



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MNP/161829

PRELIMINARY RECITALS

Pursuant to a petition filed November 6, 2014, 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 (DHCAA or Division) in regard to Medical Assistance/BadgerCare Plus (BCP), a hearing was held on December 17, 2014, by telephone. The hearing record was held open for a response from the Division, which was received.

The issue for determination is whether the Division correctly declined to pay dental charges incurred by the petitioner in 2014.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: no one

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 49, is a resident of Fond du Lac County. She has been certified for BCP from at least February 1, 2014 through the present.

2. The petitioner asserts that no dental providers in Fond du Lac County will provide care to BCP enrollees. However, Dr. Casey Floros is a Medicaid/BCP provider.
3. In June 2014, the petitioner was working at a temporary job and had some limited private insurance through that employment. A childhood root canal failed and broke off below the gumline. The petitioner went to a dentist and oral surgeon in Fond du Lac for services on June 20, July 11 and July 31, 2014. The tooth (upper left incisor) was determined to be infected, and the dentist extracted the tooth.
4. The petitioner asserts that she has a \$59 extraction liability remaining after the private insurer's payment. She also identified dentist charges of \$75.00 for nitrous oxide during the extraction (she has dental anxiety), \$244.28 for the examination, and \$497.00 for taking an impression of her front teeth to assist the oral surgeon with peg placement. These three expenses have not been covered by private insurance.
5. The oral surgeon subsequently implanted a titanium peg for an implant, but it failed, allegedly due to gum infection. A CT scan was ordered after the first implant failed, for purpose of checking the amount of remaining bone and determining the angle of peg placement. The petitioner anticipates a liability of \$250 for the scan, which she has not yet undergone. The total bill to date from the oral surgeon is approximately \$1,300, per the petitioner. The amount not covered by her private insurance is not in the hearing record, although it is substantial.
6. No dental claims have been submitted to the Division for 2014 services. Therefore, the Division has not denied any 2014 dental claim for the petitioner.
7. Use of a dental bridge is an alternative treatment to an implant.

DISCUSSION

Medicaid/BCP never makes payments directly to patients; the payments always go to Medicaid providers who have registered with/are certified by the program. To get paid, medical providers must submit claims "in accordance with the claims submission requirements, claim forms instructions and coding information provided by the department." Wis. Admin. Code § DHS 106.03(2). Generally, the provider may file a claim for up to one year after the date of service. § DHS 106.03(3)(b). Assuming that Medicaid rules have been followed, the Department then pays the provider at the Medicaid rate for the services on the claim. *Id.*, §§ DHS 106.03(5), 106.04.

In this case, no provider has submitted a claim for 2014 dental work for the petitioner to the Department for payment. Thus, the Department has not taken any negative action (*e.g.*, denied a submitted claim) toward the petitioner. The hearing right was created to allow a petitioner to challenge:

...department actions which result in the denial, discontinuation, termination, suspension or reduction of the recipient's MA benefits. The fair hearing process is not intended for recipients who wish to lodge complaints against providers concerning quality of services received, nor is it intended for recipients who wish to institute legal proceedings against providers.

Wis. Admin. Code § DHS 104.01(5)(b) . An actual claim denial has not yet happened; if a claim denial had occurred, there would be something for me to adjudicate through this hearing process. Because the Department has not yet denied, discontinued, terminated, suspended or reduced the petitioner's benefits, there is nothing for me to review here. The petitioner may wish to ask her dentist provider, assuming that he is Medicaid-certified, why a claim for the extraction services was not submitted to the Department for payment.

As an informational aside to the petitioner, state code appears to bar Medicaid (MA) payment for her initial tooth implant:

(4) NON-COVERED SERVICES; DENTISTS AND PHYSICIANS. The following dental services are not covered under MA whether or not the service is performed by a dentist; physician; or a person under the supervision of a dentist or physician:

...

(i) The following implant services:

- 1.** Tooth implants.
- 2.** Transplantations.
- 3.** Surgical repositioning except reimplantation under sub. (3).
- 4.** Transseptal fiberotomies.

Id., § DHS 107.07(4).

CONCLUSIONS OF LAW

1. Because the Department has not yet denied, discontinued, terminated, suspended or reduced the petitioner’s benefits, there is nothing for this Judge to review at this time.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 4th day of February, 2015

\sNancy J. Gagnon
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 February 4, 2015.

Division of Health Care Access and Accountability