.

Section 610.70, Wis. Stat., regarding medical records privacy, became effective June 1, 1999, and created restrictions on insurers regarding their collection and release of personal medical information that correspond with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements. Chapter Ins 25, Wis. Adm. Code, became effective July 1, 2001, to address the provisions of Gramm Leach Bliley and was based on the National Association of Insurance Commissioners (NAIC) privacy of consumer financial and health information model regulation.

The examiners found that NHP had developed a privacy program, including oversight by NHP's Board of Directors and administrative executive team. The Board had direct oversight of the quality management committee, which was responsible for the approval of NHP's privacy policies. NHP's corporate integrity committee also provided oversight to NHP's privacy program with the privacy officer reporting directly to that committee. NHP's regulatory compliance officer also acted as the company's privacy officer.

The examiners found that the company had a process for orientation of new employees to its privacy and confidentiality process. The company had developed and required its employees to sign a confidentiality agreement. The company's external insurance agents and contracted vendors were also required to sign an Affinity Health Systems business associate addendum that included privacy and confidentiality components.

The examiners reviewed information that indicated the company provided its customers a copy of its privacy notice annually. The company also included the privacy notice in its Member Handbook for new members at the time of initial enrollment.

The examiners reviewed information indicating that the company complied with State and Federal privacy and confidentiality guidelines set by federal HIPAA regulations. The company indicated that it complied with privacy and confidentiality guidelines of the National Committee for Quality Assurance (NCQA) with respect to the Accreditation of Managed Care Organizations (MCO). NHP conducted an internal audit of its privacy and confidentiality program using NCQA guidelines and provided documentation that it scored a 97.76 out of a possible 100 score. The audit included the functional areas of: 1) adopting written policies and procedures regarding protected health information (PHI); 2) policies and procedures that inhibit sharing members' PHI with any plan sponsor without certification that the plan sponsor's documents have been amended; 3) rights to consent; 4) communication of PHI use and disclosure; 5) designation of a chief privacy officer or privacy committee.

No exceptions were noted regarding the company's compliance with s. 610.70, Wis. Stat., and ch. Ins 25, Wis. Adm. Code.

Policyholder Service and Complaints

The examiners reviewed the company's response to OCI's policyholder service and complaints interrogatory, written complaint handling policies and procedures and complaint log.

The customer service department was responsible for the policyholder service and complaints functional area. This area was under the supervision of the customer service department manager, who was ultimately responsible for all complaints and grievances received by NHP. The customer service department manager had a staff of fifteen individuals who varied in job description and function from customer service supervisor to member advocate and customer service representatives.

The examiners completed a complaint analysis prior to the examination of the company's OCI complaints received during 2003, which totaled 14. No exceptions were noted.

The examiners also reviewed a random sample of 50 complaints from the company's complaint log. No exceptions were noted.

Grievance and Independent Review (IRO)

The examiners reviewed the company's response to OCI's grievance and independent review interrogatory, company's grievance procedures and practices related to grievances and IRO, grievance committee minutes, annual grievance experience reports for 2003 and 2004, and explanation of benefits (EOB) and remittance advice (RA) forms. The examiners reviewed the independent review requests, informational material that the company provided to its members on the independent review process, including the provision in the certificate of coverage regarding the right to an independent review, and benefit denial letters. The examiners also conducted an interview of the company's customer service manager regarding the IRO process.

Grievances

The examiners reviewed the company's 2003 and 2004 annual grievance experience reports and found that the company reported 32 grievances classified in the "Other" category. The company reported that a large portion of the "Other" category in the grievance experience reports were grievances where individuals were disputing a claim processing problem. The company indicated that it identified these grievances as "Other" because the company viewed the grievances as disputes regarding policy or certificate benefits.

The examiners reviewed a random sample of 50 grievance files from 2003 and 2004. The examiners found that 10 grievance files included receipt dates that did not match the date recorded on the company's annual grievance experience report that it filed with the OCI as required by s. Ins 18.06 (2), Wis. Adm. Code. The examiners documented that date discrepancies were the result of a data entry error.

- 1. Recommendation:** It is recommended that the company ensure the actual receipt date of the grievances is recorded in its grievance experience report, as required by s. Ins 18.06, Wis. Adm. Code.
- 2. Recommendation:** It is recommended that the company develop and implement written procedures to ensure compliance with s. Ins 18.06, Wis. Adm. Code, with respect to the documentation of the date that a grievance is received.

The examiners found that two grievance files included acknowledgement letters that were not sent within five days of the actual receipt date. Section Ins 18.03 (4), Wis. Adm. Code, provides that an insurer shall within five business days of receipt of a grievance, deliver or deposit in the mail a written acknowledgment to the insured or the insured's authorized representative confirming receipt of the grievance.

- 3. Recommendation:** It is recommended that the company ensure that grievances are acknowledged with a letter to the grievant within five business days of the actual receipt date as required by s. Ins 18.03 (4), Wis. Adm. Code.

The examiners found that 15 files (10 files in 2003 and 5 files in 2004) had a resolution date indicated in the grievance experience report that differed from the date of the grievance resolution letter. The company stated the report resolution date was either the date the grievance committee made its determination or the date the company decided to approve the grievance, if overturned prior to the committee meeting. The examiners also found that 14 files included grievance resolution letters that were sent after the resolution date reported in the experience summary. Section Ins 18.03, Wis. Adm. Code, provides that each policy, certificate and outline of coverage includes a definition of a grievance, have an expedited grievance procedure, and shall indicate that each grievance shall be investigated.

- 4. Recommendation:** It is recommended that the company update its grievance procedure to ensure that the date of the resolution letter is recorded as the resolution date in its grievance experience report, as required by s. Ins 18.03, Wis. Adm. Code.

Independent Review

The examiners found that the company's complaint and appeal resolution policy and procedure defined an adverse determination as a denial based on medical necessity or experimental treatment including a request for a referral to an out-of-network provider when the member believes the clinical expertise of the out-of-network provider is medically necessary. Section 632.835 (1) (a), Wis. Stat., broadly defines an adverse determination as a determination by or on behalf of an insurer that the treatment does not meet the health benefit plan's

requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness.

- 5. Recommendation:** It is recommended that the company modify the definition of adverse determination in its policy and procedure to clarify that a member has the right to request an independent review each time the company makes an adverse determination, as defined by s. 632.835 (1) (a), Wis. Stat.

The examiners found that the company had developed and implemented policies and procedures to notify insureds of the right to request and obtain an independent review each time it made an adverse determination or an experimental treatment determination. The company had a written procedure to notify members of the right to request an independent review with the grievance resolution letter. The procedure contained a list of materials and information that would be included with the notice. The examiners found that the list included a statement that the member must submit a \$25 filing fee and that the filing fee would be refunded if the company prevailed in the review. The list should have stated that the filing fee was refunded when the insured prevailed. Section 632.835 (3) (a), Wis. Stat., requires that the \$25 filing fee be refunded by the insurer if the insured or the insured's authorized representative prevails in the review, either in whole or in part. The examiners also found that the list of information to be provided with the notice did not include the informational brochure developed by OCI. Section Ins 18.11 (2) (a), Wis. Adm. Code, requires the notice to be accompanied by the informational brochure developed by the Office, or in a form substantially similar, describing the independent review process.

- 6. Recommendation:** It is recommended that the company develop and implement a procedure to ensure it refunds the \$25 IRO filing fee whenever the insured prevails on the review, as required by s. 632.835 (3) (a), Wis. Stat.
- 7. Recommendation:** It is recommended that the company develop a process to ensure that the informational brochure developed by the Office be included with the notice it provides members of the right to request an independent review as required by s. Ins 18.11 (2) (a), Wis. Adm. Code.

The examiners found that the company did not have a written procedure for handling a request for an expedited independent review. Section 632.835 (3) (g), Wis. Stat., requires

that an insurer follow an expedited IRO procedure if an IRO determines that delaying a review would jeopardize the life or health of the insured or the insured's ability to regain maximum function.

- 8. Recommendation:** It is recommended that the company develop and implement a procedure to provide information to an IRO within the time periods required by s. 632.835 (3) (g), Wis. Stat., if an IRO determines that a review should be done on an expedited basis.

The examiners found that the company did not have a written procedure to update the list of certified independent review organizations that it provided to its members. Section 632.835 (2) (b), Wis. Stat., requires an insurer to provide a current listing of certified independent review organizations with the notice of the right to request an independent review.

- 9. Recommendation:** It is recommended that the company develop and implement a process, including a written procedure, to update the list of independent review organizations it provides to its members to ensure that the list is current, as required by s. 632.835 (2) (b), Wis. Stat.

The examiners found that the company's complaint and appeal resolution policy and procedure did not include a process for members enrolled in its Medicare cost policy to request an independent review of an adverse or an experimental treatment determination. The company's Medicare cost contract with the federal Centers for Medicare and Medicaid Services (CMS) required that it forward member appeals that involve Medicare-related coverage determinations to the external review organization contracted with CMS. This requirement did not apply to appeals that involve non-Medicare-related coverage determinations. Section Ins 18.11 (1), Wis. Adm. Code, requires insurers offering health benefit plans to establish independent review procedures in compliance with s. 632.835, Wis. Stat.

- 10. Recommendation:** It is recommended that the company develop and implement a procedure to offer members enrolled in its Medicare cost plan the right to request an independent review of an adverse or experimental treatment determination in non-Medicare-related coverage determinations as required by s. Ins 18.11 (1), Wis. Adm. Code.

The examiners reviewed 13 requests for independent review that were filed during the period of review. The examiners found one file in which the member prevailed did not

include documentation that the \$25 filing fee was refunded as required by s. 632.835 (3) (a), Wis. Stat.

The examiners found that four of the grievance files reviewed included grievance resolution letters that did not provide notice to the insured of the right to request an independent review and did not reference adverse determination or an experimental treatment determination. Three of those four grievance files the examiners reviewed indicated the grievance resolution letters did not provide notice to the insured of the right to request an independent review and did not reference the required enclosed reference material. The fourth file did not include any notice or reference to the independent review option. An adverse determination or experimental treatment determination shall be accompanied with a right to request an independent review with the proper notification listed in s. Ins. 18.11 (2) (a) 1, 2, and 3, Wis. Adm. Code.

11. Recommendation: It is recommended that the company revise its grievance resolution letter language for grievances involving an adverse determination or an experimental treatment determination to include reference to each enclosure pertaining to the independent review process to document compliance with s. Ins 18.11 (2) (a) 1, 2, and 3, Wis. Adm. Code.

Claims

The examiners reviewed the company's response to OCI's claims interrogatory, claim procedure manuals, claim auditing process, internal audit reports, explanation of benefit (EOB) and remittance advice (RA) forms, ANSI codes and claim payment methodology. The company pays claims based on usual, customary and reasonable (UCR) claim methodology. It had a vendor agreement with Captiva for providing UCR data.

The examiners reviewed a random sample of 100 paid and 100 denied claims filed during the period of review. The examiners also reviewed a random sample of 25 paid and 25 not paid chiropractic claims and 25 paid and 25 not paid mental health claims filed during the period of review. The review consisted of documenting that claims were paid timely, that interest was paid on delayed claims, and that claims were correctly paid for Wisconsin mandated benefits.

As part of the review of the chiropractic denied claim sample and the chiropractic claim procedures, the examiners documented that the company utilized chiropractors to determine if chiropractic claims were medically necessary.

During the period of review, the company contracted with United Behavioral Health (UBH) to provide the mental health services to NHP members. The examiners found the company's RA forms used for mental health claims did not include ANSI codes. The examiners also found the claims for mental health services did not include the name of NHP as the insurer. The company reported that UBH was contractually obligated to prepare the RAs in compliance with Wisconsin insurance law, but failed to do so. NHP terminated the contract with UBH effective December 31, 2004.

12. Recommendation: It is recommended that the company develop and implement a procedure to ensure that NHP's name appears on the remittance advice form as the insurer pursuant to s. Ins 3.651 (3) (b), Wis. Adm. Code.

The examiners found that the company did not have in effect claims administration procedures that required the UCR data produced by its vendor complied with s. Ins 3.60 (4),

Wis. Adm. Code. The prior examination report included recommendations that the company develop claims administration procedures to ensure that the usual, customary, and reasonable data received from its vendor was in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and that such documentation be provided to the OCI within 60 days of the adoption of the examination report. The company provided its claim administration procedures to the OCI as required by the prior examination report. However, the company reported that although it had developed a procedure in April 2002, it had not implemented the procedure during the period of review. The company indicated it updated its processing system every six months based on information received from its vendor, Captiva, however the company could not go back to the period of review to audit Captiva's data. As a result, the examiners could not document that the usual, customary and reasonable (UCR) amount paid on the sample was in compliance with s. Ins 3.60 (4), Wis. Adm. Code.

13. Recommendation: It is again recommended that the company develop and implement claims administration procedures to ensure that the usual, customary, and reasonable data received from its vendor is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of these procedures within 60 days of the adoption of the examination report.

14. Recommendation: It is again recommended that the company institute an internal auditing mechanism to ensure that the usual, customary, and reasonable data used to process claims is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of the audit guides within 60 days of the adoption of the examination report.

Marketing, Sales and Advertising

The examiners reviewed the company's response to OCI's marketing, sales, and advertising interrogatory, its marketing, sales and advertising activities, and its advertising files. The company reported that Affinity Health System (AHS), which is an affiliate of NHP, maintained a complete file of all affiliated company advertisements used since 1997. NHP stated that it prepared all of its own advertising and provided these advertisements to its agents as indicated in the agent agreement.

The examiners reviewed 21 of 23 company advertisements requested. The company indicated that the two advertisements that were not provided included an advertisement that was never fully developed or utilized and the other was a business letter that should not have been identified as an advertisement.

The examiners found that the company failed to include a form number on nine of its advertisements. The prior 1997 and 2001 examination reports included a recommendation requiring NHP to include a form number on all printed advertisements. Section Ins 3.27 (26), Wis. Adm. Code, provides that an advertisement which is an invitation to apply or an invitation to inquire and which is mass-produced shall be identified by a form number. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

15. Recommendation: It is again recommended that the company include a form number on all printed advertisements that distinguishes them from other advertisements, policies, and other forms used by the insurer, as required by s. Ins 3.27 (26), Wis. Adm. Code.

The examiners found that the company did not document in its advertising file the manner and extent of distribution for 11 advertisements. Section Ins 3.27 (28), Wis. Adm. Code, provides that a notation shall be attached to each advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised.

16. Recommendation: It is recommended that the company develop and implement a procedure that would ensure the manner and extent of distribution is recorded for each advertising file pursuant to s. Ins 3.27 (28), Wis. Adm. Code.

The examiners found that the company did not maintain screen prints of its Web site advertisements in its advertising file. The examiners also found that the company did not have formal written procedures for documenting and maintaining its advertising files. Section Ins 3.27 (28), Wis. Adm. Code, provides that each insurer maintain a complete file containing every printed, published or prepared advertisement of its policies.

17. Recommendation: It is again recommended that the company maintain screen prints of Web site advertisements in its advertising files pursuant to s. Ins 3.27 (28), Wis. Adm. Code.

18. Recommendation: It is recommended that the company develop and implement written procedures for maintaining its advertisement files to ensure compliance with s. Ins 3.27 (28), Wis. Adm. Code.

The company's group marketing agent contract allows agents to publish advertising materials referencing the company's name, products, or services only after receiving prior written approval of the company. The prior examination report included recommendations requiring that the company require its agents to submit their Web sites to the company and develop written procedures for monitoring agent advertisements on the Internet. The examiners found that the company had not developed and implemented procedures for the monitoring of agent advertisements on the Internet. The company provided a draft procedure dated April 13, 2005, requiring agents to submit Web site advertisements before use, which was consistent with NHP agent agreements. The examiners found the procedure was not implemented during the period of review. Section Ins 3.27 (27), Wis. Adm. Code, provides that an insurer shall require its agents or any other person or agency acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

19. Recommendation: It is again recommended that the company develop and implement written procedures for the monitoring of agent advertisements on the Internet as required by s. Ins 3.27 (27), Wis. Adm. Code.

20. Recommendation: It is again recommended that the company require, with an adopted written procedure, its agents to submit their personal Web sites for approval prior to use as required by s. Ins 3.27 (27) (b), Wis. Adm. Code, and that NHP maintain a copy of such advertisements in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.

The examiners found that the company did not have a formal written procedure to communicate changes in Wisconsin insurance and federal law and product changes to the departments responsible for marketing, sales and advertising. The prior 1997 and 2001 examination reports included a recommendation requiring the company to establish, maintain, administer, and enforce a compliance program to ensure that NHP, its employees, and its agents comply with the insurance regulations of the state. The examiners found that on-site or "in house" agents were informed of law changes during staff meetings. However, the examiners found that the company did not have a formal procedure for reporting to external agents the information related to law changes.

21. Recommendation: It is again recommended that the company develop written procedures that communicate law changes and product changes to the departments responsible for marketing, sales and advertising.

22. Recommendation: It is again recommended that the company establish, maintain, administer, and enforce a compliance program to ensure that NHP, its employees, and its agents comply with the insurance regulations of the state.

Policy Forms

The examiners reviewed the company's response to OCI's policy forms and rates interrogatory, policy, rates and form submission procedures. The examiners also matched 44 policy forms provided by the company to the OCI data base. The company's compliance department was responsible for filing all policy form submissions with the OCI. The examiners found that the company utilized the Sircon Corporation's electronic filing system for all rate and form filings.

The company's compliance department manager reported directly to the company's company operations officer (COO). The manager was responsible for monitoring legislative developments, recommending modifications, reviewing procedures, and developing and maintaining company compliance standards. The compliance department manager had two regulatory specialists to assist in accomplishing its compliance department responsibilities. The examiners found no indication of the company failing to file amended forms in instances of changes in insurance law or benefit plan changes.

The examiners noted no exceptions regarding the policy form review.

Electronic Commerce

The examiners reviewed the company's response to OCI's electronic commerce interrogatory, security process, online provider directories, and its Web site, www.networkhealth.com, which is an independent Web site from Affinity Health System. The company's Web site provided general information about the company such as products and services, company affiliates, job information and also included a password-protected link to information that would assist plan enrollees. The company reported that its information services department (IS) and marketing department were responsible for overseeing the company's Internet activities. The company also indicated that it was considering working toward expanding its Web site to include access for consumers in areas of information on provider quality, cost of care, and benefit accumulators.

The examiners requested from the company a listing of five providers whose contracts were terminated within the prior three months in order to document that the company's Web site provider directories were current and accurate. The examiners found that the company did not have system requirements for updating the online provider directories. The company indicated it utilized PDF documents on its Web site and could not update the PDF documents. Section 609.22 (3), Wis. Stat., provides that the provider list shall be updated on an ongoing basis.

23. Recommendation: It is again recommended that the company develop and implement a procedure to update the online provider directory in compliance with s. 609.22 (3), Wis. Stat.

Producer Licensing

The examiners reviewed the company's response to OCI's producer licensing interrogatory, individual producer agreements, and producer listing and termination procedures.

The examiners requested from the company a listing of all Wisconsin agents that represented the company as of the end date of the period of review. The agent licensing data provided by the company was compared to the agent database maintained by OCI. The prior examination report included a recommendation requiring the company to develop and implement written procedures for listing, terminating and maintaining agent records and to also make those records available to the OCI when such a request is made. The examiners found that the company failed to include in the data it provided the OCI 150 of its agents as representing the company. The company reported that its agent information resided on three different systems and had become decentralized, which resulted in its inability to produce the information when and as requested. The company reported that it was converting the agent information into one general database, with an expected completion date of October 1, 2005. Section Ins 6.57 (2), Wis. Adm. Code, requires the company to generate and submit agent reports when requested to do so by the OCI.

24. Recommendation: It is recommended that the company maintain its agent licensing and listing data in an accessible manner so that it can make these records available to the OCI when a request is made in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners also reviewed a random sample of 50 agent appointment files and files for the 23 agents terminated during the period of review. The examiners found 4 agent files that included termination letters sent March 29, 2005, to agents who were terminated March 23, 2003, March 31, 2003, November 18, 2003, and September 27, 2004. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination shall be filed prior to or within 30 calendar days of the termination date with the OCI. Prior to or within 15 days of filing this termination

notice, the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act of a representative.

25. Recommendation: It is recommended that the company revise its procedures to ensure that terminated agents are sent the notice required by s. Ins 6.57 (2), Wis. Adm. Code, prior to or within 15 days of filing the termination notice with OCI.

The examiners found that six terminated agent files did not contain termination letters to the agents advising the agents of the termination and requesting the return of all indicia. The prior 1997 and 2001 examination reports included a recommendation requiring NHP to develop and implement written procedures for terminating an agent's listing with NHP. The examiners found that the company failed to send notice of termination with request for return of indicia to two agents who were suspended by OCI for failure to obtain the required continuing education credits. The company documented that it sent letters to the agents advising them of the suspension and that it had a procedure in place that would ensure that it not accept applications from agents not eligible to sell NHP products. Although the agents were subsequently terminated, the company failed to send the notice required by s. Ins 6.57 (2), Wis. Adm. Code. The examiners found that the company failed to send notice of termination with request for return of indicia to two agents who were suspended by OCI for failure to pay their annual licensing fees. The company notified the agents of the suspension and advised that it would not accept further applications from the agents. The agents did not pay the required fees by the deadline and their licenses were revoked by OCI. The company failed to send these agents the termination notice. Section Ins 6.57 (2), Wis. Adm. Code, provides that insurers shall notify agents of appointment terminations prior to or within 15 days of the date the insurer notifies the OCI of termination.

26. Recommendation: It is recommended that the company revise its procedures to ensure that agents who have their license revoked by OCI for failure to obtain continuing education requirements are sent the notice required by s. Ins. 6.57 (2), Wis. Adm. Code.

- 27. Recommendation:** It is recommended that the company revise its procedures to ensure that agents who are revoked by OCI for failure to pay licensing fees are sent the notice required by s. Ins 6.57 (2), Wis. Adm. Code.
- 28. Recommendation:** It is again recommended that the company develop, implement and finalize written procedures for terminating an agent's listing with NHP, which includes providing a written notification to the agent that the agent no longer represents NHP and requesting return of all indicia of agency, as required by s. Ins 6.57 (2), Wis. Adm. Code. The finalized written procedures should be submitted to the OCI within 60 days of the adoption of the examination report.

Company Operations/Management

The examiners reviewed the company's response to the company operations/management interrogatory, provider agreements, and minutes for the board of directors meetings.

NHP's primary provider contract was with its direct parent Network Health System, owned by Affinity Medical Group (AMG). AMG was reimbursed for services rendered under fee-for-service arrangements. Payments to other related parties were made under a discounted fee-for-service or fee-for-service basis. Non-affiliated provider contracts were based on standard provider or hospital provider contracts. The standard contract generally specified services covered by reference in the NHP Member's Health Services agreement. The contract required that the services be rendered promptly in a manner consistent with community standards. If a referral was required in a given situation, the provider agreed to provide only the health care services preauthorized by the referral. Providers were typically reimbursed on a fixed schedule of fees or discounted fee-for-service basis.

The examiners reviewed a random sample of 50 provider agreements. The review consisted of documenting that NHP provider agreements complied with two previous examination recommendations. The examiners determined that the company complied with the prior recommendations regarding provider agreements during the period of review.

V. CONCLUSION

The examination involved a compliance review of Network Health Plan's insurance business for the period January 1, 2003, through December 31, 2004. The examination found eight non-compliant recommendations from the prior market conduct examination report adopted March 7, 2002. Three of the recommendations were repeat recommendations from the market conduct report adopted July 21, 1998. The eight repeat recommendations were cited in the functional areas of electronic commerce, claims administration, marketing, sales and advertising, and producer licensing.

The examiners have concerns regarding the lack of oversight and compliance regarding recommendations made in prior examination reports.

The examination report also makes 20 new recommendations. These current recommendations are regarding the company's producer licensing, electronic commerce, marketing, sales and advertising, claims, and grievance and independent review organization activities during the period of review.

VI. SUMMARY OF RECOMMENDATIONS

Grievance and Independent Review (IRO)

- Page 14 1. **Recommendation:** It is recommended that the company ensure the actual receipt date of the grievances is recorded in its grievance experience report, as required by s. Ins 18.06, Wis. Adm. Code.
- Page 14 2. **Recommendation:** It is recommended that the company develop and implement written procedures to ensure compliance with s. Ins 18.06, Wis. Adm. Code, with respect to the documentation of the date that a grievance is received.
- Page 15 3. **Recommendation:** It is recommended that the company ensure that grievances are acknowledged with a letter to the grievant within five business days of the actual receipt date as required by s. Ins 18.03 (4), Wis. Adm. Code.
- Page 15 4. **Recommendation:** It is recommended that the company update its grievance procedure to ensure that the date of the resolution letter is recorded as the resolution date in its grievance experience report, as required by s. Ins 18.03, Wis. Adm. Code.
- Page 16 5. **Recommendation:** It is recommended that the company modify the definition of adverse determination in its policy and procedure to clarify that a member has the right to request an independent review each time the company makes an adverse determination, as defined by s. 632.835 (1) (a), Wis. Stat.
- Page 16 6. **Recommendation:** It is recommended that the company develop and implement a procedure to ensure it refunds the \$25 IRO filing fee whenever the insured prevails on the review, as required by s. 632.835 (3) (a), Wis. Stat.
- Page 16 7. **Recommendation:** It is recommended that the company develop a process to ensure that the informational brochure developed by the Office be included with the notice it provides members of the right to request an independent review as required by s. Ins 18.11 (2) (a), Wis. Adm. Code.
- Page 17 8. **Recommendation:** It is recommended that the company develop and implement a procedure to provide information to an IRO within the time periods required by s. 632.835 (3) (g), Wis. Stat., if an IRO determines that a review should be done on an expedited basis.
- Page 17 9. **Recommendation:** It is recommended that the company develop and implement a process, including a written procedure, to update the list of independent review organizations it provides to its members to ensure that the list is current as required by s. 632.835 (2) (b), Wis. Stat.
- Page 17 10. **Recommendation:** It is recommended that the company develop and implement a procedure to offer members enrolled in its Medicare cost plan the right to request an independent review of an adverse or experimental treatment determination in non-Medicare-related coverage determinations as required by s. Ins 18.11 (1), Wis. Adm. Code.

- Page 18 11. **Recommendation:** It is recommended that the company revise its grievance resolution letter language for grievances involving an adverse determination or an experimental treatment determination to include reference to each enclosure pertaining to the independent review process to document compliance with s. Ins 18.11 (2) (a) 1, 2, and 3, Wis. Adm. Code.

Claims

- Page 19 12. **Recommendation:** It is recommended that the company develop and implement a procedure to ensure that NHP's name appears on the remittance advice form as the insurer pursuant to s. Ins 3.651 (3) (b), Wis. Adm. Code.
- Page 20 13. **Recommendation:** It is again recommended that the company develop and implement claims administration procedures to ensure that the usual, customary, and reasonable data received from its vendor is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of these procedures within 60 days of the adoption of the examination report.
- Page 20 14. **Recommendation:** It is again recommended that the company institute an internal auditing mechanism to ensure that the usual, customary, and reasonable data used to process claims is in compliance with s. Ins 3.60 (4), Wis. Adm. Code, and provide OCI with a copy of the audit guides within 60 days of the adoption of the examination report.

Marketing, Sales and Advertising

- Page 21 15. **Recommendation:** It is again recommended that the company include a form number on all printed advertisements that distinguishes them from other advertisements, policies, and other forms used by the insurer, as required by s. Ins 3.27 (26), Wis. Adm. Code.
- Page 22 16. **Recommendation:** It is recommended that the company develop and implement a procedure that would ensure the manner and extent of distribution is recorded for each advertising file pursuant to s. Ins 3.27 (28), Wis. Adm. Code.
- Page 22 17. **Recommendation:** It is again recommended that the company maintain screen prints of Web site advertisements in its advertising files pursuant to s. Ins 3.27 (28), Wis. Adm. Code.
- Page 22 18. **Recommendation:** It is recommended that the company develop and implement written procedures for maintaining its advertisement files to ensure compliance with s. Ins 3.27 (28), Wis. Adm. Code.
- Page 22 19. **Recommendation:** It is again recommended that the company develop and implement written procedures for the monitoring of agent advertisements on the Internet, as required by s. Ins 3.27 (27), Wis. Adm. Code.
- Page 23 20. **Recommendation:** It is again recommended that the company require, with an adopted written procedure, its agents to submit their personal Web sites for approval prior to use as required by s. Ins 3.27 (27) (b), Wis. Adm. Code, and

that NHP maintain a copy of such advertisements in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.

Page 23 21. **Recommendation:** It is recommended that the company develop written procedures that communicate law changes and product changes to the departments responsible for marketing, sales and advertising.

Page 23 22. **Recommendation:** It is again recommended that the company establish, maintain, administer, and enforce a compliance program to ensure that NHP, its employees, and its agents comply with the insurance regulations of the state.

Electronic Commerce

Page 25 23. **Recommendation:** It is recommended that the company develop and implement a procedure to update the online provider directory in compliance with s. 609.22 (3), Wis. Stat.

Producer Licensing

Page 26 24. **Recommendation:** It is recommended that the company maintain its agent licensing and listing data in an accessible manner so that it can make these records available to the OCI when a request is made in order to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Page 27 25. **Recommendation:** It is recommended that the company revise its procedures to ensure that terminated agents are sent the notice required by s. Ins 6.57 (2), Wis. Adm. Code, prior to or within 15 days of filing the termination notice with OCI.

Page 27 26. **Recommendation:** It is recommended that the company revise its procedures to ensure that agents who have their license revoked by OCI for failure to obtain continuing education requirements are sent the notice required by s. Ins 6.57 (2), Wis. Adm. Code.

Page 28 27. **Recommendation:** It is recommended that the company revise its procedures to ensure that agents who are revoked by OCI for failure to pay licensing fees are sent the notice required by s. Ins 6.57 (2), Wis. Adm. Code.

Page 28 28. **Recommendation:** It is again recommended that the company develop, implement and finalize written procedures for terminating an agent's listing with NHP, which includes providing a written notification to the agent that the agent no longer represents NHP and requesting return of all indicia of agency, as required by s. Ins 6.57 (2), Wis. Adm. Code. The finalized written procedures should be submitted to the OCI within 60 days of the adoption of the examination report.

VI. ACKNOWLEDGEMENT

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

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

Name	Title
Barbara Belling	Managed Care Specialist
Pam Ellefson	Insurance Examiner
Jamie Key	Insurance Examiner
Matt Syens	Insurance Examiner

Respectfully submitted,

Kevin Zwart
Examiner-in-Charge