

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

Comprehensive Counseling Connections, PLLC

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Date of Hearing: February 13, 2019

Case No.: 58284

BACKGROUND AND STATEMENT OF THE ISSUES

The claimant asserted, through the filing of her Wage Claim, that she was owed \$4,480 in unpaid wages, which were the result of incorrect billing on behalf of the employer.

At the hearing, she amended the amount of the claim to \$3,096.30, as she had received payments from the employer.

The employer denies the claimant is due any further payments at this time. If revenue continues to be remitted on any of the claimant's patients, she will receive the requisite payments.

FINDINGS OF FACT

The claimant worked for the employer as a psychologist from July 1, 2017, through August 22, 2018. She had a prior independent contractor relationship with the employer, which is not relevant to this claim.

The parties executed an agreement effective July 1, 2017, in which the terms of payment consisted of a base salary and a tier two salary. There is no wage complaint on the base salary. The Tier Two Salary is represented in the agreement as follows, "All billable reimbursements received, over 10 hours, will be paid at the rate of 60%. CCC makes payment bi-weekly after fee for service revenue has been received and deposited. The average length of time from visit to paycheck is about 4-10 weeks." The policy also says "In the event an account goes to a collection agency, a 35% surcharge is added to the existing balance to cover collection agency fees. Payment to provider will be made after deducting all collection agency fees."

The employer acknowledges they had "growing pains" and difficulties with staff which created issues with billing insurance providers and patients for services rendered. They acknowledge mistakes were made in billing insurance companies. They have

resubmitted claims, not just for the claimant but for all providers, to insurance companies for payments. For the claims which have been denied they are attempting to contact the patients or the responsible parties for direct payments. Further, the claimant did not have patients sign the fee agreement with the employer, which makes collecting directly from the patients, or the responsible parties, difficult in the event insurance denies the claims.

Payments have been made to the claimant as monies have been received. Payments will continue to be made to the claimant if additional monies are received.

DISCUSSION

The claimant seeks a balance of \$3,096.30 on patient services she rendered. She argues that the employer made mistakes, which she previously notified them of, and she should be paid regardless of whether they collect. She believes it is only the filing of her claim which has made them attempt to collect any outstanding monies at all.

The employer agrees mistakes were made, but all attempts have been and are continuing to be made in an effort to collect outstanding payments. These attempts are not due to the filing of this claim, but from the process of having the right paperwork and staff in place to make the attempts to collect outstanding monies to the business.

Pursuant to RSA 275:49 I, the employer properly notified the claimant through the July 1, 2017, agreement that her 60% split of the payments would be not be paid until the monies were received and deposited by the employer.

The employer provided persuasive and credible testimony and evidence, in the form of spreadsheets with data concerning the status of each invoice, to show they have been and are continuing with collection efforts. They have made payments to the claimant for all monies received at this time.

Even if the employer were remiss or made errors in attempts to collect payments, ultimately, pursuant to the written agreement, the claimant is not due any payments until the employer receives and deposits payments.

At this time, no payments are found to be due under the written notification of the employer. Should monies be received for patients who received services from the claimant, she will be due wages according to the written policy.

CONCLUSIONS

As the claimant did not prove that the employer has received and deposited any monies for which she had not received payment, the Hearing Officer finds the claimant failed to prove any of the claimed wages are due at this time under the written policy of the employer.

DECISION

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as this Department finds that the

claimant failed to prove by a preponderance of the evidence that she is owed the claimed wages, it is hereby ruled that the Wage Claim is invalid.

[REDACTED]
Hearing Officer

Date of Decision: February 28, 2019

Original: Claimant
cc: Employer