

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Deanna Worthington, NP,
(PTAN: Y5266Z),
(NPI: 1780669572)

Petitioner,

v.

Centers for Medicare & Medicaid Services

Docket No. C-15-144

Decision No. CR3750

Date: April 1, 2015

DECISION

For the reasons set forth below, I find that the Centers for Medicare & Medicaid Services (CMS) appropriately denied Petitioner's Medicare enrollment.

Background

Petitioner, Deann Worthington, NP, is a Florida nurse practitioner, who seeks to re-enroll in the Medicare program following a hiatus of undetermined length. CMS denied her enrollment application because she is not certified as a nurse practitioner by a recognized national certifying body, as required by Medicare regulations. In a reconsidered determination, an enrollment appeals analyst for the Medicare contractor affirmed the denial. Petitioner now seeks review by an administrative law judge.

CMS submits a motion for summary judgment/brief (CMS Br.), along with six exhibits, marked CMS Exs. 1-6. In addition to her hearing request (Hrg. Req.), Petitioner submits a written argument (P. Br.) and one supporting document, a Medicare enrollment

application (CMS 855I), which she did not mark, but which I shall refer to as P. Ex. 1. In the absence of any objections, I admit CMS Exs. 1-6 and P. Ex. 1. Neither party proposes any witnesses or provides any written declarations of witnesses. *See* Acknowledgment and Prehearing Order at 3 (§4(c)); 5 (§8). Because a hearing would therefore serve no purpose, I issue this decision without considering CMS's motion for summary judgment.

Discussion

*CMS properly denied Petitioner Worthington's Medicare enrollment application because she did not meet the Medicare requirements in place at the time of her reactivation.*¹

The parties agree that, at one time, Petitioner was enrolled in the Medicare program and that CMS deactivated her enrollment. They do not agree about the timing or circumstances of her original enrollment or the deactivation. CMS claims that it deactivated her enrollment on October 17, 2006, because she had not billed the Medicare program for 12 consecutive months. CMS Br. at 1.

Petitioner claims otherwise. She says that she participated in the Medicare program until August 2013, when she "was asked to revalidate." P. Br. at 1. She thought that she had complied with the agency's requests, but CMS deactivated her enrollment in September 2013. P. Br. at 1; Hrg. Req. She complains that she did not learn about the deactivation until July 2014, following which she submitted a new enrollment application. P. Br. at 1.²

Neither party submits documentation in support of its position. CMS relies solely on the reconsideration determination, which is not evidence. CMS Ex. 6 at 1. Petitioner submits only a Medicare enrollment application (CMS-855I), signed and dated on July 31, 2013, which does not exactly support the claim that CMS asked her to revalidate in August 2013. P. Ex. 1.

On the other hand, Petitioner does not dispute CMS's assertion that her billing privileges were deactivated because she had not billed the Medicare program for 12 consecutive months. CMS may deactivate a supplier's Medicare billing privileges if the supplier does not submit any Medicare claims for 12 consecutive months. 42 C.F.R. § 424.540(a)(1).

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

² That Petitioner may not have received timely notice of the deactivation is unfortunate. Nevertheless, CMS's determination to deactivate a supplier is not an initial determination that is subject to review by an administrative law judge. 42 C.F.R. §§ 498.3(b); 498.5(1).

To be reactivated, the supplier must recertify that the enrollment information currently on file with Medicare is correct, and she must furnish any missing information “as appropriate.” The supplier must also “meet all current Medicare requirements in place at the time of reactivation, and be prepared to submit a valid Medicare claim.” 42 C.F.R. § 424.540(b)(2).

To bill Medicare for the services she provides, a nurse practitioner must be a registered professional nurse, who is authorized by her state to practice as a nurse practitioner. Unless she first obtained her billing privileges before January 1, 2001, she must meet other criteria, depending on when she first obtained those billing privileges as a nurse practitioner:

- If, as Petitioner suggests, she first obtained billing privileges on or after January 1, 2003, she must be certified as a nurse practitioner by a recognized national certifying body that has established standards for nurse practitioners and possess a master’s degree or doctorate of nursing practice doctoral degree;
- If, as CMS maintains, Petitioner first obtained billing privileges before January 1, 2003, she must be certified as a nurse practitioner by a recognized national certifying body that has established standards for nurse practitioners.

42 C.F.R. § 410.75(b).

Petitioner does not claim to have obtained Medicare billing privileges before January 1, 2001. She has not demonstrated that she has a master’s degree or a doctorate of nursing. She is not certified by a recognized national certifying body. She therefore does not meet all current Medicare requirements, and CMS properly denied her Medicare enrollment.

Conclusion

Because Petitioner Worthington does not meet all current Medicare requirements, CMS properly denied her Medicare enrollment. I therefore affirm the reconsidered determination.

_____/s/
Carolyn Cozad Hughes
Administrative Law Judge