

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
15 DHR 05709

VENUS I PITTS, PREMIERE HEALTH)
and WELLNESS,)
)
Petitioner,)
)
vs.)
)
NC DEPARTMENT of)
HEALTH and HUMAN SERVICES,)
)
Respondent.)
_____)

FINAL DECISION

THIS MATTER came on to be heard by the undersigned Administrative Law Judge on December 28, 2015, Raleigh, North Carolina, on the Petition for Contested Case Hearing filed on August 6, 2015, pursuant to N.C. Gen. Stat. §150B-23(a).

Petitioner appeared *pro se*. Respondent was represented Brenda Eaddy, Assistant Attorney General for the State of North Carolina.

Respondent's Exhibits 1 through 8 were accepted into evidence.

Based on a review of the file in this matter and the evidence adduced in open court, the Undersigned finds as follows:

ISSUE

The issue is whether Respondent acted correctly when it denied Petitioner's request for the yearly Medicaid Electronic Health Record ("EHR") Incentive Program payment for Program Year 2014.

FINDINGS OF FACT

1. Petitioner Venus I. Pitts is a medical doctor and an individual Medicaid provider. She was the only Medicaid provider employed at Petitioner Premiere Health and Wellness during the time associated with this matter.
2. Respondent ("DMA") is the State Medicaid agency. DMA is responsible for reviewing and awarding EHR incentive payments to providers. EHR incentive payments are disbursed to providers for the purpose of assisting the provider in updating its office systems to support electronic health records. These incentive payments pass through the

State from the federal Medicaid regulatory agency and are wholly federal funds. As such, DMA must abide by federal regulations in the disbursement of such funds.

3. The total EHR incentive payment a provider may obtain from this program is \$63,750.00. Providers participating in this program may obtain up to six payments, awarded once per year, to acquire the total incentive payment amount. The EHR incentive payment program began in 2009 and will run through 2021. Accordingly, providers will have had twelve years within which to obtain the six payments. Participation years do not have to be consecutive, but six years of payments must be obtained in order to receive the total amount.
4. Petitioners have already received three of the six possible payments. Petitioners have until 2021 to apply for and receive the last three payments.
5. In order to receive the yearly incentive payment a provider must attest to the level of Medicaid encounters it had for the appropriate program year.
6. Petitioner Pitts attested that she had 192 Medicaid encounters for Program Year 2014.
7. Respondent's review of its internal DMA Medicaid billing tracking system show that Petitioner Pitts had 256 Medicaid encounters for that Program Year. This number in Respondent's tracking system is substantially more than the number of Medicaid encounters Petitioner attested to.
8. Because of the difference in Petitioner's attested number and Respondent's tracking number, Respondent requested from Petitioner additional information with which to investigate the difference.
9. Petitioner's office responded that it was unable to provide such information. Petitioner Pitts provides services with two other providers. While it is likely that the discrepancy in the numbers is attributable to services at those other providers, there is no evidence to corroborate that assumption. No information about services Petitioner Pitts rendered at those facilities was provided to the Respondent nor to this court to try to reconcile the divergence in the numbers.
10. Respondent was unable to proceed with the processing of the incentive payment for Petitioner because it was unable to verify the numbers Petitioner Pitts reported in her attestation.
11. Respondent therefore denied the EHR incentive payment to Petitioner for program year 2014.

Based on the foregoing Findings of Fact, the Undersigned concludes as follows:

CONCLUSIONS OF LAW

1. This matter is properly in this forum pursuant to Article 3 of Chapter 150B.
2. Respondent must monitor and administer the federally funded EHR incentive payment program pursuant to federal guidelines.
3. Petitioner's reporting raised questions which Respondent was obligated to investigate.
4. Petitioner did not provide enough accurate information with which to qualify for the EHR Program Year 2014 payment.
5. Respondent was not obligated to award the EHR incentive payment for Program Year 2014 for Petitioner because it could not verify the information contained in Petitioner's attestation.
6. Respondent acted correctly when it denied Petitioner's request for the EHR Incentive Program payment for Program Year 2014.

DECISION

Respondent's decision to deny the EHR incentive payment for Program Year 2014 to Petitioner is **AFFIRMED**.

NOTICE

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of North Carolina General Statute § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 3rd day of March, 2016.

Donald W Overby
Administrative Law Judge