

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Elizabeth E. Payne, M.D.
(PTAN: CO123)
(NPI: 1508258245),

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-17-841

ALJ Ruling No. 2018-2

Date: November 2, 2017

RULING

For the reasons set forth below, I dismiss this case as moot.

Petitioner, Elizabeth E. Payne, M.D., is a Minnesota physician, whose license was suspended by the Minnesota Board of Medical Practice. In a letter dated March 23, 2017, the Medicare contractor, National Government Services, advised her that her Medicare privileges were revoked pursuant to 42 C.F.R. § 424.535(a)(1) because she submitted to the Medicare program claims for services provided during the period of her license suspension. Petitioner Payne requested reconsideration.

In a reconsidered determination, dated May 3, 2017, the contractor affirmed the revocation. Petitioner appealed and the matter was assigned to me.

Thereafter, the contractor vacated its May 3 determination and issued a new reconsidered determination, dated June 23, 2017. The June 23 notice advised Petitioner of her appeal rights.

CMS now moves to dismiss as moot this appeal of the May 3 reconsideration. Petitioner did not respond to CMS's motion. In an order dated September 8, 2017, I directed

Petitioner to show cause why I should not dismiss this case. On September 11, 2017, Petitioner responded that she would “prefer an actual hearing in front of a person.”

Assuming that she timely appealed the June 23, 2017 reconsidered determination and that an in-person hearing is appropriate, Petitioner Payne may get an actual hearing in front of a person. However, the June 23 determination is not before me. Because CMS vacated the May 3 reconsideration, this appeal is moot. I therefore dismiss the matter pursuant to 42 C.F.R. § 498.70(b).

_____/s/_____
Carolyn Cozad Hughes
Administrative Law Judge