

ForwardHealth UPDATE

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NEW BADGERCARE PLUS MEMBER COPAY FOR NONEMERGENCY VISITS TO THE EMERGENCY DEPARTMENT

Effective for dates of service on and after February 1, 2020, certain BadgerCare Plus members are subject to an \$8 copay for nonemergency use of the emergency department, in accordance with [42 C.F.R. § 447.54](#). The copay requirement applies to BadgerCare Plus members who are considered childless adults. BadgerCare Plus considers members to be childless adults if they are between ages 19–64, are not pregnant, and if they do not have dependent children living in the home. The provider is responsible for using the prudent layperson standard to determine whether or not a member has an emergency medical condition.

For information on the copay suspension, providers should refer to the December 2019 ForwardHealth Update [2019-34](#), titled “All BadgerCare Plus and Wisconsin Medicaid Copays Temporarily Suspended Effective for Dates of Service Beginning on January 1, 2020, through June 30, 2020.”

AFFECTED PROGRAMS

BadgerCare Plus, Medicaid

TO

Hospital Providers, HMOs and Other Managed Care Programs

QUICK LINKS

- [ForwardHealth Portal](#)
- [ForwardHealth Online Handbook](#)

The information provided in this ForwardHealth Update is published in accordance with the federally approved BadgerCare Reform 1115 Demonstration Waiver, per § 20.940(3)(c)(2), Wis. Stat. § 49.45(23b), 42 USC 1396o-1(e)(1), 42 C.F.R. § 447.54, and 42 C.F.R. § 438.114.

In 2018, the Centers for Medicare & Medicaid Services approved a 1115 demonstration waiver that allows Wisconsin to offer the BadgerCare Plus standard benefit plan to childless adults. The 1115 demonstration waiver also allows changes to the BadgerCare Plus coverage policy, including the required copay for nonemergency visits to the emergency department as required in 2017 Wisconsin Act 370.

In November 2019, ForwardHealth sent a member Update to members considered childless adults to inform them of the BadgerCare Plus 1115 demonstration waiver changes, including the \$8 copay requirement for nonemergency use of the emergency department.

The copay requirement does not affect BadgerCare Plus members who are not childless adults. Members of other Wisconsin Medicaid programs are also not affected by the copay requirement.

Hospital Responsibilities

Members will be subject to the copay requirement if they choose to receive services in the emergency department when their medical condition does not meet the prudent layperson's definition of emergency. Before providing nonemergency services that are subject to the \$8 copay, hospitals must:

- Provide the medical screening exam required by the [Emergency Medical Treatment and Labor Act](#).
- Inform the member of the potential cost share.
- Provide the name and location of an alternative provider that can provide services in a timely manner with a lesser cost share or no cost share, per [42 C.F.R. § 447.54](#).
- Provide a referral to the alternative provider to coordinate scheduling, per federal regulations.

Note: For HMO members, hospitals are encouraged to coordinate with the HMO on the referral to another provider.

Performing a Medical Screening

The Emergency Medical Treatment and Labor Act requires hospitals to perform an appropriate medical screening examination to people requesting emergency care.

The copay requirement will only be applicable when a provider determines that a member's medical condition is **not** an emergency using the prudent layperson standard.

CHILDLESS ADULT DEFINITION

ForwardHealth considers a childless adult to be a person who:

- Is age 19–64.
- Is not pregnant.
- Does not have dependent children under the age of 19 who live with them.

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Verifying Member Enrollment

Hospitals must check a member's enrollment status to make sure the member's visit will be covered by ForwardHealth. Verifying a member's enrollment for the current date of service will identify any limits to the member's coverage, since a member's enrollment status may change.

Hospitals can use Wisconsin's Enrollment Verification System to access the most current enrollment information through the following methods:

- The secure ForwardHealth Portal
- Provider Services at 800-947-9627

The following Enrollment Verification System methods will **not** be available to verify copay eligibility on February 1, 2020, but will include member copay eligibility information at a later date:

- WiCall, the ForwardHealth Automated Voice Response system, which gives responses to questions about claim status (800-947-3544)
- The 270/271 Health Care Eligibility/Benefit Inquiry and Information Response transactions

Each enrollment verification method allows hospitals to check the following:

- Member enrollment in a ForwardHealth program(s)
- State-contracted managed care organization enrollment
- Medicare enrollment
- Any other commercial health insurance coverage
- Exemption from copays for BadgerCare Plus members

Note: The Enrollment Verification System does not indicate other government programs secondary to ForwardHealth. Hospitals may not charge a member, or authorized person acting on behalf of the member, for verifying their enrollment.

Checking for Member Exemptions

Individuals do not have to pay the \$8 copay requirement if they:

- Are a tribal member.
- Are a child or grandchild of a tribal member.
- Qualify for Indian Health Services.
- Are a BadgerCare Plus member who is not a childless adult.
- Are eligible for Medicare or Wisconsin's Children's Health Insurance Program.
- Have reached the 5 percent cost share limit.

Wisconsin's Enrollment Verification System will factor in the exemptions listed above when determining if the member is subject to the copay requirement.

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NONEMERGENCY DEFINITION

A nonemergency medical condition is a condition that does not fall into the prudent layperson standard definition of an emergency medical condition.

Prudent Layperson Standard

Per [42 C.F.R. § 438.114](#), the prudent layperson standard is a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- Placing the health of the individual (or, for a pregnant individual, the health of the individual or their unborn child) in serious jeopardy.
- Serious impairment to bodily functions.
- Serious dysfunction of any bodily organ or part.

Explaining the Copay to Members

If a provider determines a member does not have an emergency medical condition, the hospital must inform the member that if nonemergency services are provided, the member will owe an \$8 copay. As a reminder, providers cannot refuse treatment for nonpayment of the copay.

As required by [42 C.F.R. § 447.54](#), hospitals must determine that the alternative provider can provide services to the member in a timely manner with a lower cost-sharing amount or no cost sharing amount if the member is otherwise exempt from cost sharing.

Hospitals must also give the member a referral to coordinate scheduling for treatment by the alternative provider.

Collecting Copays From Members

Per Wis. Stat. § [49.45\(18\)](#), providers are required to make a reasonable attempt at collecting the copay from the member unless the provider determines that the cost of collecting the copay is more than the amount the provider would collect.

As a reminder, providers [may not deny services](#) to a BadgerCare Plus member who fails to make a copay.

Claim Submission

Procedure Codes and Modifiers

The institutional claim (UB-04) should include the U1 modifier on one of the codes in the 99281–99285 procedure code range for revenue code range 450–459 when the:

- Provider uses the prudent layperson standard to determine that the member has a non-emergent condition

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- Provider completes the steps listed in the Explaining the Copay to Members section of this Update
- Member receives non-emergent services in the emergency department

Note: This billing requirement applies to all members who have qualified for BadgerCare Plus as an “adult without dependent children,” including fee-for-service and HMO payers.

If the member is eligible for copay and is not exempt from the copay, the copay will be applied based on claims with a detail that must include the following combination:

- The modifier U1 (Non-emergent emergency room visit, eligible for \$8 copay in accordance with 2017 Wisconsin Act 370)
- Procedure codes 99281–99285
- Revenue codes 450–459

Note: Professional claims submitted by emergency department physicians are not subject to the non-emergent copay.

HMO Data Submission

The copay requirement applies to BadgerCare Plus childless adults who are part of an HMO. HMOs must submit encounter data that indicates non-emergent emergency department visits subject to the \$8 copay with 99281–99285 procedure code, modifier U1 (Non-emergent emergency room visit, eligible for \$8 copay in accordance with 2017 Wisconsin Act 370) and revenue code range 450–459.

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This Update was issued on 01/15/2020 and information contained in this Update was incorporated into the Online Handbook on 02/03/2020.

The ForwardHealth Update is the first source of program policy and billing information for providers.

Wisconsin Medicaid, BadgerCare Plus, SeniorCare, and Wisconsin Chronic Disease Program are administered by the Division of Medicaid Services within the Wisconsin Department of Health Services (DHS). The Wisconsin AIDS Drug Assistance Program and the Wisconsin Well Woman Program are administered by the Division of Public Health within DHS.

For questions, call Provider Services at 800-947-9627 or visit our website at www.forwardhealth.wi.gov/.