

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANDERSON HOSPITAL

6800 State Route 162
Maryville, IL 62062

ASPIRUS RIVERVIEW HOSPITAL

410 Dewey Street
Wisconsin Rapids, WI 54494

Case No. _____

AULTMAN HOSPITAL

2600 Sixth Street Southwest
Canton, OH 44710

BRYAN MEDICAL CENTER

1600 South 48th Street
Lincoln, NE 68506

**COMPLAINT
FOR JUDICIAL REVIEW,
DECLARATORY JUDGMENT,
AND MANDAMUS RELIEF**

CALDWELL MEMORIAL HOSPITAL

321 Mulberry Street, Southwest
Lenoir, NC 28645

CARLE FOUNDATION HOSPITAL

611 West Park Street
Urbana, IL 61801

ELKHART GENERAL HOSPITAL

600 East Boulevard
Elkhart, IN 46514

ESKENAZI HEALTH

720 Eskenazi Avenue
Indianapolis, IN 46202

FRANCISCAN HEALTH INDIANAPOLIS

8111 South Emerson Avenue
Indianapolis, IN 46237

GOOD SAMARITAN HOSPITAL

520 South Seventh Street
Vincennes, IN 47591

GREAT RIVER MEDICAL CENTER

1221 South Gear Avenue
West Burlington, IA 52655

HANCOCK REGIONAL HOSPITAL

801 North State Street
Greenfield, IN 46140

HENRY COMMUNITY HEALTH

1000 North 16th Street
New Castle, IN 47362

INDIANA UNIVERSITY HEALTH

1701 North Senate Blvd
Indianapolis, IN 46202

MARION GENERAL HOSPITAL

441 North Wabash Avenue
Marion, IN 46952

MAYO CLINIC HEALTH SYSTEM

IN EAU CLAIRE

1221 Whipple Street
Eau Claire, WI 54703

**MAYO CLINIC HEALTH SYSTEM -
FRANCISCAN HEALTHCARE IN LA CROSSE**

700 West Avenue South
La Crosse, WI 54601

MEMORIAL HEALTHCARE

826 West King Street
Owosso, MI 48867

MEMORIAL HOSPITAL

615 North Michigan Street
South Bend, IN 46601

METHODIST HOSPITAL

1305 North Elm Street
Henderson, KY 42420

MHP MEDICAL CENTER

2451 Intelliplex Drive
Shelbyville, IN 46176

NORTHSIDE HOSPITAL GWINNETT

1000 Medical Center Boulevard
Lawrenceville, GA 30046

NORTON HOSPITALS, INC.

200 East Chestnut Street
Louisville, KY 40202

PARKLAND HOSPITAL

5200 Harry Hines Boulevard
Dallas, TX 75235

PIH HEALTH GOOD SAMARITAN HOSPITAL

1225 Wilshire Boulevard
Los Angeles, CA 90017

PRISMA HEALTH BAPTIST HOSPITAL

Taylor at Marion Streets
Columbia, SC 29220

RMC ANNISTON

400 East Tenth Street
Anniston, AL 36202

SAINT TAMMANY PARISH HOSPITAL

1202 South Tyler Street
Covington, LA 70433

ST. BERNARDS MEDICAL CENTER

225 East Jackson
Jonesboro, AR 72401

**STONEWALL JACKSON MEMORIAL
HOSPITAL**

230 Hospital Plaza
Weston, WV 26452

UNION HOSPITAL

1606 North Seventh Street
Terre Haute, IN 47804

**UNIVERSITY HEALTH
LAKEWOOD MEDICAL CENTER**

7900 Lee's Summit Road
Kansas City, MO 64139

**UNIVERSITY HEALTH
TRUMAN MEDICAL CENTER**

2301 Holmes Street
Kansas City, MO 64108

**UNIVERSITY OF IOWA
HOSPITALS & CLINICS**

200 Hawkins Drive
Iowa City, IA 52242

UNIVERSITY OF TOLEDO MEDICAL CENTER

3000 Arlington Avenue
Toledo, OH 43614

WEIRTON MEDICAL CENTER

601 Colliers Way
Weirton, WV 26062

WOOSTER COMMUNITY HOSPITAL

1761 Beall Avenue
Wooster, OH 44691
Plaintiffs,

v.

XAVIER BECERRA, Secretary of the United States
Department of Health and Human Services
Room 700-E
200 Independence Avenue, S.W.
Washington, D.C. 20201

Defendant.

**COMPLAINT FOR JUDICIAL REVIEW,
DECLARATORY JUDGMENT, AND MANDAMUS RELIEF**

1. The above-captioned 37 Plaintiff hospitals (hereinafter “Plaintiffs” or “Providers”), by and through their undersigned counsel, bring this action against Defendant Xavier Becerra in his official capacity as the Secretary (“Secretary”) of the United States Department of Health and Human Services (“HHS”), and state as follows:

NATURE OF ACTION

2. This is an action for judicial review, pursuant to 42 U.S.C. § 1395oo(f)(1), of a final decision of the Secretary finding that the Provider Reimbursement Review Board (“PRRB” or “Board”) is without authority to review the Plaintiffs’ challenges to the calculation of their

Medicare disproportionate share hospital (“DSH”) adjustments for the services they furnished to low-income patients in fiscal years 2009 through 2017. The final administrative decisions in response to the Plaintiffs’ requests for expedited judicial review (“EJR Determinations”) are attached hereto as **Exhibits 1, 2, and 3**, and are incorporated herein by reference. The EJR Determinations acknowledged the Plaintiffs’ right to seek judicial review in this matter.

3. The Plaintiffs maintain that their DSH reimbursement calculations were understated due to the failure of the Centers for Medicare and Medicaid Services (“CMS”) and the relevant Medicare Administrative Contractors (“MAC” or “contractor”) to include in the numerator of the Medicare fraction of the Medicare DSH calculation all patient days for patients who were eligible for and enrolled in the SSI program but may not have received an SSI payment for the month in which they received services (hereinafter “SSI Enrollees”), as required by 42 U.S.C. § 1395ww(d)(5)(F) (the “DSH statute”).

4. In enacting the statute, Congress intended the Medicare DSH payment to compensate hospitals, like the Plaintiffs in the instant case, that shoulder the financial burden of providing care to a disproportionate number of low-income patients. It is based on a proxy measure for a hospital’s low-income patient utilization which is the sum of two fractions expressed as a percentage. *See* 42 U.S.C. § 1395ww(d)(5)(F)(vi); 42 C.F.R. § 412.106(b).

5. In filings submitted to the PRRB, the Secretary’s administrative tribunal, the Plaintiffs established that the Secretary used a legally flawed method to count the patient days included in the numerator of the Providers’ respective Medicare fractions (hereinafter “SSI Days”).

6. As the DSH statute is currently construed by the Secretary, a hospital patient is “entitled” to Medicare Part A benefits so long as they are enrolled in Part A and regardless of

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