

# PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2010-D38

## **PROVIDER -**

King & Spalding Inclusion of Medicare Advantage Days  
in 2007 SSI Ratios/Shands HealthCare Inclusion of  
Medicare Advantage Days in 2007 SSI Ratios/North  
Shore-Long Island Jewish HS Inclusion of Medicare  
Advantage Days in 2007 SSI Ratios Groups

Provider Nos: Various

vs.

## **INTERMEDIARY -**

BlueCross BlueShield Association/  
National Government Services – IN/  
First Coast Service Options

## **Provider's Request for Expedited Judicial Review**

Cost Reporting Periods Ended -  
2007-2008

**CASE NOs.:** 10-0165G; 10-0162GC;  
10-0169GC

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Issues:

Should the Provider Reimbursement Review Board grant the Providers' request for expedited judicial review (EJR) over the question of whether Medicare Part C days should be excluded from the numerator and denominator of the Supplemental Security Income fraction of the disproportionate share adjustment?

Should the Board grant the Providers' request for EJR over the validity of the regulations, 42 C.F.R. §§405.1853(e)(2)(i), 405.1853(e)(5)(vii) and 405.1857(a)(1)(i), which insulate the Centers for Medicare & Medicaid Services from discovery and the Board's subpoena power?

Should the Board grant the Providers' request for EJR over failure by the Secretary to comply with section 951 of the Medicare Modernization Act?

Medicare Statutory and Regulatory Background:

The underlying issue in dispute in these cases involves the proper amount of Medicare reimbursement due providers of medical services. The Medicare program was established to provide health insurance to the aged and disabled. 42 U.S.C. §§1395-1395cc. The Centers for Medicare & Medicaid Services (CMS), formerly the Health Care Financing Administration (HCFA), is the operating component of the Department of Health and Human Services (HHS) charged with administering the Medicare program. CMS' payment and audit functions under the Medicare program are contracted to organizations known as fiscal intermediaries. Fiscal intermediaries determine payment amounts due the providers under Medicare law and interpretive guidelines published by CMS. 42 U.S.C. §1395h; 42 C.F.R. §§413.20 and 413.24.

Cost reports are required from providers on an annual basis with reporting periods based on the provider's accounting year. Those cost reports show the costs incurred during the fiscal year and the portion of those costs to be allocated to Medicare. 42 C.F.R. §413.20. The fiscal intermediary reviews the cost report, determines the total amount of Medicare reimbursement due the provider and issues the provider 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) provided it meets the following conditions: (1) The provider must be dissatisfied with the final determination of the intermediary; (2) the amount in controversy for a single provider must exceed \$10,000 for an individual appeal (or \$50,000 for groups); and (3) the appeal must be filed with the Board within 180 days of the receipt of the final determination. 42 U.S.C. §1395oo(a); 42 C.F.R. §§405.1835-405.1837.

The Medicare statute at 42 U.S.C. §1395oo(f)(1) and the regulations at 42 C.F.R. §405.1842(f)(1) (2008) require the Board to grant EJR if it determines that: (i) the Board has jurisdiction to conduct a hearing on the specific matter at issue; and (ii) the Board lacks the authority to decide a specific legal question relevant to the specific matter at issue because the legal question is a challenge either to the constitutionality of a provision of a statute, or to the substantive or procedural validity of a regulation or CMS Ruling.

Medicare Disproportionate Share Hospital (DSH) Payment:

Part A of the Medicare Act covers “inpatient hospital services.” 42 U.S.C. §1395d(a)(1). Since 1983, the Medicare program has paid most hospitals for the operating costs of inpatient hospital services under the prospective payment system (PPS). 42 U.S.C. §§1395ww(d)(1)-(5); 42 C.F.R. Part 412. Under PPS, Medicare pays predetermined, standardized amounts per discharge, subject to certain payment adjustments. Id.

One of the PPS payment adjustments is the DSH payment adjustment. The Secretary is required to provide increased PPS reimbursement to hospitals that serve a “significantly disproportionate number of low-income patients.” 42 U.S.C. §1395ww(d)(5)(F)(i)(I); 42 C.F.R. §412.106. Whether a hospital qualifies for the DSH adjustment, and how large an adjustment it receives, depends on the hospital’s “disproportionate patient percentage” (DPP). 42 U.S.C. §1395ww(d)(5)(F)(v).

The DPP is defined as the sum of two fractions expressed as a percentage. 42 U.S.C. §1395ww(d)(5)(F)(vi). Both of these fractions look, in part, to whether the hospital’s patients for such days claimed during the particular cost reporting period were “entitled to benefits” under Medicare Part A.

The first fraction used to compute the DSH payment is commonly known as the Medicare fraction. It is also referred to as the SSI fraction because the numerator is determined by the number of patient days for which the patient was entitled to Supplemental Security Income (SSI). The statute defines the SSI fraction as:

- (I) the fraction (expressed as a percentage), the numerator of which is the number of such hospital’s patient days for such period which were made up of patients who (for such days) were **entitled to benefits under Part A** of this subchapter and were entitled to supplemental security income benefits (excluding any State supplementation) under subchapter XVI of this chapter, and the denominator of which is the number of such hospital’s patient days for such fiscal year which were made up of patients who (for such days) were **entitled to benefits under Part A** of this subchapter ...

42 U.S.C. §1395ww(d)(5)(F)(vi)(I) (emphasis added).

The SSI fraction is computed annually by CMS, and the Medicare fiscal intermediaries are required to use CMS’ calculation to compute a hospital’s DSH payment adjustment. 42 C.F.R. §412.106(b)(2)-(3).

The second fraction used to compute the DSH payment is the Medicaid fraction, defined as:

- (II) the fraction (expressed as a percentage), the numerator of which is the number of the hospital’s patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under subchapter XIX of this chapter, but who were **not entitled to benefits under Part A** of this subchapter, and the

denominator of which is the total number of the hospital's patient days for such period.

42 U.S.C. §1395ww(d)(5)(F)(vi)(II) (emphasis added).

According to CMS' regulation, "[t]he fiscal intermediary determines ... the number of the hospital's patient days of service for which patients were eligible for Medicaid but not entitled to Medicare Part A, and divides that number by the total number of patient days in the same period." 42 C.F.R. §412.106(b)(4).

Background:

The Providers in these groups contend that Medicare Part C days should not be included in either the numerator or denominator of the Supplemental Security Income (SSI) fraction, which is part of the Medicare disproportionate share (DSH) calculation. In accordance with 42 U.S.C. §1395ww(d)(5)(F)(vi)(I), hospital inpatients who are "entitled to benefits under [P]art A" are to be included in the SSI fraction. The denominator includes all Part A days, whereas the numerator includes only Part A days for patients who are also entitled to SSI under Title XVI. The Providers maintain that patients who have enrolled in Medicare HMOs [health maintenance organizations] under Medicare Part C may be "eligible" for Part A, but are not "entitled" to Part A during the months when they have given up their Part A entitlement to enroll in Part C. The Providers assert that CMS has improperly included Part C days in the SSI percentages that were released on June 24, 2009<sup>1</sup> to be used to calculate the DSH SSI fraction for hospital cost reporting years beginning in Federal fiscal year ending September 30, 2007 (the 2007 SSI data) resulting in an improper reduction in the DSH percentage for the Providers. The Providers contend that all Part C days should be removed from the SSI fraction.<sup>2</sup>

In addition to the legal question of whether Part C days can be appropriately counted in the SSI percentage, Providers also complain of lack of data to enable them to make an independent assessment of the days that CMS counted in the SSI percentage. CMS requires billing to capture the Part C data but Providers describe a history of conflicting billing requirements.<sup>3</sup> Providers also explain CMS' use of the data for a variety of payment purposes.<sup>4</sup> Because of the essential nature of the data, the Providers also seek enforcement of section 951 of the Medicare Modernization Act, which requires the Secretary to arrange to provide hospitals with information needed to perform the DSH calculation (including the SSI fraction). See Medicare Prescription Drug Improvement and Modernization Act of 2003, Pub. Law 108-173. The Providers allege that the Secretary has not complied with this directive. Moreover, the Board is without the authority to compel compliance because 42 C.F.R. §§405.1853(e)(5)(vii) and 405.1857(a)(1)(i), the validity of which Providers also challenge, provide that CMS is not subject to discovery, motions to compel, subpoenas, or subpoena enforcement actions.

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<sup>1</sup> The Providers asserted they were appealing from a June 24, 2009 notice. The only documentation demonstrating that the SSI percentages were updated is a CMS Transmittal 1774 (Change Request 6530) (CMS Pub. 100-04, Chapter 3 § 20.3) issued on July 24, 2009 which instructed intermediaries that the updated SSI percentages for FFY 2007 were on the CMS website and they were to use them.

<sup>2</sup> Providers' EJR request at 2.

<sup>3</sup> Providers' EJR request at 8-9.

<sup>4</sup> Providers' EJR request at 9-10.

The Board asked the Providers to also comment on the applicability of the April 28, 2010 CMS Ruling No. CMS-1498-R (Ruling) to the Medicare Advantage issue. The Providers responded by asserting that the Ruling has no bearing on these appeals which challenge the inclusion of Medicare Advantage Days in the SSI fraction of the DSH calculation for cost report periods beginning in 1997. These days, also known as Medicare Part C days, were treated as days for which beneficiaries were “entitled to benefits under [P]art A” for purposes of calculating the DSH adjustment. The Ruling relates to three DSH issues: (1) the exclusion of Medicare Secondary Payor (MSP) and Part A exhausted benefits days from the DSH calculation for cost reporting periods before October 1, 2004; (2) the exclusion of labor/delivery room days from the DSH calculation for cost report periods beginning before October 1, 2009; and (3) the data matching process used in calculating the SSI fraction. The Ruling does not directly address Medicare Advantage Days in the SSI fraction. The Providers assert that since the Ruling is unrelated to the issues raised in this case, this case is not subject to remand.

#### Decision of the Board:

42 U.S.C. §1395oo(f)(1) and 42 C.F.R. §405.1842 permits expedited judicial review where the Board determines that it has jurisdiction but does not have the authority to decide a question of law, regulation or CMS ruling.

The threshold question then is whether the Board has jurisdiction. The Providers on the attached Schedules of Providers demonstrated that their appeals were filed within 180 days of the one year anniversary of the filing of the cost report pursuant to 42 U.S.C. §1395oo(a)(1)(C) and 42 C.F.R. §405.1835(a)(3)(ii) and are, therefore, timely.<sup>5</sup> The Providers’ calculation of the amount in controversy, as reflected on the Schedules of Providers,<sup>6</sup> shows the financial injury to be far in excess of the \$50,000 requirement for jurisdiction over a group appeal. 42 U.S.C. §1395oo(b) and 42 C.F.R. §405.1837(a)(3). Providers have demonstrated their dissatisfaction as described above and, therefore, meet the jurisdictional requirements of 42 U.S.C. §1395oo(a).

The Board has also considered whether CMS-1498-R, which addresses several aspects of the SSI percentage calculation, might deprive the Board of continuing jurisdiction. The question of whether the Ruling applies arises because it provides for termination of any further Board action and remand to the Intermediary on any cases within the scope of the Ruling. The Ruling explains that the Secretary’s changes to refine the SSI data and matching process eliminate the case or controversy on which certain appeals challenging the SSI calculation are based, thereby depriving the Board of continuing jurisdiction.

The Ruling deals extensively with the interpretation of the statutory language “entitled to benefits under Part A,” the same statutory language in dispute in this appeal. However, the Ruling appears not to encompass treatment of Part C days, particularly in the fiscal period in dispute here. First the statutory language is discussed in the context of a change to the regulations in 2004 that eliminated the requirement for Part A days to be “covered” (i.e. paid under Part A) in order for them to be counted in the SSI fraction. Second, remands required by the Ruling are limited to cost report periods ending prior to the regulatory changes, apparently based on the premise that in subsequent fiscal periods, the days are already counted in the SSI

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<sup>5</sup> The Board dismissed Tampa General Hospital (Provider No. 10-0128) FYE 2007 from case number 10-0165G in separate correspondence.

<sup>6</sup> See Tab E of the Jurisdictional Documents for additional information regarding the individual Providers’ calculation of the reimbursement effect.

fraction. Page 9 of the Ruling contains the only direct reference to Part C days and notes parenthetically that Part C days are included in the SSI fraction only if they were billed to Medicare. The Board, therefore, concludes that this appeal is outside the scope of the Ruling and the Board continues to have jurisdiction.

The Providers are seeking EJR over

- (1) Whether the Secretary unlawfully treats Medicare Advantage Days, which are paid under Medicare Part C, as days for which patients are entitled to benefits under Medicare Part A for purposes of calculating the Medicare DSH adjustment. The Providers are requesting that the Board grant EJR with respect to the issue because they assert that the Board lacks the authority to overturn the Secretary's current interpretation of the term entitled to benefits under [Medicare] Part A in the provisions of the Medicare statute. See 69 Fed. Reg. 48916, 49099 (August 11, 2004);<sup>7</sup> and
- (2) The Providers also seek enforcement of section 951 of the Medicare Modernization Act, which requires the Secretary to arrange to provide hospitals with information needed to perform the DSH calculation (including the SSI fraction). See Medicare Prescription Drug Improvement and Modernization Act of 2003, Pub. Law 108-173. The Providers allege that the Secretary has not complied with this directive, but the Board is without the authority to compel compliance. See 42 C.F.R. §§405.1853(e)(2)(i), 405.1853(e)(5)(vii) and 405.1857(a)(1)(i) (providing that CMS is not subject to discovery, motions to compel, subpoenas, or subpoena enforcement actions).<sup>8</sup>

The Intermediary did not oppose the request for EJR. The Board finds that EJR is appropriate because it has no authority to grant the relief sought: (1) invalidating the Secretary's interpretation of the term "entitled to benefits" published in the Federal Register on August 11, 2004, (2) invalidating the regulations that insulate CMS from discovery or subpoenas for production of data and (3) requiring compliance with section 951 of the Medicare Modernization Act.

In summary, the Board finds that:

- 1) it has jurisdiction over the matter for the subject years<sup>9</sup> and the Providers are entitled to a hearing before the Board;

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<sup>7</sup> Provider's EJR Request at 1.

<sup>8</sup> Providers' EJR Request at 19, 20.

<sup>9</sup> The Providers in the Shands Health Care case (case number 10-0162GC) have a 6/30/2008 fiscal year, part of which is reimbursed using SSI percentages from Federal Fiscal Year 2007.

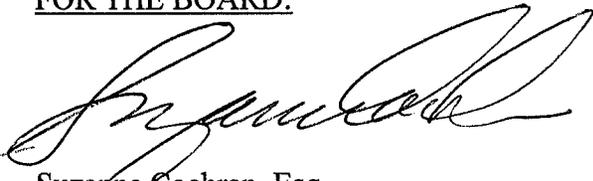
- 2) based upon the Providers' assertions regarding the nature of the appeal, there are no findings of fact for resolution by the Board;
- 3) it is bound by the Secretary's publication regarding Medicare Advantage days in the Federal Register at 69 Fed. Reg. 48916, 49099 (August 11, 2004) and the regulations regarding discovery and subpoenas at 42 C.F.R. §§405.1853(e)(2)(i), 405.1853(e)(5)(vii) and 405.1857(a)(1)(i); and
- 4) it is without the authority to decide the legal questions of whether the Federal Register notice and regulations are valid and to compel the Secretary's compliance with section 951 of the Medicare Modernization Act.

Accordingly, the Board finds that the Providers' appeals properly fall within the provisions of 42 U.S.C. §1395oo(f)(1) and hereby grants the Providers' request for expedited judicial review for the issues and the subject years. The Providers have 60 days from the receipt of this decision to institute the appropriate action for judicial review. Because these are the only issues under dispute, the Board hereby closes the cases.

Board Members Participating:

Suzanne Cochran, Esq.  
Yvette C. Hayes  
Keith E. Braganza, CPA  
John Gary Bowers, CPA

FOR THE BOARD:



Suzanne Cochran, Esq.  
Chairperson

DATE: JUN 29 2010

Enclosures: 42 U.S.C. §1395oo, Schedules of Providers

Schedule of Providers in Group

Group Name: King & Spalding Inclusion of Medicare Advantage Days in 2007 SSI

Page No. 1 of 4

Ratios Group

Representative: King & Spalding

Date Prepared 4/19/2010

Case No: 10-0165G

Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst. Filed	C No. of Audit Days	D Adj No.	E Amount of Reimbursement	F Original Case No.	G Date Add/Transfer Filed
1 10-0034	Mount Sinai Medical Center (Miami, Miami-Dade, FL)	First Coast Service Options - FL	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$2,815,142	Direct Add	11/25/2009
10-0034	Mount Sinai Medical Center* (Miami, Miami-Dade, FL)	First Coast Service Options - FL	12/31/2007	5/30/2009	11/25/2009	179	N/A		Direct Add	11/25/2009
3 33-0005	Kaleida Health (Buffalo, Erie, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$1,898,536	Direct Add	11/25/2009
33-0005	Kaleida Health* (Buffalo, Erie, NY)	National Government Services - IN	12/31/2007	6/4/2009	11/25/2009	174	N/A		Direct Add	11/25/2009

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(B).

Group Name: King & Spalding Inclusion of Medicare Advantage Days in 2007 SSI Ratios Group

Date Prepared 4/19/2010

Representative: King & Spalding  
Case No: 10-0165G

Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst. Filed	C No. of Audit Days Adj No.	D Amount of Reimbursement Case No.	E Original Case No.	F Transfer Filed	G Date Add/
4 33-0055	New York Hospital Medical Center of Queens (Flushing, Queens, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$4,485,482	Direct Add	11/25/2009
33-0055	New York Hospital Medical Center of Queens* (Flushing, Queens, NY)	National Government Services - IN	12/31/2007	6/2/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
5 33-0059	Montefiore Medical Center (Bronx, Bronx, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$6,785,880	Direct Add	11/25/2009
33-0059	Montefiore Medical Center* (Bronx, Bronx, NY)	National Government Services - IN	12/31/2007	6/5/2009	11/25/2009	173	N/A		Direct Add	11/25/2009
6 33-0101	New York Presbyterian Hospital (New York, New York, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$2,940,068	Direct Add	11/25/2009
33-0101	New York Presbyterian Hospital* (New York, New York, NY)	National Government Services - IN	12/31/2007	6/3/2009	11/25/2009	175	N/A		Direct Add	11/25/2009

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(B).

Group Name: King & Spalding Inclusion of Medicare Advantage Days in 2007 SSI Ratios Group

Representative: King & Spalding  
Case No: 10-0165G

Issue: Whether Medicare Advantage Days should be included in the 2007 SSI ratios. Date Prepared: 4/19/2010

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst. Filed	C No. of Days	D Audit No. Add.	E Amount of Reimbursement	F Original Case No.	G Date Add/Transfer Filed
7	33-0194 Maimonides Medical Center (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$3,924,643	Direct Add	11/25/2009
33-0194	Maimonides Medical Center (Brooklyn, Kings, NY)*	National Government Services - IN	12/31/2007	1/6/2010	4/19/2010	154	N/A		Direct Add	4/19/2010
8	33-0201 Kingsbrook Jewish Medical Center (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$1,725,955	Direct Add	11/25/2009
33-0201	Kingsbrook Jewish Medical Center* (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/2/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
9	33-0236 New York Methodist Hospital (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$2,913,141	Direct Add	11/25/2009
33-0236	New York Methodist Hospital* (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/2/2009	11/25/2009	176	N/A		Direct Add	11/25/2009

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395ooc(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395ooc(a)(1)(B).

Schedule of Providers in Group

Group Name: King & Spalding Inclusion of Medicare Advantage Days in 2007 SSI Ratios Group Page No. 4 of 4

Representative: King & Spalding

Case No: 10-0165G

Date Prepared 4/19/2010  
 Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst. Filed	C No. of Audit Days	D Adj No.	E Amount of Reimbursement	F Original Case No.	G Date Add/Transfer Filed
10 33-0306	Lutheran Medical Center (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$2,761,214	Direct Add	11/25/2009
33-0306	Lutheran Medical Center* (Brooklyn, Kings, NY)	National Government Services - IN	12/31/2007	6/25/2009	11/25/2009	153	N/A		Direct Add	11/25/2009
11 34-0047	North Carolina Baptist Hospital (Winston-Salem, Forsyth, NC)	Cahaba Safeguard Administrators	6/30/2008	6/24/2009	11/25/2009	154	N/A	\$1,554,706	Direct Add	11/25/2009
34-0047	North Carolina Baptist Hospital* (Winston-Salem, Forsyth, NC)	Cahaba Safeguard Administrators	6/30/2008	12/1/2009	11/25/2009	20	N/A		Direct Add	11/25/2009

Total Amount of Reimbursement: \$32,608,495

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(B).

Schedule of Providers in Group

Group Name: Shands HealthCare Inclusion of Medicare Advantage Days in 2007 SSI Ratios Group

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Representative: King & Spalding

Date Prepared 1/7/2010

Case No: 10-0162GC

Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst Filed	C No. of Audit Days Adj No.	D Amount of Reimbursement Case No	E Original Date Add/ Transfer Filed	F Date Add/ Transfer Filed
1 10-0001	Shands Jacksonville (Jacksonville, Duval, FL)	First Coast Service Options - FL	6/30/2008	6/24/2009	11/25/2009	154	N/A	\$2,580,938	Direct Add 11/25/2009
10-0001	Shands Jacksonville* (Jacksonville, Duval, FL)	First Coast Service Options - FL	6/30/2008	11/26/2009	1/7/2010	42	N/A		Direct Add 1/7/2010
2 10-0113	Shands Hospital at the University of Florida (Gainesville, Alachua, FL)	First Coast Service Options - FL	6/30/2008	6/24/2009	11/25/2009	154	N/A	\$1,218,535	Direct Add 11/25/2009
10-0113	Shands Hospital at the University of Florida* (Gainesville, Alachua, FL)	First Coast Service Options - FL	6/30/2008	12/10/2009	1/7/2010	28	N/A		Direct Add 1/7/2010

Total Amount of Reimbursement \$3,799,473

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 139500(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 139500(a)(1)(B).

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Schedule of Providers in Group

PROVIDER REIMBURSEMENT 3  
REVIEW BOARD

Date Prepared 11/23/2009

Group Name North Shore LJI Health System Inclusion of Medicare Advantage Days in 2007 SSI Ratios Group

Representative King & Spalding

Case No: 10-0169GC

Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst Filed	C No. of Audit Days	D Adj No.	E Amount of Reimbursement	F Original Case No	G Date Add/Transfer Filed
1 33-0043	Southside Hospital (Bay Shore, Suffolk, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$249,167	Direct Add	11/25/2009
33-0043	Southside Hospital* (Bay Shore, Suffolk, NY)	National Government Services - IN	12/31/2007	6/4/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
2 33-0106	North Shore University Hospital (Manhasset, Nassau, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$893,437	Direct Add	11/25/2009
33-0106	North Shore University Hospital* (Manhasset, Nassau, NY)	National Government Services - IN	12/31/2007	6/4/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
3 33-0160	Staten Island University Hospital (Staten Island, Richmond, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$2,532,038	Direct Add	11/25/2009
33-0160	Staten Island University Hospital* (Staten Island, Richmond, NY)	National Government Services - IN	12/31/2007	6/3/2009	11/25/2009	176	N/A		Direct Add	11/25/2009

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oof(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oof(a)(1)(B).

Schedule of Providers in Group

Group Name North Shore LII Health System Inclusion of Medicare Advantage  
Days in 2007 SSI Ratios Group

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Representative King & Spalding

Date Prepared 11/23/2009

Case No: 10-0169GC

Issue Whether Medicare Advantage Days should be included in the  
2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst Filed	C No. of Days Adj	D Audit No.	E Amount of Reimbursement	F Original Case No	G Date Add/Transfer Filed
4 33-0195	Long Island Jewish Medical Center (New Hyde Park, Nassau, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$1,453,770	Direct Add	11/25/2009
33-0195	Long Island Jewish Medical Center* (New Hyde Park, Nassau, NY)	National Government Services - IN	12/31/2007	6/12/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
5 33-0353	Forest Hills Hospital (Forest Hills, Queens, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$1,769,195	Direct Add	11/25/2009
33-0353	Forest Hills Hospital* (Forest Hills, Queens, NY)	National Government Services - IN	12/31/2007	6/4/2009	11/25/2009	176	N/A		Direct Add	11/25/2009
6 33-0372	Franklin Hospital (Valley Stream, Nassau, NY)	National Government Services - IN	12/31/2007	6/24/2009	11/25/2009	154	N/A	\$260,399	Direct Add	11/25/2009

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(B).

Schedule of Providers in Group

Group Name North Shore LIJ Health System Inclusion of Medicare Advantage

Days in 2007 SSI Ratios Group

Page No. 3 of 3

Representative King & Spalding

Date Prepared 11/23/2009

Case No: 10-0169GC

Issue Whether Medicare Advantage Days should be included in the 2007 SSI ratios.

Provider Number	Provider Name	Intermediary	FYE	A Date of Final Determination	B Date Hearing Rqst Filed	C No. of Audit Days Adj No.	D Reimbursement Case No	E Amount of Reimbursement	F Original Case No	G Date Add/Transfer Filed
33-0372	Franklin Hospital* (Valley Stream, Nassau, NY)	National Government Services - IN	12/31/2007	6/4/2009	11/25/2009	176	N/A			Direct Add 11/25/2009

Total Amount of Reimbursement \$7,158,006

\* As reflected in the jurisdiction statement behind tab A, the Providers assert two jurisdictional bases for their appeal of this issue. First, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(A)(ii). Second, jurisdiction is proper under 42 U.S.C. § 1395oo(a)(1)(B).