

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Joseph Ravid, M.D.,
(NPI: 1851680789),

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-12-213

Decision No. CR2539

Date: May 9, 2012

DECISION

Petitioner, Joseph Ravid, M.D., is a Florida physician who sought to enroll in the Medicare program. The Centers for Medicare & Medicaid Services (CMS) granted his application effective May 4, 2011. Petitioner now challenges that effective date. The parties have waived oral hearing and agree to my deciding this case based on the written record.¹

For the reasons set forth below, I find that CMS appropriately granted Petitioner's enrollment effective May 4, 2011.

CMS properly determined the effective date for Petitioner's Medicare enrollment because the evidence establishes that Petitioner submitted his enrollment application on May 4,

¹ CMS has submitted a motion/brief (CMS Br.) and 17 exhibits (CMS Exs. 1-17). Petitioner has submitted a brief (P. Br.) and one exhibit. (P. Ex. 1).

2011, and his effective date can be no earlier than the date he filed his 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 physician 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 physician meets the applicable enrollment requirements, it grants him Medicare billing privileges, which means that he can submit claims and receive payments from Medicare for covered services provided to program beneficiaries. For physicians and some other practitioners, 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 . . . first began furnishing services at a new practice location.” 42 C.F.R. § 424.520(d) (emphasis added).³

Here, Petitioner does not challenge CMS’s assertion that its Medicare contractor, First Coast Service Options, Inc., received his paper enrollment application on May 4, 2011. CMS Exs. 1, 4. May 4, 2011 is therefore the date of filing unless Petitioner can show that he submitted an earlier application.

Petitioner maintains that he submitted an enrollment application in late October 2010. He says that he relied on a third party, Trevor Briede, to file the application. In an August 16, 2011 letter asking that the contractor reconsider the enrollment date, Mr. Briede writes that a “good faith effort was made” to enroll Petitioner Ravid by means of the electronic process (Provider Enrollment, Chain and Ownership System or PECOS) “as early as late October.” He says that, on October 28, 2010, he logged on to PECOS and sincerely believed he had completed the application. In an attached letter, Petitioner Ravid confirms that he spoke to a contractor’s agent at about that time, authorizing Mr. Briede to submit the application on his behalf. CMS Ex. 12 at 1-2.

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

³ If a physician meets all program requirements, CMS allows him to bill retrospectively for up to “30 days prior to their effective date if circumstances precluded enrollment in advance of providing services to Medicare beneficiaries.” 42 C.F.R. § 424.521(a)(1).

I do not question Petitioner's assertion that, in October, he attempted to enroll electronically; however, he has not shown that he completed a valid application at that time. The contractor has no record of a PECOS application, and Petitioner Ravid submits no supporting documentation. *See* CMS Ex. 17 at 2 (Mercer Decl. ¶ 4).

As CMS explains, the PECOS system specifically instructs the applicant to print out verifying documentation and mail it to the contractor:

In order to complete the processing of your application, mail the Certification/Authorization Statement(s) and all required supporting documentation to the Medicare contractor listed below within 7 days of your electronic submission. Failure to do so may result in a rejection.

CMS Ex. 16 at 44; *see also* CMS Ex. 16 at 45-47. Further, when an applicant hits the "submit" button on a PECOS application, the system displays a "Submission Receipt" page that tells the provider to print the receipt page for his/her records. CMS Ex. 15 at 7-8; CMS Ex. 16 at 49-51; CMS Ex. 17 at 3 (Mercer Decl. ¶ 6). Because Petitioner provides no such documents, he has not met his burden of establishing that he submitted a "subsequently approved enrollment application" any earlier than May 4, 2011.

That he may have provided otherwise-billable services to Medicare beneficiaries does not alter this result. *See* P. Br. at 1; P. Ex. 1. He is simply not entitled to Medicare payment for those services because he was not enrolled in the program when he provided them. *See US Ultrasound*, DAB No. 2302 at 8 (2010).

/s/
Carolyn Cozad Hughes
Administrative Law Judge