

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
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2007 JUN 19 P 1:15

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

RICARDO L. LLORENTE,

Respondent.

DOAH CASE NO. 06-4290MP
AUDIT NO. C.I. 97-1865-000

RENDITION NO.: AHCA-07-354-FOF-MDO

FILED
JUN 20 PM 12:47
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

This case was referred to the Division of Administrative Hearings (DOAH) where the assigned Administrative Law Judge (ALJ), Stuart M. Lerner, issued a Recommended Order after conducting a formal hearing. At issue in this proceeding is whether the Agency overpaid the Respondent for services provided during the time period of January 1, 2000 through December 31, 2001, and, if so, what was the amount of those overpayments; and whether Respondent should be subject to sanctions in the form of a comprehensive follow-up review in six months. The Recommended Order dated April 30, 2007, is attached to this Final Order and incorporated herein by reference, except where noted infra.

RULING ON EXCEPTIONS

The parties did not file any exceptions to the Recommended Order. However, the Agency, sua sponte, takes exception to the conclusion of law in Paragraph 53 of the Recommended Order to the extent that the paragraph, as written, could be read to imply that Medicaid providers are automatically entitled to an administrative hearing before the Agency can take final action ordering repayment. Such is not the case. Instead, the Agency is only required

to provide Medicaid providers with the opportunity to request an administrative hearing within 21 days of receipt of the Final Agency Audit Report. See, e.g., Section 409.9131(4), Florida Statutes (2006); Section 120.569, Florida Statutes (2006); and Rule 28-106.111, Florida Administrative Code. Thus, the Agency finds that it has substantive jurisdiction over the conclusion of law in Paragraph 53 of the Recommended Order and that it could substitute a conclusion of law as or more reasonable than that of the ALJ. Therefore, the Agency grants its exception and modifies Paragraph 53 of the Recommended Order to state:

53. A Medicaid provider who is the subject of an audit report that reveals an overpayment is entitled to request an administrative hearing pursuant to Chapter 120, Florida Statutes, before AHCA enters a final order demanding repayment.

FINDINGS OF FACT

The Agency adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

The Agency adopts the conclusions of law set forth in the Recommended Order, except where noted supra.

IT IS THEREFORE ADJUDGED THAT:

Petitioner is required to repay \$80,788.23 in Medicaid overpayments, plus statutory interest, to the Agency for paid claims covering the period from January 1, 2000 through December 31, 2001. Petitioner shall make full payment of the overpayment to the Agency for Health Care Administration within 30 days of the rendition of this Final Order. Petitioner shall pay by check payable to the Agency for Health Care Administration and mailed to the Agency for Health Care Administration, Office of Finance and Accounting, 2727 Mahan Drive, Fort Knox Building 2, Mail Stop 14, Tallahassee, Florida 32308.

Additionally, costs shall be assessed against the Respondent in an amount that reflects the actual investigative, legal, and expert witness costs incurred by the Agency in this proceeding. The parties shall attempt to stipulate to the costs related to the investigation and prosecution of this case. In the event that the parties cannot so stipulate, this issue shall be remanded to the Division of Administrative Hearings.

DONE and ORDERED this 14th day of June, 2007, in Tallahassee, Florida.



ANDREW C. AGWUNOBI, M.D., Secretary
AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY ALONG WITH THE FILING FEE PRESCRIBED BY LAW WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. or interoffice mail to the persons named below on this 19th day of June, 2007.



RICHARD J. SHOOP, Agency Clerk
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COPIES FURNISHED TO:

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