PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2005-D27

PROVIDER –
Memorial Hospital at Gulfport
Gulfport, Mississippi

Provider No.: 25-0019

vs.

INTERMEDIARY –
Blue Cross Blue Shield Association/
TriSpan Health Services

DATE OF HEARING –
April 28, 2004

Cost Reporting Period Ended -
September 30, 1998

CASE NO.: 02-1008

INDEX

ISSUE:

Was the Intermediary's disallowance of Medicare bad debts proper?

MEDICARE STATUTORY AND REGULATORY BACKGROUND:

The Medicare program was established to provide health insurance to the aged and disabled. 42 U.S.C. §§1395-1395cc. The Centers for Medicare and Medicaid Services (CMS, formerly the Health Care Financing Administration (HCFA)) is the operating component of the Department of Health and Human Services (DHHS) charged with administering the Medicare program. CMS' payment and audit functions under the Medicare program are contracted out to insurance companies known as fiscal intermediaries. Fiscal intermediaries determine payment amounts due the providers under Medicare law and under interpretive guidelines published by CMS. See, 42 U.S.C. §1395(h), 42 C.F.R. §§413.20(b) and 413.24(b)

At the close of its fiscal year, a provider must submit a cost report to the fiscal intermediary showing the costs it incurred during the fiscal year and the proportion of those costs to be allocated to Medicare. 42 C.F.R. §413.20. The fiscal intermediary reviews the cost report, determines the total amount of Medicare reimbursement due the provider and issues the provider a Notice of Program Reimbursement (NPR). 42 C.F.R. §405.1803. A provider dissatisfied with the intermediary's final determination of total reimbursement may file an appeal with the Provider Reimbursement Review Board (Board) within 180 days of the issuance of the NPR. 42 U.S.C. §1395oo(a); 42 C.F.R. §405.1835.

Bad Debts

The dispute in this case arises out of the Intermediary's failure to reimburse the amount Memorial Hospital at Gulfport (Provider) claims is due under the Medicare program for "bad debts" attributable to amounts unpaid by beneficiaries for Medicare deductibles and coinsurance. 42 C.F.R. §413.80.

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

The Provider is a proprietary hospital located in Gulfport, Mississippi. The Provider included on its September 30, 1998 Medicare cost report $464,816 of Medicare inpatient bad debts and $417,630 of Medicare outpatient bad debts. Trispan Health Services (Intermediary) denied reimbursement of all bad debts, asserting that the Provider lacked detailed information to support a trail of genuine collection efforts from the date of the first bill to the patient to the write-off of the patient debt in its entirety. The estimated Medicare reimbursement effect is agreed to be $766,242.[1] The Provider appealed the Intermediary's adjustments to the Board and met the jurisdictional requirements of 42 C.F.R. §§405.1835-405.1841. The Provider was represented by Thomas L. Kirkland, Jr., Esq., and Julie A. Bowman, Esq., of Copeland, Cook, Taylor & Bush, P.A. The

[1] Provider's post-hearing brief page 4 and tr., page 221.

Intermediary was represented by James R. Grimes, Esq., of Blue Cross Blue Shield Association.

PARTIES' CONTENTIONS:

The Intermediary contends that Provider's bad debts were disallowed in their entirety due to the Provider's inability to "establish that reasonable collection efforts were made" in accordance with 42 C.F.R. §413.80. In addition, the Provider "did not provide adequate data based on their financial records, which should be capable of verification by qualified auditors" in accordance with 42 C.F.R. §413.24.[2]

The Provider contends that at the hearing in this matter the Intermediary witness testified that;(1) the Provider's collection policies and procedures for bad debt are in accordance with Program regulations and instructions; (2) the amount in controversy, barring the adjustments themselves, is not disputed; (3) that its statement that "the Provider had not supplied documentation to support similar collection efforts for all pay classes" can be stricken from its argument, as this is not an issue specific to this Provider[3] and (4) that the heart of its adjustments comes down to one issue; whether the Provider MUST provide a documented date of first bill.[4]

The Provider further contends that the regulations do not require providers to document the date of the first bill, and the denial of costs based on a criterion that is not included in the regulations is contrary to accepted rules of administrative law and the Administrative Procedure Act (APA), 5 U.S.C. §552,553; 42 C.F.R. §405.1867.[5]

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after considering the facts, parties contentions and evidence submitted finds and concludes that the Provider's procedures for collecting Medicare bad debts met the reasonable collection efforts required by the Medicare regulation at 42 C.F.R. §413.80(e) and Medicare Program Instruction at CMS Pub. 15-1 §310. The Board reviewed the Provider's entire collection effort and found it to be reasonable--both in policy and in application. The Board observes that the Provider's collection policy was followed consistently from year to year and had been reviewed and accepted in prior years by the Intermediary.

The Board finds that the Intermediary dealt excessively with the first billing date issue in determining that the Provider's bad debt collection efforts were not reasonable. However, neither the regulations nor Program instructions require a provider to document the date of the first bill. Furthermore, the Board finds the use of an imputed date to determine the first billing date to be reasonable, and that the Provider sufficiently

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[2] Intermediary's Position Paper, page 2.
[3] Transcript (Tr.) at 230, 231 and 271.
[4] Tr. at 290-291.
[5] Provider's post-hearing brief.

demonstrated how it could reliably determine the date of first billing by using the computer system's process to "back into" the original billing date.

DECISION AND ORDER:

The Intermediary improperly denied the Provider's claimed Medicare bad debts. The Intermediary's adjustments are reversed.

Board Members Participating:

Suzanne Cochran, Esquire
Martin W. Hoover, Jr., Esquire
Gary B. Blodgett, D.D.S.
Elaine Crews Powell, CPA
Anjali Mulchandani-West

FOR THE BOARD:

DATE: March 15, 2005

Suzanne Cochran
Chairperson