



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

In the Matter of

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

DECISION

HMO/150112

PRELIMINARY RECITALS

Pursuant to a petition filed June 18, 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 telephonic hearing was held on July 17, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the HMO correctly denied petitioner's request to pay for his two \$60 emergency room copays because those copayments are the petitioner's responsibility based upon Medicaid policy.

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: Denise Landkamer, RN consultant appeared at hearing and Melody Suthers,
written submission

Division of Health Care Access And Accountability
1 West Wilson Street
P.O. Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 61 year old resident of Milwaukee County.

2. The petitioner is enrolled as a Benchmark BadgerCare Plus member in the Children's Community Health Plan HMO.
3. On February 19, 2013, the petitioner injured his elbow seriously and required stitches to close the skin. The nurse practitioner at the clinic felt such extensive suturing should be done at the emergency room where it was performed on the petitioner. See Attachment 3. Petitioner was assessed a \$60 copay for that outpatient hospital emergency room treatment.
4. On February 22, 2013, petitioner caught his fingers and hand in a snow blower. Due to extensive trauma and the possible loss of fingers, the clinic sent petitioner to the emergency room for treatment. Petitioner was assessed a \$60 copay for that outpatient hospital emergency room treatment.
5. The petitioner requested that his HMO pay for his two emergency room copays of \$60 each.
6. The petitioner's HMO refused to pay petitioner's emergency room copays because Medicaid policy clearly states that outpatient hospital emergency room visits copayments of \$60 are the responsibility of the patient.
7. The Department reviewed the HMO's decision and concluded in its July 15, 2013 letter that the HMO correctly denied the petitioner's request because Medicaid policy states emergency room co-pays are the responsibility of the HMO member.

DISCUSSION

The Bureau 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. Some services and equipment are never covered by the MA program. Finally, some services are covered, but with a required copayment by the patient.

In this case, the petitioner's requested HMO payment of his two \$60 emergency room copays because those copayments were not a covered service. Instead, those copayments were clearly set forth as the financial responsibility of the HMO member in outpatient hospital emergency room treatments. The Department representative provided convincing policy evidence that the \$60 ER copays were the responsibility of the petitioner. The petitioner was unable to provide any evidence to refute such Medicaid policy.

Nevertheless, during the July 17, 2013 hearing, petitioner argued unconvincingly that he did not need to be treated at the emergency room because his injuries on both February 19, 2013 and February 22, 2013 could have been treated at the medical clinic by a nurse practitioner or a doctor. Such argument was not persuasive as both of his injuries were serious (with possible loss of fingers), and the treating physician had the right to determine if his injuries were serious enough to require appropriate treatment at the emergency room. Furthermore, petitioner did receive the benefits of those emergency room treatments. It appears that petitioner simply does not want to pay his required copays. However, such co-pays are clearly required of HMO members by Medicaid policy. Accordingly, based upon the above, I conclude that the HMO correctly denied petitioner's request to pay for his two \$60 emergency room copays because those copayments are the petitioner's responsibility based upon Medicaid policy.

CONCLUSIONS OF LAW

The HMO correctly denied petitioner's request to pay for his two \$60 emergency room copays because those copayments are the petitioner's responsibility based upon Medicaid policy.

THEREFORE, it is

ORDERED

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 9th day of September, 2013

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 9, 2013.

Division of Health Care Access And Accountability