

**PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION**

ON-THE-RECORD
2002-D12

PROVIDER -
A Priority Homecare, Inc.
Munster, Indiana

Provider No. 15-7425

vs.

INTERMEDIARY -
BlueCross BlueShield Association/
Palmetto Government Benefits
Administrator

DATE OF HEARING-
February 12, 2002

Cost Reporting Period Ended -
December 31, 1996

CASE NO. 00-0479

INDEX

	Page No.
Issue.....	2
Statement of the Case and Procedural History.....	2
Provider's Contentions.....	2
Intermediary's Contentions.....	3
Citation of Law, Regulations & Program Instructions.....	5
Findings of Fact, Conclusions of Law and Discussion.....	5
Decision and Order.....	6

ISSUE:

Was the Intermediary's adjustment reclassifying a portion of the Hospice Director's salary proper?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

A Priority Home Care, Inc. ("Provider") is headquartered in Munster, Indiana and was certified by the Medicare program on May 5, 1995. The Provider provided home health care and hospice services to Medicare beneficiaries and other patients in Northwestern Indiana.¹

On the as-filed cost report, the Provider claimed \$6,000 of Hospice Director salaries in the Administrative & General ("A&G") cost center.² While examining the Provider's Medicare cost report, the Intermediary proposed audit adjustment number 15 to reclassify the Director of Hospice's compensation and a computed percentage of fringe benefits from the Administrative & General cost center to the Hospice non-reimbursable cost center.³

The Provider's cost report was audited by Palmetto Government Benefits Administrators, a wholly owned subsidiary of Blue Cross and Blue Shield of South Carolina ("Intermediary"). On October 28, 1999 the Intermediary issued a Notice of Program Reimbursement ("NPR") based on its review of the Provider's December 31, 1996 cost report. On November 16, 1999, the Provider appealed the Intermediary's adjustments to the Provider Reimbursement Review Board ("Board") and has met the jurisdictional requirements of 42 C.F.R. §§ 405.1835-.1841. The application of the Intermediary's adjustment reduced Medicare reimbursement by approximately \$4,730.⁴

James E. Plonsey, of Medicare Training & Consulting Inc., represented the Provider. The Intermediary's representative was Bernard Talbert, Esquire, of the Blue Cross and Blue Shield Association.

PROVIDER'S CONTENTIONS:

The Provider claimed all administrative and clerical salaries in the Administrative & General cost center as required by the cost reporting instructions contained at HCFA Pub. 15-2. The agency employed an administrator/director to oversee the operations of the corporation. The Administrator was a Registered Nurse and performed home health visits

¹ See Provider's position paper at 7.

² See Intermediary's position paper Exhibit I-1.

³ See Intermediary's position paper Exhibit I-3.

⁴ See Intermediary's position paper at 1, the other issue in this case has been withdrawn by the Provider.

when on call in addition to her Hospice Director duties. Based on the Director's time study, 58% of her time was spent on Hospice related activities and 42% was spent in clinical meetings, conferences and coordination of home health activities.⁵ The Hospice Director recorded her time spent on her time sheet for each pay period. The Intermediary for the cost reporting periods ending 12/31/95 and 12/31/97 accepted this methodology, without any discrepancies.

The Provider contends that the Intermediary's reclassification of the Hospice Director's entire salary to the hospice cost center allocates Medicare cost incorrectly to the hospice cost center. Anytime an employee performs service for more than one cost center his/her salary should be classified to the Administrative & General cost center. The Provider insists that it did not have prior approval to directly assign salaries to multiple cost centers as required by HCFA Pub. 15-1, § 2307.⁶ Therefore, the Provider erred and actually should have reclassified the \$9,090 in expenses originally reported in the Hospice cost center to the Administrative & General cost center in accordance with Medicare cost reporting instructions and Provider Reimbursement Manual.

INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that even if prior approval had been requested by the Provider and granted by the Intermediary, in accordance with HCFA Pub. 15-1, § 2307, the documentation submitted would have been unacceptable. In accordance with HCFA Pub. 15-1, § 2307,⁷

... Time studies are considered statistical surrogates, and, thus, may not be used as a basis for direct assignment of costs.

On the Worksheet A-1 of the as-filed cost report on Line 25, entitled Hospice, the following salary expenses were recorded:⁸

Nurses	\$2,894.00
Therapists	\$ 707.00
Aides	<u>\$5,489.00</u>
Total	\$9,090.00

⁵ See Provider's position paper Exhibit 6.

⁶ See Provider's position paper Exhibit 5.

⁷ See Intermediary's position paper at 3.

⁸ See Intermediary's position paper Exhibit I-1, page 8.

According to HCFA Pub. 15-2 § 1704:

[a]ll salaries and wages for the HHA will be entered on this worksheet for the actual work performed within the specific area or cost center in accordance with the column headings.

Id.

The Intermediary asserts that on Worksheet A-1 of the as-filed cost report on Line 25, the Provider allocated \$9,090 of the Hospice Director's salary to "Nurses," "Therapists," and "Aides," rather than allocating the \$9,090 to the "Administrators" or "Directors" column.⁹ The Intermediary claims the Hospice Director's expense pertaining to home health aide visits was reported under aides salaries on the Hospice line of the cost report. In other words, the Provider claimed the visits performed by the Hospice Director on the Hospice line, while reporting the Director's compensation in A & G cost center.

The Intermediary refers to HCFA Pub. 15-2 § 1704, which states:

[w]hen a supervisor performs two or more functions, e.g., supervision of nurses and home health aides, the salaries and wages must be split in proportion with the percent of the supervisor's time spent in each cost center providing the HHA maintains the proper records (continuous time records) to support the split. If continuous time records are not maintained by the HHA, the entire salary of the supervisor will be entered on line 5 (A&G) and allocated to all cost centers through the step down. However, if the supervisor's salary is all lumped in one cost center, e.g., skilled nursing care and the supervisor's title coincides with this cost center, e.g., Nursing Supervisor, no adjustment is required.

Id.

The Intermediary insists that Worksheet A-1 documents that the Hospice Director/Registered Nurse only performed services in the Hospice cost center, thus the Provider's approach of reclassifying the remaining \$9,090 of the Director's salary does not meet the qualifications set forth in HCFA Pub. 15-2, § 1704.

⁹ See Intermediary's position paper Exhibit I-1.

The Intermediary contends the salary related to the Hospice Director/Registered Nurse should be included in the Hospice cost center. This employee performed services for only

one cost center, the Hospice. Furthermore, the time spent performing such duties as “clinical meetings, conferences, and coordinating of home health active patients,” as stated by the Provider, are normal daily functions performed by department heads. The Intermediary will not grant approval for a methodology that will shift non-reimbursable costs to reimbursable cost centers. This practice is in complete violation of the intent of the Medicare program and 42 C.F.R. 413.5.

CITATION OF LAW, REGULATIONS AND PROGRAM INSTRUCTIONS:

1. Regulations - 42 C.F.R.:
 - §405.1835-.1841 - Board Hearings
 - § 413.5 - Cost Reimbursement - General
 - § 413.20 - Financial Data and Reports
 - § 413.24 - Adequate Cost Data and Cost Finding
2. Program Instructions-Provider Reimbursement Manual (HCFA Pub. 15-1):
 - § 2307 - Direct Assignment Of General Service Costs
3. Program Instructions-Provider Reimbursement Manual (HCFA Pub. 15-2):
 - § 1704 - Compensation analysis-Salaries and Wages

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the facts, parties’ contentions, and evidence presented, finds and concludes that the Intermediary’s reclassification of compensation and employee benefits for the Director of Hospice to a non-reimbursable cost center was proper. The Board finds that the Provider failed to present adequate and reliable documentation to support its contention that administrative duties performed by the Hospice Director applied to the home health agency.

Under the principles of cost reimbursement set forth in 42 C.F.R. §§ 413.20 and 413.24, providers of services are required to maintain sufficient financial records and statistical data for the proper determination of costs payable under the Medicare program. Such data

and documentation must be based on the financial and statistical records of the provider and furnished to the intermediary for the purpose of ascertaining whether the information is accurate and pertinent to the determination of the proper amount of program payments.

While the Provider has presented office time sheets and clinical visit records in support of its arguments, the Board finds that the Provider has failed to provide the necessary documentation (i.e. time records identifying time spent at the HHA, logs, job description), to support the accuracy and admissibility of its contention that the Hospice Director performed services for the Home Health Agency. Although the Provider summarized the Director of Hospice administrative and clinical visit hours from the office time sheets, they do not specifically identify how much time was spent at each entity (Home Health Agency & Hospice). Therefore, based on the documentation submitted, the Board was unable to determine how much time, if any, the Director of Hospice spent working at the Home Health Agency. The Board believes the Provider had ample opportunity to submit the necessary documentation in response to the Intermediary audit findings but has declined to present auditable records to support its contentions.

The burden of maintaining adequate records and documentation rests with the Provider to support the proper payment of costs to be borne by the Medicare program. Since the Provider has not met its obligation with respect to providing auditable time records and job descriptions, the Board finds the Intermediary's determination to be in compliance with the documentation criteria set forth under 42 C.F.R. §§ 413.20 and 413.24.

DECISION AND ORDER:

The Intermediary's adjustment reclassifying the Director of Hospice's compensation and employee benefits to a non-reimbursable cost center was proper.

BOARD MEMBERS PARTICIPATING:

Irvin W. Kues
Henry C. Wessman, Esquire
Stanley J. Sokolove
Gary B. Blodgett, D.D.S.
Suzanne Cochran, Esquire

Date of Decision: March 19, 2002

FOR THE BOARD

Irvin W. Kues
Chairman