Hundreds of Hospitals Sue HHS Over Medicare Reimbursement Rate

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More than 500 appeals challenging Medicare payments that resulted in reduced hospital reimbursements were wrongfully dismissed by a review board within the HHS, according to a lawsuit filed by a group of hospitals.

The complaint filed Tuesday in the US District Court for the District of Columbia seeks to vacate a dismissal by the US Department of Health and Human Services' Provider Reimbursement Review Board of challenges regarding Medicare payment rates under the Inpatient Prospective Payment System.

Congress in 1983 established the Inpatient Prospective Payment System to reimburse hospitals in fixed payment amounts determined in advance based on averages of reported costs. Congress required the HHS secretary to use the most recent historical data available to calculate a base rate for each Medicare-participating hospital.

The hospitals in the lawsuit claim the Centers for Medicare & Medicaid Services, which HHS oversees, failed to correctly calculate the base rate, average standardized amounts, and all final reimbursement determinations as mandated by Congress.

The department's payment review board on Sept. 27 held that it lacked substantive jurisdiction over the hospitals' appeals challenging this determination because the original standardized amounts are inextricably intertwined with the budget neutrality adjustment factors incorporated in fiscal years 1984 and 1985, according to the lawsuit.

The hospitals' action, arising under the Medicare Act and the Administrative Procedure Act, asks the court to vacate and set aside the board's s dismissal decision and remand the appeals to the board for further proceedings.

"The Hospitals have appealed CMS's failure to do as Congress commanded and have done so—together—across over 500 appeals which cover multiple impacted fiscal years," the hospitals wrote.

"Each appeal challenges the Secretary's failure to calculate the base rate in the way Congress instructed—a failure which has been carried forward for four decades and has reduced the Hospitals' reimbursement in each of fiscal years appealed."

The HHS secretary also relied on data that “double-counted these transferred patients in the denominator, acknowledged they were double-counted as a result of the data used, and refuses to fix this error,” the hospitals wrote.

Hall Render Killian Heath & Lyman PC represents the hospitals.