



Southern Rehabilitation Group v. Sebelius, 732 F.3d 670 (6th Cir. 2013)

Topics Covered: Medicare, Prompt Payment Laws

Outcome: Favorable

Issue

The issue in this case was whether the Medicare Program must pay interest for late payment of “clean claims” for medical services.

AMA Interest

The AMA believes that all third party payers, including the Medicare Program, should pay promptly for medical services.

Case Summary

Southern Rehabilitation Group and its owner, Dr. James P. Little, provided rehabilitation services, with most of their patients covered by Medicare. Plaintiffs billed the services pertinent to this case to a Part B Medicare contractor, Cigna.

The plaintiffs took issue with the way Cigna processed their reimbursement claims, asserting that such claims were improperly downcoded or denied. Following prosecution of their claims at the administrative level, which took several years, plaintiffs sued the Secretary of Health and Human Services (HHS) and Cigna in the United States District Court for the Eastern District of Tennessee. The plaintiffs raised several legal theories, both against CMS and against Cigna. As part of their claim for relief, plaintiffs sought interest on their unreimbursed “clean” claims, pursuant to 42 U.S.C. § 1395u(c)(2).

More than a year and a half after the plaintiffs filed their lawsuit, the defendants moved to have certain of the payment claims remanded for further consideration at the administrative level. The trial court granted this motion. On remand, HHS allowed and then paid the principal amounts of the claims -- but not late payment interest.

Following notification that the remanded claims had been paid, the court granted summary judgment in favor of the defendants and against the plaintiffs on all open issues. As justification for denying interest, the court quoted a passage from the Medicare Claims Manual, which maintained that “interest payments are not payable on clean claims initially processed to denial and on which payment is made subsequent to the initial decision as a result of an appeal request.” The plaintiffs appealed to the Sixth Circuit.

On October 18, 2013, the Sixth Circuit affirmed the district court on all issues, except on the late payment claim. That issue was reversed and remanded for further consideration.

Litigation Center Involvement

The Litigation Center filed an *amicus* brief in the sixth Circuit to support the plaintiffs. The *amicus* brief argued that the Medicare Claims Manual misstated the law regarding the obligation of the Medicare Program to pay interest on clean claims, and the plaintiffs had a right to recover interest on their clean claims.

United States Court of Appeals for the Sixth Circuit brief