

SOCIAL SECURITY ADMINISTRATION
Office of Hearings and Appeals

EXHIBIT

10

DECISION

IN THE CASE OF

Richard
(Appellant)

R.
(Beneficiary)

CIGNA
(Carrier/Intermediary/PRO)

CLAIM FOR

Supplementary Medical
Insurance Benefits

553-26-2041 A
(HICN)

000-06-0110
(Docket Number)

JURISDICTIONAL MATTERS, PROCEDURAL HISTORY, AND ISSUES

This case is before the Administrative Law Judge on a request for hearing on an unassigned claim for supplementary medical insurance benefits under Part B Medicare. The appellant is Richard, who is also the beneficiary. He is represented by his attorney, Mary Jo Butler, of Comprehensive Advocacy (Co-Ad), Inc. A hearing was held on February 28, 1997, in Boise, Idaho. Melissa Monsinger, the beneficiary's speech pathologist, was also present and testified.

The overall issue is whether the appellant can be paid Part B reimbursement for an augmentative communication device (specifically, a Canon Communicator) he purchased in 1995. The provider did not accept assignment on the claim. The amount in controversy is \$896.00.

BACKGROUND

The beneficiary is 69 years of age. He sustained a stroke in 1989, and underwent speech therapy on several occasions. Despite the speech therapy, he did not regain the ability to orally speak, except for a few sounds, and was unable to be taught sign language because of other residuals from his stroke.

The beneficiary's treating physician prescribed an electronic communication device for the claimant in 1995, and the beneficiary's speech pathologist taught him how to use it. The device has a keyboard and speakers and allows the beneficiary to readily orally communicate with others, including medical personnel.

Medicare denied coverage on the basis that the device did not satisfy the definition of durable medical equipment. The record shows otherwise. There are four main parts to the definition of durable medical equipment:

- (1) The device must be able to withstand repeated use. There is no serious issue here. The device is designed and built to withstand repeated use. It would be of no practical use to anyone if it could not stand repeated use.
- (2) The device is primarily and customarily used to serve a medical purpose. This device provides a means of communicating medical needs and information when traditional means are unavailable due to medical conditions. In the beneficiary's specific case, the device allows the beneficiary to communicate his daily and emergent needs with minimal assistance resulting in more effective and shorter visits with medical personnel. Without the device, the beneficiary can only point to the affected body area. (Exhibit 7)
- (3) The device is generally not useful in the absence of illness or injury. This device has no practical usefulness for anyone who can either speak orally or use sign language to compensate for lack of oral communication.
- (4) The device is appropriate for use in the home. This is most certainly the case; and further, since it is portable, it is also useful wherever the beneficiary goes, including to medical appointments.

Thus, the requirements for durable medical equipment are satisfied. Furthermore, as indicated by the speech pathologist and the representative, the device also satisfies the requirements for classification as prosthetic device. (Exhibits 7, 19) In either case, the device is reimbursable.


This decision is further supported by the many decisions from other adjudicators who have delved into this or very similar issues. (refer to the copies of other decisions, from other forums, as supplied by the representative) The record further shows that the device is medically necessary and reasonable for the treatment of the claimant's illness/injury; that is, the device serves a medical purpose and is not merely a convenience item.

FINDINGS

1. The beneficiary purchased an augmentative communication device in 1995, upon the prescription from his treating physician.
2. The device satisfies the definition of durable medical equipment and prosthetic equipment.
3. The device is not a convenience item and is medically necessary and reasonable for the treatment of illness or injury.
4. The device is reimbursable under Medicare Part B.

DECISION

It is the decision of the Administrative Law Judge that the augmentative communication device purchased by the beneficiary is reimbursable under Medicare Part B. Medicare is directed to make reimbursement accordingly.


JOHN ARKOOSH
Administrative Law Judge

MAR 24 1997:
Date