



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

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In the Matter of

██████████  
██████████  
██████████

**DECISION**  
Case #: MNP - 208124

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on March 21, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on May 4, 2023, by telephone.

The issue for determination is whether the Division of Medicaid Services (DMS) properly denied claims for emergency Medicaid coverage.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████  
██████████

Respondent:

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

By: Did Not Appear  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 49-year old resident of Rock County who is not enrolled in Medicaid and who is a non-U.S. citizen.

2. In March 2021, Petitioner experienced symptoms that led her to seek medical care. She continued experiencing symptoms after that including but not limited to shortness of breath, severe headaches, and body spasms. As a result, she was monitored with a Holter monitor from April 20, 2021 to May 20, 2021, underwent a stress test in September 2021, and was prescribed medications. She was also evaluated at the Mayo Clinic. In a medical note dated December 13, 2021, Christel Tecarro MD noted that a heart catheterization to look for a blockage would be appropriate given Petitioner's ongoing symptom. On January 6, 2022, Haroon Chughthai MD recommended a right and left heart catheterization or a hemodynamic stress echo to evaluate for exercise-induced filling pressures and PA pressure evaluation.
3. On March 17, 2022, Petitioner underwent a scheduled heart catheterization procedure at [REDACTED]. The performing physician made the following conclusions after completion of the procedure: normal right heart pressures; mild coronary artery disease, preserved light ventricular function and recommended the following:
  1. Patient's symptoms are either from a noncardiac etiology or possible coronary vasospasm. I recommend continuing nitrates. She is also on beta blockers for her arrhythmias.
  2. Ongoing risk factor modification.
  3. Post-procedure care of the groin.
4. Beloit Health System filed claims with the State of Wisconsin seeking Emergency Medicaid coverage for services related to the March 17, 2022 procedure. On an unknown date, those claims were denied based on a finding that the charges did not meet qualifications for emergent/urgent care.
5. Petitioner filed an appeal with the Division of Hearings and Appeals on March 21, 2023.
6. In April 2023, the Department of Health Services sent the following statement to the Division of Hearings and Appeals in response to Petitioner's appeal:

DMS upholds the determination of claims denial due to the requirement that claims for Emergency Medicaid (EMA) be submitted with clinical documentation from the provider. The claims in question did not contain these required attachments. DMS advises providers follow the established protocol for providing adequate documentation with EMA claims.

## DISCUSSION

Emergency Medicaid ("EMA") covers treatment received for emergency medical conditions to non-US Citizens. An emergency medical condition is defined by Department of Health Service / ForwardHealth policy as follows:

A medical condition manifesting itself by acute symptoms of such severity that one could reasonably expect the absence of immediate medical attention to result in the following: placing the person's health in serious jeopardy, serious impairment of bodily functions, or serious dysfunction of any bodily organ or part. See ForwardHealth Handbook Topic 277.

A provider who gives emergency care to a non-U.S. citizen should refer them to the [income maintenance or tribal agency](#) or ForwardHealth outpost site for a determination of BadgerCare Plus enrollment. Providers may complete the [Certification of Emergency for Non-U.S. Citizens](#) form for clients to take to the income maintenance or tribal agency in their county of residence where the BadgerCare Plus enrollment decision is made.

Providers should be aware that a client's enrollment does not guarantee that the services provided will be reimbursed by BadgerCare Plus.

Petitioner explained at hearing that she filed her hearing request because she was confused as to why the State apparently paid for prior services she received related to the same symptoms that led to the performance of the heart catheterization—the payment for which is at issue here. Unfortunately, no representative from the Department of Health Services participated in the hearing and the Department did not provide a detailed explanation of its decision to either the Division of Hearings and Appeals or the petitioner. Instead, the Department submitted the brief statement quoted in Finding of Fact No. 6 above which includes no specific reference to law, regulation, or policy and which references “required attachments” but does not specify what those might be.

Despite the Department’s failure to provide a meaningful response to Petitioner’s appeal, for the following reasons, I find that there is insufficient evidence to demonstrate that the service in question was performed to treat an emergency medical condition. While I appreciate that Petitioner was experiencing concerning symptoms including an irregular heart rhythm for several months prior to undergoing the heart catheterization, the documentation that she provided to the Division of Hearings and Appeals shows that this was a medical procedure that was scheduled to occur months after Dr. Tecarro and Dr. Chughtai, two of her health care providers, noted that it may be an appropriate next step to try to get to the root of her symptoms. Having serious symptoms that require medical evaluation and treatment is not the same as having acute symptoms that require immediate medical attention.

Although it is clear that Petitioner was dissatisfied with some of the medical care she received and believes that she should have had this procedure sooner than she did, the evidence provided does not demonstrate that her symptoms were “acute” or that they were sufficiently severe “that one could reasonably expect the absence of immediate medical attention” to place her health in serious jeopardy, to seriously impair her bodily functions, or to cause serious dysfunction of any bodily organ, as required by the above-quoted Department policy.

### **CONCLUSIONS OF LAW**

There is insufficient evidence to demonstrate that Petitioner had an “emergency medical condition” that entitles her to Emergency Medicaid coverage of the heart catheterization procedure and related services that she received at the [REDACTED] on March 17, 2022.

**THEREFORE, it is**

**ORDERED**

That Petitioner’s appeal 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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

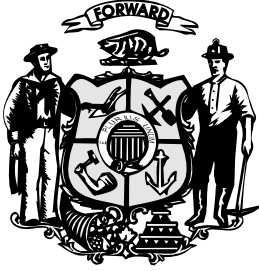
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 6th day of June, 2023



\s \_\_\_\_\_  
Teresa A. Perez  
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 June 6, 2023.

Division of Medicaid Services

