

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Southern Rhode Island Pulmonary and Critical Care LLC,
(PTAN: U100236372),
(NPI: 1922400100),

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-16-257

Decision No. CR4630

Date: June 13, 2016

DECISION

Petitioner, Southern Rhode Island Pulmonary and Critical Care LLC, is a group medical practice, located in Rhode Island, that applied to enroll in the Medicare program. The Centers for Medicare & Medicaid Services (CMS) granted its application, effective June 30, 2015 (with a billing date of June 1, 2015). Petitioner now challenges that effective date. For the reasons set forth below, I find that CMS appropriately granted Petitioner's enrollment effective June 30, 2015.

Background

By letter dated August 31, 2015, the Medicare contractor, National Government Services, approved Petitioner's Medicare enrollment application, effective June 30, 2015, with a billing date of June 1, 2015. CMS Exhibit (Ex.) 1 at 6-7.¹ Petitioner sought

¹ CMS allows certain suppliers, which would include Petitioner, to bill retrospectively for up to 30 days prior to the effective date of enrollment if certain conditions are met.

reconsideration to challenge that effective date. CMS Ex. 1 at 4-5. In a reconsidered determination dated November 3, 2015, the contractor denied Petitioner a new effective date, concluding that it had not provided evidence to justify a change. CMS Ex. 1 at 1-3. Petitioner appealed.

CMS has submitted a brief in support of dismissal or summary judgment (CMS Br.) and three exhibits (CMS Exs. 1-3). In response, Petitioner submitted a letter dated April 13, 2016. Because neither party has any witnesses to present, an in-person hearing would serve no purpose, and I need not consider whether summary judgment is appropriate but may decide this case based on the written record. *See* Acknowledgment and Pre-hearing Order at 3 (¶ 4c), 5 (¶¶ 8, 10, 11). In the absence of any objections, I admit into evidence CMS Exs. 1-3.

Discussion

***CMS properly determined the effective date for Petitioner’s Medicare enrollment because the practice filed its subsequently-approved enrollment application on June 30, 2015, and its effective date can be no earlier than the date it filed that enrollment application.*²**

To receive Medicare payments for services furnished to program beneficiaries, a Medicare supplier must be enrolled in the Medicare program. 42 C.F.R. § 424.505. “Enrollment” is the process used by CMS and its contractors to: 1) identify the prospective supplier; 2) validate the supplier’s eligibility to provide items or services to Medicare beneficiaries; 3) identify and confirm a supplier’s owners and practice location; and 4) grant the supplier Medicare billing privileges. 42 C.F.R. § 424.502. To enroll in Medicare, a prospective supplier must complete and submit an enrollment application. 42 C.F.R. §§ 424.510(d)(1), 424.515(a). An enrollment application is either a CMS-approved paper application or an electronic process approved by the Office of Management and Budget. 42 C.F.R. § 424.502.

When CMS determines that a supplier applicant meets the applicable enrollment requirements, it grants Medicare billing privileges, which means that the supplier can submit claims and receive payments from Medicare for covered services provided to program beneficiaries. For medical practices such as Petitioner, the effective date for billing privileges “is the *later* of the date of filing” a subsequently- approved enrollment application or “the date an enrolled physician or nonphysician practitioner first began furnishing services at a new practice location.” 42 C.F.R. § 424.520(d) (emphasis added).

42 C.F.R. § 424.521(a)(1). In its notice letter, the contractor refers to this retrospective billing date as the effective date.

² I make this one finding of fact/conclusion of law.

If a supplier meets all program requirements, CMS allows it to bill retrospectively for up to “30 days prior to [its] effective date if circumstances precluded enrollment in advance of providing services to Medicare beneficiaries. . . .” 42 C.F.R. § 424.521(a)(1).

Here, the Medicare contractor approved the application that Petitioner submitted on June 30, 2015, so, under the regulations, the supplier’s enrollment date should be June 30. Petitioner, however, points to an earlier application, submitted on October 14, 2014, and asks for that effective date. Petitioner acknowledges that the contractor rejected the October 14 application, but complains that, even after sending the rejection letter, the contractor asked for additional information, which suggested that the application was still active.

By letter dated December 31, 2014, the contractor rejected Petitioner’s October application because it did not include a voided check with the practice group’s legal business name. Although given an additional opportunity to provide the required document, Petitioner did not do so. CMS Ex. 2 at 12. CMS may reject a prospective supplier’s enrollment application if, within 30 calendar days of the contractor’s request, it fails to furnish complete information. 42 C.F.R. § 424.525(a)(1). If a supplier’s application is rejected, it must complete and submit a new enrollment application (with the required supporting documents) in order to enroll in the Medicare program. 42 C.F.R. § 424.525(c). I have no authority to review a rejected enrollment application. 42 C.F.R. § 424.525(d).

Ordinarily, this would end the discussion, but, in error, the contractor continued to correspond with Petitioner about the rejected application. On January 5, 2015, Petitioner responded to the December 31 rejection letter by returning the letter to the contractor with the following written on its face: “You are in error – this was sent to you 12-5-14.” CMS Ex. 3 at 2. Petitioner enclosed a sample check. CMS Ex. 3 at 4. But the name on that sample check was not Petitioner’s valid legal business name.³ In error, the contractor responded in a letter dated February 24, 2015, explaining the problem with the check and allowing Petitioner seven calendar days in which to furnish complete information (either a voided check with the complete legal business name or a letter on bank letterhead with specific identifying information). CMS Ex. 3 at 5. Petitioner immediately faxed another copy of the voided check with the wrong name on it. CMS Ex. 3 at 7. Again in error, the contractor sent a letter dated March 17, 2015, offering Petitioner 15 days in which to correct. CMS Ex. 3 at 9. Petitioner did not comply. On April 7, 2015, the contractor, again in error, sent Petitioner yet another letter asking for an accurate voided check or letter from the bank. CMS Ex. 3 at 15. Petitioner responded by sending a copy of the same check with the wrong name on it. CMS Ex. 3 at 18. The contractor apparently then rejected the application for a second time on April 21, 2015. See CMS Ex. 1 at 1.

³ Petitioner’s valid legal business name is “Southern Rhode Island Pulmonary and Critical Care LLC.” CMS Ex. 2 at 4. The name on the check was “Southern RI Pulmonary & Critical Care LLC.” CMS Ex. 3 at 4.

This lengthy exchange between the contractor and Petitioner muddies the waters but doesn't change the result here. The contractor rejected Petitioner's October 14 application, and I have no authority to review that rejection. Petitioner ultimately submitted a new application, which the contractor approved, and the date of that submission (June 30, 2015) must be the effective date of Petitioner's Medicare enrollment.

Conclusion

The evidence in this record establishes that, on June 30, 2015, Petitioner submitted an enrollment application that was subsequently approved. It may have attempted to submit an earlier application but has not established that it did so successfully. Petitioner's effective date of enrollment can be no earlier than June 30, 2015, with a billing date of June 1, 2015.

/s/

Carolyn Cozad Hughes
Administrative Law Judge