

# ForwardHealth **UPDATE**

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## MEMBER COPAY CLARIFICATIONS FOR NONEMERGENCY VISITS TO EMERGENCY DEPARTMENTS

This ForwardHealth Update clarifies the \$8 copay policy for BadgerCare Plus childless adults who visit emergency departments for nonemergency reasons announced in the January 2020 ForwardHealth Update (2020-04), titled “[New BadgerCare Plus Member Copay for Nonemergency Visits to the Emergency Department.](#)” This Update also announces additional methods in Wisconsin’s Enrollment Verification System (EVS) for providers to verify a member’s copay eligibility that were made available on July 13, 2020.

### Performing a Medical Screening

As a reminder, hospitals must meet [Emergency Medical Treatment and Labor Act](#) (EMTALA) obligations by providing a medical screening exam and any treatment needed to stabilize an emergency medical condition.

The treating provider is responsible for determining if the member has met the prudent layperson standard of a medical emergency. The

## AFFECTED PROGRAMS

BadgerCare Plus, Medicaid

## TO

Hospital Providers, HMOs and Other Managed Care Programs

## QUICK LINKS

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

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

treating provider is also responsible for determining if the member needs emergency treatment or is sufficiently stabilized for transfer or discharge.

Under EMTALA requirements, the medical screening exam and any treatment needed to stabilize an emergency medical condition may not be delayed to ask members about method of payment or insurance status.

## Checking Member Enrollment and Copay Relevance

Providers can verify member eligibility for the \$8 copay using the ForwardHealth Portal or by contacting ForwardHealth Provider Services.

Additionally, as of July 13, 2020, the EVS can notify providers whether or not the member is eligible for the \$8 copay, if they have met the non-emergent criteria described below.

If the following conditions are met, then the member is subject to the \$8 copay:

- The member is a BadgerCare Plus childless adult who is not subject to a copay exemption. This information can be determined via the ForwardHealth Portal, ForwardHealth Provider Services, or the EVS, as described in this Update.
- The member's medical condition does not meet the prudent layperson standard of a medical emergency.
- The member sought and received additional post-stabilization care in the emergency department after being informed of the \$8 copay and availability of alternative providers with lesser or no cost share.

For members enrolled in a BadgerCare Plus HMO, providers should consult with the given HMO regarding their copay policy.

## Explaining the Copay to Members

If the provider determines that the member's medical condition is not a medical emergency after the initial screening exam, they are responsible for informing members of the following:

- The member, in the hospital's judgment, did not meet the prudent layperson standard of a medical emergency.
- The member is subject to the \$8 copay according to the EVS and will owe \$8 if the member decides to receive nonemergency services in the emergency department.

# COPAY EXEMPTIONS

An individual does 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.
- Are included in certain categories listed in the [Exemptions](#) topic (#231) of the Online Handbook.

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- Any remaining services that the member seeks after stabilization services are nonemergency services.
- There are nonemergency service providers that can provide the service in a timely manner with a lesser or no cost share amount.
- The member can avoid the \$8 copay if they choose to obtain care from a nonemergency services provider.
- The hospital will give the member the name and location of at least one nonemergency service provider that is available and accessible.

## REMINDER

Nonemergency services do not include the medical screen and stabilization treatment required under EMTALA.

IF	THEN
The \$8 copay applies to the member and, in the hospital's judgment, the member did not meet the prudent layperson standard of a medical emergency when they presented themselves to the emergency department.	<p>The hospital notifies the member that any additional services beyond the EMTALA stabilization requirements would be nonemergency services and subject to the \$8 copay if provided in the emergency department.</p> <p>Hospitals are responsible for notifying members that there are other providers who can provide the nonemergency service in a timely manner with a lesser or no cost share amount. Hospitals must also provide the member with the name and location of the alternative providers.</p>

### Additional Methods for Verifying Copay Eligibility

In addition to Provider Services and the ForwardHealth Portal, the following EVS methods were made available on July 13, 2020, to check a member's copay eligibility:

- WiCall, ForwardHealth's 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

If a member is subject to the \$8 copay, then the EVS will include the message, "Member Eligible for Non-Emergent ER Copay." If a provider uses the ForwardHealth Portal, the message displayed when a member is subject to the \$8 copay will be, "Eligible for Non-Emergent Copay." This message indicates that a member is a BadgerCare Plus childless adult, and they are eligible for the copay if they do not meet the prudent layperson standard and seek and

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receive additional post-stabilization care in the emergency department after being informed of the \$8 copay and availability of alternative providers with lesser or no cost share.

## Claims Submission

Hospitals should make a reasonable attempt to collect the \$8 copay and submit the claim reflecting a non-emergent visit subject to the copay if **all** of the following conditions are met:

- The \$8 copay applies to the member.
- The member did not meet the prudent layperson standard of a medical emergency.
- The member sought and received additional post-stabilization care in the emergency department after being informed of the \$8 copay and availability of alternative providers with lesser or no cost share.

Hospitals should submit the claim using modifier U1 (Non-emergent emergency room visit, eligible for \$8 copay in accordance with 2017 Wisconsin Act 370) on one of the codes in the 99281–99285 procedure code range for revenue code range 450–459. For more billing information, providers should visit the [Claims Submission for Emergency Department Copay](#) topic (#21477) of the ForwardHealth Online Handbook.

## REMINDER

Any COVID-19-related care, including testing for the COVID-19 virus, is considered emergency care.

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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/](http://www.forwardhealth.wi.gov/).