

**TO: JOHN R. NICHOLAS, COMMISSIONER
DEPARTMENT OF HUMAN SERVICES
STATE HOUSE STATION 11
221 STATE STREET
AUGUSTA, ME 04333**

**RE: Jed Prouty Assisted Living –
Department’s decision not to
waive the time limitations and
allow the facility to back bill 2002
claims that were not paid due to
provider billing errors**

ORDER OF REFERENCE HEARING RECOMMENDED DECISION

An Order of Reference hearing was held on May 18, 2004 in the case of Jed Prouty Assisted Living at Ellsworth before Hugh B. Hooper, Hearing Officer. The Hearing Officer’s jurisdiction was conferred by special appointment from the Commissioner, Department of Human Services.

CASE BACKGROUND AND ISSUE:

In 2002 Jed Prouty Assisted Living (Jed Prouty) had multiple claims for MaineCare payment for services provided to residents rejected due to billing errors by the facility. Jed Prouty requested the Department to waive the regulatory time limit for submitting claims for MaineCare payment and to allow the facility to back bill for the denied claims. The Department denied Jed Prouty’s request. Jed Prouty then appealed the Department’s decision.

An Order of Reference was signed on March 30, 2004 instructing the Office of Administrative Hearings to conduct an administrative hearing and submit to the Commissioner written findings of fact and recommendations on the following issue:

Was the Department correct when it refused to waive the time limitations and allow Jed Prouty Assisted Living to bill MaineCare for claims for 2002 that were not paid due to billing errors?

APPEARING ON BEHALF OF APPELLANT:

Lawrence Green – President, Jed Prouty Health Care Management Company

APPEARING ON BEHALF OF THE AGENCY:

Linda Quintal

ITEMS INTRODUCED INTO EVIDENCE:

BY THE HEARING OFFICER:

- HO 1. 4/1/04 Notice of Hearing
- HO 2. 3/30/04 Order of Reference
- HO 3. 3/26/04 memo – Linda Quintal to Office of Administrative Hearings and 3/26/04 hearing report
- HO 4. 2/9/04 letter – Peter Pellerin to Christine Zukas-Lessard
- HO 5. 2/13/04 letter Christine Zukas-Lessard to Peter Pellerin
- HO 6. 3/12/04 e-mail – Lawrence Green to Christine Zukas-Lessard and her reply

BY THE DEPARTMENT:

- DHS-1. 5/10/02 Remittance Statement
- DHS-2. 4/23/02 Billing Statement
- DHS-3. Instructions for completing Billing Claim Form UB-92

RECOMMENDED FINDINGS OF FACT:

1. In 2002 Jed Prouty Assisted Living facility (Jed Prouty) provided assisted living services to eligible residents. At least some of the residents were eligible for MaineCare benefits and their services were paid with MaineCare funds.
2. MaineCare providers must submit claims for payment for services provided under MaineCare within one year from the date of service. When claims are rejected by the Department providers must submit a corrected claim for payment within one year from the date of the initial claim submission unless: (A) the claim involves other insurance carriers or Worker's Compensation claims or (B) a person is found financially eligible for MaineCare benefits after a service is provided.¹
3. None of the claims at issue at this hearing involve other insurance carriers or Worker's Compensation claims and none of the MaineCare recipients involved

¹ See MaineCare Benefits Manual, Section 1.10-2

were found financially eligible for MaineCare benefits after services were provided by Jed Prouty.

4. In 2002 Donna Farley was the person at Jed Prouty responsible for submitting claims for MaineCare payments to the Department. Linda Quintal, from the Department's Bureau of Medical Services, met with Donna Farley at Jed Prouty on February 7, 2002. Among other things, Ms. Quintal explained the proper procedures for completing the claim forms required to obtain MaineCare payment by Jed Prouty and the time limits for submitting claims for payment to Ms. Farley. Ms. Farley was told that she could telephone Ms. Quintal if she had any questions relating to billing procedures. Ms. Quintal also offered to again meet with Ms. Farley if Ms. Farley requested her to do so. Ms. Farley did not request another meeting.

5. Linda Quintal spoke with Donna Farley by telephone about once a week, concerning billing issues, during 2002.

6. In late 2002 the Department changed the form used for billing for MaineCare payment for services provided by facilities such as Jed Prouty. A training session was held in Bangor on December 10, 2002 at which Department staff explained the correct procedures for completing the new billing form. A detailed, line-by-line, instruction manual was provided to the participants at that training session. Donna Farley attended that meeting.

**RECOMMENDED DECISION - BASED ON EVIDENCE AND TESTIMONY
PRESENTED AT HEARING:**

I recommend that the Department's action in this matter be found to be in compliance with the governing regulations. I, therefore, recommend that their action be affirmed.

REASON FOR RECOMMENDED DECISION:

At hearing Lawrence Green, who is the president of Jed Prouty Health Care Management Company, asserted that "...it should be the State's obligation to providers to pay claims". The Department does not dispute that claim, but counters that if the providers properly submit claims for eligible recipients payment will be made and that the burden is on the facility to correct any rejected claims.

There is no dispute that Donna Farley had difficulty properly completing the claim forms required in order for Jed Prouty to receive payment for the services that were provided. Mr. Green attributes much of that difficulty to a lack of training from the Department. The hearing evidence simply does not support that claim. Linda Quintal met with Donna Farley in person on February 7, 2002 and went

over the procedures required to complete the billing claim form. Ms. Quintal's testimony that she spoke with Ms. Farley approximately once a week by telephone concerning billing procedures/questions, etc. is not contested and is supported by the hearing evidence. Ms. Quintal also offered to personally meet with Ms. Farley on other occasions but Ms. Farley did not feel that was necessary. Ms. Farley did attend a training session provided by the Department concerning a revised billing form in December 2002.

Apparently Ms. Farley was experiencing health problems (headaches and eye problems) in 2002. Nobody, including Mr. Green, was aware of those problems at the time. The hearing evidence is not sufficient to demonstrate that Ms. Farley's health problems played a role in her inability to correctly prepare, and submit in a timely fashion, the billing claim forms.

Mr. Green also attributes part of Jed Prouty's billing problems to the Department's practice of not citing all of the errors on a claim form the first time a claim is rejected. In other words, if an error exists in, for example, block 2 of a claim form the claim form is rejected. After that error is corrected the same claim may again be rejected if an error exists in block 5 and so on to the point that one claim may be rejected multiple times for multiple errors. That argument has merit. It would seem more reasonable, and efficient, for all of the errors to be identified the first time a claim is rejected. However, the rules do not require the Department to process claims in that manner and this Hearing Officer has no jurisdiction to mandate such a procedure to the Department. Furthermore, the hearing evidence does not demonstrate that the Department's procedures in that regard were the underlying cause of Jed Prouty's failure to submit the rejected claims within the regulatory time limits.

The majority of the unpaid claims were for services provided between January and October 2002 and represent a major portion of the facility's total claims during that period. While that financial impact on Jed Prouty is evident, the hearing evidence simply does not show that any mistakes by the Department caused Jed Prouty's claims to be rejected.

Simply stated, the Department has, by a preponderance of the hearing evidence, demonstrated that their denial of Jed Prouty's request for a waiver of the time limit for submitting claims for MaineCare services was in accordance with the governing rules. For that reason, I recommend that the Department's action be affirmed.

MANUAL CITATIONS:

MaineCare Eligibility Manual

Section 1.10-2

RIGHT TO FILE RESPONSES AND EXCEPTIONS:

THE PARTIES MAY FILE WRITTEN RESPONSES AND EXCEPTIONS TO THE ABOVE RECOMMENDATIONS WITHIN 20 DAYS OF RECEIPT OF THIS RECOMMENDED DECISION. THIS TIME FRAME MAY BE ADJUSTED BY AGREEMENT OF THE PARTIES. RESPONSES AND EXCEPTIONS SHOULD BE FILED WITH THE OFFICE OF ADMINISTRATIVE HEARINGS, STATE HOUSE STATION # 11, AUGUSTA, ME 04333-0011. THE COMMISSIONER WILL MAKE THE FINAL DECISION IN THIS MATTER.

SIGNED:**Hugh B. Hooper
Hearing Officer****DATE: 6/23/04**

**pc: Lawrence Green, President, Jed Prouty Assisted Living, P.O. Box 826,
Bucksport, ME 04416
James Lewis, Assistant Director, BMS
Peter F. Pellerin, Sr., CPA, Down East Accounting Services, P.A., 39
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Linda Quintal, Provider Relations, BMS**