PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION

ON-THE-RECORD
99-D34

PROVIDER -Longwood Management Corporation Group

Provider No. See Appendix I

vs.

INTERMEDIARY -
Blue Cross and Blue Shield Association
Blue Cross of California

DATE OF HEARING-
January 26, 1999

Cost Reporting Period Ended -
Various

CASE NO. 97-0354G

INDEX

ISSUE:

Did the Providers properly classify workers' compensation costs under the category of administrative and general costs instead of employees benefit costs?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Longwood Management Corporation owns various convalescent and rehabilitation institutions ("Providers") in California. The Providers are challenging Blue Cross of California's ("Intermediary") reclassification of workers' compensation insurance costs from the administrative and general cost center to the employee benefits cost center. The Intermediary reclassified the workers' compensation costs based on the assumption that such expenses fall under the category of employee benefits costs. Under state law, employers must maintain workers' compensation insurance for their employees. See Calif. Labor Code § 3700.[1] Longwood Management Corporation purchases workers' compensation insurance for its Providers through a limited purpose insurance company, also known as a captive insurance company.

For the cost reporting periods ending December 31, 1994 through December 31, 1995, the Intermediary reclassified the Providers' workers' compensation costs from the administrative and general cost center to the employee benefits cost center, citing for support Provider Reimbursement Manual, HCFA Pub. 15-1 ("HCFA Pub. 15-") or ("PRM") §§ 2300, 2304 and 42 C.F.R. § 413.24. These are general sections which deal with adequate cost data and cost finding. The adjustments resulted in an aggregate reduction in reimbursement of approximately $476,000 among all the providers within this group.[2]

Longwood Management filed separate requests for hearings with the Provider Reimbursement Review Board ("Board") on November 19, 1996, September 24, 1997, and March 13, 1998, that included all the Providers and their respective fiscal years in question under this group appeal. The Providers' filings have met the jurisdictional requirements of 42 C.F.R. §§ 405.1835 - .1841. The Provider is represented by Robert A. Klein, Esquire, of Foley and Lardner. The Intermediary is represented by Bernard M. Talbert Esquire, of Blue Cross and Blue Shield Association.

PROVIDERS' CONTENTIONS:

The Providers contend that the Medicare statute and regulations do not clarify whether workers' compensation insurance costs fall under a provider's employee benefits cost center

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[1] See Provider Exhibit P-2

[2] See Provider Exhibit P-1.

or the administrative and general cost center. However, the PRM provides guidance for this determination in § 2162.2. That section addresses the purchase of insurance from limited purpose insurance companies and the treatment of refunds from insurance premiums. In addition, the characteristics of workers' compensation insurance are very similar to other types of insurance, e.g., malpractice and casualty, that fall under the administrative and general cost category and which have characteristics with little similarity to employee benefits. The differences between workers' compensation and traditional employee benefits are also recognized by other federal programs and support the classification of workers' compensation insurance as administrative and general costs. Moreover, although the PRM addresses what type of benefits constitute employee fringe benefits, no mention is made of workers' compensation insurance. The PRM defines employee fringe benefits as:

> [A]mounts paid to, or on behalf of, an employee, in addition to direct salary or wages, and from which the employee, his/her dependent (as defined by IRS), or his/her beneficiary derives a personal benefit before or after the employee's retirement or death.

HCFA Pub. 15-1, § 2144.1.

A comprehensive list of employee fringe benefits are listed under HCFA Pub. 15-1 § 2144.4. Notably, workers' compensation insurance is not among the fringe benefits listed despite the costs of workers' compensation insurance being more significant than the other benefits.

The Providers note that in its preliminary position paper the Intermediary does not dispute that the definition and list of employee fringe benefits in the PRM fail to include workers' compensation insurance. Instead, the Intermediary cites PRM Part II cost reporting instructions for Form HCFA-339 and notes that workers' compensation insurance is listed under wage-related costs. However, the Ninth Circuit Court of Appeals has expressly stated that Part II of the PRM does not establish Medicare policy, contains instruction forms only to help intermediaries complete reimbursement forms, and therefore requires no particular deference. See, National Medical Enterprises et al. v. Bowen, 851 F.2d 291, 295 (9th Cir. 1988). Importantly, all the Providers in this group appeal fall under the Ninth Circuit's jurisdiction.

The Providers note that in addition to workers' compensation insurance not being included as an employee fringe benefit under the PRM, a separate provision of the PRM dealing with insurance costs actually supports treating the costs of workers' compensation insurance as an administrative and general cost. As mentioned, Longwood Management purchased workers' compensation insurance for its Providers through a limited purpose insurance company. For such insurance policies, HCFA Pub. 15-1 § 2162.2 requires any refunds from the insurance company not to be offset against the costs of the employee health and welfare cost center for employee health care but against the administrative and general cost center.

The Providers observe that under HCFA Pub. 15-1 § 2161(A), Medicare clearly deems workers' compensation insurance as a type of liability insurance rather than an employee health care insurance. Therefore, a provider with workers' compensation insurance under a limited purpose insurance company is required by HCFA Pub. 15-1 § 2162.2 to offset any refunds through its administrative and general cost center, not its employee health and welfare cost center. If workers compensation insurance refunds are credited to the administrative and general cost center, logic requires that a provider also charge its costs that gave rise to the refund to the same cost center. Otherwise, a mismatching of costs and refunds would occur. Therefore, although HCFA Pub. 15-1 § 2162.2 deals with reporting refunds instead of costs, consistent and accurate cost finding/reporting requires that a specific cost and any related cost recovery must be recorded in the same cost center. Accordingly, workers' compensation insurance premiums and refunds are to be recorded in the administrative and general cost center. The Intermediary's position paper misunderstands the Providers' analysis and stance on this issue and over broadly states that refunds from limited purpose insurance companies must be offset against the costs of employee health and welfare. This does not comport with the language of HCFA Pub. 15-1 § 2162.2, however, which specifies the circumstances under which costs are to be recorded in the respective cost centers.

The Providers further argue that the characteristics of workers' compensation insurance differ significantly from employee fringe benefits. A close look at the nature of workers' compensation insurance reveals close similarities to other types of insurance that typically fall under the administrative and general cost center, such as casualty or malpractice insurance which differ from employee fringe benefits. For this reason, federal courts have recognized that workers' compensation insurance does not fall under the category of employee benefits.

The Providers observe that in contexts outside of Medicare, courts have considered workers' compensation as having essentially the same purpose as any other kind of insurance, i.e., to safeguard the assets of the insured. Medicare describes the purpose of employee fringe benefits as inuring primarily to the benefit of the employee, with the possibility of "some intrinsic benefit to the [employer], such as increasing employee work efficiency and productivity, reducing personnel turnover, or increasing employee morale." See, HCFA Pub. 15-1, § 2144.2. Whether workers' compensation insurance is primarily for the benefit of the employee or the employer, i.e., protecting the employer from unpredictable liabilities arising from work-related injuries and illnesses was considered by the Eighth Circuit Court of Appeals In re HLM Corp. 62 F. 3d 224, 226 (8th Cir. 1995).[3] ("In re HLM Corp") In that case, the court explained that:

> [W]orkers' compensation does not "benefit" employees within the meaning of "employee benefit plan" because it is primarily the employer, not the employee, who benefits. While workers' compensation programs are certainly designed to benefit

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[3] See Provider Exhibit 6

> employees, the institution of a workers' compensation program helps employers safeguard (their) statutory obligations by insuring the employer from its liability to provide workers' compensation benefits.

Id.

See, Allentown Moving & Storage, Inc., 208 B.R. 835 (E.D. Penn. 1997),affirmed, 214 B.R. 761 (E.D. Penn. 1997). Thus, while workers' compensation benefits the employee, it is no different in this respect than liability insurance which "benefits" the employee or other claimant by assuring a fund is available to pay a claim. In fact, the employee gets the same "benefit" without such insurance because the employer has a liability to pay the claim (whether workers' compensation, general liability, etc.) regardless of whether insurance exists. Therefore, workers' compensation insurance inures primarily to the benefit of the employer. Since an employer benefits more than an employee from workers' compensation insurance, it should be classified with other types of liability insurance under the administrative and general cost center.

The Providers argue that in the context of the federal Employee Retirement Income Security Act ("ERISA"), courts have held that workers' compensation does not relate to employee fringe benefits and therefore does not fall under ERISA's employee benefit and welfare plans.,, See generally 29 U.S.C. § 1000, et seq. Although employee welfare benefit plans are broadly defined under ERISA,[4] such a plan is expressly exempted from ERISA "if maintained solely for the purpose of complying with applicable workmen's compensation or disability insurance laws." See, 29 U.S.C. § 1003(b)(3).[5] Courts have accordingly held that state-mandated workers' compensation insurance plans do not "relate to" employee benefit plans and therefore are not preempted by ERISA. District of Columbia v. Greater Washington Board of Trade, 506 U.S. 125 (1992); Contract Services Network, Inc. v. Aubry, 62 F.3d 294 (9th Cir. 1994).[6] See, also, Fuller v. Norton, 86 F.3d 1016, 1020 (10th Cir. 1996).

The Providers note that Medicare cases in the past have specifically listed workers' compensation insurance as an example of costs belonging to the administrative and general cost center. See, e.g., Hadley Memorial Hospital, Inc. v. Schweiker, 689 F.2d 905, 907 (l0th

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[4] Employee welfare benefit plans include any "plan, fund or program" maintained for the purpose of providing medical other health benefits for employees or their beneficiaries through the purchaser of insurance or otherwise." 29 U.S.C. § 1002 (1).

[5] See Provider Exhibit P-7

[6] See Provider Exhibit P-8.

Cir. 1982); Minnesota Hospital Assoc. et al. v. Bowen, 703 F. Supp. 780 (D. Minn. 1988).[7] Accordingly, in the present case, the Intermediary erred in reclassifying workers' compensation costs from the administrative and general cost center to the employee benefits cost center.

The Provider further argues that workers' compensation insurance is an indirect cost of providing services to all patients, including Medicare patients and therefore is an administrative and general cost. As the United States Court of Appeal for the Seventh Circuit noted in St. James Hospital v. Heckler, 760 F.2d 1460 (7th Cir. 1985) ("Saint James Hospital"), the Department of Health and Human Services ("DHHS") has recognized this indirect benefit to all patients by requiring participating providers to maintain minimum insurance coverage.[8] Specifically, the PRM requires providers to maintain an adequate insurance program to protect against likely losses, particularly for losses so great that their financial stability would be threatened. See HIM 15-1, § 2160.A. Such insurance is thus a necessary, though indirect, cost of providing health care to Medicare patients.

The Providers observe that the Intermediary asserts that if workers' compensation insurance costs are classified to the A&G cost center, such costs would be apportioned to the ancillary services cost centers where contracted personnel may be used. The Intermediary's allocation of workers' compensation insurance costs would be to cost centers that are not being served by the costs since contracted personnel may not participate in workers' compensation claims. However, the actual number of contracted personnel used by the Providers for the ancillary services cost centers are notably fewer in number compared to the total number of Provider employees. This alleged cost reporting inconsistency has a very limited impact on the Providers when compared to the importance of applying uniform cost-finding principles. As with all overhead costs, workers' compensation insurance costs are simply apportioned to all revenue-producing cost centers. Under this process, it is inevitable that certain overhead costs will be apportioned disproportionately among the cost centers. For example, a provider's fire, malpractice, or other general liability insurance costs are also allocated to the ancillary services and other cost centers despite the particular costs not necessarily serving all cost centers. The point raised by the Intermediary does not diminish the fact that workers' compensation insurance is an indirect overhead cost that primarily protects the employer from unknown liabilities and, therefore, should be classified as an A&G cost.

Finally, the Intermediary states that the Providers' reference to St. James Hospital is not relevant to this appeal because the case does not directly, or even remotely address, the issue of workmen's compensation insurance costs. The Providers counter that the Intermediary misperceives the reason for relying on Saint James Hospital . The court in St. James Hospital

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[7] See Provider Exhibit P-9

[8] See Provider Exhibit PS-1

acknowledged the importance of DHHS' requirement that providers maintain minimum insurance coverage. This insurance coverage provides an indirect benefit to all patients by protecting the providers against losses that may threaten their financial stability. The Providers continue to point out that such insurance is therefore a necessary, though indirect, cost of providing health care to Medicare patients and, therefore, belongs in the A&G cost center. Similarly, workers' compensation insurance, which a provider must carry under California law, also belongs in the A&G cost center.

INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that HCFA Pub 15-1 § 2144.1 defines a fringe benefit as set forth below:

> Fringe benefits are amounts paid to, or on behalf of, an employee, in addition to direct salary or wages, and from which the employee, his dependent (as defined by the IRS), or his beneficiary derives a personal benefit before or after the employee's retirement or death. In order to be allowable, such amounts must be property classified on the Medicare cost report - that is, included in the costs of the cost center(s) in which the employee renders services to which the fringe benefit relates - and, when applicable, have been reported to IRS for tax purposes...

Id.

Section 2144.2 goes on to state that:

> Purpose - Fringe benefits inure primarily to the benefit of the employee. However, there may also be some intrinsic benefit to the provider, such as increasing employee work efficiency and productivity, reducing personnel turnover, or increasing employee morale. It is necessary to recognize all costs that are properly classified as fringe benefits since the designation of a particular cost as a fringe benefit could affect the computation of items such as the value of services of non-paid workers.

Id.

Under the direction of HCFA the Intermediary traditionally classified workers' compensation insurance under the category of an employee benefit. Transmittal #4, dated November 1995, (PRM, Part II - Provider Cost Reporting Forms and Instructions, § 1100 - HCFA Form-339) outlines a "core" list for wage related expenses. Included under health and insurance costs is

workers' compensation insurance (§ 1102.3). It is incumbent upon the providers to furnish an intermediary with a complete list of all wage related costs. Section P, Line 7 of the HCFA Form 339 indicates that workers' compensation is to be recognized as wage-related.[9] This refutes the Providers' contention that Medicare does not mention what category of costs workers' compensation should be assigned.

The Intermediary observes that the Providers also contend that HCFA Pub. 15-1 does in fact provide guidance for making a determination. This is found in HCFA Pub 15-1 § 2162.2, which instructs providers on the reimbursement for the purchase of insurance from limited purpose insurance companies and the corresponding treatment of refunds of insurance premiums. The Providers stress the point that Medicare clearly considers workers' compensation insurance as "other than employee health care" under HCFA Pub 15-1 § 2161 (A). The Intermediary takes issue with the Providers' interpretation. HCFA Pub 15-1 § 2161 (A) speaks to the reasonable cost of insurance purchased from a commercial carrier or a non-profit service corporation and not from a limited purpose insurer. Subsection 2 of § 2161 merely gives examples of insurance which are considered to be recognized by Medicare as allowable. In no way is it emphasized that workers' compensation is other than health care related.

The Intermediary argues that in order to further support its position, consideration must be given to the actual computation of workers' compensation. That insurance is computed using a published risk factor applied against a particular salary category. It would seem appropriate that since the computation of workers' compensation insurance is based on salaries, the statistical basis of allocating salary expense would also be appropriate to allocate workers' compensation as part of employee health and welfare costs. Through this allocation workers' compensation costs would then be allocated to the cost center with the highest concentration of salary costs which would be the routine area.

The Intermediary notes that the Providers cite the decision In Re: HLM Corp., to support its position. The court commented:

> ..... While workmen compensation programs are certainly designed to benefit employees, the institution of a workers' compensation program helps employers safeguard their statutory obligations by insuring the employer from its liability to provide workers' compensation benefits.

Id.

The main question that faced this court was who derived the primary benefit from workmen' compensation - the employer or the employee? The court decided that the employer derived

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[9] See Intermediary Exhibit 1-2

the primary benefit since workmen compensation was a coverage that was mandated in many cases by state law. The court went on to comment that a "true" employee benefit was a benefit which was offered by the employer of its own volition and not mandated by state regulatory agencies.However, the question as to who derives the primary benefit of workers' compensation insurance costs is clearly one that is still open to differing interpretations by different agencies and courts. For example, federal regulations governing personnel matters in state Medicaid agencies explicitly classify workmen' compensation as a part of fringe benefits. See 42 C.F.R. § 432.2 which states in part:

> Fringe benefits means the employer's share of premiums for workmen's compensation.

Id.

The Intermediary further argues that the very fact that state regulatory agencies mandate employers to maintain workers' compensation insurance is an indication that compensation for work-related injuries is a benefit to employees that is too vital to be left to the employers' discretion. Further, the Providers have not adequately addressed the fact that workmen's compensation insurance is a cost that arises only in an employer-employee relationship and should not be allocated to cost centers which do not reflect any salaried costs.

The Intermediary contends that a review of Worksheet A of the Medicare cost reports for the Providers who are included in this group appeal show that ancillary therapy services are furnished entirely by contracted personnel.[10] Contracted personnel are covered for workmen compensation purposes by their employers. There is no reason for the Providers' to cover contracted personnel for work-related injuries because any such insurance requirement would already have been met by the contractor's liability insurance. Accordingly, the Intermediary argues that the allocation of workers' compensation insurance costs as part of administrative and general costs will result in the allocation of these costs to all the ancillary cost centers. That has nothing to do with ancillary services which are furnished entirely by contracted personnel.

The Intermediary notes that the Providers cite the St. James Hospital court decision in support of its assertion for allocating workers' compensation insurance costs as part of the A&G expense pool. There is no reference whatsoever to workers' compensation insurance costs in the case summary. The main issue in the St. James Hospital decision related to whether malpractice insurance premiums should be allocated as part of administrative and general costs or whether they should be apportioned on the basis of malpractice loss experience. The decision does not address the issue of workers' compensation insurance costs. The Intermediary, therefore, argues that this case has no bearing on the issue of workers' compensation costs and is irrelevant. Accordingly, the conclusion drawn by the Providers

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[10] See Exhibit I-4

that workers' compensation insurance is part of the insurance program that the PRM requires a provider to maintain to protect itself against losses which may be so great as to threaten its financial stability, is not justified. Consequently, the related conclusion that workmen compensation costs are general business costs and should be reported as part of A&G costs is also not justified.

The Intermediary argues that HCFA Pub. 15-1 § 2162.2, which refers to the offset of insurance refunds against the appropriate cost centers and HCFA Pub. 15-1 § 2161 (A) which classifies workmen' compensation as akin to liability insurance cannot be linked as part of the same argument. HCFA Pub. 15-1 § 2161 (A) applies only to insurance that is purchased from a commercial carrier of nonprofit service corporation and not to insurance that is purchased from a limited purpose insurer. Since HCFA Pub 15-1 § 2161 (A), which states that workmen compensation insurance costs are other than health insurance, does not apply to limited purpose insurers. The Providers' argument that workers' compensation refunds should be offset against A&G costs is not proper. Consequently, the related argument that workmen compensation insurance costs should be reported in A&G is not acceptable.

Finally, the Intermediary observes that the Providers' statement that the Intermediary based its argument that workers' compensation costs are employee benefits on the HCFA 339 description of workmen compensation costs as wage-related is not correct. The Intermediary had asserted that workers' compensation should be part of employee benefits because the HCFA 339 instructions include workers' compensation as part of health and insurance costs, which are part of any standard employee benefit package. The Intermediary accepts that cost reporting instructions or Part II of the PRM is not the controlling policy. However, in the absence of any specific reference in PRM Part I as to whether workers' compensation costs are employee benefits or A&G costs, the Intermediary asserts that it properly relied on PRM Part II to classify workmen compensation costs as employee benefits.

CITATION OF PROGRAM LAWS, REGULATIONS AND INSTRUCTIONS:

1. Law:

29 U.S.C.

§ 1000, et seq.	-	Employment Retirement Income Security Act.

42 U.S.C.:

§1395x(v)(1)(A)	-	Reasonable Cost

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

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

3. Program Instructions: Provider Reimbursement Manual Part I, HCFA Pub 15-1:

§ 2144 et seq.	-	Fringe Benefits
§ 2160 A	-	General
§2161 et seq.	-	Insurance Costs
§2162.2	-	Insurance Purchased From a Limited Purpose Insurance Co.
§2300	-	Principle
§ 2304	-	Adequacy of Cost Information

4. Provider Reimbursement Manual - Part II - (HCFA Pub 15-2)

§ 1100, et seq.	-	Provider Cost Report Requirement Questionnaire Form HCFA 339

5. Cases:

In re HLM Corp., 62 F. 3d 224, 226 (8th Cir. 1995).

Allentown Moving & Storage, Inc., 208 B.R. 835 (E.D. Penn. 1997). affirmed, 214 B.R. 761 (E.D. Penn. 1997).

District of Columbia v. Greater Washington Board of Trade, 506 U.S. 125 (1992).

Contract Services Network, Inc. v. Aubry, 62 F. 3d 294 (9th Cir. 1994).

Fuller v. Norton, 86 F. 3d 1016, 1020 (10th Cir.1996).

Hadley Memorial Hospital, Inc. v. Schweiker, 689 F .2d 905, 907 (10th Cir. 1982).

Minnesota Hospital Assoc. et al. v. Bowen, 703 F. Supp. 780 (D. Minn. 1988).

St. James Hospital v. Heckler, 760 F. 2d 1460 (7th Cir. 1985).

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 Intermediary improperly reclassified workers' compensation insurance costs as an employee benefit cost. The Providers properly included this cost in its administrative and general expense pool and allocated it over all allowable costs. The Provider Reimbursement Manual supports this conclusion. Importantly, HCFA Pub 15-1 § 2161 A.2 specifically defines workers' compensation insurance as a form of liability insurance. By this definition HCFA is essentially stating that this type of insurance is primarily purchased to protect the employer (Providers) against potential losses due to workers injury. Conversely, HCFA Pub. 15-1 § 2144.2 states that fringe benefit inure primarily to the benefit of the employee. That Manual section does recognize some intrinsic benefit to the employer. However, the Board finds the instructions in HCFA Pub. 15-1 § 2161 more compelling since it specifically addresses the type of insurance (liability) which workers compensation encompasses. Further, the Board notes that HCFA Pub. 15-1 § 2144.4 provides examples of fringe benefits. It does not include workers' compensation. Although this listing is not all inclusive, the Board does note that all of the benefits directly relate to the benefit of the employee. There are no items where there is a mix of employer/employee benefits. The Providers' may have some "intrinsic" benefit from these listed items, such as improved employee morale or increased productivity. However, the listed fringe primarily benefit the employees.

The Board finds the In Re HLM Corp. Court decision on point. Specifically on page 226 of the 62 Federal Reporter 3d Series[11] it states:

> [T]he bankruptcy court additionally reasoned that the "contribution" of insurance premiums does not "benefit" employees within the meaning of "employee benefit plan" because it is primarily the employer, not the employee, who benefits. While workers' compensation programs are certainly designed to benefit employees, the institution of a workers' compensation insurance program helps "employers safeguard [their] statutory obligations" by insuring the employer from its liability to provide workers' compensation benefits.

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[11] See Provider Exhibit 6

> Additionally, because the employee would still be entitled to such benefits even if the employer were illegally uninsured, the employer's participation in a workers' compensation insurance fund cannot be understood as a true "benefit." A true "benefit" would be one more commonly associated with, for example, employee life insurance benefits, where unless an employer offered a life insurance benefit plan the employee would not necessarily have coverage.

Id.

The Board notes that other governmental regulations and policies offer contradictory treatment of the classification of workers' compensation as a fringe benefit. The Providers note that ERISA, the employee retirement act, states generally that workers' compensation does not fall under ERISA's employee benefit and welfare plans. It does not consider state-mandated workers' compensation laws as being related to employee benefit plans. The Board concurs. Conversely, the Intermediary argues that Medicaid regulations governing personnel matters require classification of workers' compensation as part of fringe benefits. The Board notes that these are personnel instructions, not cost finding instructions.

The Board notes that workers' compensation insurance is something that is state-mandated. Without such coverage employers cannot do business. On the other hand, fringe benefits are generally "bargained for" between employers and employees. Thus, the general nature of the insurance is one of requirement, not negotiation. Finally, the Board notes that both parties argue that Part II of HIM - 15 does not represent program policy. As such, the instructions for HCFA Form 339 are not program instructions. The Board concurs.

DECISION AND ORDER:

The Intermediary improperly reclassifed workers' compensation insurance as a fringe benefit. The Intermediary's adjustments are reversed.

BOARD MEMBERS PARTICIPATING:

Irvin W. Kues
James G. Sleep
Henry C. Wessman, Esq.
Martin W. Hoover, Jr., Esq.
Charles R. Barker

Date of Decision: April 06, 1999

FOR THE BOARD:

Irvin W. Kues
Chairman