

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Amanda Jennings,
(PTANs: F100207417; F400207426)
(NPIs: 1184029787; 1912227000)¹

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-15-3133

Decision No. CR4925

Date: August 16, 2017

DECISION

Petitioner, Amanda Jennings, is a chiropractor with a practice, Ogle County Chiropractic Center, Inc., in Byron, Illinois. She applied to enroll in the Medicare program. The Centers for Medicare & Medicaid Services (CMS) granted her enrollment application, effective March 6, 2015 (with a billing date of February 4, 2015). Petitioner now challenges that effective date.

The parties have filed cross-motions for summary judgment. Because I find that CMS appropriately granted Petitioner's Medicare enrollment effective March 6, 2015, I grant CMS's motion and deny Petitioner's.

¹ Although the reconsideration treats this as one case, it actually involves two separate entities: Petitioner Jennings and her practice, Ogle County Chiropractic Center, Inc. Each has a separate PTAN (provider transaction access number) and NPI (national provider identifier). However, as the initial determination reflects, the appeals are identical, involving the same issue and the same dates.

Background

In a letter dated April 28, 2015, the Medicare contractor, National Government Services, advised Petitioner Jennings that it approved her Medicare enrollment, effective April 2, 2015, with a billing date of March 3, 2015. CMS Exhibit (Ex.) 13.² Petitioner sought reconsideration, asking that her effective date of enrollment be changed to November 10, 2014, the date she began providing services at Ogle County Chiropractic Center, Inc. CMS Ex. 14 at 2. In a reconsidered determination, dated June 2, 2015, the contractor changed Petitioner's effective date to March 6, 2015, with a billing date of February 4, 2015. CMS Ex. 15.³

Petitioner appealed.

The parties have moved for summary judgment. With its prehearing motion and brief, CMS submits 15 exhibits (CMS Exs. 1-15). With her motion and brief (P. Br.), Petitioner submits 13 exhibits (P. Exs. 1-13).

Discussion

CMS is entitled to summary judgment because the undisputed evidence establishes that it properly determined the effective date for Petitioner's Medicare enrollment; Petitioner submitted her subsequently-approved enrollment application on March 6, 2015, and her Medicare enrollment can be no earlier than that date.

Summary Judgment. To grant summary judgment, I must draw all reasonable inferences in the light most favorable to the non-moving party and find that the case presents no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. *1866ICPayday.com, L.L.C.*, DAB No. 2289 at 2-3 (2009); *Illinois Knights Templar Home*, DAB No. 2274 at 3-4 (2009), and cases cited therein.

Program requirements. 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

² CMS allows nonphysician practitioners to bill retrospectively for up to 30 days prior to the effective date of their enrollment if certain conditions are met. 42 C.F.R. § 424.521(a)(1). The notice letter refers to the retrospective billing date as the effective date. See CMS Brief (CMS Br.) at 4 n.2.

³ Again, the reconsidered determination refers to the retrospective billing date as the effective date. CMS Ex. 15 at 1.

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. § 424.502.⁴

When CMS determines that a nonphysician practitioner meets the applicable enrollment requirements, it grants Medicare billing privileges, which means that the practitioner can submit claims and receive payments from Medicare for covered services provided to program beneficiaries. For 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 . . . nonphysician practitioner first began furnishing services at a new practice location.” 42 C.F.R. § 424.520(d) (emphasis added). If a nonphysician practitioner meets all program requirements, CMS allows it 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).

The date of filing is the date the Medicare contractor receives an application that is processed to approval. *Karthik Ramaswamy, M.D.*, DAB No. 2563 at 2 (2014). Here, on *March 6, 2015*, the Medicare contractor received Petitioner's enrollment application, CMS Form 855B. CMS Ex. 8. This was not the correct form, so, by letter dated March 30, 2015, the contractor asked her to submit the correct form (855I) within 30 days. CMS Ex. 9; *see* CMS Ex. 8 at 4 (indicating that clinics and group practices should submit the 855B). Petitioner timely responded and submitted the 855I on April 2, 2015. CMS Ex. 10. The contractor found that application incomplete, and, by letter dated April 16, 2015, asked for additional information, which Petitioner timely provided. CMS Exs. 11, 12. The contractor subsequently approved that enrollment application.

Thus, the date Petitioner filed her subsequently-approved enrollment application – March 6, 2015 – is the correct effective date of her enrollment.

Petitioner, however, points out that she began providing services on November 10, 2014, and submitted earlier applications, on October 27, 2014, and December 22, 2014. She concedes that the contractor rejected those applications, ostensibly because she did not provide some additional information that the contractor required, but complains that she did not receive any requests for that information.

The regulations authorize the contractor to reject an application if the supplier fails to furnish complete information within 30 days of the date requested. 42 C.F.R.

⁴ CMS's electronic process is referred to as PECOS (Provider Enrollment, Chain, and Ownership System).

