

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Medical Services of Suffolk County PC,  
(NPI: 1811235724),  
(PTAN: J100088630)

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-14-102

Decision No. CR3149

Date: March 11, 2014

**DECISION**

Petitioner, Medical Services of Suffolk County, PC (Suffolk County), is a professional corporation that provides emergency medical services. Its sole owner is Allan H. Rappaport, a physician. Suffolk County applied for enrollment in the Medicare program, and the Medicare contractor, acting on behalf of the Centers for Medicare & Medicaid Services (CMS), granted its application, effective May 17, 2013 (with a billing date of April 17, 2013). CMS Ex. 3. Suffolk County challenged that effective date. In a reconsidered determination, dated August 20, 2013, the contractor upheld the May 17 effective date. CMS Ex. 1. Suffolk County timely appealed.

Because neither party proposes any witnesses, an in-person hearing would serve no purpose. I therefore close the record and decide the case. *See* Acknowledgment and Pre-hearing Order at 6 (¶¶ 10, 11).

For the reasons set forth below, I reverse the reconsidered determination and find that February 18, 2013 is the appropriate effective date for the supplier's Medicare enrollment (with a billing date of January 19, 2013).

## Discussion

*Petitioner, Suffolk County Medical Services, submitted a subsequently-approved Medicare enrollment application on February 18, 2013 and is therefore entitled to a February 18, 2013 effective date.*<sup>1</sup>

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 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.

When CMS determines that a physician or physician organization meets the applicable enrollment requirements, it grants Medicare billing privileges, which means that the physician/physician organization can submit claims and receive payments from Medicare for covered services provided to program beneficiaries. The effective date for those billing privileges “is the *later* of the date of filing” a subsequently approved enrollment application or “the date an enrolled physician . . . first began furnishing services at a new practice location.” 42 C.F.R. § 424.520(d) (emphasis added).

If a physician or physician organization meets all program requirements, CMS allows him 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).

Here, Suffolk County applied for Medicare enrollment, submitting Form CMS-855B, which the Medicare contractor, National Government Services, received on February 18, 2013. CMS Ex. 7. The contractor did not immediately return or reject the application. Instead, in a letter dated April 24, 2013, the contractor acknowledged receipt but advised Petitioner that, pursuant to 42 C.F.R. § 424.525, it might reject the application unless

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

Suffolk County furnished additional information within 30 days. CMS Ex. 6 at 1. Specifically, the letter directed the applicant to submit Form CMS-855I and other documents. CMS Ex. 6 at 3-4. Suffolk County complied, and the contractor received its submission on May 17, 2013, within 30 days of the contractor's request. CMS Ex. 5.

Up until this point, the contractor acted appropriately. Its actions accorded with the regulations and manual instructions provided by CMS. Section 424.525 authorizes CMS to reject a Medicare enrollment application *if the applicant fails to furnish complete information within 30 days* from the date the contractor requests it. 42 C.F.R. § 424.525(a)(1).<sup>2</sup> Consistent with the regulation, the Medicare Program Integrity Manual (MPIM) makes clear that a contractor may reject an application that is on the wrong form, *if the applicant does not submit a new or corrected application within 30 days* of the contractor's request. The manual specifically instructs CMS contractors to *develop*, rather than return, any such wrong application. MPIM § 15.8.2A.

Thus, where, as here, the applicant initially files the wrong application but timely furnishes the correct application, the contractor should not reject its initial application.

Notwithstanding these instructions, and in conflict with its earlier correspondence, the contractor here sent Suffolk County a letter dated June 8, 2013, which said that the contractor was returning the February 18, 2013 application, because the applicant submitted the wrong form. CMS Ex. 4. This was an error – plainly in conflict with the manual instructions – and does not alter the fact that the contractor, in fact, accepted the February application. It may not deprive the applicant of his rightful effective date and deny him any appeal rights by subsequently (and arbitrarily) returning an already-filed – and accepted – enrollment application.

### **Conclusion**

I reverse the contractor's reconsidered determination. Because Petitioner's subsequently approved enrollment application was filed on February 18, 2013, its Medicare enrollment is effective as of that date (with a billing date of January 19).

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/s/  
Carolyn Cozad Hughes  
Administrative Law Judge

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<sup>2</sup> Rejected enrollment applications have no appeal rights. 42 C.F.R. § 424.525(d).