

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

THE AMERICAN HOSPITAL ASSOCIATION, *et al.*,

Plaintiffs,

–v–

THE DEPARTMENT HEALTH AND HUMAN
SERVICES, *et al.*,

Defendants.

Case No. 18-2112 (JDB)

[PROPOSED] ORDER

Upon consideration of Plaintiffs’ Motion for Summary Judgment (ECF No. 2) and the opposition and reply thereto, and Defendants’ Motion to Dismiss (ECF No. 23) and the opposition any reply thereto, it is hereby

ORDERED that Plaintiffs’ Motion for Summary Judgment is GRANTED; it is

ORDERED that Defendants’ Motion to Dismiss is DENIED; it is

DECLARED that Defendants’ most recent delay, 83 Fed. Reg. 20,009 (May 7, 2018), in implementing the final rule issued on January 5, 2017 (published at 82 Fed. Reg. 1210) (the “Final 340B Rule”), is arbitrary and capricious, an abuse of discretion, and contrary to law, in violation of 5 U.S.C. § 706(2)(A), and is agency action unreasonably delayed, in violation of 5 U.S.C. § 706(1); it is further

ORDERED that Defendants make the Final 340B Rule effective on or before January 1, 2019; and it is further

ORDERED that Defendants begin posting 340B ceiling prices on a website accessible to 340B covered entities as soon as practicable and in no event later than April 1, 2019; and it is further

ORDERED that Defendants pay fees and costs pursuant to 28 U.S.C. § 2412.

SO ORDERED.

Dated: _____

JOHN D. BATES
United States District Judge