PROVIDER REIMBURSEMENT REVIEW BOARD
HEARING DECISION

ON-THE-RECORD
2000-D16

PROVIDER -
Marblehead Visiting Nurse
Association, Inc.
Marblehead, MA

Provider No. 22-7029

vs.

INTERMEDIARY -
Blue Cross and Blue Shield Association/
Associated Hospital Service of Maine

DATE OF HEARING-
February 20, 2001

Cost Reporting Periods Ended -
December 31, 1993; December 31,
1994 and December 31, 1995

CASE NOS.

INDEX

ISSUES:[1]

1. Was the Intermediary=s adjustment reclassifying advertising costs to a non-reimbursable cost center proper? (1993, 1994, 1995)

2. Was the Intermediary=s adjustment reclassifying fundraising costs to a non-reimbursable cost center proper? (1994)

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

Marblehead Visiting Nurse Association, Inc. (AProvider@) is a non-profit home health agency located in Marblehead, Massachusetts. During its cost reporting periods ended December 31, 1993, 1994, and 1995, the Provider incurred advertising costs and fundraising costs in addition to its other operating and overhead expenses. Associated Hospital Service of Maine (AIntermediary@) reviewed the Provider=s advertising and fundraising costs and found them to be unallowable. On that basis, the Intermediary reclassified these costs to a non-reimbursable cost center where administrative and general expenses were allocated to them and also disallowed.[2]
On June 30, 1995, the Intermediary issued a Notice of Program Reimbursement (ANPR@) reflecting its adjustments to the Provider=s 1993 cost report. On August 1, 1995, the Provider appealed the subject adjustments to the Provider Reimbursement Review Board (ABoard@) pursuant to 42 C.F.R. '' 405.1835.-1841, and met the jurisdictional requirements of those regulations. Similarly, on October 15, 1996, the Provider properly appealed the subject adjustments made to its 1994 cost report as reflected in the Intermediary=s NPR dated August 30, 1996. And, on July 2, 1997, the Provider properly appealed the subject adjustments made to its 1995 cost report as reflected in an NPR dated April 23, 1997.[3]

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1 All other issues originally included in these cases have been withdrawn.

2 The arguments presented in these cases with respect to the advertising costs issue are identical for each of the subject cost reporting periods. The nature of the actual adjustments made by the Intermediary are, however, somewhat different. In 1993, the Provider self-disallowed $2,731 of advertising costs. The Intermediary=s adjustment off-set or disallowed an additional $9,090 of costs and then reclassified them to a non-reimbursable cost center. In 1994, the Provider self-disallowed $20,512 in advertising costs based upon the Intermediary=s prior year adjustment, although the Provider does not agree that all of these costs are unallowable. In 1995, the Provider placed $24,264 of advertising costs in a non-reimbursable cost center based upon the Intermediary=s prior years= adjustments and identified these costs as Protested Amounts. See Provider=s Position Papers at Provider=s Position Paper on This Issue.

3 Intermediary=s Position Paper at 1.

Subsequent to the Provider=s filings with the Board, the Intermediary withdrew its opposition to the Provider=s appeal of the fundraising issue for 1993 and 1995. The Intermediary=s withdrawals are based upon materiality. The fundraising issue amounted to approximately $400 in the Provider=s 1993 cost reporting period and approximately $600 in 1995.[4] As a result, the amount of program funds in controversy remaining in these cases is approximately $12,700 for the Provider=s 1993 cost reporting period, $29,000 for 1994, and $26,900 for 1995.[5]

The Provider was represented by Joanne M. Kramer, Certified Public Account. The Intermediary was represented by Eileen Bradley, Associate Counsel, Blue Cross and Blue Shield Association.
<u>Issue No. 1. Advertising Costs</u>

<u>PROVIDER=S CONTENTIONS</u>:

The Provider contends that the Intermediary=s disallowances of its advertising costs are improper. The Provider asserts that these costs were incurred to educate the public and to promote its public image rather than to increase patient utilization. The Provider explains that the radio advertisements at issue in these cases talk about the care given to past patients in order to educate others of the kind of service that can be provided at home. Also included in the disallowed advertising costs were yellow page ads for the community telephone book which several community members, including patients, find more convenient to use than the NYNEX yellow pages.[6]

The Provider also contends that these costs should not be placed in a non-reimbursable cost center to absorb a portion of administrative and general (AA&G@) expenses. The Provider asserts that the advertising costs at issue simply do not meet the definition of a cost center; they are, in fact, overhead expenses themselves rather than direct service costs. <u>Id</u>.

The Provider explains that the Provider Reimbursement Manual, Part I (AHCFA Pub. 15-1@) ' 2302.8 defines a cost center as: Aan organizational unit, generally a department or its subunit, having a common functional purpose for which direct and indirect costs are accumulated, allocated and apportioned.@<u>Id</u>. General service cost centers are defined at HCFA Pub. 15-1 ' 2302.9 as: Athose organizational units which are operated for the benefit of the institution as a whole.@<u>Id</u>. Respectively, the Provider asserts that the advertising costs the Intermediary placed in a non-reimbursable cost center are not activities or functions. These costs are overhead expenses by nature and there are no direct costs involved with them. These costs are general service costs by definition.

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4 Intermediary=s Supplemental Position Paper at 3 and 5.

5 Provider=s Position Papers at <u>List of Adjustments Under Appeal</u>.

6 Provider=s Positions Paper at <u>Provider=s Position on Each Issue</u> (Advertising Costs).

The Provider contends that A&G expenses include such items as nursing administration, intake coordination, billing and other general business costs which have no relationship to the advertising costs at issue. Therefore, setting up a separate/non-allowable cost center for these expenses creates a disproportionate allocation and disallowance of overhead. The Provider explains that the amount of A&G expenses allocated to the subject non-reimbursable cost centers totaled $3,110 in 1993, $8,106 in 1994, and $5,486 in 1995. The Provider estimates, however, that the actual amount of salary costs involved with the advertisements is $162 per year.

In particular, the Provider contends that its community education measures are accomplished through a telephone call to, or meeting with, a representative of the various media used. Either the Provider=s CEO or its Office Manager or a combination of the two direct the media personnel regarding the agency=s expectation to be presented. Because its personnel do not have expertise in layout, design or presentation, the Provider defers to the expertise provided by the media personnel. The Provider representatives may follow up by sending a fax, recording or tape of their proposed presentation and it is either approved by the CEO or sent back for further work, then approved by the CEO and processed by the expert. Maximum time for the initial session was 20-30 minutes and approximately 5-15 minutes for sessions thereafter. Notably, these sessions are one time occurrences at the initial planning stages of the ad. Once the ad is developed no additional time is involved, however, the agency is charged every time the ad is aired. Therefore, the cost of the subject advertising on an annual basis is an unfair measure of allocating A&G costs.[7]

The Provider notes that the distortion in overhead apportionment illustrated above is created by the fact that A&G costs are distributed based upon the dollar value of the invoices involved even though they may have no relationship to the cost of the actual activities performed. Moreover, the Provider cites HCFA Pub. 15-1 ' 2328.D, which states: A[w]here the costs attributable to any nonallowable cost area are so <u>insignificant</u> as to not warrant establishment of a nonreimbursable cost center, these costs may be adjusted on the Adjustments to Expenses worksheet of the cost reporting forms.@ <u>Id</u>. (Emphasis added).

The Provider rejects the Intermediary=s reliance upon the Health Care Financing Administration=s (AHCFA@) decision in <u>Mother Frances Hospital v. Blue Cross and Blue Shield of Texas</u>, PRRB Dec. No. 95-D16, January 11, 1995, Medicare and Medicaid Guide & 43, 037, <u>rev=d</u>., HCFA Administrator, March 8, 1995, Medicare and Medicaid Guide (CCH) & 43, 241 (A<u>Mother Frances</u>@).[8] Specifically, the Provider explains that the Intermediary believes the subject advertising costs constitute a need for a separate cost center because HCFA found in <u>Mother Frances</u> that non-patient care related Aservices@ which can be effectively distinguished from other areas of a provider's operation qualify as a separate cost center. However, in that case the provider was providing Aservices@ such as a health

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7 Provider=s Supplemental Position Paper at <u>Argument</u>. Exhibit P-6.

8 Exhibit P-5.

information service center at a local mall, and a health fair offering free screenings. The Provider asserts that it also provides health promotional activities such as blood pressure clinics and, for these activities, identifies the related costs and places them in a non-reimbursable cost center. However, the subject advertising costs do not meet the definition of a cost center.

Finally, the Provider rejects the Intermediary=s argument regarding the increase in patient visits that it experienced between 1993 and 1995; that is, that its advertising costs were directed to increase patient utilization rather than to educate the community. The Provider explains that the increase in visits is mostly due to an increase in its service area to cover the town of Swampscott. Notably, in 1996, the Provider changed its name to Marblehead/Swampscott Visiting Nurse Association.[9]

INTERMEDIARY=S CONTENTIONS:

The Intermediary contends that the Provider incurred costs for non-reimbursable community awareness/marketing activities during the subject cost reporting periods. Moreover, the Intermediary contends that it is proper to include all of these costs in a non-reimbursable cost center for an allocation of indirect or overhead costs through the cost finding process. The Intermediary notes that the Provider offset only a portion of the direct costs associated with its community awareness/marketing activities in its as-filed cost report for the reporting period ended December 31, 1993, but all of the direct costs were offset for the reporting periods ended December 31, 1994 and 1995.[10]

Regarding the non-reimbursable nature of the subject expenses, the Intermediary contends that the costs of the Provider=s community awareness advertising activities are not costs related to patient care as defined at 42 C.F.R. ' 413.9 and HCFA Pub. 15-1 ' 2102.2 and ' 2102.3. Rather, these were costs incurred to promote the Provider=s name recognition throughout its service area and to increase patient utilization. The Intermediary explains that the Provider engaged in aggressive marketing activities which included radio and television advertising which were effective. The Intermediary notes that the Provider=s total visits increased from 32,904 in 1993 to 57,925 in 1995, which is more than a 76 percent increase for the three years encompassed by these appeals.[11]

Regarding the establishment of a non-reimbursable cost center for these expenses, the Intermediary cites Lexington County Hospital West Columbia v. Blue Cross and Blue Shield Association/Blue Shield of South Carolina, PRRB Dec. No. 84-D149, July 16, 1984, Medicare and Medicaid Guide (CCH) & 34, 179, decl=d rev., HCFA Administrator, August 13, 1984, (ALexington@) where the Board found that

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9 Provider=s Supplemental Position Paper at Argument.

10 Intermediary=s Position Paper at 5.

11 Intermediary=s Position Paper at 7.

the provider=s community awareness advertising costs were non-allowable.[12] Additionally, the Board instructed the intermediary to eliminate the offset of costs and to reclassify the disputed community awareness costs to a separate non-reimbursable cost center for an allocation of overhead.

Also regarding the reclassification of the subject costs to a non-reimbursable cost center, the Intermediary cites HCFA=s decision in Mother Frances.[13] Specifically, the Intermediary explains that HCFA=s Administrator found that non-patient care related services which can be effectively distinguished from other areas of a provider=s operation qualify as a separate cost center in accordance with HCFA Pub. 15-1 ' 2302.8. And, with respect to the instant case, the Intermediary asserts that the Provider=s community awareness/marketing activities are easily distinguished from its other functional areas.

The Intermediary contends that the establishment of a non-reimbursable cost center is also required by program instructions at HCFA Pub 15-1 ' 2328. In pertinent part, the manual provides specific guidelines relative to the cost report treatment of non-allowable costs to which general service costs apply, as follows:

> [t]he Adjustments to Expenses worksheet (e.g. Worksheet A-8 for hospitals) will continue to be used for expense recoveries (rebates, refunds, etc.); adjustments based on the income received; nonallowable costs to which general service costs are not applicable . . .

HCFA Pub 15-1 ' 2328 (emphasis added).

Respectively, the Intermediary asserts that in situations where non-allowable activities share a provider=s general service costs it is appropriate for those costs to receive an allocation of the provider=s overhead. The manual section does not include any provisions for materiality parameters which should be used to determine if the overhead is significant or insignificant. Accordingly, the establishment of a non-reimbursable cost center is a reasonable method in which non-reimbursable activities can be apportioned with an appropriate share of general service costs.[14]

The Intermediary contends that the establishment of a non-reimbursable cost center for the subject expenses is also in accord with regulations at 42 C.F.R. ' 413.24(a), which requires providers to maintain adequate cost data capable of verification by qualified auditors. The burden of maintaining adequate records and documentation to support the full costs of the Provider=s community awareness

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[12] Exhibit I-8

[13] Exhibit I-7

[14] Intermediary=s Position Paper at 8.

activities clearly rests with the Provider. However, the Provider has not done so in this instance.[15]

The Intermediary contends that the establishment of a non-reimbursable cost center for the subject expenses is also in accord with 42 C.F.R. ' 413.9, which requires that all payments to providers of service be based upon the reasonable cost of services covered under the Medicare program and relate to the care of beneficiaries. The Intermediary explains that Areasonable cost@ includes all necessary and proper costs incurred in furnishing services. The regulation further defines Anecessary and proper costs@ as those that are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities, and include both direct and indirect costs and normal standby costs.

The Intermediary cites <u>Regents of University of California v. Shalala</u>, 872 F. Supp. 728, 734 (C.D. Cal 1994), affirmed 82 F.3d 291 (9th Cir, 1996) (A<u>Regents</u>@) holding that Medicare cost accounting methods are designed to avoid inappropriate cost shifting. The Intermediary explains that the court held: Athe objective of Medicare reimbursement is to approximate as closely as practicable actual costs (both direct and indirect) of services rendered to beneficiaries of the Medicare program.@<u>Id</u>. The Intermediary asserts, therefore, that the fundamental statutory authority for provider reimbursement of Medicare costs requires that the Provider be reimbursed for the reasonable costs that are actually incurred. Moreover, according to the applicable statute, regulations that carry out this provision must:

> (i) take into account both direct and indirect costs of providers of services. . . in order that, under the methods of determining costs, the necessary costs of efficiently delivering covered services to individuals covered by the insurance programs established by this title will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (ii) provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by methods of determining costs proves to be either inadequate or excessive.

42 U.S.C. ' 1395x(v)(1)(A).

The Intermediary also cites implementing regulations at 42 C.F.R. ' 413.9(c)(1) stating that: Apayments to providers of services should be fair to the providers, to the contributors to the Medicare Trust funds, and to other patients.@<u>Id</u>. Also, 42 C.F.R. ' 413.5(a)stating: Athe share of the total institutional cost that is borne by the program is related to the care furnished beneficiaries so that no part of their cost would need to be borne by other patients.@<u>Id</u>. And, HCFA Pub. 15-1 ' 2200.1 stating that: A[t]otal allowable costs of a provider are apportioned between program beneficiaries and other patients so that the share

[15] Intermediary=s Position Paper at 9.

borne by the program is based upon actual services received by program beneficiaries.@Id.

Finally, the Intermediary rejects the Provider=s argument that the establishment of a non-reimbursable cost center for its community awareness activities results in a disproportionate share of A&G costs being allocated to that activity.[16] The Intermediary notes that the Provider does not dispute that there are other direct and indirect costs associated with its community awareness advertising activities; however, it disagrees with the amount of costs allocated to this activity through the normal stepdown cost allocation methodology.

Respectively, the Intermediary notes that home health agencies are required to use the stepdown method of cost finding in accordance with HCFA Pub. 15-1 ' 2308. And, while the stepdown method may not be a perfect system, it results in a reasonable allocation of costs. Although the Provider complains that there is an over allocation of general service costs to the subject non-reimbursable cost center, it does not complain when the stepdown method results in an over allocation to reimbursable cost centers. For example, included as an overhead cost is the cost of a billing clerk. It does not take a billing clerk any more time or effort to bill a home health aide visit versus a skilled nursing visit. However, more of the billing clerk=s cost is allocated to the skilled nursing cost center based upon the accumulated costs of skilled nursing services.

Issue No. 2. Fundraising Costs

PROVIDER=S CONTENTIONS:

The Provider agrees that the fundraising costs at issue in this case are non-allowable expenses. The Provider contends, however, that it properly offset these expenses on Worksheet A-5 of its as-filed cost report. The Provider asserts, therefore, that the Intermediary=s adjustment reclassifying these expenses to a non-reimbursable cost center is improper.[17]

The Provider explains that the fundraising costs at issue are comprised of printing and postage costs incurred to mail annual membership drive notices. Accordingly, by placing these costs in a non-reimbursable cost center they pick up more printing and postage costs as well as other administrative costs which have no relationship to them. The entire membership drive is performed by a board member and her husband. See signed statement at Exhibit P-7. There is no involvement from the Provider=s staff, and there is no further A&G costs associated with these expenses.

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16 Intermediary=s Position Paper at 11.

17 Provider=s Position Paper, Case No. 97-0069, at Provider=s Position on Each Issue (Fundraising Costs).

The Provider concludes that the fundraising costs at issue are overhead expenses that are not a function and, therefore, do not constitute the need for a separate cost center. The Provider argues that these costs do not meet the definition of a cost center as discussed under issue No. 1 immediately above. Moreover, they are so insignificant as to not warrant establishment of a non-reimbursable cost center as stated in HCFA Pub. 15-1 ' 2328.D.

<u>INTERMEDIARY=S CONTENTIONS</u>:

The Intermediary contends that its adjustment reclassifying the Provider=s fundraising costs to a non-reimbursable cost center is proper. Essentially, the Intermediary presents the same identical arguments and contentions in this instance as it presented immediately above pertaining to the Provider=s community awareness/advertising costs. In general, the Intermediary cites and relies upon the Administrator=s decision in <u>Mother Frances</u>, the definition of costs related to patient care at 42 C.F.R. ' 413.9 and HCFA Pub. 15-1 ' 2102, as well as statutory and program requirements including those at 42 U.S.C. ' 1395x(v)(1)(A), 42 C.F.R. ' 413.9(c)(1), 42 C.F.R. ' 413.5(a), and HCFA Pub 15-1 ' 2328. In addition, the Intermediary cites and relies upon the court=s decision in <u>Regents</u>, and rejects the Provider=s argument that the establishment of a non-reimbursable cost center for fundraising costs results in a disproportionate share of A&G costs being allocated to that activity.[18]

<u>CITATION OF LAW, REGULATIONS AND PROGRAM INSTRUCTIONS</u>:

1. <u>Law - 42 U.S.C.</u>:

' 1395x(v)(1)(A)	-	Reasonable Cost

2. <u>Regulations - 42 C.F.R.</u>:

'' 405.1835.-1841	-	Board Jurisdiction
' 413.5(a)	-	Cost Reimbursement: General
' 413.9	-	Cost Related to Patient Care
' 413.9(c)(1)	-	Cost Related to Patient Care-Application
' 413.24 <u>et</u> <u>seq</u>.	-	Adequate Cost Data and Cost Finding-Principle

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18 <u>See</u> Intermediary Position Paper at 12-18.

3. Program Instructions-Provider Reimbursement Manual-Part I (HCFA-Pub.15-1):

' 2102.2	-	Costs Related to Patient Care
' 2102.3	-	Costs Not Related to Patient Care
' 2136.1	-	Allowable Advertising Costs
' 2136.2	-	Unallowable Advertising Costs
' 2200.1	-	Principle of Cost Apportionment
' 2302.8	-	Adequate Cost Data and Cost Finding-Definitions: Cost Center
' 2302.9	-	Adequate Cost Data and Cost Finding-Definitions: General Service Cost Centers
' 2308	-	Cost Finding Methods--Home Health Agencies
' 2328	-	Distribution of General Service Costs to Nonallowable Cost Areas
' 2328.D	-	Gift, Flower and Coffee Shops

4. Case Law:

Mother Frances Hospital v. Blue Cross and Blue Shield of Texas, PRRB Dec. No. 95-D16, January 11, 1995, Medicare and Medicaid Guide & 43, 037, rev=d., HCFA Administrator, March 8, 1995, Medicare and Medicaid Guide & 43, 241.

Lexington County Hospital West Columbia v. Blue Cross and Blue Shield Association/Blue Shield of South Carolina, PRRB Dec. No. 84-D149, July 16, 1984, Medicare and Medicaid Guide (CCH) & 34, 179, decl=d rev., HCFA Administrator, August 13, 1984.

Regents of University of California v. Shalala, 872 F. Supp. 728, 734 (C.D. Cal 1994), affirmed 82 F.3d 291 (9th Cir, 1996).

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the facts, parties= contentions, and evidence presented, finds and concludes as follows:

Issue No. 1. Advertising Costs

The Board finds there are two aspects to this issue. First, the Provider argues that the subject advertising costs are allowable expenses. The Provider asserts that these costs were incurred to educate the public and to promote its public image rather than to increase patient utilization as argued by the Intermediary. Notwithstanding, the Provider argues that these costs should not have been placed in a non-reimbursable cost center where other A&G expenses were allocated to them and also disallowed.

The Board finds that the record in this case contains no documentation supporting the Provider=s argument that the advertising costs at issue are allowable program expenditures. The Provider explains that it placed radio advertisements to educate individuals of the kind of services that can be provided at home. However, copies of the text that was actually broadcast are not available to show that the advertisements were related to patient care as required by program instructions at HCFA Pub. 15-1 ' 2136.1, Allowable Advertising Costs, or whether they are non-reimbursable pursuant to HCFA Pub. 15-1 ' 2136.2. Similarly, the Provider explains that the Intermediary=s adjustments contained the cost of Ayellow page@ listings which should not be disallowed. However, the record does not contain a copy or description of the listings, and invoices, to show that they are Aconsistent with practices that are common and accepted in the industry,@ HCFA Pub. 15-1 ' 2136.1, and that they are reasonable. Consequently, the Board concludes that the subject advertising costs nonallowable.

The Board also finds, however, that the Intermediary=s adjustments reclassifying the Provider=s advertising costs to a non-reimbursable cost center are improper. The Board finds that the pertinent regulations, 42 C.F.R. ' 413.24, Adequate cost data and cost finding, do not specifically address the establishment of non-reimbursable cost centers. Guidance regarding this matter is found at HCFA Pub. 15-1 ' 2300 et seq. In part, the instructions define a Acost center@ as: [a]n organizational unit, generally a department or its subunit, having a common functional purpose. . .@ HCFA Pub. 15-1 ' 2302.8. Respectively, the Board finds that the subject advertising costs do not meet this definition.

In general, the Board believes the existence of a unit, subunit, or department is predicated upon a measurable amount of employee time and/or physical space being dedicated to a specific activity or function. And, with respect to the instant case, the record does not show that the Provider itself spent any meaningful amount of time or dedicated any significant amount of space to the subject advertising activities. Rather, the Provider asserts that it needed only a few hours a year to place its advertisements, and this point is made apparent by the fact that the Intermediary restricted its disallowances to the amount of payments made by the Provider to its advertising vendors.

The Board also finds it appropriate to remove the Provider=s nonallowable advertising costs through cost report adjustments rather than setting up non-reimbursable cost centers. Program instructions at HCFA Pub. 15-1 ' 2328.D, state in part: A[w]here the costs attributable to <u>any</u> nonallowable cost area are so <u>insignificant</u> as to not warrant establishment of a non-reimbursable cost center, these costs may be adjusted on the Adjustments to Expenses worksheet of the cost reporting forms.@<u>Id</u>. (Emphasis added). With respect to this matter, the Board finds the subject advertising costs insignificant enough to deter the need for a non-reimbursable cost center and an allocation of overhead. In each of the three cost reporting periods at issue the subject advertising costs amounted to approximately eight tenths of one percent (.008) of the Provider=s total costs.
Finally, the Board rejects the Intermediary=s reliance upon the Board=s decision in <u>Lexington</u> and the Administrator=s decision in <u>Mother Francis</u>. In each of those cases, unlike the instant case, provider employees were extensively involved in the performance of non-patient care related activities.

<u>Issue No. 2. Fundraising Costs</u>

The parties agree that the subject fundraising costs are non-allowable. The Provider asserts, however, that these costs should not have been reclassified to a non-reimbursable cost center where other A&G expenses were allocated to them and also disallowed. Essentially, the Provider argues that its fundraising costs do not meet the definition of a cost center as provided in HCFA Pub. 15-1 ' 2302.8, and that they are too insignificant to warrant the establishment of a non-reimbursable cost center as discussed in HCFA Pub. 15-1 ' 2328.D.

As discussed immediately above, the Board believes the existence of a cost center requires a provider to dedicate a measurable amount of employee time and/or space to a specific activity or function. The Board does not find this condition to exist with respect to the Provider=s fundraising costs. The record shows that the Provider=s fundraising costs consist of newspaper advertising, and postage and printing costs. There is no indication that the Provider spent any significant amount of time or space on this function. Notably, the record indicates that the postage and printing costs pertain to a mass mailing in which letters were placed into envelopes, addressed and mailed by volunteers.

The Board also finds that the amount of costs at issue in this instance does not warrant the establishment of a non-reimbursable cost center pursuant to HCFA Pub. 15-1 ' 2328.D, also discussed above. The total amount of the Intermediary=s adjustment or reclassification is $1,494.00

<u>DECISION AND ORDER</u>:

<u>Issue No. 1. Advertising Costs</u>
The Provider=s advertising costs are non-allowable expenditures. The Intermediary=s determinations regarding this matter are proper. The Intermediary=s reclassification of these costs to non-reimbursable

cost centers is, however, improper. The Intermediary=s adjustments are modified.

Issue No. 2. Fundraising Costs

The Intermediary=s adjustment reclassifying the Provider=s fundraising costs to a non-reimbursable cost center is improper. The Intermediary=s adjustment is reversed.

Board Members Participating:

Irvin W. Kues
Henry C. Wessman, Esq.
Martin W. Hoover, Jr. Esq.
Charles R. Barker
Stanley J. Sokolove

Date of Decision: April 06, 2001

FOR THE BOARD:

Irvin W. Kues
Chairman