

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Rajiv Verma, M.D.,

Petitioner

v.

Centers for Medicare and Medicaid Services.

Docket No. C-11-674

Decision No. CR2457

Date: November 1, 2011

DECISION

I sustain the determination of the Centers for Medicare and Medicaid Services (CMS) and its contractor, Trailblazer Health Enterprises, LLC (Trailblazer), to grant an effective Medicare reassignment of benefits date of November 4, 2010 to Petitioner, Rajiv Verma, M.D.¹

I. Background

Petitioner filed a hearing request in which he asserted that he should have been given an effective Medicare reassignment of benefits date of August 1, 2010. The case was assigned to me for a hearing and a decision. CMS filed a brief and six proposed exhibits that it identified as CMS Exhibit (Ex.) 1 – CMS Ex. 6. Petitioner filed a brief and eight proposed exhibits. These include exhibits that Petitioner identified as P. Ex. 1 – P. Ex. 6, and two unidentified declarations consisting of a declaration from Petitioner and a declaration from Charles Leo

¹ Petitioner's effective reassignment of benefits date of November 4, 2010 entitles RGV Radiology, PLLC to file reimbursement claims for services Petitioner provided beginning on October 6, 2010. 42 C.F.R. § 424.521(a)(1).

Panicker. I identify Petitioner's declaration as P. Ex. 7 and Mr. Panicker's declaration as P. Ex. 8. I receive all of the parties' exhibits into the record.

I conclude that the material facts in this case are undisputed, for the reasons that I discuss below. For that reason, there is no need for an in-person hearing, and I decide this case based on the parties' written exchanges of briefs and exhibits.

II. Issue, Findings of Fact, and Conclusions of Law

A. Issue

The issue in this case is whether CMS and Trailblazer correctly assigned Petitioner an effective Medicare participation date of November 4, 2010.

B. Findings of Fact and Conclusions of Law

The undisputed facts are as follows. Petitioner is a physician. On November 4, 2010, Trailblazer received an application filed on Petitioner's behalf to reassign Medicare benefits to a practice group, RGV Radiology, PLLC (RGV). CMS Ex. 2. The application is on a form known as CMS Form-855R. Trailblazer processed that application and granted Petitioner an effective Medicare reassignment of benefits date of November 4, 2010, thereby entitling RGV to file reimbursement claims for services he provided beginning as early as October 6, 2010.

Medicare regulations provide that the *earliest* date that an application may be accepted by CMS, or one of its contractors, is the later of the dates that a physician files an acceptable application for enrollment or reassignment of benefits or when the physician first begins providing services at a new practice location. 42 C.F.R. § 424.520(d). Here, the earliest possible effective reassignment of benefits date that CMS and Trailblazer could have granted to Petitioner was November 4, 2010, the date when the application for reassignment of benefits was filed on Petitioner's behalf. Consequently, Petitioner received the earliest effective reassignment of benefits date and the earliest possible date when RGV could bill for his services that is permitted by law.

Petitioner argues that he submitted an earlier application on June 23, 2010 and that this application should determine the effective date of his participation and the earliest date that RGV could bill for his services. What Petitioner refers to is an application known as a CMS Form-855I that RGV submitted on Petitioner's behalf on June 23, 2010. That form, however, was not the appropriate form to allow reassignment of benefits. CMS Form-855I is an initial enrollment form, one that a provider seeking enrollment in Medicare for the first time files. But, in fact, Petitioner already was a participating physician as of June 23, 2010, and the Form

