

# CENTERS FOR MEDICARE AND MEDICAID SERVICES

## *Decision of the Administrator*

**In the case of:**

**Christ the King Manor**

*Provider*

vs.

**Blue Cross and Blue Shield  
Association/Veritus Medicare Svcs.**

*Intermediary*

**Claim for:**

**Cost Reimbursement  
Determination for  
Cost Reporting  
Period Ending: 06/30/98**

**Review of:  
PRRB Dec. No. 2003-D10  
Dated: December 20, 2002**

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This case is before the Administrator, Centers for Medicare & Medicaid Services (CMS), for review of the decision of the Provider Reimbursement Review Board (Board). The review is during the 60-day period in §1878(f)(1) of the Social Security Act (Act). The parties were notified of the Administrator's intent to review Issue No. 1 of the Board's decision. Subsequently, comments on Issue No. 1 were received from the Provider and the Centers for Medicare Management (CMM). Accordingly, this decision is now before the Administrator for final agency review.

### BACKGROUND

The Provider, a freestanding skilled nursing facility (SNF), classified its Staff Development Coordinator costs to the Administrative and General (A&G) cost center on its cost report for the fiscal year ending June 30, 1998. These costs were then “stepped down” to other cost centers based on the A&G statistic of accumulated costs. However, the Intermediary reclassified the costs to the Nursing Administration cost center. The costs were then stepped down to other cost centers based on an hours of service statistic. As not all cost centers showed hours of service, not all cost centers received a portion of these costs.

## ISSUE AND BOARD'S DECISION

The issue was whether the Intermediary's reclassification of the Staff Development Coordinator salaries was proper.<sup>1</sup>

The Board found that the Intermediary's reclassification was improper because the Staff Development Coordinator's job description supported the Provider's claim that the Staff Development Coordinator function benefited all aspects of patient care. According to its job description, the Staff Development Coordinator managed the orientation of all new employees; was responsible for the development, implementation, and evaluation of departmental goals, objectives, and policies; served as liaison to supervisors to facilitate the identification of training needs; scheduled personnel to provide in-service training; and provided a plan to improve quality of patient care. Although the Board recognized the need for providers to maintain employee time records to support cost allocations, the Board found the details of the job description reinforced the Provider's claim that the Staff Development Coordinator benefited all aspects of the operation of the entire facility, while the Intermediary's adjustment seemed to be based almost entirely on the fact that the Staff Development Coordinator reported to the Director of Nursing. Accordingly, the Board reversed the Intermediary's adjustment.

## SUMMARY OF COMMENTS

The Provider requested that the Administrator affirm the Board's decision on Issue No. 1. The Provider contended that the Board correctly determined that the Staff Development Coordinator job description adequately illustrated that the Staff Development Coordinator's responsibilities were facility-wide. The Provider further argued that the functional duties of the Staff Development Coordinator as outlined in the job description were consistent with the regulatory requirements of both federal and state levels. The Provider maintained that there was no evidence in the record that indicated that the Staff Development Coordinator failed to perform her functions, nor was there support in the record for the Intermediary's position that the Staff Development Coordinator only serviced nursing department personnel. Furthermore, the job description that the Intermediary relied heavily upon in making its adjustment specifies that both the Director of Nursing and the Administrator supervise the Staff Development Coordinator, not just the Director of Nursing. The Provider also observed that it was difficult to maintain time

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<sup>1</sup> Issue No. 2 involved whether the Intermediary's reclassification of social services salaries was proper. The Administrator summarily affirms the Board's decision on Issue No. 2.

studies for administrative positions, and that time studies are not required when it is so obvious from the record that all departments in the provider are supported by the job function at issue. In sum, the Provider maintained that the Board's decision to reverse the Intermediary's reclassification of the Provider's Staff Development Coordinator costs was consistent with the laws and regulations governing proper cost allocation.

CMM requested the reversal of the Board's decision on Issue No. 1. CMM explained that long-standing policy, in the regulations at §§413.20 and 413.24, requires providers to maintain accurate and detailed financial records sufficient to support the proper determination of reimbursement. The Provider, however, failed to meet this requirement. Based upon this lack of documentation, and, absent time records, CMM concluded that the Intermediary's reclassification of the Staff Development Coordinator costs to the Nursing Administration cost center was the proper action. Nor did CMM believe that the prohibition against cross-subsidization was violated by the reclassification. To determine otherwise would mean that no cost could be disallowed because that cost would then be borne by non-Medicare patients. CMM stressed the point that, if a cost is not allowed by Medicare at the outset, one never reaches the issue of cost-shifting. The issue in this case does not involve non-reimbursable costs, but, rather, proper cost allocation. The Provider's failure to furnish adequate documentation led the Intermediary to disapprove the Provider's cost finding, which, in turn, led to a reduction in Medicare reimbursement to the Provider. Based upon this reasoning, CMM requested that the Board's decision be reversed.

### DISCUSSION

The entire record furnished by the Board has been examined, including all correspondence, position papers, exhibits, and subsequent submissions. All comments timely received have been included in the record and considered.

Section 1815(a) of the Act provides that a provider of services shall be paid the amounts so determined, "except that no such payment shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid." Consistent with the statute, the general documentation regulations at 42 C.F.R. 413.20 and 413.24 place the burden of proving that claimed costs are reimbursable on the provider. These regulations require that providers keep sufficient, contemporaneous financial records and statistical data for the accurate determination of costs payable under Medicare. The methods of determining reimbursable costs involve utilizing data available from the provider's usually maintained accounts to determine the correct and equitable payment for services to beneficiaries.

To determine Medicare's share of a provider's costs, the regulations and the Provider Reimbursement Manual (PRM) explain that the costs of a general service cost center need to be allocated to the cost centers receiving its services, using a statistical basis that measures the benefit received by each cost center.<sup>2</sup> Relevant to this case, cost finding to determine Medicare's share of the costs is the process of recasting the provider's data derived from those accounts normally kept by a provider to ascertain costs of various types of services rendered. Cost finding requires the determination of these costs by the allocation of direct costs and proration of indirect costs. Generally this is done through the step-down method of cost finding.

The step-down method of cost finding requires that the expense of each general service cost center is allocated to those cost centers which receive the services. The cost centers served by the general service cost centers include all cost centers within the provider's organization, i.e., other general service cost center, ancillary cost centers, inpatient routine service cost centers, outpatient service cost centers, special purpose and other reimbursable cost centers and non-reimbursable cost centers. The general service cost centers costs are equitably allocated based on the proration of the statistical data which measures the benefit received by each cost center.

Relevant to this case, the A&G cost center and the nursing administration cost centers are both general service cost centers. The costs of general service cost centers are stepped down to other cost centers based on the applicable statistical data. The purpose of the A&G cost center is to accumulate the direct costs attributable to a provider's administrative and general costs. The A&G costs are allocated to other cost centers based on a statistical ratio reflecting accumulated costs. Thus, any cost center reporting costs will received a portion of the A&G costs.

The nursing administration cost center purpose is to accumulate any cost of nursing administration. The basis for allocating nursing administration costs is a statistic based on hours of direct patient care services. The direct nursing services are directly assigned to the cost center which receives the services and include the wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies and ward clerks. Those cost centers showing these direct nursing services (that is, reflecting the direct salary costs of the foregoing employees) will receive a proportion of the nursing administration cost based on the hours of service statistic.

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<sup>2</sup> See §§413.20 and 413.24, §2307 of the PRM.

Alternatives to cost finding, such as the direct assignment of costs, may be used where a provider receives approval from its intermediary, based upon justification. The direct assignment of costs involves assigning directly allocable costs of a general service cost center to all cost centers receiving services from that cost center based upon actual auditable usage. Estimates are expressly not acceptable. With respect to directly assigning salaries, time studies are considered statistical surrogates and, thus, may not be used as a basis for direct assignment of costs. However, §2313.2E of the PRM permits periodic time studies, instead of ongoing time reports, to be used to allocate direct salary and wage costs if certain conditions are met. The requirements for such time studies include, but are not limited to, written approval from the intermediary and time studies of at least one full week per month of the cost reporting period.

In this case, the record shows that the Staff Development Coordinator was required to be a licensed practical nurse who worked under the supervision of the Director of Nursing and the Administrator of the Provider. The staff development coordinator's position description, dated after the cost year in this case, cited various duties primarily focused on employee training and orientation and the monitoring of the quality of care through the monitoring of the nursing assistants.

The Provider argued that the services of the Staff Development Coordinator benefited all departments and, therefore, should be classified as an A&G cost and allocated based on the A&G statistic of accumulated costs. However, the Intermediary classified the Staff Development Coordinator costs to the nursing administration cost center. This meant that the costs would be allocated based on an hours of service statistic. The Provider objected because the ancillary cost centers showed no hours of service and thus did not receive a portion of these costs.

The Administrator finds that the record supports the Intermediary's classification of these costs to the nursing administration cost center. The only evidence in the record was a position description dated after the cost year in this case.<sup>3</sup> As recognized by American Hospital Association's (AHA) Chart of Accounts, by definition, the staff development coordinator costs are properly classified as a nursing administration cost. The employee is a licensed practical nurse that has oversight to the training and orientation of the provider's employees that provide patient care. These costs are properly allocated based on hours of service, as

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<sup>3</sup> The Administrator finds that the job description effective date of September 1998 is actually two months after the end of cost year at issue. The Provider failed to furnish a job description effective for the cost year at issue. Thus, there was no contemporaneous documentation in the record which would apply to the cost year ending June 30, 1998.

opposed to accumulated costs. Accumulated costs as a statistic bears no relationship to the services the staff coordinator provided to the various cost centers. The Administrator finds reasonable to conclude that if a cost center reported no hours of service (that is, reported no salaries for employees), it would have received a de minimus benefit from the staff development coordinator services and thus should not be allocated a portion of those costs.

The Administrator notes that, while the costs are not properly classified in the A&G cost center, the Intermediary would have allowed the direct assignment of the Staff Development Coordinator costs to the applicable cost centers through the use of time records. However, no time records, which showed usage by cost center for that service, was offered into evidence. The Administrator finds that the A&G accumulated cost statistic cannot be used as a surrogate for time records and the regulations and PRM sections do not permit job descriptions to be used in lieu of time records or time studies. The statute at Section 1815 and the regulations at 42 CFR 413.20 and 413.24 place the burden of documenting actual costs on the Provider.

The Administrator also finds that the Intermediary's reclassification of Staff Development Coordinator costs does not violate §1861(v)(1)(A) of the Act. That section requires that Medicare shall not pay for costs incurred by non-Medicare beneficiaries, and vice-versa, i.e., Medicare prohibits cross-subsidization of costs. The Administrator notes that, had the costs not been reclassified, the Medicare trust fund would have been incorrectly paying more than its share of the costs. Once the Staff Development Coordinator costs were reclassified into the proper cost center, the correct proportion of Medicare reimbursement of these costs followed. Thus, the Administrator finds that the prohibition against cost-shifting was not violated by the Intermediary's adjustment in this case.

Accordingly, the Administrator reverses the Board's decision on Issue No. 1 in this case.

DECISION

The Administrator reverses the decision of the Board on Issue No. 1. The Administrator summarily affirms the Board decision on Issue No. 2.

THIS CONSTITUTES THE FINAL ADMINISTRATIVE DECISION OF THE  
SECRETARY OF HEALTH AND HUMAN SERVICES

Date: 2/15/03

/s/

Thomas A. Scully  
Administrator  
Centers for Medicare & Medicaid Services