PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

2007-D25

PROVIDER -
Central 99-00 Dixie Diamond Ranch HO Adj. #2 (CIRP) Group
Central 98-99 Dixie Diamond Ranch HO Adj. #9 (CIRP Group)

Provider Nos.: 67-7270 and 37-7097

vs.

INTERMEDIARY -
BlueCross BlueShield Association/ Cahaba Government Benefit Administrators

DATE OF HEARING -
April 18, 2006

Cost Reporting Periods Ended -
See Attached List – Appendix A

CASE NOs.: 06-0110G and 06-0111G

INDEX

ISSUE:

Whether the Intermediary's adjustment to include the Dixie Diamond Ranch as an "other" component on Schedule G of the home office cost statement was proper.

MEDICARE STATUTORY AND REGULATORY BACKGROUND:

This is a dispute over the 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 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. §1395h, 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 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) within 180 days of the issuance of the NPR. 42 U.S.C. §1395oo(a); 42 C.F.R. §405.1835.

42 U.S.C. 1395(x)(v)(1)(a) provides that the reasonable cost of any services shall be the cost actually incurred, excluding any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be determined in accordance with regulations establishing the method to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services.

The regulations at 42 C.F.R. 413.24 establish methods of cost finding. Relevant to this dispute is the regulation's directive that "[a]ll costs of nonrevenue-producing centers are allocated to all centers that they serve . . ." 42 C.F.R. 413.24(d)(1).

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

The Medicare providers of services in this appeal are Central Texas Home Health Services, Inc. and Central Oklahoma Care at Home, Inc. (Providers). (See Appendix A for relevant fiscal years ended). Other relevant parties to this case are:

(1) Central Home Care Services, Inc., the above Providers' home office.

(2) Dixie Diamond Ranch, Inc. (DDR), a 696 acre ranch located in Bandera, Texas. It was also part of the chain organization and also a hunting site for exotic animals as well as a working ranch. Provider records and some medical supplies, including durable medical equipment (DME), were stored in a DDR ranch warehouse.

(3) Rio Frio Outfitters, Inc. (Rio Frio) was a company that arranged for hunts on the ranch and was also part of the chain organization. It also did follow-up work associated with successful hunts.

The Providers allocated all of the costs on the as-filed home office costs statement (HOCS) for the years in issue to the two provider components of the chain. During an audit of the HOCS, Cahaba Government Benefit Administrators, the home office Intermediary, identified a significant portion of home office costs relating to DDR and Rio Frio. As a result, Cahaba added DDR and Rio Frio as one "other" component on the Schedule G of the chain's HOCS and allocated home office costs to the component on a pooled allocation basis. The costs included salaries and fringe benefits for ranch workers as well as other costs identified on internal income statements.[1] The Intermediary's adjustment resulted in $42,977 and $59,950 of home office costs being allocated to the DDR/Rio Frio component for FY 98 and FY 99, respectively.[2]

In response to the Intermediary's proposed adjustments described above, Central Home Care Services, Inc. filed an amended HOCS for FY 98 and FY 99. For the purpose of allocating overhead costs to the "other" component, the revised HOCS included costs related to DDR/Rio Frio of $7,858 for FY 98 and $12,202 for FY 99. This resulted in DDR/Rio Frio being allocated home office costs of $687 for FY 98 and $1,658 for FY 99. [3] In preparation for the hearing, the Intermediary conducted a further review of the DDR costs and removed $18,000 for FY 98 and $54,000 for FY 99 from the DDR cost statistic used for allocation of pooled costs on Scheduled G of the HOCS. In addition, the Intermediary proposed that medical review costs at the Home Office be allocated to chain components using a functional method with no medical review costs being allocated to DDR. These two adjustments resulted in home office costs of $33,199 for FY 98 and $42,757 for FY 99 being allocated to DDR/Rio Frio. This reduced the Intermediary's original allocation to DDR/Rio Frio by $9,778 for FY 98 and $17,193 for FY 99.

The Providers appealed the Intermediary adjustments to the Board and met the jurisdictional requirements of 42 C.F.R. §§405.1835-405.1841. The Providers were represented by Tracy J. Mabry, Esquire, of Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A. The Intermediary was represented by Bernard M. Talbert, Esquire, of Blue Cross Blue Shield Association.

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[1] See Intermediary Exhibits I-5 and I-6.
[2] See Intermediary Post-Hearing Brief at p.10.
[3] See, Provider Exhibit P-12.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After considering the Medicare law, program instructions, the evidence submitted and the parties' arguments, the Board finds and concludes that the Intermediary properly allocated home office costs to the Providers and non-providers of Central Home Care Services, Inc. In addition, the Intermediary properly included all operating costs in the cost statistic used to allocate home office costs to the Providers and non-providers.

The Board observes that the Intermediary made several adjustments to the home office costs allocation basis in its preparation for hearing before the Board. First, it eliminated duplicate DDR/Rio costs included in the cost statistic used is allocate home office costs to Providers and non-Providers. It eliminated $18,000 of DDR costs in FY 98 and $54,000 in FY 99. The Provider did not contest these adjustments. Second, upon further review of the nature of costs included in the home office pool of expenses, the Intermediary removed $314,082 of medical review costs in FY 98 and $311,721 in FY 99 from the home office allocation expense pool.[4] The Board notes that home office costs can be allocated to components of the chain organization using three different methods.[5] Home office costs can be functionally allocated to the appropriate chain component (s) if the costs are identifiable and an appropriate allocation statistic basis is developed and maintained. The Board concludes that the Intermediary's establishment of a functional allocation for medical review services provided by the home office is appropriate.

There are two remaining subissues in dispute. First, besides the medical review functional allocation proposed by the Intermediary, the Provider requests a functional allocation of payroll, related benefits and human resources (HR) service costs. The Provider contends that these costs can be functionally allocated to all components of its chain organization based on full-time equivalents (FTEs) in accordance with CMS Pub. 15-1 §2150.3.[6] The Intermediary used data submitted by the Providers to perform a functional allocation of these payroll costs. It compared the functionally allocated payroll costs with the payroll and HR costs remaining in the original residual expense pool.[7] The net difference between the functional allocation of payroll and HR costs and the residual cost calculation was minor. The difference was $311 in FY 98 and $342 in FY 99.[8]

The Board finds that the Provider's proposed allocation method is reasonable and could be used in this case. The Board also finds the Intermediary's analysis accurate using unaudited data. Thus, the question of necessity of functional allocation in this case becomes primary. The Intermediary argued that because of the minor difference using unaudited information, it would create an unnecessary administrative burden to audit the relevant costs and statistics for a functional allocation. After reviewing both positions,

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4 See Intermediary's Post-Hearing Brief, p. 12, Table 2.

5 Home office costs can be allocated to appropriate parties within a chain organization on either a functional allocation method or residual cost method. Functional allocation is permitted where activity can be specifically identified, and statistics related to that activity are reasonable.

6 See Providers Post-hearing brief at pp- 10 and 11.

7 See Intermediary post-hearing brief, table 3 at p. 15.

8 Id

the Board concludes that further review of functional allocation of payroll and HR costs is unnecessary and counter productive. The Board concludes that the Intermediary's analysis in Table 3 of its post-hearing brief is accurate, reasonable and appropriate in this case.

The second subissue remaining is the Providers' proposal to remove various DDR/Rio Frio costs from the cost statistic used to allocate home office costs to the various components of the chain organization. The Providers contend that removal of certain DDR/Rio Frio costs from the pooled allocation costs statistic is necessary because the costs include significant dollar amounts for hunting, livestock management and ranch management. These costs represent activities that were performed by DDR and Rio Frio staff, not by the home office staff. Finally, it argues that the "carve out" of DDR/Rio Frio base distribution costs is a more sophisticated allocation method allowed by CMS Pub. 15-1 §2150.3(d).

The Intermediary counters that the "more sophisticated" method proposed by the Provider is inappropriate. Isolating expenses by category for a chain organization's non-health care components offers no indication as to those components' consumption of home office resources.

It is undisputed that the Providers' home office records show that there was no attempt to segregate provider-related (HHA) patient care service costs from those of other, non-providers activities (i.e. ranch management). The Board notes that some ranch hand labor was included in the Providers' books. The Board further notes that the Providers attempted to identify specific services not rendered by the home office to DDR/Rio Frio to support its position to "carve out" DDR/Rio Frio costs from the cost allocation statistic used to allocate home office costs.[9] The Board concurs with the Intermediary that isolating expenses by category for a non-health care entity fails to indicate the amount of consumption of home office resources. The Providers' attempt to identify services furnished by the home office to DDR/Rio Frio is not persuasive as being inclusive of all of the services provided.[10] The very purpose of allocating costs on a pooled basis is to achieve an allocation of costs to chain organization components where it is virtually impossible to delineate specific services that were provided for the benefit of specific components. The Board concludes that Table 2 of the Intermediary's post-hearing brief[11] appropriately establishes both the home office costs and the basis for their distribution to members of the chain.

Finally, the Board notes that Rio Frio had earned $60,552 of interest income resulting from placing all the chain components' funds at Pinos Community Bank.[12] This issue is remanded to the Intermediary to review this activity and ensure that any investment income was properly offset against related interest expense on the cost reports of the chain organization components.

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[9] See Provider's post-hearing brief Exhibits 1-4
[10] See Intermediary Exhibit I-20.
[11] See p. 12
[12] Transcript (Tr) at 340 and 341.

DECISION AND ORDER:

The Intermediary properly adjusted home office costs and the cost allocation basis related to the DDR/Rio Frio component. The Intermediary's adjustments and modifications are affirmed. The case is remanded to the Intermediary to determine the proper treatment of the interest income earned on the sweeping of funds.

BOARD MEMBERS PARTICIPATING:

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

DATE: April 12, 2007

FOR THE BOARD:

Suzanne Cochran
Chairperson

APPENDIX A

LIST OF PROVIDERS IN GROUP

PROVIDER	**PROVIDER NO.**	**FISCAL YEAR ENDED**
Central Texas Home Health Services, Inc.	67-7270	8/31/98, 8/31/99 and 8/31/00
Central Oklahoma Care At Home, Inc.	37-7097	12/31/98 and 12/31/99