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Bergen Ambulance Services v. Hudson County Medical Assistance Unit  
Cite as 2 *N.J.A.R.* 196

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**BERGEN AMBULANCE SERVICES,**  
Petitioner,  
v.  
**HUDSON COUNTY MEDICAL ASSISTANCE UNIT,**  
Respondent.

Decided November 21, 1980

**Initial Decision**

**SYNOPSIS**

Bergen Ambulance Services requested a hearing after the administrator of the Hudson County Medical Assistance Unit denied payment for 20 claims submitted by the service because they were "neither prior authorized nor submitted within the required five-day period following the rendering of the services. . . ."

The administrative law judge found that while the service did not dispute its failure to file its claims within the prescribed time period, this was the first instance in which the medical assistance unit had strictly applied the time limitations. Under the circumstances, the judge concluded that the denial of the claims was arbitrary and unreasonable. Accordingly, the medical assistance unit was ordered to pay the claims while the ambulance service was put on notice that all future claims would have to be filed within the specified time periods.

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**BERMAN, ALJ:**

On September 3, 1980, the Local Administrator of the Hudson County Local Medical Assistance Unit (respondent) wrote Bergen Ambulance Services (petitioner) that it had denied payment for 20 claims because they were "neither prior authorized nor submitted within the required five-day period following the rendering of the services as outlined in Chapter II, paragraph 203 of the Transportation Manual." Respondent also notified petitioner that it might submit a request for a fair hearing in accordance with *N.J.A.C.* 10:49-5.3.

Subsequently, respondent determined that the within matter was a contested case pursuant to the Administrative Procedure Act, *N.J.S.A.* 52:14B-1 *et seq.* and *N.J.S.A.* 52:14F-1 *et seq.*, and requested an administrative law judge preside over the proceedings and render a decision as required by law.

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A hearing was held on October 31, 1980 before Administrative Law Judge Jack Berman at the Hudson County Administration Building, Jersey City, New Jersey.

The essence of respondent's position adduced at the hearing is that petitioner, in submitting its claims for payment, did so without having first received prior authorization for undertaking ambulance services to Medicaid patients, or having submitted a request for retroactive authorization within the required five-day period following the rendering of services to such patients. Respondent does not contest that the recipients of the ambulance services were eligible Medicaid patients, nor does respondent contest that petitioner, in not complying with regulations, intended to commit a fraud upon respondent.

Petitioner admits that it violated the applicable regulations, but asserts that respondent in the past had not strictly enforced these regulations and petitioner had always been paid.

Petitioner is of the opinion that respondent's current and sudden practice of strict enforcement is unfair and asks for payment. Petitioner, nonetheless, agreed that hereafter it will adhere to respondent's policy of strict enforcement.

Based on the foregoing and a reading of the applicable regulations, this court **FINDS**:

1. Petitioner purchased its business in March 1979. From March 1979 until March 1980, respondent's practice with respect to petitioner was to honor its claim without strict enforcement of the applicable regulations. From March 1980 until the present, respondent changed its practice to one of strict enforcement and denied petitioner's claims rendered since March 1980 that did not conform to the applicable regulations.

2. Petitioner did not timely comply with regulations pertaining to obtaining prior authorization before rendering services to Medicaid patients nor submit a request for retroactive authorization within the required five-day period following the rendering of services as outlined in Chapter II, paragraph 203 of the Transportation Manual.

3. Respondent's practice from March 1979 to March 1980 was not to strictly enforce the applicable regulations with respect to petitioner.

4. Respondent denied petitioner's claims for services rendered to 20 Medicaid patients serviced by petitioner since March 1980.

The relevant regulations appear in the Transportation Manual at Sections 203 and 203.1A, B, & C. Section 203 sets forth that "prior authorization from the patient's Local Medical Assistance Unit is required. . . ." Procedurally, this may be done by telephoning the agency the day the service is anticipated (§ 203.1B) or when an administrative emergency

exists (weekend, holiday, evening, etc.), retroactive authorization *must* be submitted within five calendar days after the service is provided (§ 203.1C). (Emphasis added.)

Respondent's past practice of not strictly enforcing these regulations, but nonetheless paying petitioner, set in motion a pattern that petitioner relied upon. Under the circumstances, it is **CONCLUDED** that respondent's determination to deny petitioner's 20 claims was arbitrary, capricious or unreasonable.

Respondent's determination is hereby **REVERSED**.

Respondent is **ORDERED** to pay petitioner's 20 claims.

Petitioner is hereby placed on notice that any future claims will not be honored unless the within regulations are strictly adhered to by petitioner.

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After reviewing this Initial Decision,  
the Division of Medical Assistance and Health Services  
on December 31, 1980 issued the following Final Decision:

Having reviewed the initial decision and any exceptions or replies submitted, I hereby make the following final agency decision:

1. The decision of the administrative law judge is affirmed in regards to payment of the petitioner's 20 claims.

2. The Director rejects the administrative law judge's findings that the Agency's denial of petitioner's claims was arbitrary, capricious and unreasonable. The Agency in this particular case granted exceptions to the petitioner while informing petitioner that he was not in compliance with the regulations.

3. The intent of the Agency in granting exceptions to the regulation was to allow payment of claims where extenuating circumstances existed.

4. There is no evidence to support the administrative law judge's conclusion that denial of the claims was arbitrary, capricious and unreasonable.