

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Neurology Care Consultants, LLC,  
(PTAN: HH237A; NPI: 1619227758)

Petitioner,

v.

Centers for Medicare & Medicaid Services.

Docket No. C-14-241

ALJ Ruling No. 2014-29

Date: April 9, 2014

**REMAND**

Petitioner, Neurology Care Consultants, LLC (Neurology Care), is a Florida group medical practice organized as a limited partnership. Neurology Care 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 6, 2013 (with a billing date of April 6, 2013). Petitioner challenges that effective date, pointing out that it began the application process on February 21, 2013, although it initially submitted the wrong form.

For the reasons set forth below, I remand this case to CMS to consider the impact of Neurology Care's February 21, 2013 enrollment application on the effective date of its Medicare enrollment, particularly in light of CMS's instructions that contractors "develop," rather than return, an application submitted on the wrong form.

**Discussion**

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, Neurology Care applied for Medicare enrollment by signing Form CMS-855R on February 21, 2013, and submitting it to the Medicare contractor, First Coast Service Options, Inc., sometime thereafter. As indicated by the list of documentation submitted on reconsideration, Petitioner submitted a copy of that application to the contractor’s enrollment appeals officer (CMS Ex. 2 at 3), yet the contractor’s reconsidered determination does not discuss it. With its hearing request, Petitioner includes the application’s signature page, which shows that it was signed on February 21, 2013, yet CMS does not mention it at all. As a result, the record does not indicate when the contractor received the document nor how the contractor responded.

CMS may 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). Consistent with that 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 complete 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 an applicant initially files its application on the wrong form, but timely corrects that error by furnishing the correct one, the contractor should consider these submissions all part of the same application, with the earlier filing date preserved.

