

**PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION**

ON THE RECORD
2000-D7

PROVIDER -
Good Shepherd Medical Center
Longview, TX

DATE OF HEARING-
July 27, 1999

Provider No. 45-0037

Cost Reporting Period Ended -
September 30, 1991

vs.

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

CASE NO. 94-2649

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ISSUES:

1. Was the HHA cafeteria allocation statistic proper?
2. Were the HHA administrative costs proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Good Shepherd Medical Center ("Provider") is a voluntary non-profit, general, 317 bed, short term hospital located in Longview, Texas. The Provider is owned by Good Shepherd Hospital Systems. The current site contains an acute care facility with a Medicare Certified Distinct Part Rehabilitation unit, as well as a hospital-based Home Health Agency.

The Provider's original Notice Of Program Reimbursement ("NPR") was issued by Blue Cross of Texas ("Intermediary"). The NPR for FYE 9/30/91 was dated September 30, 1993. The Provider disagreed with the Intermediary's determination 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 amount in contention is approximately \$106,500.

On April 1, 1999 the Board issued a decision regarding jurisdiction of the issues. That decision stated:

The Board notes that the Provider included the other disputed costs in its cost report. Therefore, the issues are a matter covered by the cost report as required by 42 U.S.C. §1395oo(a)(1)(A)(i). The Board also finds that the Provider appealed the two issues in accordance with 42 C.F.R. §405.1841(a)(1), which allows a provider, before the commencement of hearing proceedings, to identify additional aspects of the intermediary's determination with which it is dissatisfied. The Board, therefore, has jurisdiction over the two disputed issues remaining in the Provider's appeal.

Provider Representative's letter dated April 12, 1999 states that the Intermediary has raised a jurisdictional question for both issues. The Intermediary is requesting a Board decision for purposes of making a record in the event that the Board rules that it has jurisdiction. Additionally, the Intermediary seeks a hearing on the record despite its argument that the issues should be resolved in the Provider's favor, should the Board rule that it has jurisdiction.

The Provider was represented by Sanford E. Pitler, Esq. and Susan L. Fine, Esq. of Bennett Bigelow & Leedom, P.S. The Intermediary was represented by Bernard M. Talbert Esq. of the Blue Cross and Blue Shield Association.

Joint Stipulation Of FactsIssue 1- HHA Cafeteria Allocation Statistic

1. The Provider operates a hospital-based home health agency ("HHA") which performs covered and non-covered services.
2. In the fiscal year 9/30/91 cost report, the Provider identified the costs related to the allowable services on Worksheet A, lines 71, 72, 73, 74, 76 and 77. The Provider identified the direct costs related to the non-allowable services on worksheet A, line 81.
3. The Provider allocated cafeteria costs to the allowable HHA services and nonallowable services based on Full Time Equivalents ("FTE"). The FTEs related to all allowable services were reflected on line 71 on the as filed cost report (reported in the HHA-Administrative and General cost center). The FTEs related to the non-covered services were reflected on line 81. The FTEs reported by the Provider are reflected in the column identified as "ICR" in paragraph 4 below.
4. The Provider and the Intermediary agree after considering all available documentation that the FTEs were incorrectly reported and the correct FTE amount is identified in the "Revised" column below.

		<u>ICR</u>	<u>REVISED</u>
HHA--A&G	Line 71	2983	665
HHA--Skilled Nursing	Line 72	0	908
HHA--Physical Therapy	Line 73	0	35
HHA--Aide	Line 77	0	1106
HHA--Other	Line 81	2092	1421

5. Revising the Cost Report to change the FTE count will affect the allocation of costs between allowable HHA services and non-allowable services. A revision will also affect the allocation of costs among the allowable services.

Issue 2- Administrative Costs

1. The Provider filed the 9/30/91 cost report reflecting \$313,508 of salary costs and \$8,650 of other costs on Worksheet A, line 81, related to the Part B Agency, non-covered services for cost report reimbursement purposes.
2. Line 71 on the cost report reflects HHA Administrative and General Costs.

3. Upon review of all available documentation, the Provider and the Intermediary have agreed that some costs reported on line 81 properly belong in line 71. The costs are \$25,307 for Home Health "B" Mgt/Sup, and \$33,991 for Home Health "B" Clerical and Other Salaries (total of \$59,298).
4. Revising the Cost Report to reclassify costs from line 81 to line 71 will change the amount of total allowable HHA costs as compared to total non-allowable HHA costs.

Issue 1 - Cafeteria Allocation Statistics

PROVIDER'S CONTENTIONS:

The Provider argues that the Intermediary incorrectly allowed Home Health Agency ("HHA") Full Time Equivalents ("FTEs") which are utilized to allocate cafeteria costs, to remain in error after audit. FTEs applicable to the various HHA disciplines within the Medicare certified HHA were reported by the Provider in the HHA--Administrative & General cost center. In allowing the FTEs to be reported in this manner, a portion of the cafeteria cost applicable to Medicare approved services was allocated to the HHA-Other cost center through the Administrative and General accumulated cost allocation. The Provider contends that the FTEs should be restated to properly assign the FTEs to the applicable cost center, pursuant to HCFA Pub. 15-1 § 2308. The proper FTE per HHA cost center is indicated in the stipulation of facts.

INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that the Provider did not present any documentation to support the proper allocation of the HHA FTEs. The Intermediary argues that the Provider's reclassification would not properly allocate cafeteria costs. To properly allocate the cafeteria costs, the Provider should analyze the FTEs being reflected as HHA Administrative and General and properly assign the FTEs to the correct cost center. The Provider should have adequate documentation in its records to accomplish the proper assignment of the HHA FTEs.

The Intermediary points out that the Provider separately identifies the salaries of the different classifications of HHA services, i.e. skilled nursing care, physical therapy, home health aide services, on their working trial balance. Therefore, the Intermediary contends that if the Provider can identify direct salaries by classification for HHA services then it would seem the Provider should also be able to document the proper classification of the FTEs rather than having them lumped in the HHA Administrative and General cost center.

The Intermediary argues that pursuant to 42 C.F.R. §413.24, providers are required to maintain adequate documentation to properly support claims for reimbursement:

Adequate cost information must be obtained from the providers records to support payments made for services rendered to beneficiaries. The requirement of adequacy of data implies that the data be accurate and in sufficient detail to accomplish the purposes for which it is intended.

The Provider appears to have the capability to separately account for the FTEs working in the reimbursable areas of the home health agency since they have separately identified the salaries.

Issue 2 - Administrative Costs

PROVIDER'S CONTENTIONS:

The Provider contends that the Intermediary incorrectly grouped Home Health Agency Administrative and General costs in the Home Health Agency Other Services cost center, Line 81. These expenses should be reported on line 71, Home Health Agency Administrative, and allocated to all Home Health Agency cost centers through Worksheet H-4, pursuant to HCFA Pub. 15-1 §§2302.4B, 2302.17, 2307, and 2308.

The Provider points out that the handling of these costs as finalized in the FYE 9/30/91 cost report resulted in the overstatement of Home Health Agency Other Services expense and the understatement of all other Home Health Agency cost centers. This error has resulted in the hospital being under-reimbursed by approximately \$87,000.

INTERMEDIARY.'S CONTENTIONS:

The Intermediary points out that should the Board accept jurisdiction over this issue, the Intermediary will consider the proposed resolution set forth by the Provider in the stipulation of facts.

CITATION OF LAW, REGULATIONS AND PROGRAM INSTRUCTIONS:

1. Law - 42 U.S.C.:
 - §1395oo(a)(1) (A)(i) - Provider Reimbursement Review Board
2. Regulations 42 C.F.R.:
 - §413.24 - Adequate Cost Data and Cost Finding
 - §§1835-.1841 - Board Jurisdiction

3. Program Instructions-Provider Reimbursement Manual, Part I (HCFA Pub. 15-1):
 - §2302.4B - Indirectly Allowable costs
 - §2302.17 - Hospital or SNF-Based Home Health Agency Cost Centers
 - §2307 - Direct Assignment of General Service Costs
 - §2308 - Cost Finding Methods-Home Health Agencies
4. Other

Provider representative letter dated April 12, 1999.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after considering the law, regulations and program instructions, facts, and the parties' contentions, finds and concludes:

1. There was a stipulation agreed to by both parties, which addressed both issues.
2. The Board has jurisdiction based on its jurisdictional decision of April 1, 1999.
3. The stipulation allocates the disputed items to the proper cost centers, although the numbers of the FTEs do not appear to be logical when compared to the number of employees as shown on the Provider's cost report.
4. The Intermediary agrees with the stipulation for issue number 2 and, therefore, the Board finds that the redistribution as indicated in the stipulation is correct.

The Board concludes that the stipulations resolve both issues. Therefore, the Board orders the parties to enforce the stipulation. Since the stipulation resolves the allocation issues, the proper adjustments should be made to implement the stipulation.

DECISION AND ORDER:

The stipulations resolve both issues. The Intermediary should make the appropriate adjustments in compliance with the stipulation agreement.

BOARD MEMBERS PARTICIPATING:

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

Date **of Decision:** December 2, 1999

FOR THE BOARD

Irvin W. Kues
Chairman