PROVIDER REIMBURSEMENT REVIEW BOARD DECISION

ON THE RECORD
2007-D73

PROVIDER -
Logos Healthcare Rehabilitation of
South Carolina, Inc.
West Columbia, SC

Provider No.: 42-6548

vs.

INTERMEDIARY -
BlueCross BlueShield Association/
Palmetto Government Benefits
Administrators

DATE OF HEARING -
June 10, 2005

Cost Reporting Period Ended -
December 31, 1994

CASE NO.: 00-3352

INDEX

ISSUES: [1]

1. Did the Intermediary improperly reopen the cost report?
2. Was the Intermediary's adjustment to Medicare bad debts proper?
3. Was the Intermediary's adjustment to physical therapy salaries proper?
4. Was the Intermediary's adjustment to recruiting costs - other proper?
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16. Was the Provider's request for the inclusion of additional costs for depreciation for which there were no adjustments made proper? (Provider's Issue 15)

MEDICARE STATUTORY AND REGULATORY BACKGROUND:

This is a dispute over the 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. §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

[1] The Provider and Intermediary issue numbers are the same in this case except for issues 15 and 16. For simplicity, this decision uses the Intermediary's issue numbers and notes the different Provider issue numbers in parentheses.

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:

Logos Healthcare Rehabilitation of South Carolina, Incorporated (the Provider) was a privately owned, for-profit, outpatient rehabilitation facility located in West Columbia, South Carolina. The Provider was one of three Medicare-certified facilities in the PTK Management Incorporated (PTK) chain of healthcare facilities. The Provider furnished outpatient physical, speech, and occupational therapy to Medicare patients in various nursing homes. The Provider claimed costs for its facility's services on its fiscal year ended December 31, 1994 cost report and also included home office costs allocated from PTK.

The Provider terminated from the Medicare program on April 30, 1999. The Provider's fiscal intermediary at the time of its termination was Blue Cross Blue Shield of North Carolina.[2] The Intermediary entered into an inter-plan agreement with First Coast Service Options, Incorporated (First Coast) to perform the outstanding audits on all Logos facilities. First Coast made the audit adjustments at issue in this case in a Notice of Program Reimbursement (NPR) issued on June 27, 2000. The Provider timely appealed the adjustments to the Provider Reimbursement Review Board (Board) and met the jurisdictional requirements of 42 C.F.R. §§405.1831-405.1841.

The Board held a hearing for this case on November 7, 2001. Because of concerns raised at the hearing, the Board suspended the proceedings and agreed to the Provider's request that the Board make its decision on the written record. See Tr. at 11. Because so many of the Intermediary's adjustments were due to lack of documentation and the Provider contended that a full review of its documentation had not occurred, the Board asked the Intermediary to perform additional audit work and allowed the Provider to submit additional documentation. At the Board's request, the Intermediary reviewed the additional documentation and on January 30, 2003, submitted a report and made post-audit adjustments. See Exhibit I-4.

To facilitate consideration of the case on the record, the Board asked[3] the Intermediary to submit a supplemental position paper that addressed any costs disallowed after the reaudit and state: 1) why the initial audit adjustment was made; 2) what additional documentation the Provider submitted; and 3) why the additional documentation was not sufficient to reverse the adjustment. After receipt of the Intermediary's supplemental position paper, the Provider was permitted to submit a brief in response to the Intermediary's revised positions and to submit to the Board documentation necessary to support its position. The Intermediary submitted its supplemental position paper on

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[2] Currently, Cahaba Safeguard Administrators, LLC is the Program Safeguard Contractor and Palmetto Government Benefits Administrators is the Intermediary. All three entities will be referred to as the Intermediary.

[3] See, Board letter dated January 28, 2005.

March 30, 2005. The Provider did not submit anything further. The record hearing was held on June 10, 2005.

When submitting documentation to support costs disallowed due to lack of documentation, the Provider also submitted a revised working trial balance. The Intermediary incorporated the entire working trial balance into the applicable cost centers on the cost reports resulting in revisions to Schedule A for total expenses, Schedule A-3 for adjustments to costs and Schedule C for revenues. The Intermediary's subsequent audit work incorporates the revised trial balances in the proposals to allow additional documented expenses.

The Provider was represented by Thomas William Baker, Esquire, of Troutman Sanders LLP. The Intermediary was represented by Eileen Bradley, Esquire, and Bernard M. Talbert, Esquire, of Blue Cross Blue Shield Association.

Issue 1. Did the Intermediary improperly reopen the cost report?

FACTS:

The Provider filed its Medicare cost report for FYE December 31, 1994 on March 31, 1995. The Intermediary issued its NPR for fiscal year 1994 on June 27, 2000.

PARTIES' CONTENTIONS:

The Provider asserts that because the Intermediary failed to issue an NPR within 12 months of the Provider's filing, the NPR is untimely under 42 C.F.R. §405.1835(c). According to the Provider, it follows that failure to issue a timely NPR results in the Provider's cost report becoming the final determination for purposes of future appeals as of the date it was filed. CMS Pub. 15-1 §2905. The Provider contends that since the cost report became final upon the filing date, the Intermediary's June 27, 2000 NPR is a reopening beyond the three-year limit provided by 42 C.F.R. §405.1885.

The Intermediary responds that the Provider's cost report for fiscal year ended December 31, 1994 was not reopened, nor was a notice of reopening sent to the Provider. The NPR issued on June 27, 2000 is the Intermediary's final determination pursuant to 42 C.F.R. §405.1803 and is not a revision or reopening of an earlier determination under 42 C.F.R. §405.1885. The Intermediary disputes the Provider's contention that the failure to issue an NPR within the 12-month period following the filing of the as-filed cost report results in the as-filed cost report becoming the final determination.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Medicare regulations do not provide that a filed cost report automatically becomes a final intermediary determination if the intermediary does not issue an NPR within the 12-month period after it is filed. The regulations provide that the intermediary must issue its final determination within a reasonable time frame, and if the intermediary has not issued an NPR within a 12-month period, a provider is entitled to a hearing before the Board. 42 C.F.R. §§405.1803(a) and 405.1835(c). If the Provider's position were correct, there would be no need for a provision allowing a provider to file an appeal when the intermediary has not issued an NPR within 12 months. The Board finds that the Provider's December 31, 1994 as-filed cost report did not become an Intermediary final determination and that the Intermediary's June 27, 2000 NPR was the Intermediary's final determination. Therefore, the Provider's argument that the cost report was reopened after the 3-year limitation is without merit.

Issue 2. Was the Intermediary's adjustment to Medicare bad debts proper?

This issue was withdrawn by the Provider. See Provider's Position Paper at P-2.

Issue 3. Was the Intermediary's adjustment to physical therapy salaries proper?

FACTS:

The Intermediary disallowed the Provider's claimed physical therapy salary costs for lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional physical therapy salary costs. See, Intermediary's Supplemental Position Paper at 13-14.

PARTIES' CONTENTIONS:

The Provider asserts that it provided most of the information requested by the Intermediary including W-2s, W-3s, 941 forms and employee listings. The Provider notes that the auditor did not have the 1994 accrued payroll but that this information was not requested by the auditors. The Provider states that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore has no basis to disallow these costs.

After reviewing additional documentation submitted by the Provider consisting of W-2s and a Payroll Employee History Report and incorporation of the Provider's revised trial balance of expenses, the Intermediary proposed an adjustment to allow documented physical therapy salaries. See, Intermediary's Supplemental Position Paper at 13-14 and Exhibit I-6 at pages 8-9.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The physical therapy salaries were accumulated at the Provider's home office, allocated to the Provider and claimed on the Provider's cost report. The Provider's failure to submit W-2s or 941s is not determinative. Rather, the real issue revolves around what services the employees provided and to which entity in the chain of providers. The Provider initially failed to submit sufficient payroll records, contracts or other verifiable documentation to prove that the costs were related to patient care and to support the basis for the allocation of costs from the home office to the Provider. However, the Provider furnished additional documentation to the Intermediary for its subsequent review to support a revision to the Intermediary's original adjustment. Although this additional documentation was not furnished to the Board for its consideration, the Board affirms the Intermediary's adjustment allowing additional physical therapy salary costs based on the revised trial balance of expenses and the additional documentation furnished to the Intermediary.

Issue 4. Was the Intermediary's adjustment to recruiting costs – other proper?

FACTS:

The Provider's claim for recruiting costs – other was initially denied due to lack of documentation. After its review of additional documentation supplied by the Provider, the Intermediary continued to deny the costs because the documentation was inadequate.

PARTIES' CONTENTIONS:

The Provider claims that its recruiting costs – other were legitimately incurred and related to patient care. The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

Based on its review of additional invoices submitted by the Provider the Intermediary claims that it was unable to tie any of the invoices to the general ledger. Therefore, the Intermediary did not allow any additional costs. See, Intermediary Supplemental Position Paper at 14.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Board finds that the Provider failed to provide sufficient documentation to support its claim for these costs. The Board finds that the Intermediary's adjustment due to lack of documentation was proper.

Issue 5. Was the Intermediary's adjustment to recruiting costs – Rehab Resources proper?

FACTS:

The costs for recruiting fees were accumulated on the books of the home office and allocated to the Provider. The Intermediary requested documentation to support these costs. The Intermediary denied these costs due to lack of supporting documentation and the undisclosed related party relationship between the Provider and Rehab Resources.[4] The Board asked the Provider to submit additional documentation to the Intermediary. The Intermediary continued to deny the costs because the Provider did not furnish any additional documentation to support its claim. See, Intermediary's Supplemental Position Paper at 15.

PARTIES' CONTENTIONS:

The Provider claims that Rehab Resources was not a related party. While acknowledging that its former employees formed Rehab Resources and that it provided Rehab Resources with assistance, the Provider indicates that no stockholder, employee, or relative of the Provider had any ownership in Rehab Resources and, therefore, it was not a related party. The Provider acknowledges that it reported Rehab Resources as a related party on an amended cost report that the Intermediary declined to accept. Nevertheless, the Provider continues to maintain that it was not related to Rehab Resources and claims that had the Intermediary reviewed the relationship more closely, it would have come to the same conclusion. The Provider asserts that even if the Board finds that the Provider was related to Rehab Resources, it is still entitled to claim the actual costs of the related organization. However, the Provider states that the Intermediary eliminated all of the costs of the related party without further review. The Provider submitted a list of the actual costs of Rehab Resources that it believes should be allowable even if the Board finds that the parties are related. See, Exhibit P-104 at 12-16.

The Intermediary indicates that the Provider did not supply adequate documentation to support its claim and, therefore, the Intermediary did not allow any recruiting costs. The Intermediary, however, proposed an adjustment to identify Rehab Resources as a related party on the cost report.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Provider acknowledged that a former key employee founded Rehab Resources, that other employees of Rehab Resources were previous employees of PTK, and that PTK provided Rehab Resources with assistance during "the transaction period." See, Provider Position Paper, P-5 at 1. Based on this acknowledgement, the Board finds that the parties were related. However, the Intermediary improperly disallowed all costs for Rehab Resources instead of reducing the amount claimed to the costs of the related party. The Board notes that the Provider submitted a list of costs that it believes should be allowable

[4] See, Intermediary Supplemental Position Paper at 15 and Exhibit I-10.

if the Board finds that the parties were related. See, Exhibit P-104 at 12-16. The Board did not find any indication that the Intermediary reviewed the reasonableness and accuracy of the Provider's recruitment costs, nor did it review the basis upon which Rehab Resources allocated its costs among all of the entities it served, including the Provider. The Board hereby remands this issue to the Intermediary for a determination of actual costs of the related party and the accuracy of the allocation of these costs to the Provider. The Intermediary is directed to allow the related party costs for which adequate documentation is provided.

Issue 6. Was the Intermediary's adjustment to supplies – physical therapy proper?

FACTS:

The Provider claimed costs for physical therapy supplies which the Intermediary initially denied due to lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for physical therapy supplies. See, Intermediary's Supplemental Position Paper at 16.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

The Provider submitted additional documentation in the form of invoices and other miscellaneous documents to support its physical therapy supply costs. In addition, the Provider submitted a revised working trial balance. The Intermediary allowed additional documented costs for physical therapy supplies based on its reviews of the documentation furnished. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment was not included in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 7. Was the Intermediary's adjustment to supplies - administrative proper?

FACTS:

The Provider claimed costs of administrative supplies which the Intermediary initially denied due to lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for administrative supplies. See, Intermediary's Supplemental Position Paper at 17.

PARTIES' CONTENTIONS:

The Provider asserts the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

The Provider submitted additional documentation in the form of invoices and other miscellaneous documents and a revised working trial balance. The Intermediary allowed additional documented costs for administrative supplies. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional costs. Although the Board notes that the documentation relied on by the Intermediary to support the revision to its adjustment was not included in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 8. Was the Intermediary's adjustment to office supplies proper?

FACTS:

The Provider claimed the cost of office supplies which the Intermediary initially denied due to lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for office supplies. See, Intermediary's Supplemental Position Paper at 18.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

Following the Provider's submission of additional documentation in the form of invoices and other miscellaneous documents, as well as a revised working trial balance, the Intermediary allowed additional documented costs for office supplies. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment, was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 9. Was the Intermediary's adjustment to accounting expense proper?

FACTS:

The Provider claimed accounting expenses which the Intermediary initially denied due to lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for accounting expense. See, Intermediary's Supplemental Position Paper at 19.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

Following the Provider's submission of additional documentation in the form of invoices and other miscellaneous documents, as well as a revised working trial balance, the Intermediary allowed additional documented costs for office supplies. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to document additional allowable costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

10. Was the Intermediary's adjustment to contract services – physical therapy proper?

FACTS:

The Provider claimed the costs for contracted services – physical therapy which the Intermediary initially denied due to lack of documentation and an undisclosed related party relationship. See, Intermediary's Supplemental Position Paper at 20. After reviewing additional documentation supplied by the Provider, the Intermediary continued to deny the costs because the documentation was inadequate.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs. The Provider also indicates that the Intermediary relied on CMS Pub. 15-1 §2400 concerning access to records of subcontractors to support its adjustment. However, the Provider notes that this manual provision only applies to sub-contracts above $10,000 and that the amount claimed was below this amount.

The Intermediary initially removed the contracted services – physical therapy costs due to lack of supporting documentation and an undisclosed related party relationship with Rehab Resources. Although the Provider submitted additional documentation and a revised working trial balance, the Intermediary continued to disallow these costs due to lack of adequate documentation. The Intermediary indicates that it did not have access to the records of Rehab Resources and could only propose revised adjustments based upon the Provider's revised trial balance. See, Intermediary's Supplemental Position Paper at 21.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Board has previously found that Rehab Resources was a related party and that documented costs of the entity are allowable. See, Issue 5 above. The Board notes, however, that the Provider did not submit any additional documentation to support its claim for contracted services – physical therapy costs. Absent any documentation in the record, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 11. Was the Intermediary's adjustment to contract services – occupational therapy proper?

FACTS:

The costs of contract services for occupational services were accumulated on the Provider's home office and allocated to the Provider. The Intermediary initially denied these costs due to lack of documentation. After reviewing additional documentation supplied by the Provider, the Intermediary continued to deny the costs because the

additional documentation was inadequate. See, Intermediary's Supplemental Position Paper at 21.

PARTIES' CONTENTIONS:

The Provider states that the occupational therapists were employed by the home office, and their cost was allocated to the Provider based on time spent by the therapists in the various nursing homes. The Provider claims that journal entries demonstrating the allocation were furnished to the Intermediary. Exhibit P-11(b). The Provider also argues that the method of allocation was the same in 1992 and has been reviewed and accepted by the Intermediary.

The Intermediary states that the Provider did not submit any additional documentation and, therefore, only proposed an adjustment to accurately incorporate the Provider's revised trial balance. See, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The evidence in the record is insufficient to support the cost claimed for contracted services for occupational therapy. While the Provider claims that its cost allocation was allowed in fiscal 1992, the circumstances in fiscal year 1992 do not relieve the Provider of its obligation to support its allocation in the current fiscal year. The Board notes that the Provider submitted a document that it claims shows the allocated cost based on a monthly computation. See, Exhibit P-11(b). However, there is no explanation of the exhibit or how these figures support the Provider's argument. The Board did not find any copies of journal entries or documentation to support the accrual and allocation of these costs to the Provider. The Board finds that there is no documentation to support the basis upon which the home office allocated occupational therapy costs to the Provider; therefore, the Intermediary's adjustment to remove these costs was proper.

Issue 12. Was the Intermediary's adjustment to contracted services – administrative proper?

FACTS:

The Provider claimed the costs of contracted services – administrative which the Intermediary disallowed due to lack of supporting documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for contracted services - administrative expense. See, Intermediary's Supplemental Position Paper at 22.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

The Intermediary states that the Provider did submit additional documentation in the form of invoices and other miscellaneous documents and a revised working trial balance. The Intermediary allowed additional documented costs for contracted services- administrative and proposed adjustments to incorporate the revised trial balance. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional documented costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 13. Was the Intermediary's adjustment to rent expense proper?

FACTS:

The Provider claimed rent expense which the Intermediary denied due to lack of supporting documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for rent expense. See, Intermediary's Supplemental Position Paper at 23.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

The Intermediary states that the Provider submitted additional documentation in the form of invoices and other miscellaneous documents. In addition, the Provider submitted a revised working trial balance. The Intermediary allowed additional documented costs for rent expense and proposed adjustments to incorporate the revised trial balance. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional documented costs. Although the Board notes that the documentation relied on by the Intermediary to support the revision to its adjustment was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 14. Was the Intermediary's adjustment to telephone expense proper?

FACTS:

The Provider claimed telephone expense which the Intermediary denied due to lack of supporting documentation. After reviewing additional documentation supplied by the Provider, the Intermediary allowed additional documented costs for telephone expense. See, Intermediary's Supplemental Position Paper at 24.

PARTIES' CONTENTIONS:

The Provider asserts that the Intermediary failed to conduct a review of the documentation that was available at the facility and, therefore, has no basis to disallow these costs.

The Intermediary states that the Provider submitted additional documentation in the form of invoices and other miscellaneous documents. In addition, the Provider submitted a revised working trial balance. The Intermediary allowed additional documented costs for telephone expense and proposed adjustments to incorporate the revised trial balance. See, Intermediary's Supplemental Position Paper, Exhibit I-4.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was supplied with additional documentation that permitted it to allow additional documented costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 15. Was the Intermediary's adjustment to home office costs proper? (Provider's Issue 16)

FACTS:

The Provider claimed home office costs which the Intermediary adjusted to agree with the audited home office cost statement. After its review of additional documentation supplied by the Provider, the Intermediary did not allow any additional costs.

PARTIES' CONTENTIONS:

The Provider states that its arguments are the same as those made on behalf of its related facility Logos Healthcare Rehabilitation of North Carolina, Inc., in PRRB Case No. 00-3348. In that case, the Provider indicated that the costs were allocated to the individual entities using HCFA Form 2088, that the costs had been allowed in 1992 and other years but that the Intermediary unreasonably requested documentation for 88.71 percent of the costs claimed. In addition, the Provider presented specific arguments for each of the audited categories of home office costs.

The Intermediary states that the Provider submitted additional documentation in the form of invoices and other miscellaneous documents and a revised working trial balance. The home office cost statement was revised to incorporate changes based on additional documents submitted by the Provider. The Intermediary allowed additional documented costs for the Provider based on the revised home office cost statement. See, Intermediary's Supplemental Position Paper, Exhibit I-6, at pages 19-20.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary was furnished additional documentation that permitted it to allow additional documented costs. Although the documentation relied on by the Intermediary to support the revision to its adjustment was not placed in the record by either the Provider or the Intermediary, the Board finds that the Intermediary's proposed revision to its adjustment is proper.

Issue 16. Was the Provider's request for the inclusion of additional costs for depreciation for which there were no adjustments made proper? (Provider's Issue 15)

FACTS:

Although the Provider did not claim the correct depreciation expense on its cost report, the Intermediary indicated that the depreciation schedule prepared and approved by the Intermediary in previous years would be reviewed and the appropriate depreciation allowed. See, Intermediary's Supplemental Position Paper at 25.

PARTIES' CONTENTIONS:

The Provider claims that during the 1992 audit, which was completed in 1995, the Intermediary developed a depreciation schedule for the Provider. The Provider indicates that this schedule was developed after it submitted cost reports for fiscal years 1993 through 1995, and asserts that the Intermediary should have relied upon prior year audit workpapers and corrected the depreciation expense for this year.

The Intermediary indicated that the depreciation schedule prepared and approved by the Intermediary in previous years would be reviewed and the appropriate depreciation allowed.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

After consideration of the Medicare law and guidelines, the parties' contentions, and evidence presented, the Board finds and concludes as follows:

The Intermediary indicated that it would review the previously approved depreciation schedule and allow the appropriate depreciation expense. The Board remands this matter to the Intermediary to determine and allow the appropriate depreciation expense.

DECISIONS AND ORDERS:

Issue 1. Did the Intermediary improperly reopen the cost report?

The Board finds that the Provider's December 31, 1994 cost report did not become a final determination and that the Intermediary's NPR did not constitute a late reopening of the Provider's cost report. The Intermediary's June 27, 2000 NPR is the Intermediary's final determination.

Issue 2. Was the Intermediary's adjustment to Medicare bad debts proper?

This issue was withdrawn by the Provider.

Issue 3. Was the Intermediary's adjustment to physical therapy salaries proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional physical therapy salary costs.

Issue 4. Was the Intermediary's adjustment to recruiting costs - other proper?

The Board finds that the Provider failed to provide sufficient documentation in the record to support its claim for these costs. The Board finds that the Intermediary's adjustment due to lack of documentation was proper.

Issue 5. Was the Intermediary's adjustment to recruiting costs - Rehab Resources proper?

The Board did not find any indication that the Intermediary reviewed any of the Provider's recruitment costs for reasonableness, accuracy or their allocation to all providers and other entities served by PTK. The Board remands this matter to the Intermediary to review and allow the actual costs of the related party for which there is adequate documentation to support the costs and their allocation to the Provider.

Issue 6. Was the Intermediary's adjustment to supplies – physical therapy proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional physical therapy supply costs.

Issue 7. Was the Intermediary's adjustment to supplies - administrative proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional administrative supply costs.

Issue 8. Was the Intermediary's adjustment to office supplies proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional office supply costs.

Issue 9. Was the Intermediary's adjustment to accounting expense proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional accounting expenses.

Issue 10. Was the Intermediary's adjustment to contract services – physical therapy costs proper?

The Board finds that the Provider failed to provide sufficient documentation to support its claim. The Intermediary's adjustment is affirmed.

Issue 11. Was the Intermediary's adjustment to contract services – occupational therapy proper?

The Board finds that the Provider failed to provide sufficient documentation to support its claim. The Intermediary's adjustment for lack of documentation is affirmed.

Issue 12. Was the Intermediary's adjustment to contract services - administrative proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional expenses for contract services-administrative.

Issue 13. Was the Intermediary's adjustment to rent expense proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional rent expense.

Issue 14. Was the Intermediary's adjustment to telephone expense proper?

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional telephone expense.

Issue 15. Was the Intermediary's adjustment to home office costs proper? (Provider's Issue 16)

The Board finds that the Provider submitted additional documentation to the Intermediary to support a revision to the Intermediary's original adjustment and affirms the Intermediary's proposed revision to allow additional home office costs.

Issue 16. Was the Provider's request for the inclusion of additional costs for depreciation for which there were no adjustments made proper? (Provider's Issue 15)

The Intermediary indicated that it would review the previously approved depreciation schedule and allow the appropriate depreciation expense. The Board remands this matter to the Intermediary to determine and allow the appropriate depreciation expense.

Board Members Participating:

Suzanne Cochran, Esquire
Gary Blodgett, D.D.S.
Elaine Crews Powell, CPA
Anjali Mulchandani-West

DATE: September 20, 2007

FOR THE BOARD:

Suzanne Cochran, Esquire
Chairman