

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

In the Case of:)	
)	
Sherry K. Jose, LICSW,)	Date: March 13, 2008
)	
Petitioner,)	
)	
- v. -)	Docket No. C-08-19
)	Decision No. CR1750
Centers for Medicare & Medicaid)	
Services.)	

DECISION

Petitioner, Sherry K. Jose, LICSW, appeals the Centers for Medicare and Medicaid Services' (CMS's) determination to deny her request to enroll in the Medicare program as a clinical social worker. The parties agree that the issue in dispute is purely legal, and that the case can be decided on their written submissions, without need for an in-person hearing. Pre-Hearing Conference Order (November 16, 2007).¹

Because Petitioner does not possess a masters in social work (MSW), as required by the Social Security Act (Act) and regulations, I affirm CMS's denial of her enrollment request.

¹ CMS has submitted a Brief in Support of Hearing Officer's Decision, accompanied by 12 exhibits (CMS Exs. 1-12). Petitioner submitted her arguments in the form of a letter, without any additional exhibits. CMS also filed a reply. In the absence of any objections, I admit into the record CMS Exs. 1-12.

Background

The Medicare Part B Carrier, Wisconsin Physicians Services Insurance Corporation, denied Petitioner's application to enroll in the Medicare program. CMS Ex. 5.² In a decision dated August 3, 2007, a Carrier Hearing Officer found that her enrollment application had been properly denied, and Petitioner now files this appeal, pursuant to section 1866(j)(2) of the Social Security Act. CMS Ex. 11.

Discussion

Petitioner is not eligible to enroll in the Medicare program as a clinical social worker because she does not possess a masters in social work as required by the statute and regulations.³

Medicare Part B is a supplementary medical insurance program for the aged and disabled. Social Security Act (Act), sections 1831-1848. Among other benefits, the Part B program will pay for services provided by clinical social workers who accept Medicare assignment.⁴ Act, section 1842(b)(18)(A), (C)(iv); 42 C.F.R. §§ 410.150(b)(18); 424.55. The statute and regulations define "clinical social worker" as an individual who possesses a master's degree or doctorate in social work, followed by at least two years of supervised clinical social work, and who is licensed or certified by the state in which the services are performed. Social Security Act (Act), section 1861(hh)(1); 42 C.F.R. § 410.73(a).

Here, the State of Minnesota has licensed Petitioner as a "licensed independent clinical social worker," which is its highest level of practice. However, because she lacks a masters degree in social work, CMS maintains that she does not qualify to enroll in the

² To administer Medicare Part B, CMS contracts with private insurance companies called carriers. Among other duties, carriers process and pay claims for reimbursement, communicate information related to the administration of the Medicare program, and assist in discharging administrative duties necessary to carry out program purposes. Act § 1842(a).

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

⁴ A Medicare provider or supplier who "accepts assignment" agrees to be paid directly by the Medicare program, and may not charge or collect from the program beneficiary any additional amounts except applicable coinsurance and deductibles. Act section 1842(b)(18)(B); 42 C.F.R. § 424.55(b).

Medicare program as a clinical social worker. Petitioner, on the other hand, points out that she satisfies federal requirements for licensing and clinical experience, and that she possesses a master of arts in counseling and psychology. She argues that, because the Minnesota Board of Social Work found her eligible to be licensed at its highest level of practice, she has the knowledge and capacity to work in that field.

The language of the statute and regulation is plain: to qualify for enrollment, Petitioner must have an MSW. I do not doubt that Petitioner's masters program (as well as a wide variety of other academic programs) shares some similarities with MSW programs. But it is within the Secretary's discretion to interpret which, if any, other types of degrees fall within the statutory definition of "masters degree in social work." 42 C.F.R. § 410.73(a). The Secretary has opted not to expand that definition, and I have no authority to do so. Moreover, even if I had such authority, nothing in this record convinces me that the degrees are equivalent.

Conclusion

Petitioner is not eligible to enroll in the Medicare program as a clinical social worker because she does not meet the statutory and regulatory requirements; she does not have a masters degree in social work.

/s/

Carolyn Cozad Hughes
Administrative Law Judge