Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Ambria Ptacek, PA-C,
(NPI: 1629240874),

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-13-1288

Decision No. CR3122

Date: February 18, 2014

DECISION

Petitioner, Ambria Ptacek, PA-C, is a certified physician's assistant who applied for enrollment in the Medicare program. The Centers for Medicare & Medicaid Services granted her application, effective January 28, 2013 (with a billing date of December 29, 2012). Petitioner now challenges that effective date. CMS has moved for summary judgment, which Petitioner has not opposed.[1]

For the reasons set forth below, I grant CMS's motion.[2] I find that CMS appropriately granted Petitioner's enrollment effective January 28, 2013.

[1] Moreover, because there are no witnesses to cross-examine, an in-person hearing would serve no purpose. I could therefore close the record and decide the case. *See* Acknowledgment and Pre-hearing Order at 6 (¶¶ 10, 11).

[2] CMS has submitted nine exhibits (CMS Exs. 1-9), and Petitioner has submitted eight exhibits (P. Exs. 1-8).

Discussion

CMS properly determined the effective date for Petitioner's Medicare enrollment, because the evidence establishes that she submitted her subsequently-approved enrollment application on January 28, 2013, and her effective date can be no earlier than the date she filed that enrollment application.[3]

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 physician or nonphysician practitioner meets the applicable enrollment requirements, it grants her Medicare billing privileges, which means that she can submit claims and receive payments from Medicare for covered services provided to program beneficiaries. For physicians and nonphysician 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 or nonphysician practitioner first began furnishing services at a new practice location." 42 C.F.R. § 424.520(d) (emphasis added).

If a physician or nonphysician practitioner meets all program requirements, CMS allows her 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).

Here, Petitioner Ptacek is a certified physician's assistant, who agreed to cover the practice of another physician's assistant while he was on medical leave. Her colleague was employed by Orthopeadic Triage of Fairbanks, and provided services under that practice's supplier number. Although Petitioner was also enrolled in the Medicare program, she participated under a different practice's supplier number.

[3] I make this one finding of fact/conclusion of law.

Petitioner Ptacek began providing services to Medicare beneficiaries at Orthopeadic Triage on November 12, 2012. But the Medicare contractor, Noridian Administrative Services, denied reimbursement for the services she provided there, apparently because she was not enrolled under Orthopeadic Triage's supplier number.

On January 28, 2013, she submitted a new enrollment application (form CMS 855I) to the Medicare contractor. CMS Ex. 1. Although the contractor subsequently asked her to make some corrections, and to provide some additional information, it ultimately approved the application with the January 28, 2013 effective date. This allowed her to bill retrospectively to December 29, 2012.[4] CMS Ex. 5; P. Ex. 3.

Thus, pursuant to 42 C.F.R. § 424.520(d), Petitioner's effective date of enrollment is January 28, 2013, the date she filed her application.

Petitioner argues that she is entitled to reimbursement, because she was already enrolled in the Medicare program, and she provided services to Medicare beneficiaries. Although enrolled, she was not enrolled for that practice location, and suppliers are obligated to submit to the contractor updates and changes in their enrollment information, including changes in practice location. 42 C.F.R. § 424.516(d)(1)(iii). CMS requires that this information be provided by submitting to the contractor the appropriate enrollment application. 42 C.F.R. § 424.502; CMS Ex. 5 at 2.

I recognize that the Medicare program allows a substitute physician (referred to as a "locum tenens" physician) to bill Medicare under the regular physician's National Provider Identifier, if certain conditions are met. P. Ex. 1. It seems that Orthopeadic Triage billed Medicare, claiming reimbursement under this program for the services Petitioner provided. But, for reasons neither party has fully explained, the contractor denied reimbursement under the "locum tenens" program. CMS Exs. 6, 7. I have no authority to review the contractor's denials of reimbursement, which are generally reviewable in a different forum. My authority is defined by federal regulations: 42 C.F.R. Part 498. Administrative actions that are not initial determinations are not subject to appeal. 42 C.F.R. § 498.3(a); *Florida Health Sciences Ctr., Inc., d/b/a/ Tampa General Hospital*, DAB No. 2263 at 4 (2009). The regulations specify which actions are "initial determinations" and set forth examples of actions that are not. Claims for reimbursement are not initial determinations that are reviewable here.

[4] Both the contractor and Petitioner have referred to December 29 as the "effective date." CMS Ex. 4. As CMS points out, December 29 is the effective *billing* date, but January 28 is the effective date of Petitioner's enrollment. *See* CMS Br. at 3 n.2; 42 C.F.R. § 424.521(a).

Conclusion

Because Petitioner's approved enrollment application was filed on January 28, 2013, the contractor properly granted her Medicare enrollment effective that date.

/s/
Carolyn Cozad Hughes
Administrative Law Judge