PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION

2004-D30

PROVIDER Global Home Care, Inc.	**DATE OF HEARING** July 18, 2003
Provider No. 23-7252	Cost Reporting Period Ended June 30, 1998
vs.	**CASE NO.** 01-0937
INTERMEDIARY – Blue Cross Blue Shield Association/ United Government Services, LLC	

INDEX

Page No.

ISSUE:

Was the Intermediary's adjustment to the single business tax proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

The Medicare program provides health insurance to the aged and disabled. 42 U.S.C. §§1395 – 1395cc. The Health Care Financing Administration (HCFA) (now the Centers for Medicare and Medicaid Services (CMS)), is the operating component of the Department of Health and Human Services charged with administering the Medicare program.

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 the Medicare law and under interpretative guidelines published by CMS. Id.

At the close of its fiscal year, a provider must submit a cost report to the intermediary showing the costs it incurred during the fiscal year and the portion of the costs to be allocated to Medicare. 42 C.F.R. §413.20. The fiscal intermediary determines the total amount of Medicare reimbursement due and notifies the provider in 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 NPR. 42 U.S.C. §1395oo(a); 42 C.F.R. §405.1803.

BACKGROUND OF THE DISPUTE:

Petitioner Global Home Care, Inc. (Provider) is a Medicare certified Home Health Agency located in Troy, Michigan. The Provider has met the jurisdictional requirements for a hearing.

The Provider was subject to the Michigan Single Business Tax in 1995, 1996, 1997 and 1998 but did not learn of its tax liability until May of 1998. It then self-reported the problem to the state of Michigan and claimed $71,652 in reimbursement for the tax for 1995, 1996 and 1997 in its June 30, 1998 Medicare cost report.

There is no dispute that the Michigan Single Business Taxes claimed on the June 30, 1998 cost report are allowable. However, the dispute lies in which fiscal year the Provider should be reimbursed by Medicare.[1] The Intermediary believes that the taxes should be reimbursed in FYE 1999, when they were actually liquidated. The Provider contends that the taxes should be recognized and reimbursed in FYE June 30, 1998, the year the Provider first learned of the liability and accrued the expense on its cost report.

The Provider was represented by Lucian Bernard, Esquire, of Pearson & Bernard, PSC.

[1] Because of various factors that affect the way payment calculations are made, reimbursement for an expense may vary from year to year.

The Intermediary's representative was James Grimes of Blue Cross Blue Shield Association.

THE REGULATION:

The parties agree that the relevant regulation is 42 C.F.R. §413.100 entitled "Special treatment of certain accrued costs." It states:

> (a) Principle. As described in §413.24(b)(2), under the **accrual** basis of accounting, revenue is reported in the period in which it is earned and expenses are reported in the period in which they are **incurred**. In the case of **accrued** costs described in this section, for Medicare payment purposes the costs are allowable in the year in which the costs are **accrued** and claimed for Medicare payment only under the conditions set forth in paragraph (c) of this section.
>
> * * * * *
>
> (c) Recognition of **accrued** costs. (1) General. Although Medicare recognizes, in the year of **accrual**, the **accrual** of costs for which a provider has not actually expended funds during the current cost reporting period, for purposes of payment Medicare does not recognize the **accrual** of costs unless the related liabilities are liquidated timely.
>
> (2) Requirements for liquidation of liabilities. For accrued costs to be recognized for Medicare payment in the year of the accrual, the requirements set forth below must be met with respect to the liquidation of related liabilities. If liquidation does not meet these requirements, the cost is disallowed, generally in the year of accrual . . .
>
> (i) A short-term liability. (A) Except as provided in paragraph (c)(2)(i)(B) of this section, a short-term liability . . . must be liquidated within 1 year after the end of the cost reporting period in which the liability is **incurred.**
>
> (B) If, within the 1-year time limit, the provider furnishes to the intermediary sufficient written justification (based upon documented evidence) for nonpayment of the liability, the intermediary may grant an extension for good cause. The extension may not exceed 3 years beyond the end of the cost reporting year in which the liability was **incurred**. (emphasis added)

PARTIES CONTENTIONS:

The Intermediary contends that the Provider **incurred** Michigan Single Business Taxes in 1995, 1996 and 1997 and should, therefore, have accrued the expenses in those years rather than in 1998.[2]

The Provider insists that since the taxes were **accrued** in 1998 on its June 30, 1998 cost report and properly liquidated within one year, it is entitled to Medicare reimbursement in FY 1998 pursuant to CMS Pub. 15-1 §2305 and 42 C.F.R. §§413.5 and 413.100.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the Medicare law, Program instructions, parties' contentions and evidence presented, finds and concludes that under the accrual basis of accounting, an expense must be accrued in the period in which it is incurred, regardless of when it is paid. C.F.R. 42 §413.24(b)(2).

The Board finds that the Michigan Single Business Taxes at issue were **incurred** in years 1995, 1996 and 1997 and that the cost of the taxes is an allowable Medicare expenditure. It is undisputed that the Provider **accrued** the taxes for the years in question in 1998 and claimed these taxes on its June 30, 1998 cost report, and that the liability for the Taxes for the years under appeal was liquidated in 1999.

Pursuant to 42 C.F.R. §413.100(c)(1):

> Although Medicare recognizes, in the year of accrual, the accrual of costs for which a provider has not actually expended funds during the current cost reporting period, for the purposes of payment Medicare does not recognize the accrual of costs unless the related liability is liquidated timely.

Regarding timely liquidation, 42 C.F.R. 413.100(c)(2)(i) states in relevant part:

> . . . a short-term liability . . . must be liquidated within 1 year after the end of the cost reporting period in which the liability is **incurred**. (emphasis added).

In order for the Provider to have met the requirements of 42 C.F.R. 413.100(c) it would had to have **accrued** the taxes on its 1995, 1996 and 1997 cost reports and liquidated the liability within 1 year after the end of the respective cost reporting period.

[2] The Intermediary witness explained that since the cost was not properly accrued in 1995, 1996 and 1997, it is not an allowable cost until liquidation occurs, which in this case is the cost reporting period ended June 30, 1999. TR. 58.

The Board finds that because the Provider did not claim the costs of the taxes for 1995, 1996 and 1997 on its corresponding cost reports for those years, the liabilities were not timely liquidated within one year after being **incurred.**

Because the liabilities were not liquidated within one year of the end of the cost reporting periods in which they were incurred, the costs at issue were not allowable in the cost reporting periods when they were incurred but were allowable in the cost reporting period in which they were liquidated (1999).

DECISION AND ORDER:

The Provider did not liquidate the liability for the Michigan Single Business Taxes for 1995, 1996 and 1997 until 1999. As the liabilities were not timely liquidated, the Intermediary's adjustment to the Single Business Tax expense was proper.

BOARD MEMBERS PARTICIPATING:

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

DATE: July 16, 2004

FOR THE BOARD:

Suzanne Cochran, Esquire
Chairman