

**PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION**

ON-THE-RECORD
98-D76

PROVIDER -
Blodgett Memorial Medical Center
Grand Rapids, Michigan

DATE OF HEARING-
June 16, 1998

Provider No. 23-0032

Cost Reporting Period Ended -
June 30, 1986 - June 30, 1991

vs.

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

CASE NO. 94-0353

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ISSUE:

Was the intermediary's denial of the Provider's request to revise the 1985 base year average per resident amount proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Blodgett Memorial Medical Center ("Provider") is a general acute care teaching hospital located in Grand Rapids, Michigan. The Provider received from Blue Cross and Blue Shield of Michigan ("Intermediary"), NPRs dated July 16, 1993, for the fiscal years 6/30/86, 6/30/87, 6/30/88, 6/30/89, 6/30/90, and 6/30/91. Those NPRs included adjustments of the payment for GME costs for each year based on the formula found in 42 C.F.R. § 413.86(e)(3) which states:

For cost reporting periods beginning on or after July 1, 1986, each hospital's per resident amount for the previous cost reporting period is adjusted by the projected change in the CPI-U for the 12-month cost reporting period. This adjustment is subject to revision during the settlement of the cost report to reflect actual changes in the CPI-U that occurred during the cost reporting period.

The Provider disagreed with the Intermediary's adjustments and filed a timely appeal with the Provider Reimbursement Review Board ("Board") pursuant to 42 C.F.R. §§ 1835-.1841 and has met the jurisdictional requirements of those regulations. The Medicare reimbursement effect is approximately \$48,000 for 1986, \$48,000 for 1987, \$51,000 for 1988, \$50,000 for 1989, \$56,000 for 1990, and \$61,000 for 1991, for a grand total of \$314,000.

The Provider was represented by Russell J. Alderink of Blodgett Memorial Medical Center. The Intermediary was represented by Bernard M. Talbert, Esq. of the Blue Cross and Blue Shield Association, Chicago.

PROVIDER'S CONTENTIONS:

The Provider points out that the base period per resident amount is carried through to each subsequent year with the application of an update factor. Since the base year per resident amount is the basis for determining graduate medical education ("GME") payment for each subsequent year, any adjustment to the base period average per resident amount that may result from the successful resolution of PRRB Case Number 91-2671M should result in an adjustment to the average per resident amount used to calculate payment of GME costs for the subsequent years.

The Provider asserts that the Intermediary's adjustments for GME costs for the fiscal years 6/30/86 through 6/30/91 were based on the base period per resident amount. These

adjustments subsequent to the outcome of PRRB Case Number 91-2671M are being appealed. Contingent on the successful revision of the GME base period per resident amount, the Provider is also requesting in PRRB Case Number 91-2671M that a similar reclassification of pathologists' teaching costs be made for the purpose of reopening the Provider's PPS base year cost report for the GME issue and recalculating the Provider's Hospital Specific Rate ("HSR") as required by 42 C.F.R. § 413.86.

The Provider contends that it is entitled to an adjustment to the operating PPS Hospital Specific rate for cost reporting periods for which reimbursement is determined using the operating PPS Hospital Specific rate for the fiscal years ending 6/30/86, 6/30/87, 6/30/88, and the first 51 days of fiscal year ending 6/30/89.

INTERMEDIARY'S CONTENTIONS:

The Intermediary argues that the issue in dispute is dependent on the outcome of the GME base year appeal. The September 29, 1989 Federal Register, 54 F.R. 40301 states the following, in part:

All appeals of per resident amounts must be appeals of the FY 1984 GME costs or resident counts used in the per resident amount determination. Section 1886(h) of the Act specifies that period as the base-period for determination of such amounts. In other words, a hospital could not appeal its base-period per resident amount in connection with an appeal for the cost reporting period beginning July 1, 1985, or later.

The Intermediary points out that since the Provider preserved its appeal rights by timely appealing the application of the base year per resident amount it has protected the possible reopening of subsequent payment periods to apply the result of the GME base period appeal. The increase in NAPRA should be applied to GME payments for the cost reporting periods under appeal.

The Intermediary also points out that since the GME base year appeal centers around the possible misclassification of teaching physician costs, the operating prospective payment system (PPS) rate hospital-specific rate may have to be revised if the PRRB upholds the Provider's position. In that case the PPS rates for FYEs 6/30/87, 6/30/88, and part of 6/30/89, would have to be revised to reflect the revised rate.

CITATION OF LAW, REGULATIONS AND PROGRAM INSTRUCTIONS:

1. Law - 42 U.S.C.:

§1395ww(h)

- Payments for Direct Graduate Medical Education Costs

- §1395x(v) - Reasonable Cost
- 2. Regulations - 42 C.F.R.:
 - § 405.1835-.1841 - Board Jurisdiction
 - § 413.86 et seq. - Graduate Medical Education
- 3. Other:
 - 54 Federal Register 40301 (September 29, 1989).

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the facts, parties' contentions, and documentary evidence, finds and concludes that the Provider is entitled to the GME costs for the years ended 6/30/86, 6/30/87, 6/30/88, 6/30/89, 6/30/90, and 6/30/91, based on the Provider's successful appeal before the Board of the GME Base Period Average Per Resident Amount in PRRB Case No. 91-2671M. See PRRB decision 98-D73.

DECISION AND ORDER:

The Provider is entitled to the adjusted GME costs for the years under appeal. The Intermediary's adjustments are reversed.

Board Members Participating:

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

Date of Decision: July 27, 1998

FOR THE BOARD:

Irvin W. Kues
Chairman