

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DEPARTMENTAL APPEALS BOARD

**ACTION OF MEDICARE APPEALS COUNCIL
ON REQUEST FOR REVIEW**

In the case of

Claim for

Berkshire Healthcare o/b/o:
(1) East Longmeadow NH
(2) Charlene Manor ECF
(3) Willowood of Great
Barrington, d/b/a Fairview
Commons

(Appellant)

Supplementary Medical
Insurance Benefits (Part B)

(Beneficiary)

(HIC Number)

Mutual of Omaha

(Contractor)

(ALJ Appeal Number)

The Administrative Law Judge (ALJ) issued decisions in the above-captioned cases dated August 9 and 10, 2007. The ALJ decisions concerned blood glucose testing provided by the appellant to the listed beneficiaries. The appellant has asked the Medicare Appeals Council to review these actions.

The Council reviews the ALJ's decision *de novo*. 42 C.F.R. § 405.1108(a). The Council will limit its review of the ALJ's action to the exceptions raised by the party in the request for review, unless the appellant is an unrepresented beneficiary. 42 C.F.R. § 405.1112(c).

The appellant billed for blood glucose testing provided to the listed beneficiaries during the month of October, 2005. The contractor denied coverage of the tests, and the Qualified Independent Contractor (QIC) affirmed the denials on appeal.

The appellant requested an ALJ hearing. The ALJ held a video hearing at which the appellant and its representatives presented argument. In individual but similar decisions, the ALJ found

that the blood glucose tests were not covered because the evidence in the records did not demonstrate that the beneficiary's treating physician "promptly received, reviewed or utilized the Beneficiary's glucose results."

In its request for review, the appellant's representative asserts that the ALJ decision is contrary to the applicable National Coverage Decision and the regulations, and "ignores the unrebutted testimony that the physicians used the test results in managing the beneficiaries' care." The Council has considered the record and exceptions. The Council concludes that the exceptions present no basis for changing the ALJ's action. The appellant has not identified any documents in the records which indicate that the physicians were promptly notified of the results of each blood glucose test before the next test was given. The ALJ's conclusions are based on a correct evaluation of the applicable legal authorities and evidence in the record.

Accordingly, the Council adopts the ALJ decision.

MEDICARE APPEALS COUNCIL

/s/ Gilde Morrisson
Administrative Appeals Judge

Date: February 19, 2008