



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MNP/145385

PRELIMINARY RECITALS

Pursuant to a petition filed November 19, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on January 04, 2013.

The issue for determination is whether petitioner is eligible for payment by the Medical Assistance (MA) program (Badger Care Plus Basic Plan) for a DSAEK endothelial corneal transplant.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: No Appearance

Division of Health Care Access And Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County. At all times material hereto she has been enrolled in the BadgerCare Plus Basic Plan program.
2. Petitioner seeks Basic Plan coverage for a DSAEK endothelial corneal transplant.
3. On or about November 19, 2012, petitioner's provider was informed by representatives of the Basic Plan program that a DSAEK endothelial corneal transplant is not covered under the Basic Plan.

DISCUSSION

Wisconsin's BadgerCare Plus Basic Plan (Basic Plan) was implemented July 1, 2010, as a self-funded plan intended to provide BadgerCare Plus Core Plan Waitlist members with access to limited health care benefits until space became available in the Core Plan.

MA may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code Ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the Bureau in advance of receiving the service. Finally, some services and equipment are never covered by the MA program.

In this case, the requested DSAEK endothelial corneal transplant was a noncovered service per the BadgerCare Plus and Medicaid Handbook, which states in part:

Program Name: BadgerCare Plus and Medicaid

Handbook Area: Vision

Covered and Noncovered Services: Noncovered Services

Topic #9337

Basic Plan Noncovered Services

The following are among the services that are not covered under the BadgerCare Plus Basic Plan:

- Case management.
- Certain visits over the 10-visit limit.
- CRS (Community Recovery Services).
- Enteral nutrition.
- HealthCheck.
- Health education services.
- Hearing services, including hearing instruments, cochlear implants, and bone-anchored hearing aids, hearing aid batteries, and repairs.
- Home care services (home health, personal care, PDN (private duty nursing)).
- Inpatient mental health and substance abuse treatment services.
- Non-emergency transportation (i.e., common carrier, SMV (specialized medical vehicle)).
- Nursing home.
- Obstetrical care and delivery.
- Outpatient mental health and substance abuse services.
- PNCC (prenatal care coordination).
- Provider-administered drugs.
- Routine vision examinations billed with CPT (Current Procedural Terminology) codes 92002-92014 (without a qualifying diagnosis), determination of refractive state billed with CPT code 92015; vision materials such as glasses, contact lenses, and ocular prosthetics; repairs to vision materials; and services related to the fitting of contact lenses and spectacles.
- SBS (school-based services).
- Transplants and transplant-related services.

Billing Members for Noncovered Services

Basic Plan members may request noncovered services from providers. In those cases, providers may collect payment for the noncovered service from the member if the member accepts responsibility for payment and makes payment arrangements with the provider. Providers are strongly encouraged to obtain a written statement in advance documenting that the member has accepted responsibility for payment of the service.

Providers may bill members up to their usual and customary charge for noncovered services. Basic Plan members do not have appeal rights for noncovered services.

See, <https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=64&s=2&c=8&nt=Basic+Plan+Noncovered+Services>; See also, *BadgerCare Plus Eligibility Handbook* § 45.8.

The respondent did not participate in the hearing, and did not present any testimony regarding the alleged denial at issue here. Petitioner did not present any written notice of denial, and she testified that she never received anything but a verbal indicator of denial from her provider. With the petitioner's permission, this administrative law judge contacted petitioner's provider post-hearing for further information regarding the denial as testified to by petitioner. Her provider indicated that it did not submit a written authorization request, but instead called to verify coverage for the proposed transplant procedure. According to its file on this matter, Petitioner's provider was advised verbally that transplants are not covered services under the Basic Plan. Petitioner's provider further stated that its notes reflect that it spoke with three separate individuals, all of whom advised that the transplant procedure was not covered.

Based upon that information, and the Forward Health information noted above, I can only conclude that petitioner was correctly informed that the Basic Plan does not provide coverage for transplants such as that requested by petitioner. I sincerely empathize with petitioner's situation, and would urge her to share this decision with her provider. If the provider believes that the service would correctly fit under an allowable code, then that matter should be properly presented to ForwardHealth for consideration. Petitioner is also encouraged to pursue a disability determination in the event that her vision issues would qualify her for benefits related to blindness.

CONCLUSIONS OF LAW

The BadgerCare Plus Basic Plan does not provide coverage for transplants as requested by the petitioner.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of February, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 19, 2013.

Division of Health Care Access And Accountability