PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION

2001-D36

PROVIDER -
University Hospital
Cincinnati, OH

Provider No. 36-0003

vs.

INTERMEDIARY -
Blue Cross and Blue Shield Association/
AdminaStar Federal, Inc.

DATE OF HEARING-
April 25, 2001

Cost Reporting Period Ended -
June 30, 1993

CASE NO. 97-0475

INDEX

ISSUES:

Issue 1: Was the Intermediary's reclassification of allocation of certain administrative salaries and fringe benefits proper?

Issue 2: Was the Intermediary's adjustment to clinic dietitians' salary and fringe benefit costs proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

University Hospital, ("Provider") formerly Cincinnati General Hospital, is a general, short-term, 619 bed hospital which includes a Rehabilitation Unit (Subprovider II) and Psychiatric Unit (Subprovider I). The Provider was formerly operated by the University of Cincinnati, a state university, but effective January 1, 1997 it was reorganized as a not-for-profit corporation known as University Hospital, Inc. During the cost reporting year in question, and historically, University Hospital has been a significant hospital provider in the Greater Cincinnati area of acute and general health care services to Medicare, Medicaid, Welfare, and other medically indigent patients.

The Provider has timely appealed to the Provider Reimbursement Review Board ("Board") the issues noted above and included as adjustments in the Notice of Program Reimbursement ("NPR") for fiscal year ending June 30, 1993, issued by AdminaStar Federal, Inc ("Intermediary") on June 28, 1996. The Provider's appeal request meets the jurisdictional requirements of 42 C.F.R. §§ 405.1835-.1841. The estimated Medicare reimbursement effect of the above noted adjustments is $237,103 for issue No. 1 and $19,629 for issue No. 2.[1] All other issues have either been withdrawn or administratively resolved. The Provider is represented by Peter L. Cassady, Esq., of Beckman, Weil, Shepardson and Faller, LLC. The Intermediary was represented by Bernard M. Talbert, Esq. of the Blue Cross and Blue Shield Association.

Issue 1- Allocation of Administrative Salaries and Fringe Benefits

Facts

[1] Provider Position Paper at 4 & 6; Intermediary Position Paper at 2-3.

The Intermediary reclassified the Provider's allocation of certain administrative salaries and fringe benefit costs from various ambulatory service areas back to the Administrative and General Cost Center. The Provider had reported in its cost report the salaries, fringe benefits, and other direct costs (computer supplies, stationery, etc.) of certain employees who work in the ambulatory patient care areas in two different cost centers: Ambulatory Services Administration (Cost Center No. 4170) and Outpatient Registration (Cost Center No. 4010).[2] The costs charged to Cost Center No. 4170 were allocated to various ambulatory patient care areas based on time estimates provided to the Provider by the persons involved. The costs that had been charged to Cost Center No. 4010 were allocated to various ambulatory patient care areas based on the ratio of the number of clinic visits over the total number of clinical visits. The Provider believes that the Intermediary reclassified all of the costs from 4170 and 4010 back to the Administrative and General Cost Center because the Provider did not have time studies for each of the involved employees.[3] The Provider contends that this resulted in a portion of these costs being allocated inappropriately to inpatient expenses.

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[2] The Intermediary notes in its Supplemental Position Paper that in its original Position Paper the cost centers in question were identified as Ambulatory Services Administration (Cost Center 4170) and Outpatient Registration (Cost Center 4173). The Intermediary notes that these accounts were used by the Provider for fiscal year 6/30/92. However, in fiscal year 6/30/93, the Outpatient Registration (Cost Center 4173) was combined with the Inpatient Business Office (Cost Center 4010). Therefore, the cost centers in question should have been identified by the Intermediary as Ambulatory Services Administration (Cost Center 4170) and the Inpatient Business Office (Cost Center 4010). As noted above, the Provider, however, refers to Cost Center 4010 as Outpatient Registration.

[3] Provider Position Paper at 3.

The Intermediary's adjustment states "To reverse ambulatory surgical administration A-6 reclass Code V. The Provider was reclassifying costs to ancillary cost centers but not to overhead cost centers which also receive services from ambulatory service administration. Our approach is to reverse this discrete cost finding and allow the cost report step down costs."[4]

The Provider chose two cost centers, Ambulatory Services Administration (Cost Center 4170) and Inpatient Business Office (Cost Center 4010, (which in FYE 6/30/93 contains the former Outpatient Registration Cost Center, 4173)), originally grouped with other A&G costs, to be allocated to various outpatient ancillary service cost centers. The Provider contends these are "unique cost centers" used only by outpatients and, thus, these costs should be reflected only in outpatient ancillary cost centers.

PROVIDER'S CONTENTIONS:

The Provider contends that for many years, it has charged these exact same costs associated with outpatient administrators to the Ambulatory Services Administration Cost Center and the Outpatient Registration Cost Center and then allocated the costs to particular ambulatory patient care areas. In fact, the Provider contends that it did this in its PPS base year, with the Intermediary's approval, which gave rise to the Hospital's DRG rates.

With respect to the costs (salaries, fringe benefits and other direct expenses) allocated by the Provider to the Ambulatory Services Administration Cost Center (No. 4170), the Provider's method of allocation is as follows. Provider Exhibit 2A details the allocation of salaries and benefits for five employee categories from the Ambulatory Services Administration to seventeen clinical areas. They total $520,389. The allocation is based on the employees' time estimates of their own work on behalf of ambulatory services.

With respect to the other direct expenses (non-salary expenses) allocated to Cost Center No. 4170, Provider Exhibit 2A shows the allocation of particular expenses to particular clinics. These expenses are computer supplies, stationery, brochures and publications, furnishings, equipment repair, other equipment, and rental equipment. The Provider contends that these expenses were ascertained from actual invoices generated by the clinics to which they were allocated and total $191,926.

The Provider contends that the costs allocated to Cost Center No. 4010 ($124,695 See Provider Exhibit 2B), were incurred by employees who were fully and solely employed in Outpatient Registration which has nothing to do with Inpatient Registration. All costs associated with these employees were allocated to the clinics based on the ratio of the number of clinic visits over the total number of clinical visits. The Provider believes that to require time studies from these

[4] Intermediary Position Paper at 2; Intermediary Exhibit I-1, Adj. # 12.

employees is simply not reasonable.

Nevertheless, the Provider notes that the Intermediary reclassified all of these expenses back to the Administrative and General Cost Center which resulted in having some of these costs allocated to inpatient expenses which resulted in the Provider losing $237,103 in Medicare reimbursement. The Provider argues that these costs have nothing to do with the inpatient side of the Hospital and yet the Intermediary forced this illogical result by reclassifying these costs merely because the Provider lacks time studies to demonstrate that a person working in Outpatient Registration spends his or her time solely on outpatient registration. The Provider maintains that the Intermediary's reclassification takes the technical requirement of having time studies and produces the absurd result of having these costs partially attributed to the inpatient side. It is the Provider's position that it is being punished for the lack of time studies which it believes is neither fair, reasonable, nor logical. The Provider contends that time studies should not be required of Outpatient Administrators when they spend 100% of their time on the outpatient side of the Provider's activities. The Provider asserts that to then reclassify the costs related to these employees and step them down so that they are, in part, allocated to inpatient, makes no sense. The Provider believes this is especially true since the Intermediary allowed this exact cost allocation to Nos. 4170 and 4010 (formerly No. 4173) for the Provider's PPS base year (1983).

The Provider contends that the Intermediary's argument about how it is selectively picking and choosing those "unique cost centers" that benefit Medicare reimbursement while ignoring cost centers that may be detrimental to Medicare reimbursement is a smoke screen. The Provider further contends that the Intermediary attempts to divert focus from the real issue that the costs associated with the involved employees are incurred on the outpatient side. The Provider maintains that the mere fact that the cost report accumulates these costs in the A&G cost center is irrelevant and is a mere weakness and inconsistency within the cost report itself. It is the Provider's primary contention that it has allocated these costs to the appropriate cost centers to reflect reality, they were incurred on the outpatient side. The Provider believes that to suggest that it had to make a written request to do what it had been doing for many years (since at least 1983, the Provider's PPS base year) is ludicrous.

INTERMEDIARY'S CONTENTIONS:

As noted above in Footnote # 2, the Intermediary clarifies, in its Supplemental Position Paper, an error in its original Position Paper. The Intermediary notes that the cost centers in question in its original Position Paper were identified as Ambulatory Services Administration (Cost Center 4170) and Outpatient Registration (Cost Center 4173). The Intermediary notes that these accounts were used by the Provider for fiscal year 6/30/92. However, in fiscal year 6/30/93 the Outpatient Registration (Cost Center 4173) was combined with the Inpatient Business Office (Cost Center 4010). Therefore, the cost centers in question should have been identified by the Intermediary as Ambulatory Services Administration (Cost Center 4170) and the Inpatient Business Office (Cost Center 4010).

The second item to be addressed is the argument presented by the Provider that the Intermediary had allowed the reclassification in the past. However, the Intermediary points out that the adjustment has been proposed every year since 6/30/90. The Provider did not file an appeal on the issue until 6/30/92 (PRRB Case No. 96-0343).

The last item to be addressed is the clarification of the Intermediary's position. The Intermediary did not disallow the reclassification due to inadequate time studies. However, the Intermediary contends that the Provider's reclassification (Intermediary Supplemental Exhibit I-1) arbitrarily identifies $92,128 as being 100% applicable to the clinics and another $541,435 that is 60% applicable to the clinics. The Intermediary maintains that was not the basis for the adjustment (Intermediary Supplemental Exhibit 1-2). The Intermediary contends that its adjustment was based on the fact that the Provider was picking and choosing those "unique cost centers" that benefit Medicare reimbursement while ignoring those cost centers that may be detrimental to Medicare reimbursement. To support this contention, the Intermediary refers to Inpatient Accounts (Account 4008) and the remaining portion of the I/P Business office (Account 4010) that are contained in A&G on Worksheet A of the cost report (See Trial Balance at Intermediary Supplemental Exhibit 1-3). The Intermediary believes that these accounts appear to be related 100 percent to inpatients, however, the Provider made no attempt to allocate the inpatient cost in a consistent manner with outpatient clinic cost. The Intermediary asserts that this resulted in the clinics being directly allocated administrative costs and also receiving a portion of the inpatient administrative costs through step down. Therefore, receiving a double allocation of administrative costs.

The Intermediary notes that according to the Provider Reimbursement Manual, Part 1 (HCFA Pub. 15-1) §2313.1 (Intermediary Exhibit I -2), if the Provider elects to use its unique cost centers in lieu of the recommended cost centers on the cost reporting forms, certain conditions must be met. One of the conditions is that the Provider's use of the unique cost centers will result in a more accurate cost finding. (§ 2313.1 .C). Also, § 2313.1.D indicates that the Provider must make a written request to the Intermediary prior to the end of the cost reporting period in order to implement this election. The Intermediary contends that the Provider did not make this request. In summary, the Intermediary believes that it has properly reclassified these costs to A&G.

Issue 2: Clinic dietitians salary and fringe benefit.

Facts

This adjustment relates to the Intermediary's reclassification of clinic dieticians' salary and fringe benefit costs. The Provider had allocated the contested costs to various ambulatory patient care areas using time estimates of the various involved employees. The Intermediary reclassified these costs back to the Dietary Cost Center (No. 4046) and from there, these costs were stepped down to both the inpatient and outpatient sides of the Provider's cost report. The Intermediary's adjustments were prompted by the fact that the Provider did not have time studies for these employees.

PROVIDER'S CONTENTIONS:

The Provider does not dispute the Intermediary's primary contention that it does not have time studies for the involved employees.[5] The Provider however is disputing the adjustment because it has never had time studies for these employees in the past. The Provider contends that this is the first year in which the Intermediary reclassified these costs and then informed the Provider that it had to have time studies to justify the costs as sought by the Provider. The Provider contends that these costs were allocated to various ambulatory patient care areas based on employee time estimates. The Provider has no idea why time estimates have been perfectly appropriate in all previous years but not in this one. The Provider believes that the Intermediary's action of imposing this new requirement in 1993 is completely inconsistent with its prior actions and unfair to the Provider. The Provider maintains that the result of the Intermediary's action is to have outpatient costs attributed unreasonably and inappropriately to the inpatient costs of the Provider. The Provider points to its Exhibit 5A which details the employees' time estimates while its Exhibit 5B allocates the costs to particular clinics based on clinic visits.

INTERMEDIARY'S CONTENTIONS:

The Intermediary asserts that the Provider reclassified the clinic dietitians' salary and fringe benefit costs to various cost centers (Reclass Code "G"). The Intermediary contends that when the Provider was asked for documentation supporting the various amounts allocated, the Provider failed to submit the requested documentation. Accordingly, the Intermediary reversed this reclassification in accordance with 42 C.F.R. § 413.24 (See Intermediary Exhibit I-3).

The Intermediary rejects the Provider's contention that this was the first year that it had proposed this adjustment. The Intermediary contends that the same adjustment was made for the year ended June 30, 1992, thus putting the Provider on notice that they needed documentation in order to make this allocation. (See Intermediary Exhibit I-4). The audit findings on that exhibit state, "The provider has no time studies to support the employees time. Plus 4 employees whose time is stated to be 100% is not accurate. These employees were also noted on the paramed. ed. reclass for dietetic interns with a % of time going there. W/out time studies, we are unable to verify where these employees are spending their time. I propose to reverse the A-6 reclass due to no support." Accordingly, it is the Intermediary's position that it properly reversed the Provider's reclassifications.

CITATIONS OF LAW, REGULATIONS, AND PROGRAM INSTRUCTIONS:

[5] Provider Position Paper at 7.

1. Regulations-42 C.F.R.:

§§405.1835-.1841	-	Board Jurisdiction
§ 413.24	-	Adequate Cost Data and Cost Finding

2. Program Instructions- Provider Reimbursement Manual, Part 1 (HCFA Pub. 15-1):

§2313.1 et seq.	-	Use of Provider's Unique Cost Centers

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after considering the law, regulations, program instruction, facts, parties' contentions and evidence finds and concludes as follows:

Issue 1- Allocation of Administrative Salaries and Fringe Benefits:

The Board finds that the record proffered by both parties is incomplete and neither party provided overwhelming evidence to support its position. The Board would have liked to have seen job descriptions for the various personnel costs being allocated, detailed time studies, support for the Provider's claim that the Intermediary had granted prior approval to change allocation methods, and an expansion on the Intermediary's argument to support its position that after the Provider allocated outpatient costs, the remaining costs in A & G were inpatient. Accordingly, the Board's decision on this issue is based on several assumptions and the paucity of evidence contained in this extremely "thin" record.

The Board assumed that the salaries in question in account 4170 relate to clinic managers (departmental managers) and would be similar to the Provider's inpatient ancillary service managers. Also, with regard to account 4170, the Board finds that the Provider's argument that "other costs" were supported by invoices was not challenged by the Intermediary.

The Board finds that while the Provider's argument covered it's reasoning for costs being allocated to the various outpatient clinics from accounts 4170 (Ambulatory Services Administration) and 4010 (Inpatient Business Office, which in the current year includes the prior year account 4173, Outpatient Registration), the Intermediary was not entirely convincing that the balance of costs remaining in A & G after the allocation would be inpatient, and consequently, these costs would be allocated back to outpatient through the normal step-down process.

The Board, however, believes that standard Inpatient Registration costs were still accounted for in A & G costs. Therefore, a portion of these inpatient registration costs, comparable to

outpatient registration costs that were pulled out of A & G and directly allocated to outpatient areas, would also be allocated through the step-down process back to the outpatient areas in question.

The Board concludes, based on the limited evidence presented, and on above findings and assumptions, that the costs the Provider removed from "Other A & G" costs, charged to account 4170 and then directly allocated these costs to specific outpatient clinic areas, were in fact outpatient costs. The Board further concludes that this is a more accurate method to allocate these costs. The Intermediary did not convince the Board that the Provider's direct allocation of costs to account 4170 was improper.

The Board also concludes, based on the limited evidence presented, and on the above findings and assumptions, that the Outpatient Registration costs which the Provider directly allocated from account 4010 to various outpatient clinics, should be returned to "Other A & G" costs since these costs are similar to Inpatient Registration costs which reside here, and both costs should be stepped down through the normal process.

Issue 2: Clinic dietitians salary and fringe benefit;

This adjustment relates to the Intermediary's reclassification of clinic dieticians' salary and fringe benefit costs. The Provider had allocated the contested costs to various ambulatory patient care areas using time estimates of the various involved employees. The Intermediary reclassified these costs back to the Dietary Cost Center (No. 4046) and from there, these costs were stepped down to both the inpatient and outpatient sides of the Provider's cost report. The Intermediary's adjustments were prompted by the fact that the Provider did not have time studies for these employees.

The Board finds that documentation is key to analyzing this issue. The Board notes that the Provider acknowledges that it does not have time studies in the current year for the involved employees.[6] Further, the Board finds there were no job descriptions included with the record. The Board also rejects the Provider's argument that, " this is the first year in which the Intermediary reclassified these costs and then informed the Provider that it had to have time studies to justify the costs as sought by the Provider."[7] The Board finds that the Intermediary did in fact place the Provider on notice the prior year that there were no time studies to support the dietary employees.[8]

Accordingly, without documentation to support the Provider's argument, the Board concludes that the Intermediary's adjustment was correct.

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[6] Provider Position Paper at 7.

[7] Provider Position Paper at 7.

[8] See Intermediary Exhibit I-4.

DECISIONS AND ORDERS:

Issue 1- Allocation of Administrative Salaries and Fringe Benefits

The Intermediary's adjustment is modified. The Provider's direct allocation of outpatient costs from account 4170 (Ambulatory Services Administration) to various outpatient clinics is a more accurate method of allocation of these costs than the normal step down process. This portion of the Intermediary's reclassification adjustment is reversed. The Provider's direct allocation of outpatient costs from account 4010 (Inpatient Business Office) is contrary to the purpose of the step down process and does not provide a more accurate allocation of costs than would be accomplished through the step down process. This portion of the Intermediary's reclassification adjustment is affirmed.

Issue 2: Clinic dietitians salary and fringe benefit:

Without supporting documentation, the Intermediary properly reclassified the clinic dietitians' salary and fringe benefit costs back to the Dietary Cost Center (No. 4046) and from there, stepped these costs down to both the inpatient and outpatient sides of the Provider's cost report. The Intermediary's adjustment is affirmed.

Board Members Participating:

Irvin W. Kues
Henry C. Wessman, Esq.
Martin W. Hoover, Jr., Esq.
Charles R. Barker
Stanley J. Sokolove

Date of Decision: June 27, 2001

For The Board

Irvin W. Kues
Chairman