

PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2006-D24

PROVIDERS –
Advanced Rehabilitation Services, Inc.
and Prospect Rehabilitation Services, Inc.

Provider Nos.: 31-6597; 31-6625

vs.

INTERMEDIARY –
BlueCross BlueShield Association/
Riverbend Government Benefits
Administrator

DATE OF HEARING -
January 7, 2005

Cost Reporting Period Ended -
December 31, 1999

CASE NOS.: 03-0259 and 03-0260

INDEX

	Page No.
Issue.....	2
Medicare Statutory and Regulatory Background.....	2
Statement of the Case and Procedural History.....	2
Parties' Contentions.....	3
Findings of Fact, Conclusions of Law and Discussion.....	3
Decision and Order.....	4

ISSUE:

Whether the Intermediary's adjustments were proper that disallowed the Providers' claimed Medicare Bad Debts, disallowed in a prior year period.

MEDICARE STATUTORY AND REGULATORY BACKGROUND:

This is a dispute over the proper amount of Medicare reimbursement due a provider 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 and Medicaid Services (CMS), formerly the Health Care Financing Administration (HCFA), is the operating component of the Department of Health and Human Services (DHHS) charged with administering the Medicare program. CMS' 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 Medicare law and under interpretive guidelines published by CMS. See, 42 U.S.C. §1395(h), 42 C.F.R. §§413.20(b) and 413.24(b).

At the close of its fiscal year, a provider must submit a cost report to the fiscal intermediary showing the costs it incurred during the fiscal year and the proportion 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) within 180 days of the issuance of the NPR. 42 U.S.C. §1395oo(a); 42 C.F.R. §405.1835.

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Prospect Rehabilitation Services, Inc. and Advanced Rehabilitation Services, Inc. (Providers) are Medicare-certified rehabilitation services agencies that are located in Hackensack and Westwood, New Jersey, respectively. The Providers are separately incorporated but commonly owned by the same individual. The Providers furnish outpatient physical therapy, occupational therapy and speech therapy services to skilled nursing facilities on a contractual basis. In the Medicare cost reports filed for fiscal year ended (FYE) December 31, 1999, the Providers claimed reimbursement for Medicare bad debts in the amount of \$289,653 for Prospect Rehabilitation Services, Inc. and \$138,249 for Advanced Rehabilitation Services, Inc. Riverbend Government Benefits Administrator's (the Intermediary) review of Medicare bad debts during the field audit of the cost reports revealed that the Providers had reinstated bad debts from their FYE 12/31/1997 that the Intermediary had disallowed during its review of that period. The Intermediary's 1997 cost report disallowance found that accounts were written off in advance of the 120-day rule articulated in Section 310 of the Provider Reimbursement

Manual (PRM) Part 1 and, consequently, the collection efforts were considered premature. Although the Providers made additional collection efforts on the reinstated bad debts in 1999, the Intermediary questioned the propriety of the reinstatement and disallowed \$211, 257 (subsequently reduced to \$210,818 by the Intermediary) at Prospect and \$101,664 at Advanced. There is no dispute that 42 C.F.R. §413.24 and §413.80 (redesignated as 413.89 effective 10/1/04) coupled with PRM, Part 1, Sections 310 and 314, are the controlling guidance for bad debts. The dispute centers on the propriety of claiming bad debts from a prior year that were previously disallowed by the Intermediary.

The Providers appealed the Intermediary's adjustments to the Board and met the jurisdictional requirements of 42 C.F.R. §§405.1835-405.1841. The Providers were represented by R. James Kravitz, Esquire, Fox Rothschild, LLP. The Intermediary was represented by James Grimes, Esquire, Blue Cross Blue Shield Association.

PARTIES' CONTENTIONS:

The Providers argue that they reinstated the 1997 bad debts on their 1999 cost reports at the direction of the Intermediary. Furthermore, the Providers argue that the bad debts claimed on their 1999 cost reports met all of the requirements set forth at 42 C.F.R. §413.80; and that they furnished evidence that substantiates the amounts claimed in accordance with the criteria for allowable bad debts set forth in PRM 15-1, section 308. The Providers also contend that they furnished evidence that demonstrates that they made reasonable collection efforts in 1999 as required by PRM 15-1, section 310, and that they maintained all necessary supporting information to justify the bad debts claimed on their cost report.

The Intermediary contends that PRM 15-1, section 314 requires recognition of bad debts in the reporting period in which the debts are determined to be worthless; consequently, it cannot allow amounts claimed and properly disallowed in prior periods as current period bad debts. The Intermediary further argues that it properly disallowed the 1997 bad debts for noncompliance with PRM 15-1, section 310.2, which states that "bad debts must be claimed no earlier than 120 days after the date that the first bill is mailed to the beneficiary." The amounts claimed and disallowed in 1997 were not 120 days old, were prematurely written off and were properly disallowed.

The Intermediary also contends that the Providers' 1999 collection efforts were not genuine and violated reasonable collection efforts mandated by 42 C.F.R. §413.80 and PRM 15-1, section 310.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of Medicare law and guidelines, the parties' contentions and the evidence contained in the record, finds and concludes that the Intermediary's adjustments to the Providers' claimed bad debts were proper.

The central issue in this appeal is the propriety of claiming bad debts from a prior year that were previously disallowed by the Intermediary. PRM 15-1, section 314 specifically

addresses the proper timing for claiming bad debts and requires that uncollectible deductibles and coinsurance be recognized in the reporting period in which they are determined to be worthless. In this case, the Providers identified the bad debts as worthless in 1997. The dispute revolves around the Providers' dissatisfaction with the Intermediary's disallowance of their 1997 bad debts. The Board finds that this dissatisfaction should have been handled through an appeal of these adjustments from the 1997 NPRs, and that the bad debts should not have been reclaimed in a subsequent cost reporting period.

In these cases, the Providers in 1999 reactivated previously written-off accounts, performed additional collection efforts, and claimed the amounts for a second time. The Board finds no language in the regulations or the instructions that allows Providers to reinstate bad debt claims where an Intermediary has determined the claim is unallowable and where the provider failed to address the adjustments in a timely filed appeal. To allow such a practice would grant additional remedies to the Providers that do not exist under the law.

The Board notes the Providers' assertion that they acted at the direction of the Intermediary and suggests that they may have been misled. However, the Board's authority is limited by the language of the regulations and CMS instructions. Neither contains language that allows providers to reinstate a claim that was previously disallowed. Absent such language, the Board must conclude that the Providers may not reinstate and claim bad debts from a prior year that were previously disallowed by the Intermediary. The Board concludes that the Intermediary's adjustments disallowing those claims were proper.

DECISION AND ORDER:

The Intermediary's adjustments disallowing the Medicare bad debts at issue in these cases were proper. The Intermediary's adjustments are affirmed.

BOARD MEMBERS PARTICIPATING:

Suzanne Cochran, Esquire
Gary B. Blodgett, D.D.S.
Elaine Crews Powell, C.P.A.
Yvette C. Hayes
Anjali Mulchandani-West

FOR THE BOARD:

DATE: June 1, 2006

Suzanne Cochran, Esquire
Chairperson