

PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2003-D57

PROVIDER –
Hospital San Francisco, Inc.
Rio Piedras, Puerto Rico

Provider No. 40-0098

vs.

INTERMEDIARY –
Cooperativa de Seguros de Vida de Puerto
Rico

DATE OF HEARING -
October 10, 2002

Cost Reporting Period Ended
September 30, 1996

CASE NO. 99-3821

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ISSUE:

Was the Intermediary's adjustment to bad debts proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Hospital San Francisco ("Provider") is a duly registered corporation under the laws of the Commonwealth of Puerto Rico. The Provider is an acute care general hospital located in Rio Piedras, Puerto Rico. Cooperativa de Vida de Puerto Rico was the servicing intermediary ("Intermediary"). The Intermediary reviewed the Provider's claim for reimbursement of bad debts and determined that a portion of the bad debts claimed was not allowable. The total adjustment to bad debts amounted to \$224,141, and components of the adjustment are summarized as follows:

1. Accounts written off for year ended September 30, 1995	\$57,200
2. Accounts written off for years 1991, 1992, 1993, and 1994	7,268
3. Duplicates	575
4. 120 days rule accounts	17,023
5. Plus prior year 120 days rule accounts	(1,432)
6. Desk review exceptions	5,644
7. Statistical sample adjustments	<u>137,863</u>
Total:	\$224,141

The Provider does not dispute the claims actually reviewed and disallowed. These consist of \$87,710 for items 1-6 plus \$1,139 disallowed in a review of nine claims used as a sample to test Provider's bad debt claims. The dispute here arises from the application of the percentage of claims disallowed in the sample to the total claims made to produce the statistical sample adjustment of \$137,863.

The Medicare regulation at 42 C.F.R. § 413.80(e) provides as follows:

Criteria for an allowable bad debt. A bad debt must meet the following criteria to be allowable:

- (1) The debt must be related to covered services and derived from deductible and coinsurance amounts.
- (2) The provider must be able to establish that reasonable collection efforts were made.
- (3) The debt was actually uncollectible when claimed as worthless.
- (4) Sound business judgment established that there was no likelihood of recovery at any time in the future.

The Provider requested a hearing before the Provider Reimbursement Review Board ("Board") and met all of the jurisdictional requirements of the regulations at 42 C.F.R. §§ 405.1835-405.1841.

The Provider was represented at the hearing by Edward A. Moore, Reimbursement Appeals Manager, of United Hospital Services, Inc. The Intermediary was represented by Wallace Vazquez Sanabria, Esq., of Cooperative de Seguros de Vida.

PROVIDER'S CONTENTIONS:

The Provider contends that the sample used by the Intermediary to determine the amount of bad debts was not valid because it encompassed only nine out of a total of 1099 patients; only eight tenths of one percent of the universe. Regardless of whether the type of sampling was truly a random sampling or some other type of statistical sampling, the outcome of such a minute sample size can in no way represent the population as a whole.

The Provider contends that an otherwise statistically valid random sampling cannot produce a believable result if the sample size of the population is so extremely small that it begs one to repudiate the results and to question why the sample was not then expanded to validate the original findings. Of the nine accounts tested, three were found to have errors. Two account amounts were adjusted to a lesser amount, while one account was eliminated in its entirety. Of the \$6,369 of dollar value tested, \$1,139 was disallowed (17.88%). It was this dollar value percentage that was applied to the universe of claims.

The Provider argues that the Intermediary failed to explain how such a small sample size was extracted from the population. The Intermediary produced a diskette for the first time at the Board hearing that it claimed was a sampling program provided by the Office of the Inspector General. However, the data on the diskette showed only data from another unrelated provider.

INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that it followed the audit program for auditing bad debts, and the sample for the audit was created by using the statistical sampling program provided by the Office of the Inspector General. The program instructed the Intermediary to select a sample of nine accounts. The Intermediary's sample revealed that three exceptions with a dollar amount of \$1,139.40 were found from a sample of \$6,369, for an error rate of 18%. The \$1,139 consisted of the following adjustments:

- (1) one patient was found to be 85% indigent and no collection efforts were made by the Provider with respect to the 15% to be charged to the patient. This resulted in a bad debt claim of \$72.
- (2) Another patient was 55% indigent and no collection efforts were made for the 45% which was to be paid by the patient. This resulted in a bad debt claim of \$331.

- (3) A third patient, with deductibles and coinsurance of \$736, was found not indigent but there was no support to establish that any collection efforts were made.

The Intermediary contends that because the sample it selected was statistically valid, the result can, therefore, be prorated to the universe. The Intermediary also points out that it expanded its test to rule out any duplication between the systematically selected adjustment and the adjustment pertaining to the statistical sample.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the Medicare law and policy, parties' contentions and evidence presented, finds and concludes that the Intermediary's adjustment to apply the sample to a universe of claims was not proper. Other adjustments to bad debts were appropriate.

The Intermediary relied on its claim that the sample was statistically valid because it utilized the sample as prescribed by the Office of the Inspector General and the CMS audit program. However, no evidence was presented to substantiate the statistical validity or that the Intermediary used the proper data or that the data was properly input. The Board finds that the computer disk that the Intermediary's claimed contained the program and that had been utilized for selection of its sample of bad debts, presented to the Board at the time of the hearing, contained data not relevant to the Provider.

There is no evidence that the sample size chosen by the Intermediary (eight-tenths of one percent of the universe) was representative of the universe. The Intermediary produced an exhibit¹ that it claimed was from the OIG sampling program.² This document, labeled a "Sample Size Estimator," contains virtually no rationale about how the sampling program was created or applied. It does, however, contain the following caveat:

The sample sizes generated above were the result of mathematical formulas and did not incorporate management decisions concerning the purpose of the sample or current sampling policies of our organization. Therefore, you may need to increase the sample sizes in order to be in compliance with management's objectives.

There was no evidence that the Intermediary considered these concerns when applying the sample program.³ The Board further finds that a proper universe was not used by the Intermediary when it selected its sample, as prior to defining the universe the Intermediary removed claims that were disallowed through a selective audit of accounts.

¹ Intermediary Exhibit 5.

² Tr. at 67:17-21 and 69:10-70:21.

³ Tr. at 70:9-71:19.

In summary, the Board finds that the Intermediary properly made adjustments to the Provider's bad debts amounting to \$87,710 prior to its sampling and the Provider did not contest the validity of this portion of the adjustment. In addition, a total of \$1,139.40 of bad debts was verified from the nine cases that made up the bad debt sample and were properly disallowed. However, the Board concludes that the remaining \$136,723.60 of the bad debt disallowance was based on an improper application of the sample.

DECISION AND ORDER:

The Intermediary's adjustment disallowing \$136,723.60 of bad debts was not proper. The Intermediary's adjustment is so modified.

Board Members Participating:

Suzanne Cochran, Esquire
Gary B. Blodgett, DDS
Martin W. Hoover, Jr., Esquire
Elaine Crews Powell, CPA

DATE: September 12, 2003

FOR THE BOARD:

Suzanne Cochran, Esquire
Chairman