

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

Ravinder P. Singh, M.D.,
(NPI No.: 1972560605),

Petitioner

v.

Centers for Medicare and Medicaid Services.

Docket No. C-11-357

Decision No. CR2413

Date: August 11, 2011

DECISION

The Centers for Medicare and Medicaid Services (CMS) has denied the Medicare enrollment application filed by Petitioner, Ravinder P. Singh, M.D. Petitioner appeals, and CMS has moved for summary judgment.

For the reasons discussed below, I grant CMS's motion.

I. Background

Petitioner is a physician practicing in California who seeks to reactivate her enrollment in the Medicare Part B program. CMS Exhibit (Ex.) 1. The Medicare contractor, Palmetto GBA, denied her December 17, 2010 enrollment application because it determined that the application was not complete, and Petitioner did not provide the missing information within 30 days of Palmetto's request for it. CMS Exs. 6, 7. Petitioner requested reconsideration, and, in a determination dated March 8, 2011, Palmetto upheld the denial.

CMS Exs. 8, 10. Petitioner responded to the reconsideration in a letter dated March 17, 2011, which Palmetto treated as a request for hearing. CMS Ex. 11.¹

In an order dated March 28, 2011, I directed the parties to submit their evidence and briefs “addressing all issues of law and fact.” CMS complied with that order, but Petitioner did not. In a notice dated June 21, 2011, I directed Petitioner to show cause in writing why her request should not be dismissed as abandoned pursuant to 42 C.F.R. § 498.69(b)(2). Petitioner did not respond to this tribunal but sent a letter, dated June 29, 2011, to CMS counsel, which counsel forwarded to us. In that letter, Petitioner said (for the first time) that she would like a hearing and that she had submitted “everything [CMS] requested.” She offered no explanation for failing to comply with my March 28 order.

CMS has submitted its motion for summary judgment and pre-hearing brief, along with 11 exhibits (CMS Exs. 1-11).

II. Discussion

CMS is entitled to summary judgment because the undisputed facts establish that Petitioner did not timely complete her December 17, 2010 enrollment application. 42 C.F.R. § 424.530(a).²

Summary judgment is appropriate if a case presents no genuine issue of material fact. “To defeat an adequately supported summary judgment motion, the non-moving party may not rely on the denials in its pleadings or briefs, but must furnish evidence of a dispute concerning a material fact. . . .” *Livingston Care Ctr.*, DAB No. 1871 (2003). The moving party may show the absence of a genuine factual dispute by showing that the non-moving party has presented no evidence “sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of

¹ Whether Petitioner’s March 17 correspondence represented a valid hearing request is questionable. These proceedings are governed by 42 C.F.R. Part 498. 42 C.F.R. § 424.545. Part 498 provides that an affected party may file a request for a hearing. 42 C.F.R. § 498.40(a). The request must identify the specific issues, and the findings of fact and conclusions of law with which the affected party disagrees. It must also specify the basis for contending that the findings and conclusions are incorrect. 42 C.F.R. § 498.40(b). Petitioner did not request a hearing in her March 17 submission. She identified no issues or findings; rather, she submitted some of the information missing from her initial application. Nevertheless, she arguably corrected these defects during these proceedings, and CMS does not challenge the validity of her hearing request.

² I make this one finding of fact/conclusion of law.

proof at trial.” *Livingston Care Ctr. v. Dep’t of Health and Human Servs.*, 388 F.3d 168, 173 (6th Cir. 2004). To avoid summary judgment, the non-moving party must then act affirmatively by tendering evidence of specific facts showing that a dispute exists. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 n.11 (1986). *See also Vandalia Park*, DAB No. 1939 (2004); *Lebanon Nursing and Rehab. Ctr.*, DAB No. 1918 (2004).

To receive Medicare payments for services furnished to program beneficiaries, a Medicare provider or supplier must be enrolled in the Medicare program. 42 C.F.R. § 424.505. CMS may deny enrollment if the provider/supplier is not in compliance with Medicare enrollment requirements and has not submitted a corrective action plan. 42 C.F.R. § 424.530(a)(1). Among those requirements, a prospective provider must submit an enrollment application that includes “[c]omplete, accurate, and truthful responses to all information requested within each section as applicable to the provider or supplier type.” 42 C.F.R. § 424.510(d)(2)(i).

If information or documentation is missing, and the applicant fails to provide it within 30 calendar days of the contractor’s request, CMS may reject the application. 42 C.F.R. § 424.525(a)

In this case, CMS has come forward with evidence showing that Petitioner did not file a complete and valid enrollment application, nor did she timely supplement that application. CMS is entitled to summary judgment because Petitioner has neither argued nor tendered evidence of specific facts establishing that a dispute exists over any of these dispositive facts.

Specifically, the evidence shows that, on December 17, 2010, Petitioner mailed an application seeking re-enrollment in the Medicare Part B program. CMS Ex. 1. In a letter dated January 20, 2011, the Medicare contractor, Palmetto, advised Petitioner that her application lacked necessary information and directed her to submit verification that she is a United States citizen, a legal resident, or otherwise legally authorized to work in the United States. The letter said that all requested information “must be returned” within 30 calendar days and specified the due date as February 21, 2011. CMS Ex. 6 at 1, 3. The letter warned Petitioner that:

[c]onsistent with the Federal Regulations found in 42 C.F.R. § 424.525[,] we may reject your application or[,] in accordance with regulations found in 42 C.F.R. § 424.530(a)(1), we may deny your application if you do not furnish complete information within 30 calendar days of the postmark date of this letter.

CMS Ex. 6 at 1.

