

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Richard A. Felsing, DC,  
(PTAN: NA2119),  
(NPI: 1518911379)

Petitioner,

v.

Centers for Medicare & Medicaid Services

Docket No. C-14-1303

Decision No. CR3469

Date: November 20, 2014

**DECISION**

Petitioner, Richard A. Felsing, DC, is a chiropractor, who practices in the State of Nebraska. He participated in the Medicare program as a supplier of services. His license to practice expired on August 1, 2012, and was not reinstated until October 7, 2013. He did not report the loss of his license to the Medicare contractor, but continued to submit claims to the program. When the Medicare contractor learned of the gap in licensing, it revoked his Medicare billing privileges, effective August 1, 2012. Petitioner appeals the revocation.

CMS properly revoked Petitioner Felsing's Medicare billing privileges because he was not properly licensed.

**Background**

Until his billing privileges were revoked, Petitioner participated in the Medicare program as a supplier of services. *See* 42 C.F.R. § 410.21. In a letter dated December 9, 2013, the Medicare contractor, Wisconsin Physicians Service, advised Petitioner Felsing that his

Medicare privileges were revoked effective August 1, 2012, because his license to practice expired and because he did not report that his license was inactive. CMS Ex. 1. Petitioner requested reconsideration. In a reconsidered determination, dated April 18, 2014, a Medicare Hearing Officer upheld the revocation. CMS Ex. 4. Petitioner timely appealed, and that appeal is now before me.

The parties filed cross-motions for summary judgment. However, because neither party has any witnesses to present, an in-person hearing would serve no purpose. *See* Acknowledgment and Pre-hearing Order at 5 (¶ 8) and 6 (¶ 10). This matter may therefore be decided based on the written record, without considering whether the standards for summary judgment are satisfied.

CMS submitted a brief and four exhibits (CMS Exs. 1-4). In addition to his hearing request, Petitioner submitted a letter brief, which he marked as P. Ex. 1, and one exhibit, which he marked as P. Ex. 2. In the absence of any objections, I admit into evidence CMS Exs. 1-4 and P. Ex. 2. I consider the arguments presented in Petitioner's letter brief but do not admit it as an exhibit.

## Discussion

***Because Petitioner had no license to practice, and he failed to report that he had no license, CMS properly revoked his Medicare enrollment. 42 C.F.R. §§ 424.535(a)(1) and (a)(9).<sup>1</sup>***

Medicare regulations allow CMS to revoke a Medicare supplier's enrollment, if the supplier no longer meets the enrollment requirements for a supplier of its type. 42 C.F.R. § 424.535(a)(1). Those requirements include complying with federal and state licensure provisions. 42 C.F.R. § 424.516(a)(2). A chiropractor, such as Petitioner Felsing, must obviously be licensed by the state in which he practices. 42 C.F.R. § 410.20(b); *see* 42 C.F.R. § 410.21(a).

Here, because Petitioner was without a license, CMS properly revoked his billing privileges pursuant to 42 C.F.R. § 424.535(a)(1).

Regulations also allow CMS to revoke a supplier's enrollment if he does not comply with reporting requirements, including any adverse legal action or change in enrollment. 42 C.F.R. § 424.535(a)(9); 42 C.F.R. § 424.516(d).

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<sup>1</sup> I make this one finding of fact/conclusion of law.

