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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: HMO - 208799

PRELIMINARY RECITALS

Pursuant to a petition filed May 17, 2023, under Wis. Stat., § 49.45(5)(a), to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was scheduled on July 6, 2023, by telephone.

The issue for determination is whether petitioner can be held liable for medical bills under MA rules.

PARTIES IN INTEREST:

Petitioner:

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

Petitioner's Representative:

Atty. Garrett T. Pankratz
Hale, Skemp, Hanson, Skemp & Sleik
PO Box 1927
La Crosse, WI 54602-1927

Respondent:

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

By: Michelle Rocca
Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

DISCUSSION

Petitioner is eligible for MA and receives benefits through the Anthem Blue Cross HMO. He filed this appeal after receiving a letter from the HMO informing him that a claim by Gunderson Medical Center for inpatient care was denied, to the extent of some \$7,770. Petitioner filed this appeal with the concern that he would be held liable for the bill.

Two Wisconsin Administrative Code provisions apply here from §DHS 104.01(12):

- (b) *Freedom from having to pay for services covered by MA.* Recipients may not be held liable by certified providers for covered services and items furnished under the MA program, except for copayments or deductibles under par. (a), if the patient identifies himself or herself as an MA recipient and shows the provider the MA identification card.
- (c) *Prior authorization of services.* When a service must be authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. In that case the recipient may request a fair hearing. Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability.

I included subsection (c) because there was a suggestion that prior authorization was involved. Also important here is this subsection from §DHS 106.04:

- (3) NON-LIABILITY OF RECIPIENTS. A provider shall accept payments made by the department in accordance with sub. (1) as payment in full for services provided a recipient. A provider may not attempt to impose a charge for an individual procedure or for overhead which is included in the reimbursement for services provided nor may the provider attempt to impose an unauthorized charge or receive payment from a recipient, relative or other person for services provided, or impose direct charges upon a recipient in lieu of obtaining payment under the program, except under any of the following conditions:
 - (a) A service desired, needed or requested by a recipient is not covered under the program or a prior authorization request is denied and the recipient is advised of this fact before receiving the service;
 - (b) An applicant is determined to be eligible retroactively under s. 49.46(1)(b), Stats., and a provider has billed the applicant directly for services rendered during the retroactive period, in which case the provider shall, upon notification of the recipient's retroactive eligibility, submit claims under this section for covered services provided during the retroactive period...; or
 - (c) A recipient in a nursing home chooses a private room in the nursing home and the provisions of s. DHS 107.09(4)(k) are met.

The upshot of the above is that, regardless of the dispute between the HMO and Gunderson, petitioner himself cannot be billed for or be found liable for payment of the disputed bill. I will dismiss the appeal because, as of this date, Gunderson has not billed petitioner for the services, so there is nothing for me to order. I will note that petitioner is not liable as a conclusion of law.

CONCLUSIONS OF LAW

Petitioner, as an MA recipient covered under the program by the Anthem Blue Cross HMO, cannot be held liable, or be billed for, services provided by Gunderson Medical Center whose payment are denied as not medically necessary by the HMO.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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, 5th 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

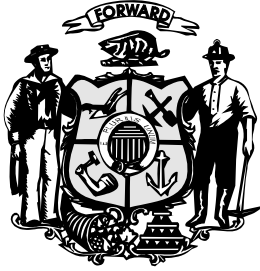
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 7th day of July, 2023



\s _____
Brian C. Schneider
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 July 7, 2023.

Division of Medicaid Services
Attorney Garrett Pankratz