



Nitta v. Hawaii Department of Health and Human Services (HI Intermed.Ct.App.)

Topics Covered: Medicaid

Issue

The issue in this case is whether the Hawaii Department of Human Services (DHS) improperly failed to classify Frederick Nitta, MD as a primary care specialist under the Medicaid Enhanced Payment Statute (MEPS), 42 U.S.C. § 1396a (a) (13)(C).

AMA interest

The AMA supports adequate and appropriate payment to physicians who render services under the Medicaid program. Further, the AMA seeks a flexible definition of primary care specialties under the MEPS.

Case summary

Dr. Nitta is board certified in obstetrics and gynecology, and he publicly holds himself out to be an OB/GYN specialist. Although most of Dr. Nitta's patients come to him initially for obstetrics or gynecology care, once he sees and treats them he thereafter provides primary medical care services, including those typical of specialists in family medicine, general internal medicine, and pediatrics.

In 2013, one of Dr. Nitta's employees completed an online form for Hawaii DHS, indicating on the form that Dr. Nitta was specialized in family medicine, general internal medicine, or pediatric medicine. He then received enhanced payments from the Hawaii Medicare Program, pursuant to MEPS.

In 2015, Hawaii DHS notified Dr. Nitta that he had been audited and found ineligible for MEPS payments, because his specialty designation was OB/GYN rather than family medicine, general internal medicine, or pediatric medicine. He was further notified that Hawaii DHS had overpaid him by \$205,220.86 and was now demanding return of this sum.

Dr. Nitta petitioned the Hawaii DHS Appeals Office to protest the audit determination. He first argued that he owed nothing, as he should have been deemed a primary care physician and thus eligible for the MEPS Program. In the alternative, he argued, the auditors had miscalculated the amount owed. The DHS Appeals Office ruled against Dr. Nitta and ordered payment of the \$205,220.86.

Dr. Nitta then appealed to the Circuit Court, which endorsed the DHS Appeals Office position. Dr. Nitta has now appealed to the Hawaii Intermediate Court of Appeals.

Litigation Center involvement

The Litigation Center and the Hawaii Medical Association filed an *amicus* brief in the Hawaii Intermediate Court of Appeals to support Dr. Nitta.

Hawaii Intermediate Court of Appeals brief