IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

LANCASTER HOSPITAL CORPORATION, *formerly d/b/a Springs Memorial Hospital*, Plaintiff,	§	
vs.	§	Civil Action No.: 0:19-01857-MGL
Xavier Becerra, *Secretary, U.S. Department of Health and Human Services*, Defendant.	§	

MEMORANDUM OPINION AND ORDER
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

Plaintiff Lancaster Hospital Corporation, formerly d/b/a Springs Memorial Hospital (Springs), brought this action seeking review of the final decision of the Provider Reimbursement Review Board (PRRB) against Alex M. Azar II (Azar), Secretary of the United States Department of Health and Human Services (HHS). Although Springs named Azar, the former Secretary of HHS, as the defendant when it filed the complaint, the Court takes judicial notice, pursuant to Fed. R. Evid. 201, that Xavier Becerra is currently the Secretary of HHS. Therefore, pursuant to Fed. R. Civ. P. 25(d), the Court will direct the Clerk's Office to substitute Xavier Becerra, Secretary of HHS, as the defendant in this case.

The suit, however, is actually against HHS. *See generally Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989) ("[A] suit against a [federal] official in his or her official capacity

is not a suit against the official but rather is a suit against the official's office."). The Court has jurisdiction over this matter under 28 U.S.C. § 1331.

Pending before the Court are two motions for summary judgment: one from Springs and one from HHS. Having considered the motions, the responses, the replies, the record, and the applicable law, it is the judgement of the Court Springs's motion for summary judgment will be denied and HHS's motion for summary judgment will be granted.

II. FACTUAL AND PROCEDURAL HISTORY

Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq., commonly known as the Medicare Act, established a system of medically funded health insurance for elderly and disabled persons. Under the Medicare Act, certain healthcare providers are eligible for reimbursement by HHS for services furnished to Medicare beneficiaries.

Under this reimbursement program, healthcare providers submit their yearly cost reports to a Medicare Administrative Contractor (MAC) that acts as an agent for HHS. After the MAC reviews the healthcare provider's cost reports to determine the amount due for reimbursement, it issues a Notice of Program Reimbursement (NPR). If a healthcare provider is dissatisfied with the NPR, it may appeal to the PRRB, an adjudicative body in HHS, within 180 days of issuance. The PRRB's decision is subject to judicial review in federal district court.

Springs is an acute care hospital located in Lancaster, South Carolina. Springs operates an inpatient rehabilitation facility (IRF) and skilled nursing facility (SNF) that provide medical services primarily to Medicare beneficiaries. During the relevant timeframe, Medicare reimbursed IRF and SNF providers for their reasonable costs in providing services, as opposed to a fixed fee-per-service payment schedule.

Beginning in 1994, Springs entered into two separate contracts with RehabCare, Inc. (RehabCare) to provide program management and therapy services for its IRF and SNF. Under the terms of these contracts, RehabCare acted as a turn-key subcontractor, managing every single aspect of the IRF and SNF on behalf of Springs. As to the IRF contract, Springs agreed to pay RehabCare a per-patient-per-day rate for any and all services provided to its patients. And, regarding the SNF contract, Springs agreed to pay RehabCare a per-patient-per-day rate for program management services, and an hourly rate for direct therapy services.

To assist Palmetto GBA (Palmetto), the MAC in this case, in its audit of Springs's IRF cost reports, RehabCare would provide a breakdown of its fiscal year (FY) charges to Springs into two basic components: program management costs and therapy costs. So, if Springs paid RehabCare $1,500,000 in a fiscal year for services provided to its IRF patients, RehabCare would separate, into a detailed financial report, the dollar amounts for program management fees and direct therapy costs. This method of reporting is called a Value Quantification Model (VQM). Palmetto would then take the VQM and use RehabCare's payroll records to audit the program management and therapy costs for reasonableness.

These IRF and SNF contracts with RehabCare remained in force through Springs's FY 2000, and the type and intensity of therapy services provided by RehabCare to Springs's patients over FYs 1997–2000 remained, according to Springs, consistent.

Palmetto audited Springs's Medicare reimbursement cost reports for its IRF and SNF's FYs 1997–2000 and disallowed all the reasonable costs it claimed in these eight cost reporting periods. Springs appealed Palmetto's decision to disallow these eight cost reports to the PRRB. While the case was on appeal to the PRRB, Springs and Palmetto settled the IRF and SNF's FYs 1999 cost reporting period. Accordingly, after that settlement, six disputed cost reporting periods

remained before the PRRB: three as to Springs's IRF cost reports and three as to Springs's SNF cost reports, all for FYs 1997, 1998, 2000.

The PRRB, on April 30, 2019, determined: "[Palmetto]'s adjustments to remove *all* of the costs/charges for RehabCare services from [Springs]'s [FY] 1997 cost reports as it relates to the IRF subprovider unit were proper as [Springs] did not submit sufficient documentation to demonstrate these costs were reasonable." PRRB's Decision at 2, A.R. at 0007. As to the other five costs reports, the PRRB remanded them to Palmetto because it found sufficient auditable documentation existed to allow at least some of Springs's costs to be reimbursed.

According to the PRRB, it upheld Palmetto's disallowance of Springs's IRF cost report for FY 1997 because Springs "did not have the RehabCare payroll information [for IRF FY 1997,] and could only estimate RehabCare's therapy salaries and hours for" that year. *Id.* at 8, A.R. at 0013. The PRRB also noted Springs failed to "submit FY 1997 salary and hours documentation for the [program] management positions related to the RehabCare contract" as well, including the positions of "Program Director, Clinical Coordinator, Community Relations Coordinator, Secretary, Social Worker and Admission Coordinator." *Id.* As is relevant to this underlying dispute, RehabCare's 1997 VQM totaled approximately $1,383,000 and listed the program management costs as roughly $750,000, and the therapy costs as around $633,000.

The CMS Administrator declined to review the PRRB's decision, and it became final. Accordingly, Springs appealed the PRRB's decision to this Court by filing this action and subsequently filed the instant motion for summary judgment, after which HHS filed its motion for summary judgment. HHS's motion contained its response to Springs's motion. Thereafter, Springs filed its response to HHS's motion, as well as replied to HHS's response. HHS then replied to Springs's response.

Springs requests this Court enter an order setting aside part of the PRRB's decision that denied its Medicare reimbursement claim for reasonable costs in providing IRF services to Medicare beneficiaries for its FY 1997. HHS, on the other hand, requests the Court affirm the decision of the PRRB.

Springs, in its motion, requested an oral argument. Inasmuch as the parties' briefs adequately informed the Court of their positions, the Court exercises its discretion to adjudicate the motions without a hearing. *See* S.C. District Court Local Rule 7:08 ("Hearings on motions may be ordered by the [C]ourt in its discretion. Unless so ordered, motions may be determined without a hearing."). Accordingly, the Court, having been fully briefed on the relevant issues, will now adjudicate the motions.

III. STANDARD OF REVIEW

"A decision of the [PRRB] shall be final unless [HHS], on [its] own motion, and within [sixty] days after the provider of services is notified of the [PRRB]'s decision, reverses, affirms, or modifies the [PRRB]'s decision." 42 U.S.C. § 1395oo(f)(1). "Providers shall have the right to obtain judicial review of any final decision of the [PRRB], or of any reversal, affirmance, or modification by [HHS], by a civil action commenced within [sixty] days of the date on which notice of any final decision by the [PRRB] of any reversal, affirmance, or modification by [HHS] is received." *Id.* The district court reviews the PRRB's decision under the standards of the APA. *Id.*

"[W]hen a party seeks review of agency action under the APA, the district judge sits as an appellate tribunal." *Am. Bioscience, Inc. v. Thompson*, 269 F.3d 1077, 1083 (D.C. Cir. 2001). "The APA commands reviewing courts to 'hold unlawful and set aside' agency action where it is

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