



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

██████████  
██████████  
████████████████████

DECISION

HMO/147044

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 01, 2013, under Wis. Stat. § 49.45(5)(a), 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 hearing was held on May 07, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether invoices for medical services for Petitioner should have been paid by the Medicaid program.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████  
████████████████████

Respondent:

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

By: Elizabeth Bartlett, Esq.

ICare  
1555 N. RiverCenter Drive, Suite 206  
Milwaukee, WI 53212

UnitedHealthcare Community plan - no appearance

DHS/DHCAA/OIG – written submission by Melody Suthers

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.

2. Petitioner filed this appeal alleging failure of the Medicaid program to pay for two separate dates of medical services. The first was from November 4, 2011. The second from October 8, 2012.
3. Petitioner's November 4, 2011 medical bills related to maternity related medical services
4. Petitioner was certified eligible for the BadgerCare+ Core plan for the period from September 1, 2011 through at least March 2012.
5. Petitioner was eligible for family planning waiver benefits for the period from January 1, 2011 May 31, 2012.
6. Petitioner was certified for the BadgerCare+ Standard plan for the period from April 1, 2012 forward for the time period relevant here.
7. The Department of Health Services/ForwardHealth has no record of invoices being submitted by Petitioner's provider for the October 8, 2012 date of service.

### **DISCUSSION**

Under the discretion allowed by *Wis. Stat.*, §49.45(9), the Department of Health Services (DHS) requires MA recipients to participate in HMOs. *Wis. Admin. Code*, § DHS 104.05(2)(a). Medicaid recipients enrolled in HMOs must receive medical services from the HMOs' providers, except for referrals or emergencies. *Wis. Admin. Code*, § DHS 104.05(3).

A BadgerCare+ Core program provides Medicaid benefits to childless adults. It does not cover maternity related health care. See *BadgerCare+ Eligibility Handbook*, §43.1 and Exhibit B, attachment 3. Similarly, the family planning program is just that -- it covers only family planning. *BEH*, §40.1. The BadgerCare+ Standard plan does, however, provide full maternity coverage. *BEH*, §38.2.

Petitioner was enrolled in BadgerCare+ Core in November 2011. The Core plan does not cover maternity related health care, thus her HMO in that time period could not provide payment for the maternity related services. Similarly, Petitioner had Family Planning Waiver coverage for the period covering November 2011 but FPW benefits do not include maternity medical care.

There may be a question as to why Petitioner was not in the BadgerCare+ Standard plan in November 2011 but that is an economic support agency question and given the allegations of this appeal the Milwaukee economic support agency was not a party here. I did check the Division of Hearings and Appeals data base for appeals for Petitioner and this appeal is the first filed by Petitioner so there was never an appeal challenging the eligibility determinations made in 2011.

Finally, Petitioner did obtain BadgerCare+ Standard plan eligibility as of April 1, 2012. That eligibility ran from April 1, 2012 into at least April 2013. Thus Petitioner's medical bills for October 2012 may be covered by the BadgerCare+ Standard plan assuming they are a covered service and submitted timely. Here the Department has no record of an invoice from Petitioner's provider for October 8, 2012. Petitioner should ask the October 8, 2012 provider to submit an invoice to Petitioner's HMO for that time period – UnitedHealthcare Community plan.

### **CONCLUSIONS OF LAW**

1. That, as a Badger Care+ Core plan enrollee in November 2011; Petitioner was not eligible for Medicaid payment for pregnancy related services.
2. That as, a BadgerCare+ Standard plan enrollee in October 2012; Petitioner's October 8, 2012 invoice for medical services has not been, but should be, submitted to UnitedHealthcare Community plan.

**THEREFORE, it is**

**ORDERED**

That Petitioner's provider in October 2012 may submit its request for payment to the UnitedHealthcare Community plan. A copy of this decision should be submitted with that payment but this decision does not expand the time limits allowed by the Department of Health Services for submission of invoices by providers.

In all other respects, this appeal is 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 Milwaukee,  
Wisconsin, this 30th day of May, 2013

---

\sDavid D. Fleming  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 30, 2013.

Division of Health Care Access And Accountability