

**PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION**

ON-THE-RECORD
98-D74

PROVIDER -North Fulton Medical
Center
Roswell, Georgia

DATE OF HEARING-
June 24, 1998

Provider No. 11-0198

Cost Reporting Period Ended -
October 31, 1989

vs.

INTERMEDIARY -
Blue Cross and Blue Shield Association/
Blue Cross and Blue Shield of Georgia

CASE NO. 93-0513

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ISSUE:

Was the Intermediary's elimination of space rental costs proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

North Fulton Medical Center ("Provider") is a general, short-term hospital in Roswell, Georgia. The Provider filed its Medicare cost report for the fiscal year ended October 31, 1989 ("FY 89") claiming the disputed space rental costs as allowable. Blue Cross and Blue Shield of Georgia ("Intermediary") audited that cost report and disallowed those costs. The Provider appealed the Intermediary's adjustment to the Provider Reimbursement Review Board ("Board"). The Provider's filing has met the jurisdictional requirements of 42 C.F.R. §§ 405.1835-.1841. The Provider is represented by Mr. Steve Dominguez of Tenet Healthcare Corporation. The Intermediary is represented by Ms. Aurelia Foster of Blue Cross and Blue Shield Association.

Through Adjustment #14, the Intermediary disallowed \$100,197 of space rental expense that had been claimed by the Provider. The amount disallowed consisted of individual amounts that had been charged to various departmental space rental sub-accounts on the general ledger and then reclassified to capital-related costs - building on the "as filed" cost report. The only element of this adjustment which remains in dispute concerns \$29,144 of space rental expense that was charged to Account #7501.6520.¹ The Intermediary disallowed this cost based on a statement by the Provider's controller that this space was used for non-patient related activities. This adjustment results in a reduction in Medicare reimbursement of approximately \$25,000.

PROVIDER'S CONTENTIONS:

The Provider contends that according to the Intermediary's preliminary position paper, the expense was disallowed because the Provider's controller when asked what these areas were used for stated that they were not related to patient care. However, as discussed below, this statement and the audit treatment of this expense are inconsistent with the Provider's accounting records and the audit treatment of the related expenses and revenues. It is also inconsistent with the treatment of these items in the subsequent year.

The Provider notes that account #7501 was utilized to accumulate expenses related to an outpatient physical therapy clinic. As can be seen in the "as filed" cost report revenue and expense grouping sheet,² Account #7501 is grouped with physical therapy on the cost report. A copy of the monthly trial balance for Account #7501 is attached as Exhibit 2. Effective

¹ See Provider Exhibit No. 2.

² See Provider Exhibit No. 1.

September 1, 1989, the beginning of the Provider's financial fiscal year, the use of Account #7501 was discontinued, and expenses formerly posted to that account were subsequently posted to Account #7315.³ Revenues related to Account #7501 (including Medicare revenues) were posted to Account #4281 through January, 1989.⁴ Effective February 1, 1989, the revenues were posted to Account #4315.⁵

The Provider argues that the only element of accounts #7501/#7315 cost and #4281/#4315 revenue that is being disallowed is the rental expense at issue that was charged to Account #7501. The rental expense for the very same space in September and October 1989, when it was being charged to Account # 7315, has been allowed. Clearly, it is illogical to disallow the cost of the space occupied by the clinic for a portion of the year when all other costs and charges related to the clinic are being allowed since the clinic had to have space in which to provide its services.

The Provider further notes that the Intermediary accepted the Provider's treatment of Account #7315 cost/#4315 revenue (including rental expense) without change in the subsequent period. This can be seen in the fiscal year ended October 31, 1990 ("FY 90") grouping sheet and the rental reclassification workpaper.⁶ The expenses and revenues in FY 90 were treated identically to the treatment in FY 89. Copies of the FY 90 monthly trial balances for Accounts #7315 and #4315 are attached as Exhibits 7 and 8, respectively.

In summary, the Provider argues that the disallowance of the rental expense charged to Account #7501.6520 for the months prior to September 1989 is inconsistent with the treatment of all other costs and charges related to this account in the current and subsequent cost reporting periods. It is also inconsistent with the treatment of the rental expense itself in September 1989 and later. With regard to the controller's statement on which the adjustment was based, the Provider submits that there must have been a misunderstanding or miscommunication on the part of the controller, the Intermediary's auditor, or both. Accordingly, it is the Provider's position that the \$29,144 at issue should be restored to allowable capital costs.

INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that the Provider's controller when asked what these areas were use for stated that they were not related to patient care. The Provider has not presented any

³ See Provider Exhibit No. 3.

⁴ See Provider Exhibit No. 4.

⁵ See Provider Exhibit No. 5.

⁶ See Provider Exhibit No. 6.

documentation that the areas were used for patient care related activities. Therefore, the adjustment should be sustained due to a lack of auditable documentation that the rent was related to patient care activities.

CITATION OF LAW, REGULATIONS AND PROGRAM INSTRUCTIONS:

1. Law - Title XVIII of the Social Security Act:

§ 1861(v)(1)(A) - Reasonable Cost

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

§§ 405.1835-.1841 - Board Jurisdiction

§ 413.20 - Financial Data and Reports

§ 413.24 - Adequate Cost Data and Cost Finding

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after considering the law, regulations, program instructions, facts, evidence and parties' contentions finds and concludes that the disputed space costs are not allowable costs. The burden of proof is on the Provider to show that the costs in dispute are allowable Medicare costs. The primary dispute in this case is that the space was not used for patient care. That information was offered by the Provider's controller. The Provider never really addresses this issue. It uses accounting records and subsequent year's cost report treatment to support its position. These are ancillary arguments that do not address the fundamental questions, i.e., what was the space used for and was it related to patient care? The regulations at 42 C.F.R. §§ 413.20 and 413.24 require adequate documentation to support claimed costs. The Provider has not met that requirement.

The Board also notes that the Provider failed to show how the costs in dispute end up in allowable cost centers. Provider Exhibits 1 and 6 claim to include allowable space costs in the physical therapy cost centers on the Provider's cost reports for FYs 89 and 90. The Board finds no link or explanation as to how the disputed space costs end up in the allowable cost centers. This analysis, without Provider clarification, adds little to support the Provider's argument that costs are related to patient care.

DECISION AND ORDER:

The space rental costs claimed by the Provider are not allowable. The Intermediary's adjustment is affirmed.

Board Members Participating:

Irvin W. Kues
James G. Sleep
Henry C. Wessman, Esquire

Date of Decision: July 24, 1998

FOR THE BOARD:

Irvin W. Kues
Chairman