

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

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In the Case of:)	
)	
Dhayaparan Medical P.C.,)	Date: December 18, 2008
)	
Petitioner,)	
)	
- v. -)	Docket No. C-09-111
)	Decision No. CR1875
Centers for Medicare & Medicaid)	
Services.)	
_____)	

DECISION OVERTURNING DENIAL OF APPLICATION

I reverse CMS's determination to deny Petitioner, Dhayaparan Medical P.C., enrollment in the Medicare program.

CMS Contractor, Nation Government Services, on September 11, 2008 denied Petitioner's August 7, 2008 enrollment application in the Medicare program claiming that Petitioner did not meet the requirements to qualify as a professional corporation because it was not registered with the New York State Department of Education as required by New York State Business Corporation Law. 42 C.F.R. § 424.530(a)(5). Petitioner then requested that the Contractor review its decision. The CMS Contractor by letter dated November 5, 2008 denied Petitioner's reconsideration; Petitioner requested a hearing by an Administrative Law Judge pursuant to 42 C.F.R. Part 498.

Petitioner filed with his hearing request documentation which the CMS Contractor neglected to review which establishes unequivocally that Petitioner met the specified Medicare enrollment requirements. Petitioner submitted a certificate from the New York State Department of Education which indicates that Petitioner was registered as a professional corporation on June 9, 2008. CMS does not dispute or oppose this.

